

Supporting Document No. 3

Public Comment Letters
Received on
Tentative Order No. R9-2014-0041

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Comment Letter No. 804775.01

Mitchell, Roger@Waterboards

From: Lambert, Tom <Tom.Lambert@sdcounty.ca.gov>
Sent: Tuesday, May 06, 2014 3:47 PM
To: Mitchell, Roger@Waterboards
Cc: Osibodu, Olufisayo@Waterboards; McPherson, Mark
Subject: RE: NOTICE OF AVAILABILITY OF TENTATIVE ORDER NO. R9-2014-0041 AND TENTATIVE RESOLUTION NO. R9-2014-0042

Hi Roger,

Below are my comments on the proposed conditional waiver of waste discharge requirements for Discharges from On-site Graywater Disposal Systems.

- Footnote #13 on page 9 and footnote #17 on page 12 both refer to Appendix G of the California Plumbing Code. Appendix G was found in the 2007 version of the CPC and was changed in 2010 and again in 2013. The most current version of the regulations are now found in Chapter 16 of the CPC.
- Section A.6 on page 9 refers to Section 1603A.1 of the CPC as the section that allows for the exemption of the construction permit for clothes washer system. Section 1603A.1 is found in the 2010 version of the CPC. The exemption is now found in Section 1602.1.1 of the 2013 version of the CPC.
- Section B.1.e on page 10 requires a minimum five foot vertical separation between the disposal system and the high groundwater level. The five foot separation was a requirement found in the 2007 version of the CPC and was changed to three foot in 2010. The requirement can now be found in Section 1602.10.3 of the 2013 version of the CPC.

Let me know if you have any questions.

Thank you

Tom Lambert, Program Coordinator

County of San Diego Department of Environmental Health
Land and Water Quality Division
5500 Overland Avenue, Suite 210
San Diego, CA 92123
(858) 495-5752

From: Osibodu, Olufisayo@Waterboards [mailto:Olufisayo.Osibodu@waterboards.ca.gov]
Sent: Thursday, April 10, 2014 1:32 PM
To: Mariscal, Maria (MMariscal@sdca.org); troy@sdca.org; Brennon Flahive (bflahive@socwa.com); 'steven.plyler@carlsbadca.gov'; 'rathboneb@emwd.org'; 'javiera@emwd.org'; 'Vvipatapat@ci.escondido.ca.us'; 'cduffy@dudek.com'; 'PBushee@lwwd.org'; 'CDale@ci.oceanside.ca.us'; 'MAnderson@ci.poway.ca.us'; 'Jonkka@olivenhain.com'; 'gstalker@otaywater.gov'; bob.kennedy@otaywater.gov; 'gcanfield@padre.org'; 'jcortez@rmwd.org'; 'Haganr@ranchowater.com'; 'HowardA@San-Clemente.org'; 'MiesJ@san-clemente.org'; 'mestrin@sandiegozoo.org'; Chris Trees (treesc@sejpa.org); wgrabbe@vcmwd.org; Shin CIV Brian Y (brian.shin@usmc.mil); 'dmcdougle@vwd.org'; 'wgrabbe@vcmwd.org'; Rick Beath; 'jcasamassima@sandiego.gov'; Jeff Stecker; Wallmann, Skyla (SWallmann@sandiego.gov); Mark Hammond; Jim Anderson; Invirotreat; Rich Williamson (williamsonr@ranchowater.com); backw@ranchowater.com; Lambert, Tom; Leeks, Glenn; Pacifico, Oliver (CDPH-DDWEM); Sterchi, Sean (CDPH-DDWEM); Wolski, Erica (CDPH-DDWEM); Patti@fpud.com; gcanfiel@padre.org; Arne Sandvik, P.E. (asandvik@padre.org); Jeff Parks (jparks@encinajpa.com); mwelch1@san.rr.com
Cc: Odermatt, John@Waterboards; Mitchell, Roger@Waterboards
Subject: NOTICE OF AVAILABILITY OF TENTATIVE ORDER NO. R9-2014-0041 AND TENTATIVE RESOLUTION NO. R9-2014-0042

Hi,

The San Diego Water Board has released Tentative Order No. R9-2014-0041, *An Order Adopting Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region* (Tentative Order); and Tentative Resolution No. R9-2014-0042 adopting a negative declaration for the proposed action to adopt conditional waivers of waste discharge requirements for low threat discharges in the San Diego Region (Tentative Resolution). **Please submit written comments on the Tentative Order and Tentative Resolution to Mr. Roger Mitchell via email at Roger.Mitchell@waterboards.ca.gov by 500pm on May 8, 2014.** Included in the Tentative Order is a Conditional Waiver of Waste Discharge Requirements for Discharges of Recycled Water to Land (See Waiver No. 2 in the Tentative Order), which may be of interest to you.

The Tentative Order, Tentative Resolution, and associated documents can be found at:
http://www.waterboards.ca.gov/sandiego/board_decisions/tentative_orders/

You are also invited to attend a stakeholder meeting with the San Diego Water Board Executive Officer, Mr. David Gibson. The meeting will be held at the San Diego Water Board office on April 22, 2014 at 900am. This meeting will allow various stakeholders provide verbal comments and questions to the San Diego Water Board Executive Officer and staff. Please follow the link below to obtain details of the meeting and any future stakeholder workshops:
http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/waivers/waivers_mw.shtml

You can also subscribe on the webpage below to receive updates on the conditional waivers/Tentative Order:
http://www.waterboards.ca.gov/resources/email_subscriptions/reg9_subscribe.shtml

The Tentative Order/conditional waivers if adopted, will require the implementation of effective management measures, and structural and non-structural best management practices to address potential impacts associated with storm water run on and runoff, wastes, and wastewaters discharged from facilities or operations located within the San Diego Region.

Please contact Mr. Roger Mitchell at 619-521-5898 or by email at Roger.Mitchell@waterboards.ca.gov if you have any questions or concerns regarding the conditional waivers/Tentative Order.

Thanks,

Fisayo Osibodu
WRC Engineer
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California Regional Water Quality Control Board, San Diego Region
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Comment Letter No. 804775.02

Mitchell, Roger@Waterboards

From: LISA ZAWASKI <lzawaski@DanaPoint.org>
Sent: Wednesday, May 07, 2014 8:40 AM
To: Mitchell, Roger@Waterboards
Subject: defintion of waste

Could you email me the definition of waste, please. – maybe it should be included in the order?

Lisa Zawaski, CPSWQ, CFM, QSD

City of Dana Point Senior Water Quality Engineer

33282 Golden Lantern * Dana Point, CA 92629

949-248-3584 * lzawaski@danapoint.org

Please Use Water Wisely – Check your sprinklers to prevent runoff.

Please Pick Up after Your Pet – It's Your "Doody"!



Comment Letter No. 804775.03

Mitchell, Roger@Waterboards

From: Stephan Beck <sbeck@ninyoandmoore.com>
Sent: Friday, May 16, 2014 7:30 PM
To: Mitchell, Roger@Waterboards
Cc: Odermatt, John@Waterboards
Subject: Tentative Order No. R9-2014-0041
Attachments: 7 May 2009 Background-Arsenic.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Roger: Regarding Waiver 10, discharges/disposal/reuse of soils characterized as inert from known contaminated sites to land, I have the following two comments/suggestions:

1. Regarding the Tier 1 (Table No. 2) and Tier 2 (Table No. 3) Soil Screening Levels, I recommend using soluble metal concentrations (i.e., SPLP) rather than total metals concentrations. This would be consistent with other sections of Waiver 10 concerning analysis of other constituents of concern (e.g., TPH, PCBs, VOCs, SVOCs, pesticides).
2. If total metals concentrations are used, I would recommend revisiting background arsenic concentration studies such as the attached DTSC document. You may also want consider reviewing the DTSC rationale for using 80 mg/kg for total lead as their cleanup level for school sites, which can be found at their website.

Let me know if you would like to discuss these further.

Regards,

Stephan A. Beck, P.G. 4375
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Ninyo & Moore
Geotechnical & Environmental Sciences Consultants
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Experience . Quality . Commitment

Determination of a Southern California Regional Background Arsenic Concentration in Soil

G. Chernoff, W. Bosan and D. Oudiz

California Department of Toxic Substances Control

Professional affiliations are listed for contact purposes only. Analysis and conclusions contained herein are solely those of the authors, and do not represent official policy of the Department of Toxic Substances Control.

Abstract

Background metals in soil can prove problematic for risk assessment purposes because metals detected at a site may be comprised of naturally occurring metals, regional anthropogenic contributions or a site-specific release. Arsenic is especially problematic since the risk-based soil concentration is 100-times below typical ambient concentrations.

The Department of Toxic Substances Control (DTSC) established a regional background arsenic concentration in soil that can be used as a screening tool for sites throughout southern California. The term "background" collectively refers to both naturally occurring and anthropogenic concentrations in shallow soil. Data were derived from completed Preliminary Environmental Assessment (PEA) reports for proposed school sites. Site data were combined for each county in southern California, including Los Angeles, Orange, Riverside, San Bernardino and San Diego counties. Los Angeles County had the largest number of sites (19 school sites) and arsenic data points (1097 samples) and will serve as the model for the statistical derivation of background arsenic.

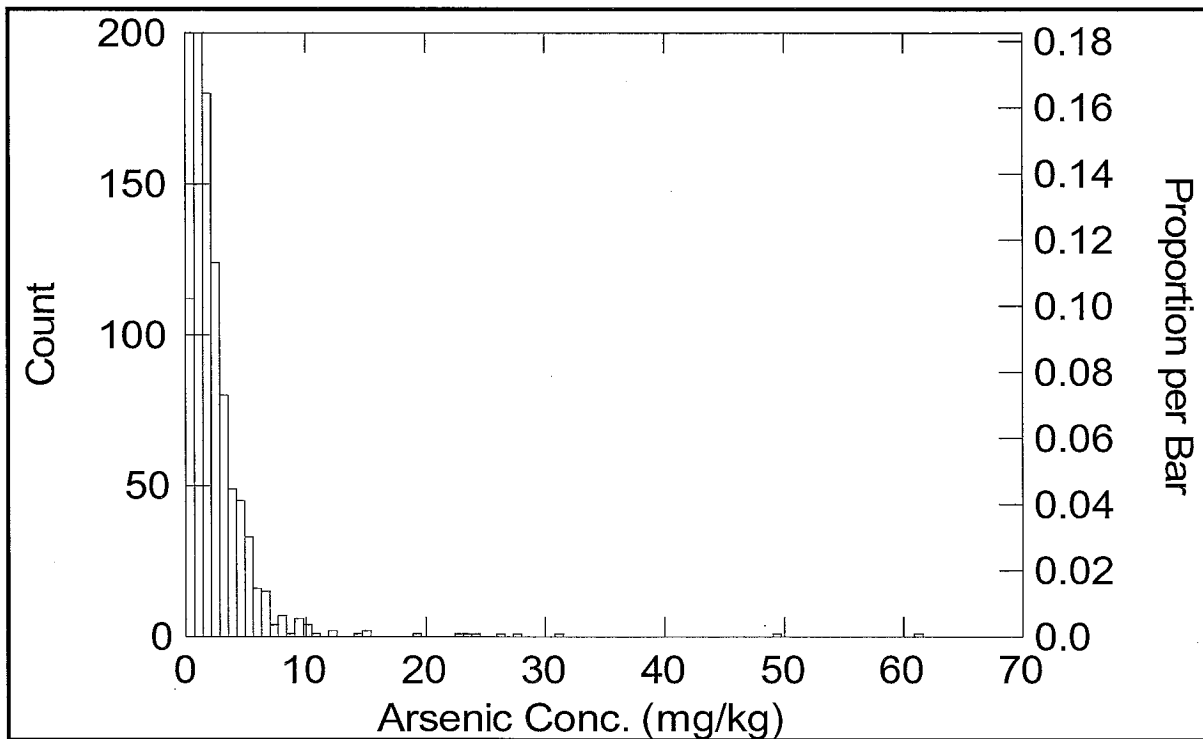
A probability plot of the arsenic data clearly demonstrated a classical, lognormal distribution from which outliers were determined using the box plot. The summary statistics for the arsenic data set, excluding the outliers, were calculated and the upper-bound arsenic concentration estimated using both the 95% confidence limit of the 99th quantile of the arsenic data set and a distribution-free, nonparametric analysis.

Both statistical methods resulted in an upper-bound arsenic concentration of approximately 12 mg/kg for Los Angeles County. Using the same approach, the upper-bound arsenic concentrations were similar for each of the other southern California counties, resulting in an upper-bound estimate of 12 mg/kg for arsenic in southern California. A similar evaluation is being conducted by DTSC for northern California sites in order to derive arsenic screening levels State-wide.

Introduction

The Department of Toxic Substances Control (DTSC) oversees the environmental assessments of proposed and existing school sites. Arsenic has proven problematic at these sites since the risk-based soil concentration of approximately 0.03 mg/kg is nearly always below the concentrations detected on site thereby necessitating the need to establish the arsenic background concentration at each site.

To determine if a regional arsenic background level could be established for the Los Angeles Unified School District (LAUSD), 1097 data points collected from 19 school sites distributed throughout the LAUSD were evaluated using both graphical data plots and statistical calculations.



A histogram of the data demonstrated a classical lognormal distribution with a wide range of arsenic concentrations. A box plot, also known as the fourth spread was used to identify 11 outliers, the two lowest values and the nine largest values, which were eliminated from further analysis. The descriptive statistics for the log-transformed arsenic data set, excluding the outliers previously established are summarized below.

DESCRIPTIVE STATISTIC	VALUE
Sample Size (n)	1086
Mean (μ)	0.1788 (1.51 mg/kg)
Median	0.1761 (1.50 mg/kg)
Standard Deviation	0.3646
Standard Error of the Mean ¹	0.0111
Minimum Concentration	-0.8125 (0.15 mg/kg)
Maximum Concentration	1.2930 (19.63 mg/kg)
Lower Quartile (Q_1)	-0.1249
Upper Quartile (Q_3)	0.4472

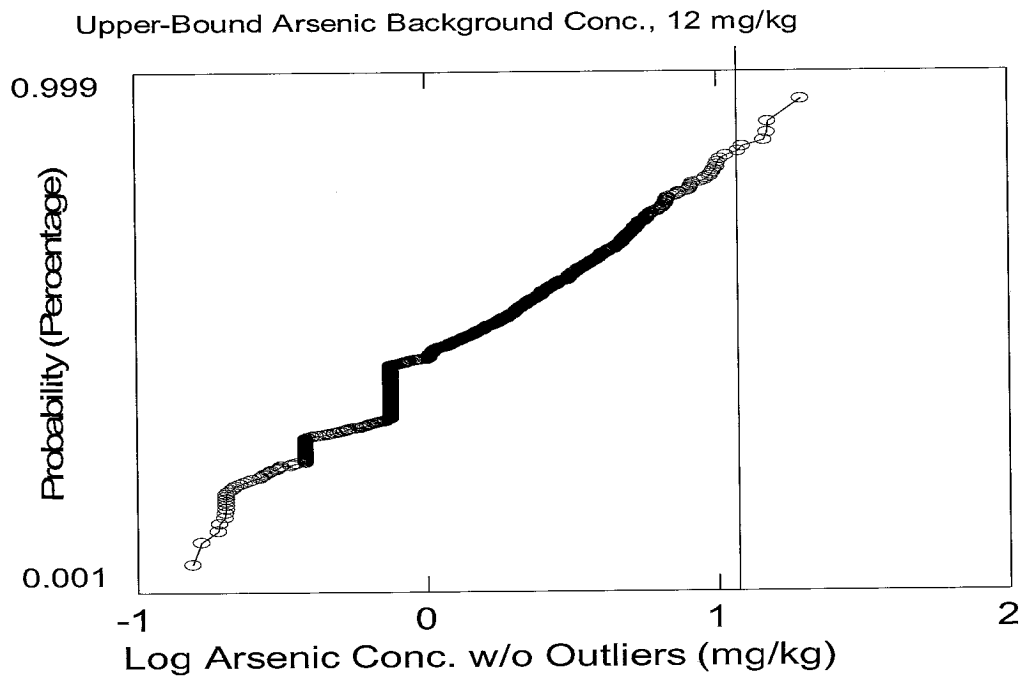
The upper limit of the data set was estimated according to the following equation:

$$UL_{1-\alpha}(X_p) = \bar{x} + sK_{1-\alpha,p}$$

Calculating the 95% confidence limit of the 99th quantile of the arsenic data set excluding the outliers, the $UL_{0.95}(X_{0.99})$ was found to be 1.054 in log units, or 11.32 mg/kg arsenic. A distribution-free non-parametric analysis to calculate the $UL_{0.95}(X_{0.99})$ as described by Gilbert (1987) used the following equation:

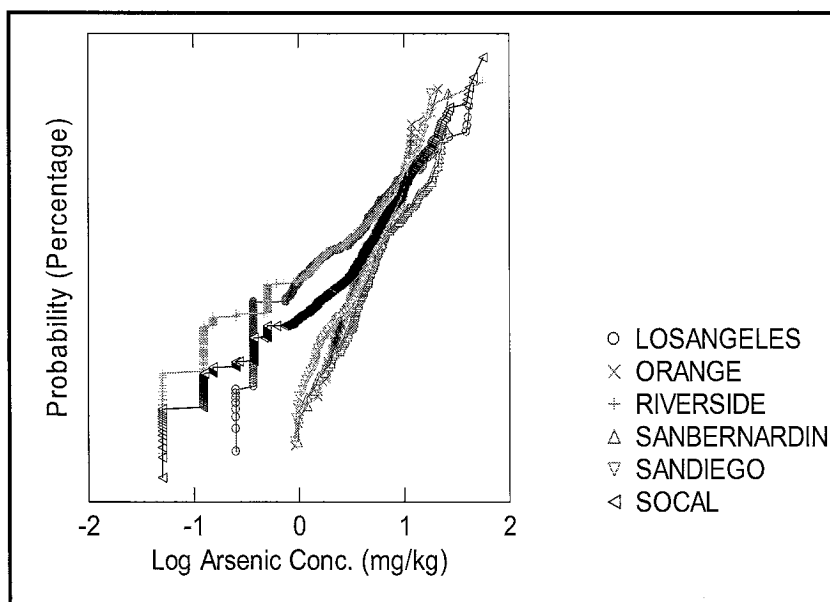
$$\text{Rank of } UL_{0.95}(X_{0.99}) = p(n+1) + Z_{1-\alpha} [np(1-p)]^{1/2}$$

The solution of this equation indicated that the $UL_{0.95}(X_{0.99})$ is 52.4% of the way between the 1081st and 1082nd highest arsenic concentrations which is 12.3 mg/kg. The Probability Plot of the arsenic data set excluding the outliers is shown below:



The plot demonstrates that the log-transformed data is normally distributed with an inflection point at approximately 1.0 which is equivalent to approximately 10 mg/kg. Taken together, the data from the statistical and graphical evaluation of the data from LAUSD has an upper bound between 10 and 12 mg/kg.

The same analysis was conducted on school sites from San Diego County (3 school sites), Orange County (7 school sites), Riverside County (15 school sites), San Bernardino County (6 school sites) and Los Angeles County (21 school sites).



As shown in the Probability Plot of the data from the 5 Southern California Counties, and the combined Southern California data, the individual plots share a common inflection point at approximately 1.1 on the logarithmic scale, or approximately 12 mg/kg.

Conclusion

A Probability Plot and statistical analysis of a large data set from school sites in Los Angeles County gave an upper-bound background arsenic concentration of 12/mg/kg. A Probability Plot for school sites from 5 counties in Southern California also gave an upper-bound background arsenic concentration of 12 mg/kg.

In some of the counties, there was another inflection point at approximately 1.5 mg/kg arsenic. This is interpreted as representing the upper-bound of the naturally occurring arsenic, while the inflection at 12 mg/kg represents the upper-bound of the naturally occurring plus anthropogenic arsenic.

This finding suggests that in Southern California, 12 mg/kg maybe a useful screening number for evaluating arsenic as a chemical of potential concern. A similar evaluation is being conducted by DTSC for school sites in Northern California in order to derive arsenic screening levels State-wide.

Comment Letter No. 804775.04

Mitchell, Roger@Waterboards

From: Robinson, Celeste <RobinsonC@sandiego.gov>
Sent: Monday, May 19, 2014 7:35 AM
To: Mitchell, Roger@Waterboards
Cc: Heinrichs, Tony; McFadden, Kris; Steirer, Marsi; Stroud, Heather; Kleis, Andrew; Kolb, Ruth; Castillo, Sylvia; Martin, Peter; McCartney, Rosemary; Guardado, Claudia; Robinson, Celeste
Subject: FW: RWQCB Waiver of WDRs for low threat discharges
Attachments: final waiver comment letter and table.pdf
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Hello Mr. Mitchell

Please see the attached letter.

Thank you,

Celeste Robinson
Clerical Assistant II
Transportation & Storm Water Department

)



THE CITY OF SAN DIEGO

May 16, 2014

VIA EMAIL TO: Roger.Mitchell@waterboards.ca.gov

Roger Mitchell, Registered Geologist
Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: Comment Letter – TENTATIVE ORDER NO. R9-2014-0041
Reference Number CW-804775:RMitchell

Dear Mr. Mitchell:

The City of San Diego (City) appreciates the opportunity to provide comments on the Regional Water Board's Tentative Order R9-2014-0041, Conditional Waivers of Waste Discharge Requirements (WDR) for Low Threat Discharges in the San Diego Region (Tentative Order). The City's primary comments are presented in the body of this letter, and additional comments on specific language and provisions of the Tentative Order are provided in the attached table.

Since the Regional Water Board adopted the prior low threat waiver in 2007, the Regional Municipal Separate Storm Sewer Permit (MS4 Permit) was updated as Order No. R9-2013-0001. The 2013 MS4 Permit incorporates requirements for Total Maximum Daily Loads that subject the City and other Copermitees to stringent water quality based effluent limitations (WQBELs) for bacteria, metals, and pesticides. Additionally, a sediment TMDL is pending final approval. The MS4 Permit also includes a "Receiving Water Limitations" provision stating that "[d]ischarges from MS4s must not cause or contribute to the violation of water quality standards in any receiving waters . . ." (MS4 Permit § II.A.2.a.) A federal court has interpreted this provision to hold MS4 operators liable under the Clean Water Act for exceedances detected in the receiving water downstream of MS4 outfalls. *Natural Resources Defense Council v. County of Los Angeles*, 725 F.3d 1194, 1206-07 (2013).

The City is concerned that the Tentative Order may allow sources subject to waivers to discharge non-storm water and pollutants to the City's MS4. Where these sources are not regulated adequately, they have the potential to cause or contribute to receiving water limitations violations and WQBEL exceedances at MS4 outfalls. This would create an



untenable paradox where the Regional Water Board is permitting sources to discharge pollutants into MS4s while also holding the MS4 operator responsible for discharging those same pollutants from the MS4. To avoid being held responsible for discharges to its MS4 that are permitted by the Regional Water Board over which the City has no control, the City requests revisions to the Tentative Order to make clear that pollutant discharges to MS4s are not permitted. Alternatively, the City requests that the Regional Board acknowledge that MS4 operators are not responsible for regulating or treating pollutants originating from sources covered by this Tentative Order.

Many of the types of low-threat discharges covered in the Tentative Order are the subject of existing regional or statewide permits and policies. In order to ensure uniform regulation of these sources by the various regulatory agencies, the City requests that the Regional Water Board to review these and other related policies for consistency with the proposed Tentative Order. Of particular concern to the City is consistency with its MS4 Permit. As noted in the attached table, there are several instances where sources are regulated by both the Tentative Order and by the MS4 Permit. Although the Tentative Order only regulates the discharges to land, the MS4 Permit requires the City to regulate the discharges where there is potential to enter the MS4, creating overlap in the requirements. It is critical that the waivers directly address the discharge prohibitions contained in the MS4 Permit to ensure there are no inconsistencies that could hinder enforcement of local policies, or place additional burden on the City to monitor or regulate entities subject to the waivers.

The City has concerns about Waiver 10 in the tentative order as it relates to the application of amendments or mulches to soil. The City is responsible for meeting state-wide diversion, recycling, and composting goals and could face monetary penalties if certain diversion mandates are not met. The success of recycling and composting programs is often dependant on the stability of final markets. The City operates a commercial compost facility that produces and sells high quality compost mulch and soil amendment products from plant trimmings and yard debris. We believe that Waiver 10, in its current form could be interpreted to mean that compost and mulch products (either from virgin or recycled feedstock sources), cannot be applied anywhere in the region, at any volume, without the property filling an NOI, which would severely limit local markets for composted products, and created immediate market instability due to confusion over the regulation.

Additionally, Waiver 10 specifies that the application volumes must meet certain criteria, yet the criteria are vague, open to interpretation, and point to outside entities that may or may not provide assistance. The water quality benefits of composts and mulches have been scientifically proven and these products are currently serving as important BMP's for the region. The City feels that clarification of the intent and scope of Waiver 10 is necessary, and requests regional board staff to draft an exact scope and definitions for Waiver 10 and then allow additional stakeholder input on the draft.

Page 3
Roger Mitchell
May 16, 2014

Thank you for your time and consideration of these comments. If you have questions, please contact Ruth Kolb at (858) 541-4328 or at rkolb@sandiego.gov.

Sincerely,



Gene Matter
Acting Deputy Director

GMRk

Enclosure: City of San Diego Comment Table for Draft Tentative Order No. R9-2014-0041

cc: Tony Heinrichs, Deputy Chief Operating Officer
Kris McFadden, Director, Transportation & Storm Water Department
Marsi Steirer, Deputy Director, Public Utilities Department
Heather Stroud, Deputy City Attorney, City Attorney's Office
Drew Kleis, Program Manager, Transportation & Storm Water Department
Ruth Kolb, Program Manager, Transportation & Storm Water Department
Sylvia Castillo, Senior Civil Engineer, Environmental Services Department
Peter Martin, Senior Water Resource Specialist, Public Utilities Department

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
1	Multiple	Multiple	TMDLs	Through the MS4 Permit, the City is subject to TMDLs for metals, pesticides, bacteria, and sediment (forthcoming). As such, with respect to discharges from sources with the potential to contribute TMDL-regulated pollutants, the City requests that the Tentative Order make clear that discharges to MS4s are prohibited. Specific examples are described in subsequent comments.
2	Multiple	Multiple	Consistency with other adopted permits and policies	Many of the type of low-threat discharges covered in R9-2014-0041 are the subject of existing regional or statewide permits and policies (e.g., the MS4 Permit R9-2013-0001, the State Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems). The City urges the Regional Water Board to review these and other related policies and ensure consistency with the proposed WDR Conditional Waivers. Specific examples are described in subsequent comments.
3	Multiple	Multiple	Consistent Enforcement Language in proposed waivers	The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
4	4	Part 1.F.	Threat to Water Quality	<p>The tentative order lists the following waste material classes as being considered a potential threat to water quality: earthen materials, inorganic materials, and organic materials.</p> <p>This list of materials does not include radionuclides; which are a threat to municipal drinking water supplies and the environment. This is consistent with the water quality objectives included in the Water Quality Control Plan for the San Diego Basin (Basin Plan).</p> <p>Recommendation: Addition of the additional class of threats to water quality F.4</p> <p>Bacteria/pathogens should be included in the list of wastes that enter or threaten to enter waters of the State.</p> <p>Recommendation: Add 4. Radionuclides, and bacteria/pathogens.</p>

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
5	4	Part 1.H.	Monitoring	<p>Recognizing that monitoring should not necessarily be required for all waivers, the statement “The other waivers are not [conditioned for performance monitoring] because the specific types of discharges covered by the waivers to not pose a significant threat to water quality” is incorrect. Discharges from graywater, recycled water, and many others, especially where discharges may be entrained in storm water, may pose a significant threat to water quality. The sentence should be deleted and the Regional Water Board should insert language to retain the option to require monitoring where warranted. Where the discharge may threaten water quality when discharged to the MS4, the Regional Water Board should require monitoring if the discharge is not fully contained on-site. Written authorization by the MS4 operator should be necessary to discharge to the MS4.</p> <p>Recommendation: Delete “The other waivers are not because the specific types of discharges covered by the waivers to not pose a significant threat to water quality.”</p> <p>Add: <u>“Where discharges or potential discharges are demonstrated to pose a significant threat to water quality, the Regional Board may require the responsible party to perform monitoring to verify the adequacy and effectiveness of the conditions of the waiver. Written authorization from the MS4 operator is required to discharge to the MS4.”</u></p>

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
6	5	Table 2	Beneficial Uses	<p>Table 2 should be revised to be consistent with Tables 2-2, 2-3, 2-4, and 2-5 of the Water Quality Control Plan for the San Diego Basin. Table 2-2 addresses Inland Surface Waters, Table 2-3 addresses Coastal Waters, Table 2-4 addresses Reservoirs and Lakes, and Table 2-5 addresses Groundwater. If the intent is to combine all beneficial uses in one table, this should be stated.</p> <p>Recommendation: Delete: SAL;</p> <p>Add: <u>AQUA, BIOL, GWR, NAV, POW, SHELL, SPWN</u></p>

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
7	10	Waiver No. 1 add A.10	Enforcement	<p>“Land owners must obtain the appropriate permits (<i>emphasis added</i>) prior to the installation and operation of an on-site <u>greywater</u> disposal system to ensure site conditions are appropriate for construction.”</p> <p>It should be noted that the City of San Diego adopted local ordinances for “no permit” systems in 2013. Any closed clothes washer greywater systems that utilize only a single domestic clothes washing machine in a one- or two-family dwelling, do not need a permit according to City ordinance in conjunction with California Plumbing Code Greywater Systems (Title 24, Part 5, Chapter 16A, Part I: <i>Section 1603A.1.1</i>).</p> <p>It may be necessary to adjust language to reflect that some exemptions apply, and give relevance to the primacy of local ordinances in order to provide clarity to those interested in installing a home greywater system.</p> <p>Recommendation: “Land owners must obtain the appropriate <u>any required permits from appropriate local authorities</u> prior to the installation and operation of an on-site disposal system to ensure site conditions are appropriate for construction.”</p>

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
8	12	Waiver No.1 “Discharges from On-site Greywater Disposal Systems” Section C.11	Conditions for On-site Greywater systems: NOI submission request	<p>Comment: Ensuring compliance with the Regional Board’s conditions for on-site greywater systems will ultimately fall on local authorities, which is an unfair and potentially costly burden. Specifically, the requirement that a greywater system operator must file a NOI in Section C.1. on page 12 of the tentative order:</p> <p>“Operators of an on-site greywater disposal system, proposing to discharge greywater to land must file and [sic] NOI.”</p> <p>The Regional Board’s expectation that homeowners will fill out a NOI as one of the conditions in the permit is somewhat flawed given this history of “guerrilla” greywater use. Many greywater proponents have affectionately deemed themselves “greywater guerillas” and history dictates that these operators may not actually comply with these reporting and permitting requirements.</p> <p>Recommendation: If it is the Regional Board’s expectation that operators comply with the provisions in this permit then clear guidance should be available in an easily understood and accessible format. Additional reporting requirements for home and business owners will require the updating of the local authority’s publicly available information on permitting and require additional staff resources at a cost to taxpayers.</p> <p>Reasonably, the Regional Board should establish specific links within Regional Board website notifying home and business owners of these new compliance measures along with the development of guidance materials. This could reduce the burden on local authorities by allowing them to redirect residents to content on the Regional Board website. The content should include, but not be limited to, information on the reasoning for the</p>

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
 Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region

#	Page	Section	Topic	Comments
				<p>Regional Board’s conditional waiver permit, the NOI, and links to groundwater basin designations.</p> <p>Greywater systems do offset potable water use, and should be considered a public benefit. However, suggesting that individual greywater users submit information that has not been required in the past may be difficult given the current state of greywater system regulation and enforcement in California.</p>
9	10	Waiver No. 1 B.1.e	Design	<p>In order to adequately protect groundwater and to be consistent with storm water requirements in Order R9-2013-0001 [Provision E.3.c.(5)(iv)] related to infiltration, the vertical separation should be 10 feet.</p> <p>Recommendation: Amend B.1.e to read:</p> <p><u>“The vertical distance from the base of the disposal area to the seasonal high groundwater mark must be at least 10 feet. Where groundwater basins do not support beneficial uses, this vertical distance may be reduced, provided groundwater quality is maintained.”</u></p>
10	10,11	Waiver No.1, On-site Graywater Disposal Systems, B.1.f	Setbacks	<p>For consistency with the OWTS Policy (see section 7.5.2, p. 20) and San Diego County requirements, graywater disposal systems must be located at least 100 feet away from any surface water body. This provision is critical to ensure that pollutants (e.g., bacteria) from graywater systems are properly contained onsite.</p> <p>Recommendation: Amend B.1.f to read:</p> <p><u>...be discharged at least 100 feet away from any surface water body, including ephemeral streams and vernal pools, in a manner that is contained within the designated irrigation or disposal field and not ponded on the surface of the soil.</u></p>

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11	12	Waiver No.1, On-site Graywater Disposal Systems, C.1	Typographical Error	Recommendation: Operators of an on-site graywater disposal system, proposing to discharge graywater to land must file an NOI.
12	14-17	Waiver No. 2, Recycled Water to Land	Consistency with State Recycled Water Policy	<p>The City requests that the Regional Water Board ensures the Conditional Waivers remain relevant and provide consistency with the State’s current Recycled Water Policy and anticipated Statewide General Water Recycling Permit. A tentative permit is expected in April 2014, with a targeted adoption of June 2014. The City recognizes that the Statewide General Permit does not pre-empt Regional Water Boards from issuing its own permits; however, we request that requirements in the Tentative Order be reasonable and consistent with statewide requirements.</p> <p>The City of San Diego appreciates the Regional Board permit update to include the waiver of specific discharge requirements for “short-term water projects”. The overall threat to water quality associated with the application of recycled water to land is diminutive. Recently, the Department has had several inquiries from construction projects about the application of recycled water for dust control in areas where no recycled water infrastructure point of access exists. As drought conditions persist, many interested parties are looking for ways to offset potable water use in construction projects and other temporary projects. Allowing for this streamlined process to access temporary recycled water supplies is a good public benefit, and the City supports these provisions.</p>

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13	15	Waiver No. 2, Recycled Water to Land, B.1	Consistency with MS4 Permit and State Recycled Water Policy	<p>The MS4 Permit Provision E.2.a.(2) prohibits discharges of recycled water (R9-2013-0001 p. 74): “Discharges from recycled or reclaimed water lines to the MS4 must be addressed as illicit discharges, unless the discharges have coverage under a separate NPDES permit.” Because of their potential to discharge pollutants (e.g., nutrients, bacteria), discharges of recycled water to the MS4 should be prohibited as part of the Waiver Conditions for Recycled Water Projects. Additionally, management measures (MMs) and best management practices (BMPs) should be consistent with the requirements of the current Policy for Water Quality Control for Recycled Water (Recycled Water Policy). The current policy was approved on 5/14/2009 and amended on 4/25/13, and may be replaced in the near future.</p> <p>Recommendation: Add language to make waiver consistent with the prohibition in the MS4 Permit and ensure the MMs/BMPs are consistent with the Statewide Recycled Water Policy. Amend Section B.1. to read:</p> <p>All windblown spray and surface runoff of recycled water, not considered “incidental runoff,”¹⁹ on to property not owned or controlled by the discharger must be prevented by implementation of MMs/BMPs <u>consistent with the State’s current Recycled Water Policy. Such discharges are prohibited from entering the MS4 without written authorization from the MS4 operator.</u></p>

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14	15	Waiver No. 2, Recycled Water to Land, new B.4	Enforcement	<p>The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</p> <p>Recommendation: Addition of the General Condition B.4 to read:</p> <p><u>If owners/operators of a Recycled Water Project are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV), and required to correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator of a Recycled Water Project violates any waiver conditions, the Regional Water Board has the option to terminate the waiver for the discharge, and begin regulating with individual WDRs and/or take other enforcement actions.</u></p>
15	15	Waiver No. 2, Recycled Water to Land, C.1.a	Consistency with MS4 Permit	<p>The language should be amended for consistency with requested change to B.1 (see Comment #11).</p> <p>Recommendation: Amend C.1.a to read:</p> <p>...containing information about the operator, location of the project, source of the recycled water, planned period of and frequency of discharge of recycled water, and the MMs/BMPs or other measures that will be taken to <u>prevent eliminate or minimize</u> the discharge of pollutants <u>with the potential to affect surface water or and groundwater quality and to prevent any discharges to the MS4.</u></p>

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16	17	Waiver No. 2, Recycled Water to Land, D.3	Coverage under the Waiver	<p>Where the Regional Water Board fails to adopt WDRs within 365 days after submittal of the ROWD, the burden should not fall to the recycled water agency to renew the waiver. Where the recycled water agency is in compliance with waiver conditions, coverage under the waiver should be administratively extended by the Regional Water Board until the WDRs can be adopted.</p> <p>Recommendation: Amend D.3 to read:</p> <p>The conditional waiver issued to the recycled water agency is valid for 365 days after a completed ROWD has been submitted, or until WDRs are adopted for the project, whichever occurs first. The Regional Water Board will adopt WDRs at the earliest possible opportunity. If the WDRs cannot be adopted within 365 days after the completed ROWD has been submitted <u>and the recycled water agency is in compliance with all conditional waiver provisions, the Regional Water Board will administratively extend coverage under the waiver until such time that the WDRs are adopted.</u> recycled water agency must request an extension of the conditional waiver at least 60 days prior to the expiration of the previous conditional waiver. If no request for an extension is received 60 days prior to the expiration of the previous conditional waiver, the permanent recycled water project must cease the discharge of recycled water 365 days after the completed ROWD was submitted.</p>

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17	18	Waiver No. 3 “Miscellaneous “Low Threat” Discharges to Land” Section 2.f.i	drinking water wells classification	<p>i. Groundwater pumped from drinking water wells;</p> <p>Recommendation: The naming convention of “drinking water wells” should be consistent throughout the document. The City suggests “properly permitted municipal or domestic water supply wells”.</p> <p>The term “drinking water wells” excludes many other ground water supply uses not limited to water used for agriculture and animal feed operations.</p>
18	18	Waiver No. 3 “Miscellaneous “Low Threat” Discharges to Land” Section 2.f.i-	“ Other” prospective “Low Threat” Discharges to land	<p>Other well discharges given proper monitoring and treatment should be included in the miscellaneous “low threat” discharges to land. Treated discharges from non-anthropogenic contaminated sources or remediation projects that have been shown to be free from contaminants through approved testing should also be included as they pose no threat to water quality.</p> <p>Recommendation: Section 2.f. and the permit should also include the following well discharges:</p> <p><u>vii. Other water wells not installed as part of a remediation project (as long as wells are free from anthropogenic contamination, or have demonstrated that contamination is has been removed via a carbon filter or other method)</u></p> <p><u>viii. Water wells that can demonstrate that the ground water is free from contamination (such as filtering through a carbon filter or testing), even if such wells are associated with a remediation project</u></p>

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19	20	Waiver No. 3, Miscellaneous “Low Threat” Discharges to Land, B.1	Consistency with the MS4 Permit	<p>The MS4 Permit Provision E.2. prohibits the discharge of non-storm water, including many types of discharges covered under Waiver No.3. (e.g., air conditioner condensate, groundwater, swimming pools, dewatering projects) unless certain conditions as specified in the MS4 Permit are met. The Waiver Conditions for low threat discharges should be consistent with the MS4 Permit.</p> <p>Recommendation: Amend general condition language in B.1 to read:</p> <p>Prevent the direct or indirect discharge of “low threat” discharges to any surface waters of the State (including ephemeral streams and vernal pools). <u>“Low threat” discharges to the MS4 are prohibited unless discharge is in conformance with conditions in the current MS4 Permit (Order R9-2013-0001), or subsequent Order for the San Diego Region and with all local ordinances.</u></p>

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20	20-22	Waiver No.3, Miscellaneous “Low Threat” Discharges to Land, B.5 and C.1-C.7	NOI requirements	<p>B.5 states “Dischargers eligible for enrollment under in the Low Threat Discharge Waiver must submit a complete NOI.” However C.1 through C.7 includes statements such as “Discharges of water from each swimming pool to land must not exceed 50,000 gallons during any continuous 365-day period, unless the discharger has filed a complete NOI...” [from C.2.a.] If the intent is that discharges less than a certain threshold need not file an NOI, it would be helpful to add this for clarification.</p> <p>Recommendation: Addition of specific language to clarify NOI requirements. For example, C.2.a could be revised to read:</p> <p>Discharges of water from each swimming pool to land must not exceed 50,000 gallons during any continuous 365-day period, unless the discharger has filed a complete NOI containing information about the swimming pool location and volume, planned period of and frequency of discharge. <u>Where single discharges to land are less than 50,000 gallons, an NOI is not necessary.</u></p>
21	20	Waiver No. 3, Miscellaneous “Low Threat” Discharges to Land, new B.7	Enforcement	<p>The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</p> <p>Recommendation: Addition of General Condition B.7 to read:</p> <p><u>If owners/operators of projects generating “low threat” discharges are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV), and required to correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator violates any waiver conditions, the Regional Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.</u></p>

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22	21	Waiver No. 3, Miscellaneous “Low Threat” Discharges to Land, C.3	Consistency with MS4 Permit	<p>Because the discharges are prohibited from entering the MS4 per the MS4 Permit Provision E.2, the NOI should describe measures that will eliminate the potential for discharge to the MS4.</p> <p>Recommendation: C.3.b should be amended to read:</p> <p>For multiple applications of groundwater from wells pumped to land over a 365-day period, or a continuous 24-hour (or longer) application of groundwater from wells pumped to land within a 365-day period, the discharger must file a complete NOI containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to minimize or eliminate the <u>prevent the discharge of pollutants with the potential to that might affect surface water and or groundwater quality and to prevent any discharges to the MS4.</u> Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.</p>
23	21	Waiver No. 3, Miscellaneous “Low Threat” Discharges to Land, C.4.	Eligible “Low Threat” Discharges	<p>Dewatering Operations Discharged to Land discussed in C.4. should be included and defined in Section A.</p>

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24	22	Waiver No. 3, Miscellaneous “Low Threat” Discharges to Land, C.7	Consistency with MS4 Permit	<p>The MS4 Permit Provision E.3.c.(5) provides specific design criteria for infiltration BMPs to ensure groundwater is protected. These types of projects do not require further regulation as local agencies with land use authority require compliance with land development requirements for all development projects. Agencies are encouraging infiltration BMPs to meet complex regulatory requirements and will ensure proper design. Additional regulation is inappropriate and will hinder implementation progress.</p> <p><u>Recommendation:</u> Remove C.7 as it creates unnecessary overlapping regulation. If the specific provision remains, recommend striking the requirement to file an NOI under any circumstance and acknowledging the nexus with the MS4 Permit.</p>

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25	21-22	Waiver No. 3, Miscellaneous "Low Threat" Discharges to Land, C.	Specific Conditions for "Low Threat" Discharges	<p>Section C. doesn't include specific waiver conditions for discharges listed in A.2.d or A.2.f.i.-iii. Discharges from short term construction dewatering operations (A.2.d) have the potential to contribute sediment to MS4s and receiving waters and therefore warrant specific conditions. Discharges from flushing water lines (A.2.f.iii) are regulated under NPDES Permit No. CAG 679001 (Order No. R9-2010-0003 or subsequent order) and warrant specific conditions referencing this permit.</p> <p>Recommendations: Add specific conditions for Short Term Construction Dewatering Operations to include:</p> <p><u>Discharges are prohibited from entering the MS4 or any surface waters, including ephemeral streams or vernal pools, unless authorized by a separate NPDES permit or other WDRs.</u></p> <p>Add specific conditions for discharges from flushing water lines to include: <u>Where discharges from flushing water lines have the potential to discharge to the MS4 or to affect surface water quality, discharges must have coverage under and be compliant with the requirements of NPDES Permit No. CAG 679001 (Order No. R9-2010-0003 or subsequent order).</u></p>
26	24	Waiver No. 4 B.2.a	Consistency with MS4 Permit	<p>Add language to include prohibition of discharges to the MS4.</p> <p><u>Recommendation:</u> Amend B.2.a to read:</p> <p>not be discharged to <u>the MS4</u> or surface waters;</p>

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27	25	Waiver No. 4, Winery Process Water to Lined Evaporation Ponds, C.4.b	Wet Weather Discharges	<p>The waiver does not require specific MMs/BMPs to eliminate potential discharges of comingled winery wastes and storm water flows to MS4s or surface waters during large storm events. Discharges during storm events, regardless of size, have the potential to result in exceedances of receiving water limitations and/or water quality based effluent limitations.</p> <p>Recommendation: Please provide rationale for selection of the 25 year event or delete reference to specific storm size. Include specific conditions to implement MMs/BMPs to prevent the discharge of liquid wastes to the MS4 or surface waters during all storm events.</p>
28	26-27	Waiver No. 5, Wastes to Land at Composting Facilities, B.1.c	Consistency with MS4 Permit	<p>Add language to ensure consistency with the MS4 Permit.</p> <p>Recommendation: Add language to B.1.c to read:</p> <p>...be discharged to land to minimize or eliminate runoff and leachate to surface waters and groundwaters, through the implementation of MMs and BMPs. <u>Discharges to the MS4 are prohibited.</u></p>

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29	28	“Specific Waiver Conditions for Compost Facilities” Section D.1.a.iii	“Specific Waiver Conditions for Compost Facilities”	<p>The City of San Diego’s Public Utilities Department manages more than 42,000 acres of source protection lands in the interest of maintaining water quality at the City’s nine reservoirs. This includes many agricultural preserves, multi-use recreational zones, and sensitive habitat preservation lands in the upper watersheds. The City directly manages the land uses as a buffer to ensure there are no deleterious impacts to the water quality of the drinking water supplies for the 1.2 million customers of the Public Utilities Department. As such, composting facilities and animal waste applications in the watersheds and outside of the City’s control are a potential risk to drinking water supplies if they are mismanaged. The permit’s provisions for a buffer zone of 100 feet from a surface water body (or less with justification) may not be adequate for the protection of human health.</p> <p>The City requests that the Regional Board permit be revised in order to be harmony with the Public Health’s 1999 Drinking Source Water Assessment and Protection (DSWAP) guidance document¹. Moreover, with the California Department of Public Health’s Drinking Water Program potentially being transferred to the State Water Board in July of this year, the Regional Board should begin working to incorporate the necessary synergies between our surface water/ ground water quality and our drinking water supplies.</p> <p>The aforementioned 1999 (DSWAP) Program guidance document recommends the following drinking water source protection setback zones: 400 feet from banks of reservoir, or primary stream 200 feet from tributaries 2,500 feet from (drinking water source) intakes</p> <p>(CONTINUED on next page)</p> <p>(CONTINUED from previous page) ...distance of travel-time from a water supply intake to allow for adequate time to respond to catastrophic or spill events associated with a variety of land uses.</p> <p>Recommendation: The City’s Public Utilities Department requests that the minimum buffer zones in the DWSAP Guidance Document be adapted for compost facilities and animal manure and waste applications for land areas adjacent to water bodies with the MUNI beneficial use designation.</p>

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				<p>(CONTINUED from previous page)</p> <p>These source protection zone goals have been adapted for the land use planning associated with the City’s drinking water source protection lands. In most cases, the City actually establishes zones above these recommendations. Adapting these zones ensures the protection of our drinking water supplies by creating sufficient amount of distance or travel-time from a water supply intake to allow for adequate time to respond to catastrophic or spill events associated with a variety of land uses.</p> <p>Recommendation: The City’s Public Utilities Department requests that the minimum buffer zones in the DWSAP Guidance Document be adapted for compost facilities and animal manure and waste applications for land areas adjacent to water bodies with the MUN beneficial use designation.</p> <p>¹http://www.cdph.ca.gov/certlic/drinkingwater/Documents/DWSAPGuidance/DWSAP_document.pdf</p>

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30	28	Waiver No. 5, Wastes to Land at Composting Facilities, D.b.1.b.iii-iv	Wet Weather Discharges; Consistency with MS4 Permit	<p>These source protection zone goals have been adapted for the land use planning associated with the City’s drinking water source protection lands. In most cases, the City actually establishes zones above these recommendations. Adapting these zones ensures the protection of our The waiver does not require specific MMs/BMPs to eliminate potential discharges of wastes and storm water flows to MS4s or surface waters during large storm events. The reference to the 25 year event is inconsistent with the requirements of the MS4 Permit.</p> <p>Recommendation: Include specific conditions to implement MMs/BMPs to prevent the discharge of liquid wastes to the MS4 or surface waters during large storm events.</p> <p>Revise D.1.b.iii to read: manage/control all run-on, runoff, and precipitation which falls onto or within the boundaries of the compost facility, resulting from a 25-year, 24-hour storm event. <u>The facility must implement BMPs to the maximum extent practicable to prevent the discharge of pollutants in storm water to the MS4. BMPs must be implemented</u> In the event the volume of run-on, runoff, and/or precipitation exceeds the 25-year, 24-hour storm event, the composting facility must discharge the process storm water in a manner consistent with the current Regional MS4 Permit Order R9-2013-0001 or subsequent Order).</p> <p>Revise D.1.b.iv. to read: prevent wastes, additives, amendments, and/or compost (active or stabilized) from inundation by surface flows associated with the site-specific maximum peak flow from the 25-year, 24-hour storm events that may occur during the period of processing, storage, or treatment of wastes.</p>

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31	33	Waiver No. 7, Animal Operations, new B.3	Enforcement	<p>The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</p> <p>Recommendation: Addition of General Condition B.5 to read:</p> <p><u>If owners/operators of an Animal Operation are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV), and required to correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator violates any waiver conditions, the Regional Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.</u></p>

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32	34	B.4.b.vi and (Pg. 35) B.4.c.iii	“General Conditions for Discharges from Animal Operations”	<p>The City of San Diego’s Public Utilities Department manages more than 42,000 acres of source protection lands in the interest of maintaining water quality at the City’s nine reservoirs. This includes many agricultural preserves, multi-use recreational zones, and sensitive habitat preservation lands in the upper watersheds. The City directly manages the land uses as a buffer to ensure there are no deleterious impacts to the water quality of the drinking water supplies for the 1.2 million customers of the Public Utilities Department. As such, composting facilities and animal waste applications in the watersheds and outside of the City’s control are a potential risk to drinking water supplies if they are mismanaged. The permit’s provisions for a buffer zone of 100 feet from a surface water body (or less with justification) may not be adequate for the protection of human health.</p> <p>The City requests that the Regional Board permit be revised in order to be harmony with the Public Health’s 1999 Drinking Source Water Assessment and Protection (DSWAP) guidance document¹. Moreover, with the California Department of Public Health’s Drinking Water Program potentially being transferred to the State Water Board in July of this year, the Regional Board should begin working to incorporate the necessary synergies between our surface water/ ground water quality and our drinking water supplies.</p> <p>The aforementioned 1999 (DSWAP) Program guidance document recommends the following drinking water source protection setback zones: 400 feet from banks of reservoir, or primary stream 200 feet from tributaries 2,500 feet from (drinking water source) intakes</p> <p>(CONTINUED on next page)</p> <p>(CONTINUED from previous page) ...distance of travel-time from a water supply intake to allow for adequate time to respond to catastrophic or spill events associated with a variety of land uses.</p>

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				<p>(CONTINUED from previous page)</p> <p>These source protection zone goals have been adapted for the land use planning associated with the City’s drinking water source protection lands. In most cases, the City actually establishes zones above these recommendations. Adapting these zones ensures the protection of our drinking water supplies by creating sufficient amount of distance or travel-time from a water supply intake to allow for adequate time to respond to catastrophic or spill events associated with a variety of land uses.</p> <p>Recommendation: The City’s Public Utilities Department requests that the minimum buffer zones in the DWSAP Guidance Document be adapted for compost facilities and animal manure and waste applications for land areas adjacent to water bodies with the MUN beneficial use designation.</p> <p>¹http://www.cdph.ca.gov/certlic/drinkingwater/Documents/DWSAPGuidance/DWSAP_document.pdf</p>
33	34	Waiver No. 7, Animal Operations, B.3 and B.4 C.a	Consistency with MS4 Permit	<p>General and specific provisions should be consistent with the discharge prohibitions in the MS4 permit.</p> <p>Recommendations: Modify the following sections to read:</p> <p>B.3.c. Animal operations must implement management measures (MMs) and/or best management practices (BMPs) to minimize or eliminate <u>prevent</u> the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the State. <u>Discharges to MS4s and surface waters are prohibited.</u> Recommended MMs/BMPs are provided in <i>Equestrian-Related Waste Quality Best Management Practices</i> available from the County of San Diego Department of Agriculture, Weights and Measures,</p>

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				<p>and/or the Field Office Technical Guide available from the Natural Resource Conservation Service (NRCS), or other sources.</p> <p>B.3.d. Animal operations must prevent direct contact between animals and surface water bodies <u>and MS4 facilities</u>. Animals should not be allowed to graze directly adjacent to or within stream banks. Animal operations should maintain a buffer zone or riparian filter strip between the animals and any surface waters of the State, <u>or MS4 facilities</u>. The buffer zone must adequately minimize the discharge of pollutants from an animal operation. There should be no direct exposure of a surface water body to an animal.</p> <p>B.4.a. Animal operations must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to any surface waters of the state (including ephemeral streams and vernal pools, <u>storm water channels or other MS4 facilities</u>).</p> <p>B.4.c.iv.(B) Soil amendments or mulch material areas must implement MMs/BMPs to <u>prevent the introduction of polluted</u> minimize or eliminate runoff and leachate to <u>MS4s</u>, surface waters, and groundwater.</p> <p>C.a.i. Small AFOs must not discharge any pollutants to waters of the United States through any man-made conveyance, or directly to waters of the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation. <u>Non-storm water discharges to MS4s are prohibited</u>.</p> <p>C.b.i. Medium AFOs must not discharge any pollutants to waters of the United States through any man-made conveyance, or directly to waters of the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in</p>

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				<p>the operation. <u>Non-storm water discharges to MS4s are prohibited.</u></p> <p>C.c.ii. Owners of pasture and range lands used for grazing, must implement MMs/BMPs to minimize or eliminate any discharge that could adversely affect the quality or beneficial uses of waters of the state. <u>Non-storm water discharges to MS4s are prohibited.</u></p>
34	38	Waiver No. 8, Aquatic Animal Production Facilities	TMDLs	<p>Because aquatic animal production facilities often operate directly in receiving waters, the TO should specifically prohibit issuing these waivers in circumstances where the receiving waters are impaired and subject to TMDLs. As discussed in A.1. “Discharges from aquatic animal production facilities may include elevated levels of suspended solids, biochemical oxygen demand, metals, and nutrients.” Impairments in the San Diego Area include sediment, metals, and nutrients and several TMDLs have been or are in development. As such, new and existing sources of these constituents should be regulated under appropriate NPDES and WDR programs and should not be the subject of conditional waivers. If the Regional Water Board determines that the waiver is the appropriate means of regulation, operations within receiving waters subject to TMDLs should be required to implement additional MMs/BMPs and to monitor for the TMDL constituents in their influent and effluent to ensure that their discharges are not causing or contributing to exceedances of water quality standards within the receiving water.</p>

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35	38	Waiver No. 8, Aquatic Animal Production Facilities, new B.3	Enforcement	<p>The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</p> <p>Recommendation: Addition of General Condition B.3 to read:</p> <p><u>If owners/operators of Aquatic Animal Production Facilities are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV), and required to correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator violates any waiver conditions, the Regional Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.</u></p>
36	39	Waiver No. 8, Aquatic Animal Production Facilities, C.3	Consistency with MS4 Permit	<p>Add language to ensure consistency with the MS4 Permit.</p> <p>Recommendation: Revise language in Section C.3.c to read:</p> <p>C.3.c. Ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills and discharge to waters of the United States and/or State <u>and consistent with requirements under the current MS4 Permit for the San Diego Region. Non-storm water discharges to MS4s are prohibited.</u></p>
37	39	Waiver No. 8, Aquatic Animal Production Facilities, Tables 1, 2	TMDL	<p>Many of the surface waters in the San Diego Region are subject to bacteria TMDLs. As such, these facilities should monitor bacteria constituents in their influent and effluent to ensure that they are not causing or contributing to exceedances of water quality standards in the receiving waters in which they operate.</p> <p>Recommendation: Add total coliform, fecal coliform, and enterococcus to the list of parameters for monitoring in both tables.</p>

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#	Page	Section	Topic	Comments
38	42	Waiver No. 9, Slurries to Land, B.1	Consistency with MS4 Permit	Add language to ensure consistency with the MS4 Permit. Recommendation: Modify Section B.1.a. to read: not directly or indirectly discharge into any <u>MS4s or</u> surface waters of the State (including ephemeral streams and vernal pools);
39	43	Waiver No. 9, Slurries to Land, D.1	Consistency with Industrial General Permit	Section should be updated to reference the recently adopted Industrial Stormwater General Permit Order <u>2014-0057-DWQ</u> .
40	44	Waiver No. 10, Disposal of Solid Wastes to Land, A. & B.	Definition	Define “waste” given that products made at the Miramar Landfill greenery facility are “applied” to land as mulch.
41	44	Waiver No. 10, Disposal of Solid Wastes to Land, B.1	Consistency with MS4 Permit	Add language to ensure consistency with the MS4 Permit. Recommendation: Modify Section B.1.a to read: not be allowed to directly or indirectly discharge to any <u>MS4s or</u> surface waters of the State (including ephemeral streams and vernal pools), <u>unless authorized by a separate permit or other WDRs;</u>
42	45	Waiver No. 10, Disposal of Solid Wastes to Land, B.2.b	Consistency with MS4 Permit	Add language to ensure consistency with the MS4 Permit. Recommendation: Modify Section B.2.b to read: minimize or eliminate <u>prevent</u> the discharge of any pollutants <u>to MS4s or to surface waters</u> that could adversely affect the quality or beneficial uses of waters of the State;

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#	Page	Section	Topic	Comments
43	45	Waiver No. 10, Disposal of Solid Wastes to Land, new B.2.d	Enforcement	<p>The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</p> <p>Recommendation: Addition of General Condition B.2.d to read:</p> <p><u>If owners/operators of a facility discharging waste to land are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and required to correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator violates any waiver conditions, the Regional Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.</u></p>
44	45	Waiver No. 10, Disposal of Solid Wastes to Land, C.1.b	Enforcement	<p>“Soil amendments or mulch materials eligible to be applied to soil, the amount must be reasonable for the crop, or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch.” Strict interruption of this requirement will require all property owners that use mulch to apply for an NOI. This appears contradictory to water conversation recommendations to use mulch to reduce evaporation; thereby, water usage.</p> <p>Recommendation: Define “amount must be reasonable.”</p>
45	46	Waiver No. 10, Disposal of Solid Wastes to Land, C.1.b	Consistency with MS4 Permit	<p>The MS4 Permit does not differentiate between BMP requirements for storm events during the wet weather season versus storm events during the dry season. Requirements should be applied consistently regardless of seasonality.</p> <p>Recommendation: References to “wet weather season” and dates should be removed. Section should be revised to read:</p>

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#	Page	Section	Topic	Comments
				<p>Soil amendments or mulch materials eligible to be applied to soil, the amount must be reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the wet weather season (October 1—April 30). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the wet weather season. Resources are available from the Natural Resource Conservation Service (NRCS), University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.</p>
46	47-59	Waiver No. 10, Disposal of Solid Wastes to Land, C.2.	Consistency with MS4 Permit	<p>Add language to ensure consistency with the MS4 permit.</p> <p>Recommendation: Amend the following sections as follows:</p> <p>C.2.a.v.Surface drainage must be diverted away from the temporary waste piles. For all temporary waste piles, the discharger must implement effective MMs/BMPs to prevent surface water runoff and runoff from contacting wastes, and to prevent erosion and transport of wastes by surface runoff. <u>Non-storm water discharges to MS4s are prohibited. Discharges of storm water to MS4s that contains pollutants as a result of contact with the waste piles are prohibited.</u></p> <p>C.2.a.vi.(A) placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from any surface water of the State <u>or any MS4 facility</u>, unless sufficient information is provided in the NOI, to demonstrate that a proposed alternative is protective of water quality;</p> <p>C.2.e.i.(A) Inert waste soils from known contaminated sites cannot be</p>

Attachment 1: City of San Diego Comment Table for Tentative Order No. R9-2014-0041
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#	Page	Section	Topic	Comments
				<p>transported off site and discharged/disposed/reused directly or indirectly to <u>any MS4 or any surface waters of the State (including ephemeral streams and vernal pools).</u></p> <p>C.2.e.i.(H)(2) include a map of the site showing the locations of excavations, borings and/or stockpiles, MMs/BMPs that will be taken <u>to eliminate any discharges of water that has come into contact with waste soil to MS4s and</u> to prevent discharges of waste soil that could affect surface water and groundwater quality, estimated volumes (can be a range of volumes) of inert waste soil that will be generated for use off the site, estimated number (can be a range) and locations of samples that will be collected for characterization, and name of the certified environmental analytical laboratory that will perform the analysis.</p> <p>C.2.e.iv.(D)(4) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport <u>and BMPs implemented to prevent storm water from coming into contact with waste soil.</u></p> <p>C.2.e.iii.(D)(5) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport <u>and BMPs implemented to prevent storm water from coming into contact with waste soil.</u></p> <p>C.2.e.v.(C) Tier 2 inert waste must be placed at least 100 feet from the nearest surface water body <u>and any open MS4 facility.</u></p>

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#	Page	Section	Topic	Comments
47	60	Waiver No. 11, Aerial Discharged Wastes Overland, C.2.	Consistency with MS4 Permit and with Fireworks General Permit	<p>Add language to ensure consistency with the MS4 Permit.</p> <p>Recommendation: Modify Section C.2.a.vi.(A) to read:</p> <p>C.2.a.vi.(A) Aerially discharged wastes cannot be discharged directly over and/or into <u>any open MS4 or any surface waters of the State (including ephemeral streams and vernal pools) unless an NOI has been filed with the San Diego Regional Board for coverage under Order No. R9-2011-0022.</u></p>
48	61	Waiver No. 11, Aerial Discharged Wastes Overland, new C.7.	Enforcement	<p>The language in the waiver should explicitly authorize the Regional Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</p> <p>Recommendation: Addition of General Condition B.2.d to read:</p> <p><u>If the dischargers of waste related to fireworks displays over land are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and required to correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator violates any waiver conditions, the Regional Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.</u></p>
49	65-70	Waiver No. 12, Emergency/ Disaster Related Wastes	Consistency with MS4 Permit	<p>Add language to ensure consistency with the MS4 Permit.</p> <p>Recommendation: Modify the following sections to read:</p> <p>B.3.b. Temporary waste piles and surface impoundments used to manage emergency/disaster related waste must: prevent the direct or indirect discharge of emergency/disaster related wastes to <u>any open MS4 facility and any surface waters of the State (including ephemeral streams and vernal pools).</u></p>

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#	Page	Section	Topic	Comments
				<p>C.3.c. All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the State <u>and any open MS4 facility</u>.</p> <p>C.4.b.i. The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the State <u>and any open MS4 facility</u>.</p> <p>C.5.b.i. The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the State <u>and any open MS4 facility</u>.</p> <p>C.6.b.i. The bottom of an emergency landfill must be placed at least 10 feet above the highest historically known or anticipated level of groundwater, and more than 500 feet from any surface water of the State <u>and any open MS4 facility</u>.</p>
50	72	Waiver No. 12, Emergency/ Disaster Related Wastes C.4.a.ii.-iii.	Typographical Errors	<p>ii. the facility address and contact information, iii. a <u>d</u>escription of temporary waste management unit, and</p>

Comment Letter No. 804775.05

Mitchell, Roger@Waterboards

From: mary@agriserviceinc.com
Sent: Monday, May 19, 2014 11:03 AM
To: Mitchell, Roger@Waterboards
Subject: Conditional Waivers
Attachments: condiditional waiver 52014.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Roger: Thanks for the opportunity to review and comment on the waivers. Let me know if you have any questions.

Sincerely,

Mary Matava, President-Agronomist

AGRI SERVICE
3720 Oceanic Way, Suite 204
Oceanside, CA 92056

760-518-3498 Cell
760-295-6255 Office

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May 19, 2014

Roger N. Mitchell, P.G.
Engineering Geologist
San Diego Regional Water Quality Control Board – Land Discharge Unit
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: Proposed Waivers

Dear Mr. Mitchell:

Thank you for the opportunity to comment of the proposed conditional waivers. In general, it appears that Waiver 5 and 10 are overlapping. I believe the Waivers would be improved by having Waiver 5 address compost facilities, Waiver 10 address discharge of green materials to land that is not operated as a compost facility and the use of amendments and mulch products addressed in the Draft WDR's for Irrigated Lands.

Following are comments on Waiver No. 5 and Waiver No. 10

Waiver No. 5 – Discharges of Wastes to Land at Composting Facilities

A. Specific Findings for Discharges of Wastes at Composting Facilities

1) The conditional waiver for discharges of Waste at Composting Facilities

(Composting Facilities Waiver) is applicable to discharges of wastes²⁴ to land used in the production of compost. For the purposes of the Composting Facilities Waiver the discharge of:

- a) Agricultural wastes,²⁵ green wastes, paper wastes, vegetative food wastes, or manures; and/or
- b) Additives and amendments.

Comment on A1a:

Consider using the sample definitions in Title 14, Chapter 3.1 instead of redefining in this document. It is increasingly difficult to operate my business in California with similar, but different definitions for the same activity or facility from regulatory units. Following are the definitions that define compost facilities in California.

Section 17852. Definitions. (a) For the purposes of this Chapter:

5) "**Agricultural Material**" means material of plant or animal origin, which result from the production and processing of farm, ranch, agricultural, horticultural, aquacultural, silvicultural, floricultural, vermicultural, or viticultural products, including manures, orchard and vineyard prunings, and crop residues.

(20) "Food Material" means any material that was acquired for animal or human consumption, is separated from the municipal solid waste stream, and that does not meet the definition of "agricultural material." Food material may include material from food facilities as defined in Health and Safety Code section 113785, grocery stores, institutional cafeterias (such as, prisons, schools and hospitals) or residential food scrap collection.

(21) "Green Material" means any plant material that is separated at the point of generation, contains no greater than 1.0 percent of physical contaminants by weight, and meets the requirements of section 17868.5. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, natural fiber products, and construction and demolition wood waste. Green material does not include food material, biosolids, mixed solid waste, material processed from commingled collection, wood containing lead-based paint or wood preservative, mixed construction or mixed demolition debris.

(25) "Manure" is an agricultural material and means accumulated herbivore or avian excrement. This definition shall include feces and urine, and any bedding material, spilled feed, or soil that is mixed with feces or urine.

Comment on A1a

Food Materials in Title 14 references sources of Food Material as defined in Health and Safety Code section 113785, grocery stores, institutional cafeterias (such as, prisons, schools and hospitals) or residential food scrap collection. Unfortunately, I could not find code **113785**, but found **113789**, perhaps there is a typographical error. The vast majority of food discarded from these facilities would be vegetative and preclude the need for a newly defined feedstock 'vegetative food waste'. To avoid animal carcass or excessive meat discards, **109947**. "Food processing facility" and **111955**. "Food processing establishment," could be specifically disallowed.

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.



(3) Licensed health care facilities, except as provided in paragraph (13) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in

Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

(13) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

109947. "Food processing facility" means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, a cottage food operation that is registered or has a permit pursuant to Section 114365, or any facility exclusively storing, handling, or processing dried beans.

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

A. Specific Findings for Discharges of Wastes at Composting Facilities

2. For the purposes of the Composting Facilities Waiver:
 - a) Composting-related activities, as specified in Appendix B of the Order, are not expected to pose a significant threat to the waters of the state, and are therefore conditionally exempt from the requirements of the Composting Facilities Waiver, but may be subject to other federal, State, or local regulations; and
 - b) "Plant crop residues" refer to those pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products,

including orchards and vineyard prunings, which are returned to that same land.

Comment on A.2.(b)

This definition of 'Plant crop residues' seems to be different than in Waiver 10. The 'Plant crop residues' described above are a normal responsible farming activity. In fact, not tilling in may crop residues may result in pathogen build up and result in higher pesticide use. It is appropriate to address this activity if needed in the General Order for Irrigated Lands.

B. General Waiver Conditions for Plant Crop Residues to Land

1. Plant crop residues must:

- a) Be managed to prevent transport of pollutants to waters of the State;
- b) Not be burned and applied to land; and
- c) Be discharged to land to minimize or eliminate runoff and leachate to surface waters and groundwaters, through the implementation of management measures (MMs) and best management practices (BMPs).

2. Pesticides, herbicides, fertilizers, and other products associated with plant crop residues must:

- a) Be used in accordance with manufacturer's guidelines; and
- b) Not adversely affect the quality or beneficial uses of any waters of the State.

Comment on B.

Since Waiver 5 intends to regulate compost facilities, it would make more sense as to have this section read "General Waiver Conditions for Compost Facilities" instead of "General Waiver Conditions for Plant Crop Residues to Land".

Comment on B.2.(a)

What would the mechanism that facilities could know how pesticides were applied to plant material during the growing cycle? One of the benefits of composting is to breakdown pesticide residues in a controlled environment.

Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land.

A. Specific Findings for Discharges/Disposal of Solid Wastes to Land

- 1) The conditional waiver for discharges/Disposal of Solid Wastes to Land (Solid Waste Waiver) is for discharges of solid wastes to land, which may be a source of pollutants that can adversely affect the quality of waters of the State.
- 2) The following types of discharge not regulated under WDRs may be eligible for the Solid Waste Waiver:
 - a) Discharges of plant crop residues to land;
 - b) Discharges/application of amendments and/or mulches to soil;

Comments on A2a:

1. I suggest using the same definitions as noted in my comments in Waiver 5. In the following excerpt, the term "plant residues" should be replaced with the Green Materials definition in Title 14, Chapter 3.1:

(21) "Green Material" means any plant material that is separated at the point of generation, contains no greater than 1.0 percent of physical contaminants by weight, and meets the requirements of section 17868.5. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, natural fiber products, and construction and demolition wood waste. Green material does not include food material, biosolids, mixed solid waste, material processed from commingled collection, wood containing lead-based paint or wood preservative, mixed construction or mixed demolition debris.

2. I could not find the NOI associated with this activity in the document package. Who would file the NOI, the discharger or the landowner?

3. There is no further explanation associated with this type of waste discharge in the document.

Comments on A2B:

Amendments and mulch are not wastes, they are a product and are already addressed in the Draft WDR's for Irrigated lands.

Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land.

C. Specific Waiver Conditions for Discharges/Disposal of Solid Wastes to Land 1. Discharge of Amendments and Mulches to Soil.

1. Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided in the NOI to demonstrate that the waste does not pose a potential threat to water quality:
 - i. Municipal solid wastes;
 - ii. Sludges, including sewage sludge, water treatment sludge, and industrial sludge;
 - iii. Septage;
 - iv. Liquid wastes;
 - v. Oil and grease; and
 - vi. Hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

2. Soil amendments or mulch materials eligible to be applied to soil, the amount must be reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the wet weather season (October 1 –



April 30). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the wet weather season. Resources and assistance may be available from the Natural Resource Conservation Service (NRCS), University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.

3. Soil amendments or mulch materials to soil must be applied at site- specific rates appropriate to the season (i.e., dry vs. rainy).

Comments on Section C

The section is attempting to place a waste discharge label on products. These products are addressed in the Draft WDR's for Irrigated Lands. In addition, this section does not outline BMP for applications of amendment and mulch. I don't know of any resource, including those listed, that have the BMP's that this section implies will assist growers. I suggest eliminating this section completely and addressing it in the Draft WDR's for Irrigated Lands.

Thank you once again for the opportunity to comment on the proposed waivers. Please feel free to contact me if you should have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mary Matava".

Mary Matava, Agronomist-President
AGRI SERVICE, INC

Comment Letter No. 804775.06

Mitchell, Roger@Waterboards

From: Samora, Patricia <patricia.samora@urs.com>
Sent: Monday, May 19, 2014 1:28 PM
To: Mitchell, Roger@Waterboards
Subject: CW-804775:RMitchell
Attachments: P. Samora Conditional Waiver comment.doc

Roger, I attended the Stakeholder meeting on behalf of IEA, who will be submitting comments on behalf of IEA. However, they will not comment on Conditional Waiver 1 or Waiver 7, as they are not industrial issues. I would like to submit the following comments as a private citizen, in track changes, for your consideration.

They are:

- A. WASTE DISCHARGES SUBJECT TO THIS ORDER.** This Order requires the filing of a ROWD for the following types of waste discharges **that exceed the threshold volume or criteria specified in the specific waiver conditions for that waiver.** For the purposes of this Order, a completed Notice of Intent (NOI) may serve as the Dischargers' ROWD. As documented in the Technical Report, *Information Sheet for Tentative Order No. R9-2014-0041*, waivers for these specific types of discharges are in the public interest.
1. Discharges from on-site graywater disposal systems; **(recommend add minimum threshold- ___ gallons/day or facility services more than ___ people.)**
 16. Discharges from small animal feeding operations; **(recommend using former waiver language- only submit NOI and file fee if failure to implement MM/BMPs and results in complaint.)**
 18. Discharges of storm water runoff from animal operations; **(same.)**
 20. Discharges from grazing lands; **(same)**

All definitions should be defined or the source of the regulatory definition referenced (i.e fee structure.)

With regard to the small animal operations (stables, small farms, ranches, etc.) you need to engage the stakeholders prior to regulating their industry and imposing a fee that will cause many to go out of business.

Thank you.

Patricia Samora
Civil Engineer
5046 Via Papel, San Diego, CA 92122
samoras@att.net

information and you should destroy the e-mail and any attachments or copies.

Appendix A

**Proposed Conditional Waivers of Waste Discharge
Requirements for Low Threat Discharges
in the San Diego Region**

Tentative Order No. R9-2014-0041

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE ORDER No. R9-2014-0041

**CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR
LOW THREAT DISCHARGES IN THE SAN DIEGO REGION**

The Discharger, as described in the following table is subject to the waiver of waste discharge requirements as set forth in this Order:

Table A. Discharger Information

Discharger	Any person responsible for the discharge of low threat discharges which in accordance with the general and specific conditions specified in each of the waivers are unlikely to affect the quality of the waters of the State.
Dischargers regulated under this Order and the waivers contained within, must be subject to application and annual fees assessed relative to their assigned threat and complexity ranking or other discharge specific conditions identified in California Code of Regulations, Title 23, section 2200.	

Discharges of wastes by persons from their locations in the San Diego Region are subject to the requirements set forth in this Order. Administrative information regarding this Order is contained in Table B below.

Table B: Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, San Diego Region on:	2014
This Order shall become effective on the date of adoption.	

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all appendices is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on June 26, 2014.

TENTATIVE
David W. Gibson
 Executive Officer

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CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR
LOW THREAT DISCHARGES IN THE SAN DIEGO REGION

TENTATIVE ORDER NO. R9-2014-0041

PART I GENERAL FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter **San Diego Water Board**), finds that:

- A. LEGAL AUTHORITY TO ISSUE WAIVERS.** Water Code section 13260(a) and (c) require persons proposing to discharge waste,¹ or proposing to make a material change in the character, location, or volume of a discharge to file a report of waste discharge (ROWD) with the appropriate California Regional Water Quality Control Board (Regional Water Board). Water Code section 13264 prohibits persons from initiating any new discharge of waste or making any material changes in any discharge prior to the filing of a ROWD and being issued waste discharge requirements (WDRs) by the appropriate Regional Water Board.

Under authority of Water Code 13263(d), the San Diego Water Board may prescribe WDRs although no ROWD has been filed.

Pursuant to Water Code section 13269(a)(1), the San Diego Water Board may waive the provisions of sections 13260(a) and (c), or 13264(a) for a specific discharge or type of discharge, if it determines the waiver is consistent with the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) and is in the interest of the public. Water Code section 13296(a)(2) stipulates a waiver may not exceed five years in duration, but may be renewed by the San Diego Water Board. Waivers must be conditional and may be terminated at any time by the State Water Resources Control Board (State Water Board), or the San Diego Water Board.

In accordance with the Basin Plan, Chapter 4, a waiver of WDRs would not be against the public interest if either of the following circumstances apply to the discharges in that category:

1. *The type of discharge does not adversely affect the quality² or the beneficial uses³ of the waters of the State.⁴*
2. *The type of discharge is not readily amenable to regulation through the adoption of WDRs but warrants San Diego Water Board oversight to ensure compliance with mandated conditions.*

Water Code section 13269 does not authorize the San Diego Water Board to issue waivers of WDRs for waste discharges subject to federal regulations⁵ implementing the federal Clean Water Act and the federal National Pollutant Discharge Elimination System (NPDES) regulations.

¹ The term "waste" is as defined in Water Code section 13050(d).

² The term "quality of the water" is as defined in Water Code section 13050(g).

³ The term "beneficial uses" is as defined in Water Code section 13050(f).

⁴ The term "waters of the State" is as defined in Water Code section 13050(e).

⁵ Water Code section 13370 et seq.

- B. PURPOSE.** The purpose of this Order is to:
1. revise and renew several waivers adopted by the San Diego Water Board as an amendment to the Basin Plan in Resolution No. R9-2007-0104, which expired on February 3, 2014;
 2. incorporate a waiver for discharges from aquatic animal production facilities;
 3. issue new waivers for specific types of discharges within the San Diego Region, which pose a low threat to the waters of the State, and are not currently regulated by the San Diego Water Board;
 4. reorganize the waivers by grouping the specific types of discharge into discharge classifications;
 5. provide general waiver conditions applicable to a discharge or discharge operations for all specific types of discharge within a discharge classification; and
 6. provide specific waiver conditions for each specific type of discharge within a discharge classification, if applicable.
- C. DISCHARGER.** As the term applies in this Order, a “Discharger” is any person or persons that discharge, have the potential to discharge, or propose to discharge waste that could directly or indirectly affect the quality and/or beneficial uses of the waters of the State.
- D. DISCHARGE LOCATION.** All discharges subject to this Order are located within the boundaries of the San Diego Region.
- E. WASTE DISCHARGES SUBJECT TO THIS ORDER.** This Order requires the filing of a ROWD for the following types of waste discharges **that exceed the threshold volume or criteria specified in the specific waiver conditions for that waiver**. For the purposes of this Order, a completed Notice of Intent (NOI) may serve as the Dischargers’ ROWD. As documented in the Technical Report, *Information Sheet for Tentative Order No. R9-2014-0041*, waivers for these specific types of discharges are in the public interest.
1. Discharges from on-site graywater disposal systems;
 2. Discharges of recycled water to land from short-term projects;
 3. Discharges of recycle water to land from permanent projects;
 4. Discharges from construction and test pumping of water wells to land;
 5. Discharges of air conditioner condensate and non-contact cooling water to land;
 6. Swimming pool discharges to land;
 7. Discharges from short-term construction dewatering operations to land;
 8. Discharges from utility vaults and underground structures to land;
 9. Miscellaneous “Low threat” discharges to land and/or groundwater;
 10. Discharges of winery process water to lined evaporation ponds at small wineries;

11. Discharges of plant crop residues to land;
12. Discharges of waste to land at composting facilities;
13. Discharges of storm water runoff from silvicultural operations;
14. Discharges from timber harvesting projects;
15. Discharges from wildfire suppression and fuels management activities;
16. Discharges from small animal feeding operations;
17. Discharges from medium animal feeding operations;
18. Discharges of storm water runoff from animal operations;
19. Discharge/application of manure to soil as an amendment or mulch;
20. Discharges from grazing lands;
21. Discharges of wastewater from facilities producing less than 9,090 harvest weight kilograms per year of cold water aquatic species;
22. Discharges of wastewater from facilities producing less than 45,454 harvest weight kilograms per year of warm water aquatic species;
23. Discharges of drilling muds to land;
24. Discharges of concrete grinding residues to land;
25. Discharges of slurries from sand and gravel mining operations to land;
26. Discharge/application of amendments and/or mulches to soil;
27. Discharges/disposal of inert waste to solid waste disposal facilities only accepting inert wastes;
28. Discharges of soils containing wastes to temporary waste piles;
29. Discharges/Disposal/Reuse of soils characterized as inert from contaminated sites to land;
30. Discharges of waste related to fireworks displays over land;
31. Other periodic aerial discharges of wastes over land;
32. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
33. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
34. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
35. Discharges of dredge or fill material into non-federal waters of the State;
36. Emergency repair and protection activities in non-federal waters of the State; and
37. Other discharges of emergency/disaster related wastes.

Each of the discharge types listed above may originate from a single Discharger, have similar discharge sources and/or environmental settings, and have similar waiver conditions. Therefore, these types of discharges are grouped together into 12 discharge classifications. Discharges which comply with the waiver conditions in this Order are not expected to pose a threat to the quality of waters of the State.

- F. THREAT TO WATER QUALITY.** Discharges from the proceeding categories can and/or do contain wastes, as defined in Water Code section 13050, that could affect the beneficial uses and quality of the waters of the State. If not properly managed, these discharges can percolate to groundwater or runoff to surface waters, adversely affecting both surface water and groundwater. Such wastes that enter or threaten to enter into waters of the State include, but may not be limited to:
1. earthen materials (i.e., soil, silt, sand, clay, and rocks);
 2. inorganic materials (i.e., metals, salts, etc.);
 3. organic materials (i.e., organic pesticides, hydrocarbons, etc.)

Discharges which comply with the waiver conditions in this Order are not expected to pose a threat to the quality of waters of the State.

- G. ANTIDegradation POLICY.** This Order is consistent with the provisions of Resolution No. 68-16 "*Statement of Policy with Respect to Maintaining High Quality Waters in California*" (Antidegradation Policy). Likewise, this Order is consistent with the federal Antidegradation Policy.⁶ The San Diego Water Board, in regulating the discharge of waste, must have sufficient ground to adopt findings which demonstrate that any water quality degradation resulting from this Order will:
1. be consistent with the maximum benefit to the people of the State;
 2. not unreasonably affect existing and potential beneficial uses of such water; and
 3. not result in water quality less than that described in the Basin Plan.

Dischargers, who enroll in these waivers are required to manage their wastes in a manner that protects beneficial uses, and prevent nuisance⁷ by implementing management measures (MMs) and best management practices (BMPs).

- H. MONITORING.** Water Code section 13269(a)(2) requires waivers be conditioned upon the performance of individual, group, or watershed-based monitoring unless the San Diego Water Board determines the discharges do not pose a significant threat to water quality. Monitoring requirements in this Order must be designed to support the development and implementation of the waiver program including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing requirements, the San Diego Water Board may consider the volume, duration, frequency, and constituents of the discharge, the extent and type of existing monitoring activities including, but not limited to, existing watershed-based compliance and effectiveness monitoring efforts, the size of the project area; and other relevant factors.

⁶ Code of Federal Regulations Title 40, section 131.12.

⁷ The term "nuisance" is as defined in Water Code section 13050(m).

The only waiver conditioned upon performance of monitoring is Waiver No. 8. The other waivers are not because the waste characteristics, volume, and/or duration/frequency of the specific types of waste discharges covered by the waivers do not pose a significant threat to water quality.

The San Diego Water Board adopted *A Framework for Monitoring and Assessment in the San Diego Region*, dated November 2012, to facilitate the transition from discharge-oriented monitoring and assessment to water body-oriented monitoring and assessment in the Region. The monitoring requirements of Waiver No. 8 are consistent with the Framework.

All monitoring and reporting requirements specified in Waiver No. 8 are issued pursuant to Water Code sections 13267 and 13269; and are necessary to evaluate:

1. compliance with the terms and conditions of the Waiver No. 8;
2. effectiveness of any measures or actions taken in accordance with Waiver No. 8 and/or the San Diego Basin Plan; and
3. whether revisions of Waiver No. 8, additional regulatory programs, or enforcement actions are warranted.

Failure to submit a report in accordance with schedules established by the waivers, Monitoring and Reporting Requirements approved by the San Diego Water Board Executive Officer, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, or failure to comply with the conditions of the waivers, may subject a Discharger to enforcement action pursuant to Water Code section 13268 and/or 13350 and/or the requirements to submit a ROWD.

The burden, including cost, of these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

In accordance with Water Code sections 13267(b)(1) and 13269(a)(2), the San Diego Water Board has considered the costs of implementing the monitoring requirements specified in Waiver No. 8, and finds they will not result in any additional economic burden for dischargers.

- I. WATER QUALITY STANDARDS.** The Basin Plan and relevant statewide water quality control plans (collectively Plans) establish water quality standards for the San Diego Region. These water quality standards consist of designated beneficial uses, WQOs, and the antidegradation policy. These Plans also contain implementation plans and policies for interpreting and achieving water quality standards.

Table 2 below identifies the beneficial uses designated in the Basin Plan for groundwater and surface water in the San Diego Region.

Table 2: Beneficial Uses for Groundwater and Surface Waters

Beneficial Uses	Abbreviations
Agricultural Supply	AGR
Cold Freshwater Habitat	COLD
Commercial and Sport Fishing	COMM
Estuarine Habitat	EST

Freshwater Replenishment	FRSH
Industrial Process Supply	PROC
Industrial Service Supply	IND
Inland Saline Water Habitat	SAL
Marine Habitat	MAR
Municipal and Domestic Supply	MUN
Noncontact Recreation	REC2
Preservation of Rare and Endangered Species	RARE
Warm Freshwater Habitat	WARM
Water Contact Recreation	REC1
Wildlife Habitat	WILD

The requirements of this Order implement the Basin Plan by ensuring discharge types maintained and monitored to prevent releases of wastes or waste constituents to waters of the State in a manner which could impair these beneficial uses.

- J. ENFORCEMENT ACTIONS.** Any person in violation of any waiver condition, prohibition issued or reissued, or amended by the San Diego Water Board, must be liable civilly under Water Code sections 13323 and 13350(d) and (e).
- K. CALIFORNIA ENVIRONMENTAL QUALITY ACT.**⁸ In accordance with California Code of Regulations Title (Calif. Code Regs. title) 14, section 15000 et seq., the San Diego Water Board is the lead agency for this project and has adopted a negative declaration for the project.
- L. ANNUAL FEES.** Dischargers may be required to pay an annual fee (i.e., waste discharge permit fee) established by the State Water Board in accordance with Water Code sections 13260(d)(1) and 13269(a)(4). Pursuant to Water Code section 13269(a)(4), the annual fee must be assessed in accordance with the current fee schedule promulgated in Calif. Code Regs. title 23, section 2200. The following waivers required to pay an annual.
- Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries (Waiver No. 4);
 - Discharges of Waste to Land at Composting Facilities(Waiver No. 5);
 - Discharges from Animal Operations (Waiver No. 7);
 - Discharges from Aquatic Animal Production Facilities (Waiver No. 8); and
 - Discharges/Disposal of Solid Wastes to Land (Waiver No. 10).

The annual fee for discharges enrolled in Waiver Nos. 4, 5, and 10 is based on the threat to water quality and complexity of the discharge in accordance with Calif. Code Regs. title 23, section 2200(a). Discharges enrolled in these waivers will be assigned a threat to water quality and complexity rating of 3-C and will be assessed the corresponding fee for Discharges to Land sites, plus any applicable surcharges. Annual fees are subject to change by regulation.

⁸ Codified in PRC section 21000 et seq., and promulgated in Calif. Code of Regs. title 14, Chapter 3, Division 6.

The annual fee for discharges enrolled in Waiver No. 7 is based on the number of animals onsite in accordance with Calif. Code Regs. title 23, section 2200(c), plus any applicable surcharges. Annual fees are subject to change by regulations.

- M. PUBLIC PARTICIPATION.** All of the findings contained within this Order, supplemental information and details in the attached Technical Report, and incorporated references were considered in establishing the following conditions, requirements, provisions, and specifications.

All known Dischargers and other interested parties and persons were notified of the intent to adopt this Order, and were provided with an opportunity for a public hearing and an opportunity to submit written comments.

In a public meeting, all comments pertaining to this Order were heard and considered.

- N. STRATEGIC PLAN.** The issuance of this Order and the requirements herein are consistent with the goal to provide water resources protection, enhancement and restoration while balancing economic and environmental impacts as stated in the Strategic Plan of the State Water Board and the San Diego Water Board.
- O. APPLICABILITY.** Order No. R9-2014-0041 supersedes the waivers adopted as a Basin Plan amendment in Resolution No. R9-2007-0104 except for enforcement purposes regarding violations of Resolution No. R9-2007-0104. All Dischargers previously regulated by waivers in Resolution No. R9-2007-0104 and renewed in this Order are automatically enrolled under Order No. R9-2014-0041.

PART II. CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS***Waiver No. 1 – Discharges from On-site Graywater Disposal Systems*****A. Specific Findings Regarding Discharges from On-site Graywater Disposal Systems**

1. This conditional waiver for discharges from On-site Graywater Disposal Systems (On-site Graywater Disposal Waiver) is for discharges of effluent from on-site graywater disposal systems which are a potential source of pollutants that can infiltrate to groundwater. Discharges of effluent from on-site graywater disposal systems eligible for this waiver cannot include industrial wastewater, and must be discharged to land within the property from which the waste stream was generated.
2. Graywater consists of wash water originating from showers, bathtubs, clothes washing machines, and hand washing sinks not used for disposal of chemicals or chemical-biological ingredients. Graywater is generally subject to very little treatment or no treatment at all. On-site graywater disposal systems collect graywater and discharge it to a disposal area where it infiltrates to the subsurface. Natural processes in the soil, at the disposal area can provide treatment of the graywater as it percolates through the ground.
3. Effluent discharged from on-site graywater disposal systems can infiltrate to groundwater and pose a potential threat to water quality. On-site graywater disposal systems can discharge effluent that has potentially come in contact with human fecal matter⁹, nitrogen compounds¹⁰, phosphorus¹¹, or other chemicals¹². Therefore, on-site graywater disposal systems can potentially transport and leach pathogens, nutrients, and other pollutants to underlying groundwaters, or to surface waters if the effluent surfaces and runs off the property. Effluent that comes into contact with groundwater or surface water can adversely affect water quality.
4. The use of on-site graywater disposal systems, however, will reduce the use of potable water for irrigation purposes, which, as a conservation measure, is in the public interest. On-site graywater disposal systems that are properly designed, installed, and maintained can minimize the potential impacts to water quality.
5. The design, construction, and installation requirements for on-site graywater disposal systems are provided in regulations adopted by State agencies and/or local authorized agencies. Land owners must obtain the appropriate permits prior to the installation and operation of an on-site graywater disposal system to ensure site conditions are appropriate for construction. Depending on the location, cities, counties, and/or other local authorized agencies may have more stringent design and installation requirements.

⁹ e.g., soiled diapers washed in clothes washing machines.

¹⁰ e.g., urine from children and adults in bathtubs and showers.

¹¹ e.g., laundry detergents used in clothes washing machines.

¹² e.g., cleaning chemicals washed down bathroom washbasins.

6. The Graywater Standard, developed by the California Department of Water Resources (DWR) and adopted by the California Building Standards Commission, pertaining to the construction, installation, or alteration of on-site graywater disposal systems, can be found in the Plumbing Code.¹³ The Water Code states that an on-site graywater disposal system may be installed if the authorized local agencies having jurisdiction over the installation determines that the system complies with the Plumbing Code¹⁴ Graywater Standards, unless exempted under the plumbing code under Chapter 16, section 1603A.1.
7. The design, construction, and installation of on-site graywater systems are regulated and permitted by the cities, counties, and/or other authorized local agencies. The discharge of effluent from on-site graywater disposal systems is subject to regulation by the State and Regional Water Quality Control Boards in order to protect the waters of the State. In the Basin Plan, the San Diego Water Board determined a waiver would not be against the public interest if the type of discharge is effectively regulated by other public agencies. As long as the effluent that is discharged from these properly permitted on-site graywater disposal systems do not have an adverse impact on surface water or groundwater quality, the San Diego Water Board will waive the requirements to file a ROWD and adopting WDRs for these systems.
8. In order to be eligible for the On-Site Graywater Disposal Waiver, discharges must comply with both the general and specific conditions of this waiver.
9. Discharges from on-site graywater disposal systems that comply with the general and specific waiver conditions in the On-site Graywater Disposal Waiver are not expected to pose a significant threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge graywater through an on-site disposal systems, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for On-site Graywater Disposal Systems

1. Effluent from on-site graywater disposal systems must:
 - a. Not be directly or indirectly discharged to any surface waters of the State (including ephemeral streams and vernal pools);
 - b. Be discharged to the underground or with covering as allowed by local agency requirements and cannot surface or pond;
 - c. Not adversely affect the quality or beneficial uses of underlying groundwater;

¹³ Calif. Code Regs. title 24 (also known as the California Building Standards Administrative Code) Part 5 (also known as the California Plumbing Code) Appendix G.

¹⁴ Water Code section 14877.2

- d. Not cause or threaten to cause a condition of contamination, pollution, or nuisance;
 - e. Be discharged, as to maintain at least 5 feet of vertical separation between the disposal area and the highest known historical or anticipated groundwater level;
 - f. Be discharged so it can be contained within the designed irrigation or disposal field and not pond on the surface of the soil of runoff the site; and
 - g. Not adversely impact the quality or beneficial uses of groundwater in any water wells.
2. On-site graywater disposal systems must be designed and operated in accordance with applicable regulatory requirements and/or standards as provided in the Specific Waiver Conditions for on-site graywater disposal systems, section C of this waiver.
 3. Graywater disposal system owners/operators must:
 - a. Comply with local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies. If local agency approvals, permits, certifications, and/or licenses are required for a graywater system, those documents must be available on site for inspection;
 - b. Maintain and operate the system in accordance with the design approved by the authorized local agencies or any conditions for exemption from those requirements;
 - c. Allow the San Diego Water Board and/or other local regulatory agencies reasonable access to the site in order to perform inspections and conduct monitoring; and
 - d. Accept only domestic wastes and/or wastewater.

C. Specific Waiver Conditions for On-site Graywater Disposal Systems

1. Operators of an on-site graywater disposal system, proposing to discharge graywater to land must file and NOI is discharging greater than a specific volume (_____) or collecting discharges from a business or facility with more than 50 (or other appropriate number) occupants.¹⁵
2. An on-site graywater disposal system must comply with the permitting or waiver requirements of any city, county, or other authorized local agency, having jurisdiction over system installation. The on-site graywater system, at a minimum, must be designed and installed in accordance with to the Plumbing Code Graywater Standards.¹⁶ If the cities, counties, and/or other authorized local agencies have additional requirements, the on-site

¹⁵ A Notice of Intent required to be submitted for enrollment in the On-Site Graywater Disposal Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

¹⁶ Calif. Code of Regs. title 24 (also known as the California Building Standards Administrative Code) Part 5 (also known as the California Plumbing Code) Appendix G

graywater disposal system must be designed and installed in accordance with those requirements.

3. On-site graywater disposal systems proposed to be constructed in areas:
 - a. Where groundwater water quality objectives have been exceeded, must be evaluated for potential adverse effects on groundwater quality and beneficial uses to determine if regulating the system with individual WDRs is more appropriate; or
 - b. Designated as Zone A, as defined by the California Department of Public Health's Drinking Water Source Assessment and Protection Program, must be constructed with an adequate setback from the drinking water supply source that will be protective of drinking water quality.

Waiver No. 2 – Discharges of Recycled Water to Land**A. Specific Findings for Discharges of Recycled Water to Land**

1. The conditional waiver for discharges of Recycled Water to Land (Recycled Water Waiver) is for discharges of recycled water to land from short-term recycled water project,¹⁷ not exceeding 365 days. Discharges of recycled water may contain pollutants that can adversely affect the quality of waters of the State. The application of recycled water to land may result in pollutants being concentrated in soils, which may adversely impact the quality of the waters of the State when those concentrated pollutants are leached out during rainfall events and/or overuse of irrigation water. The Recycled Water Waiver is not available, or applicable, to recycled water projects and users subject to rules and regulations established by master reclamation permits (MRPs) issued pursuant to Water Code section 13523.1, or otherwise regulated under WDRs or water reclamation requirements (WRRs), issued pursuant to Water Code sections 13260 and 13523, respectively.
2. Short term recycled water projects eligible for enrollment in the Recycled Water Waiver, are those without permanent recycled water delivery and/or distribution systems; and are not regulated or authorized under WDRs, WRRs, and/or MRPs.
3. In order to be eligible for the Recycled Water Waiver, discharges must comply with both the general and specific conditions of this waiver.
4. Discharges of recycled water to land that comply with the general and specific waiver conditions in the Recycled Water Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge recycled water as part of a recycled water project, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Recycled Water Projects.

1. All windblown spray and surface runoff of recycled water, not considered “incidental runoff,”¹⁸ on to property not owned or controlled by the discharger must be prevented by implementation of MMs/BMPs.
2. Discharges of recycled water to land must:
 - a. Not adversely affect the quality or beneficial uses of underlying groundwater;
 - b. Comply with the requirements of Calif. Code Regs. title 22 section 60310(a) through (i), unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health;

¹⁷ Short-term recycled water projects are those without permanent recycled water delivery and/or distribution systems.

¹⁸ The State Water Boards’ *Recycled Water Policy* defines and characterizes “incidental runoff” of recycled water. http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2013/rs2013_0003_a.pdf

- c. Not be used for groundwater recharge unless sufficient information is provided to demonstrate that it will be protective of water quality and human health; and
 - d. Be in compliance with the performance requirements of any applicable basin-specific Salt and Nutrient Management Plan(s).
3. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

C. Specific Waiver Conditions for Short-Term Recycled Water Projects

1. Operators of short-term projects proposing to discharge recycled water must file a NOI:¹⁹
- a. Containing information about the operator, location of the project, source of the recycled water, planned period of and frequency of discharge of recycled water, and the MMs/BMPs or other measures that will be taken to eliminate or minimize the discharge of pollutants that might affect surface water and groundwater quality; and
 - b. Including a letter, from the permitted recycled water agency supplying the recycled water, stating that the project will comply with recycled water regulations promulgated in Calif. Code Regs. title 22, Division 4, Chapter 3, Articles 1 through 10. The letter must also specify any monitoring and/or reporting required by the recycled water agency to demonstrate compliance with Calif. Code Regs. title 22, Division 4, Chapter 3, Reclamation Criteria, Articles 2, 3, 4, 5, and 5.1.

The NOI is valid for 365 days after the submittal of a complete NOI. A new NOI must be filed with the San Diego Water Board if the short-term project will exceed 365 days. A new NOI must be received by the San Diego Water Board at least 60 days prior to the expiration of the previous NOI. If no new NOI is received 60 days prior to the expiration of the previous NOI, the short-term recycled water project must cease operation 365 days after a complete NOI has been submitted.

- 2. Operators of short-term projects proposing to discharge recycled water must provide sufficient information demonstrating the operator will comply with both the general and specific conditions of this waiver and applicable recycled water regulations before the discharge may begin.
- 3. Operators of a short-term project proposing to discharge recycled water is not required to submit payment of an annual fee to the San Diego Water Board, in accordance with Water Code section 13269(a)(4).

D. Specific Waiver Conditions for Permanent Recycled Water Projects

- 1. Recycled water agencies proposing to supply and/or distribute recycled water through permanently installed facilities or structures before receiving

¹⁹ A Notice of Intent required to be submitted for enrollment in the Recycled Water Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

WDRs must file a ROWD²⁰ pursuant to Water Code sections sections 13260 and 13522.5 containing the following:

- a. Sufficient information for the San Diego Water Board to determine that the project will be consistent with the Basin Plan and any State Water Board recycled water policies, and will comply with all applicable recycled water regulations;
 - b. A letter from the California Department of Public Health (CDPH) stating that the project will comply with recycled water regulations in Calif. Code Regs. title 22, Division 4, Chapter 3, Articles 1 through 10. The letter must also specify any provisions, monitoring, and/or reporting required by the CDPH to demonstrate compliance with Calif. Code Regs. title 22, Division 4, Chapter 3, Reclamation Criteria, Articles 2, , 3, , 4, , 5, and 5.1; and
 - c. A list of recycled water end users that will be regulated by the recycled water agency, and the proposed monitoring and reporting program the recycled water agency will implement to demonstrate that the end users are complying with the waiver conditions and applicable recycled water regulations.
2. The recycled water agency must submit sufficient information demonstrating that the recycled water agency, and its end users, will comply with the general and specific conditions of these waiver conditions and applicable recycled water regulations before the discharge may begin.
 3. The conditional waiver issued to the recycled water agency is valid for 365 days after a completed ROWD has been submitted, or until either WDRs, Water Reclamation Requirements (WRRs) or a Master Reclamation Permit (MRP) are adopted for the project, whichever occurs first. The San Diego Water Board will adopt the project appropriate WDRs, Water Reclamation Requirements or a Master Reclamation Permit at the earliest possible opportunity.
 4. If the State Water Resources Control Board adopts a Statewide General Order regulating discharges of recycled water, then the San Diego Regional Board will evaluate the discharges enrolled in this waiver to determine if those projects may better regulated by the Statewide General Order. The San Diego Water Board may terminate enrollment in this waiver for those qualifying recycled water discharges and enroll those qualifying facilities/operations in the Statewide General Order.
 5. If the WDRs, WRRs or an MRP cannot be adopted within 365 days after the completed ROWD has been submitted, the recycled water agency must request an extension of the conditional waiver at least 60 days prior to the expiration of the previous conditional waiver. If no request for an extension is received 60 days prior to the expiration of the previous conditional waiver,

²⁰ A Report of Waste Discharge (ROWD) required to be submitted for enrollment in the Recycled Water Waiver as a "Permanent Recycled Water Project" is located on the San Diego Water Boards website at: http://www.waterboards.ca.gov/sandiego/publications_forms/forms/docs/form200m.pdf

the permanent recycled water project must cease the discharge of recycled water 365 days after the completed ROWD was submitted.

6. If a recycled water agency enrolled in this waiver, in accordance with the waiver conditions in section D of this waiver, proposes to significantly add to or modify the treatment process (e.g., change the disinfection or filtration processes), then the discharger must submit a new ROWD containing the information listed in section D.1A.1.D.1 of this waiver.

Waiver No. 3– Miscellaneous “Low Threat” Discharges to Land**A. Specific Findings for “Low Threat” Discharges to Land**

1. The conditional waiver for “Low Threat” Discharges to Land (Low Threat Discharge Waiver) is for “low threat” discharges to land, which can percolate to groundwater. “Low threat” discharges include liquid wastes containing pollutant concentrations that are not expected to adversely impact the quality of waters of the State under ambient conditions. “Low threat” discharges may include potable water or uncontaminated groundwater. Potable water and uncontaminated groundwater are not considered waste when initially discharged. However, when these waters comes into contact with pollutants and transports those pollutants in surface runoff or leaches those pollutants into the soil and groundwater, it becomes a waste. “Low threat” discharges to land are not expected to contain significant concentrations of pollutants that can adversely affect the quality of underlying groundwater.
2. The following types of discharge not regulated under WDRs may be eligible for the Low Threat Discharge Waiver:
 - a. Discharges from the construction and test pumping of water wells to land;
 - b. Discharges of air conditioner condensate or non-contact cooling water to land;
 - c. Swimming pool discharges to land;
 - d. Discharges from short-term construction dewatering operations to land;
 - e. Discharges from utility vaults and underground structures to land; and
 - f. “Low Threat” discharges to land and/or groundwater (discussed in, which may including the following:
 - i. Groundwater pumped from drinking water wells;
 - ii. Groundwater from foundation drains, crawl space pumps, and footing drains;
 - iii. Discharges from flushing water lines;
 - iv. Discharges from washing vehicles, pavement, buildings, etc.;
 - v. Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water; and
 - vi. Infiltration from structural infiltration-based BMPs.
3. “Low threat” discharges are not expected to adversely affect the quality of groundwater. These types of discharge have similar properties, threat to water quality, and proposed waiver conditions. Therefore, these types of “low threat” discharges to land were grouped together into one discharge classification.

4. Low volumes and infrequent “low threat” discharges are not expected to adversely affect the quality of groundwater because the water would likely evapo-transpire before infiltrating to the underlying groundwater. However, excessive volumes or frequent “low threat” discharges could potentially infiltrate to underlying groundwater and adversely affect the quality of groundwater over time. With proper management, “low threat” discharges to land are not expected to pose a threat to the quality of waters of the State. Therefore, waiver conditions require proper management of “low threat” discharges to land to minimize or eliminate the discharge of pollutants to waters of the State.
5. The San Diego Water Board finds that compliance with the conditions prescribed in this waiver determined to be classified as “low threat” discharges to land that pose a low level of threat to the quality of the waters of the State. If owners/operators with “low threat” discharges are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and required to correct deficiencies in order to be eligible for the Low Threat Discharge Waiver. However, if the owner/operator of a “low threat” discharge violates any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.
6. In order to be eligible for the Low Threat Discharge Waiver, discharges must comply with the general and applicable specific conditions of this waiver.
7. “Low threat” discharges to land that comply with the general and specific waiver conditions in the Low Threat Discharge Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge miscellaneous low threat wastewaters to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for “Low Threat” Discharges of Water to Land

1. Prevent the direct or indirect discharge of “low threat” discharges to any surface waters of the State (including ephemeral streams and vernal pools).
2. Any products used to condition or treat “low threat” discharges prior to discharging to land must be in accordance with manufacturer’s instructions and guidelines, and must reliably attenuate before infiltrating to underlying groundwater.
3. “Low threat” discharges must not:
 - a. Cause or contribute to the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to groundwater;
 - b. Come in contact with any material that consists of or is contaminated with chlorinated solvents, hydrocarbons, or other toxic or hazardous substances prior to discharge to land;

- c. Adversely affect the quality or beneficial uses of underlying groundwater;
 - d. Cause or threaten to cause a condition of contamination, pollution, or nuisance; and
 - e. Adversely impact the quality or beneficial uses of groundwater in any water wells.
4. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.
 5. Dischargers eligible for enrollment in the Low Threat Discharge Waiver must submit a complete NOI.²¹
 6. In addition to the conditions above for “Low Threat” Discharges of Water to Land, compliance with the following Specific Waiver Conditions is required.

C. Specific Waiver Conditions for “Low Threat” Discharges to Land

1. **Air Conditioner Condensate and Non-contact Cooling Water Discharges to Land.**
 - a. Discharges must not contain contact cooling water.
 - b. Discharges of air conditioner condensate and non-contact cooling water to land must not exceed an average of 1,200 gallons per day for any continuous 365-day period, unless the discharger has filed a NOI containing information about the operator, location, and planned period of and average daily volume of discharge.
2. **Swimming Pool Discharges to Land.**
 - a. Discharges of water from each swimming pool to land must not exceed 50,000 gallons during any continuous 365-day period, unless the discharger has filed a complete NOI containing information about the swimming pool location and volume, planned period of and frequency of discharge.
3. **Pumping of Groundwater from Wells to Land.**
 - a. The discharge of groundwater pumped from any well that is used in a soil and/or groundwater contamination investigation or corrective action may not be discharged to land, unless the discharger has filed a complete NOI containing monitoring data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.
 - b. For multiple applications of groundwater from wells pumped to land over a 365-day period, or a continuous 24-hour (or longer) application of groundwater from wells pumped to land within a 365-day period, the discharger must file a complete NOI containing information about

²¹ A Notice of Intent required to be submitted for enrollment in the Low Threat Discharge Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

the operator, location, planned period of and frequency of discharge, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.

- c. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.
4. **Dewatering Operations Discharged to Land.**
 - a. The discharge of groundwater pumped from any well or excavation that is used in a soil and/or groundwater contamination investigation or corrective action may not be discharged to land, unless the discharger has filed a complete NOI containing monitoring data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.
 - b. For dewatering operations that discharge an average of 5,000 gallons per day for any continuous 180-day period, the discharger must file a complete NOI containing information about the operator, location, planned period and rate of discharge, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect groundwater quality. The discharge cannot be initiated until the San Diego Water Board has informed the discharger in writing that the discharge is enrolled in the waiver.
 - c. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.
 5. **Discharges from Washing Vehicles, Pavement, Buildings, etc. to Land.**
 - a. Discharges of wash water and similar intermittent discharges must not exceed an average of 1,200 gallons per day for any continuous 30-day period, unless the discharger has filed a complete NOI containing information about the operator, location, and planned period of and average daily volume of discharge.
 6. **Discharges from Irrigated Lawns and Landscaping Using Groundwater or Municipal Supply Water.**
 - a. Products applied to lawns and landscaping must be in accordance with manufacturer's instructions and guidelines, and must reliably attenuate before infiltrating to underlying groundwater.
 7. **Discharges from Structural BMPs that Require Infiltration.**
 - a. Structural BMP that utilizes infiltration must be installed in compliance with the design criteria of the municipalities (or co-permittees) regulated by the most recent Municipal Separate Storm Sewer System (MS4) WDRs (conforming to NPDES storm water

regulations),²² and for any discharge that exceeds an average of 1,200 gallons per day for any continuous 365-day period, the discharger must file a complete NOI containing documentation demonstrating that the quality of the proposed discharge from infiltration will not cause the groundwater at the disposal site to exceed water quality objectives.

- b. Installation of structural BMPs that require infiltration must comply with local, State, and federal ordinances and regulations, and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.

8. **Discharges to Land from Utility Vaults and Underground Structures.**

- a. Discharges to land from utility vaults and underground structures must not be initiated until the discharger has filed a complete NOI containing the following information, and received written confirmation from the San Diego Water Board of the Dischargers enrollment in the Low Threat Discharge Waiver:
 - i. Monitoring data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.
 - ii. A map showing the essential features of the distribution system for the service area and the corresponding land area to which the water will be discharged.
 - iii. A description of potential sources that may add significant amounts of pollutants to discharges, identifying all activities and significant materials that may potentially be significant pollutant sources, and containing an inventory of the types of materials handled at the site that potentially may be exposed to precipitation.
 - iv. Identification of areas that, due to topography, activities, or other factors, have a high potential for soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.
 - v. A description of any BMPs that will be implemented to control the generation or source(s) of pollutants, or used to divert, infiltrate, reuse, or otherwise manage runoff in a manner that reduces pollutants in discharges from the site.
- b. The Discharger must maintain areas that may contribute pollutants to discharges so that they are kept clean and orderly. Store and contain liquid materials in such a manner that if the container is ruptured, the contents will not discharge, flow, or be washed into the storm drainage system, surface waters, or groundwater.

²² National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266)

- c. The Discharger must regularly inspect and maintain wastewater management devices as well as inspect and test equipment and systems to detect conditions that may cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensure appropriate maintenance of such equipment and systems.

Waiver No. 4 – Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries

A. Specific Findings for Discharges of Winery Process Water to Lined Evaporation Ponds

1. The conditional waiver for discharges of Winery Process Water to Lined Evaporation Ponds (Winery Pond Waiver) is for small wineries in the San Diego Region that utilize lined evaporation ponds for disposal of process water. For the purpose of enrollment in the Winery Pond Waiver, a “small winery” is defined as a winery with a vineyard, wine production facilities, and wine tasting rooms. Wineries that have additional ancillary facilities such as restaurants, special occasion facilities, or commercial lodging facilities are not eligible for enrollment in this waiver.
2. In order to be eligible for the Winery Pond Waiver, dischargers must comply with the general and specific conditions of this waiver.
3. Discharges of winery process water to lined evaporation ponds at small wineries that comply with the general and specific waiver conditions in the Winery Pond Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge winery process water to lined evaporation ponds at small wineries, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Conditions for Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries

1. Winery process water may not be discharged to onsite evaporation ponds, unless the Discharger has submitted:
 - a. A complete *Notice of Intent to Comply with the Conditional Waivers of Waste Discharge Requirements for Discharges of Waste (NOI)*,²³ and
 - b. The first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code of Regs. title 23 section 2200.
2. Winery process water must:
 - a. Not be discharged to surface waters;
 - b. Be captured, treated, and/or disposed of separately from domestic wastewater; and
 - c. Not contain wastes classified as "hazardous" as defined in Calif. Code Regs. title 22 section 66261.3 et seq., and Water Code section 13173

²³ A Notice of Intent required to be submitted for enrollment in the Waiver Pond Waiver is located in Appendix A of Order No. R9-2014-0041. (*Appendix B of this Technical Report*)

3. Wastes and/or other wastewaters, other than winery process water must not be discharged to onsite evaporation ponds.

C. Specific Conditions for Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries

1. Water-conserving devices (e.g., pressure washers, trigger-handled spray nozzles, automatic barrel cleaners, stainless steel tanks, and smooth floors) should be used to minimize process water generation.
2. The use of cleaning chemicals should be minimized. Low impact methods (e.g., ozonated process water) should be used where practicable for cleaning.
3. The use of water-softening devices, canister-type water softeners, or similar alternatives should be used to prevent the discharge of salt brine. The number of connections to the water softener should be minimized at facilities using self-regenerating water softeners. Large solids should be separated from winery process water through redundant screening and removal systems (such as screened floor drains, rotary drum screens, and/or settling basins) prior to further treatment and disposal. Lees, bentonite, and diatomaceous earth should be excluded from being discharged to onsite evaporation ponds to the extent practicable.
4. All winery process water treatment and disposal systems (including onsite evaporation ponds) must be designed to retain the maximum daily flow of wastewater and organic loading generated (generally at the peak of crush season), including flows resulting from precipitation from a 25 year, 24-hour storm event.
 - a. At least two feet of freeboard must be maintained at all times in onsite evaporation ponds containing winery process water. Staff gauges must be installed to monitor water levels.
 - b. Collected screenings and other solids removed from liquid wastes that will not and/or cannot be used agronomically, must be disposed of at a properly permitted point of disposal, and in accordance with Division 2 of Calif. Code Regs. title 27.
 - c. Onsite evaporation ponds used for disposal of winery process water must be lined with either a relatively impermeable membrane, two feet of soil with a permeability of less than 10^{-6} centimeters per second, or an engineered alternative approved in writing by the San Diego Water Board.

Waiver No. 5 – Discharges of Wastes to Land at Composting Facilities**A. Specific Findings for Discharges of Wastes at Composting Facilities**

1. The conditional waiver for discharges of Waste at Composting Facilities (Composting Facilities Waiver) is applicable to discharges of wastes²⁴ to land used in the production of compost. For the purposes of the Composting Facilities Waiver the discharge of:
 - a. Agricultural wastes,²⁵ green wastes, paper wastes, vegetative food wastes, or manures; and/or
 - b. Additives and amendments.

Discharges of those composting related waste streams, as defined in Appendix B of this Order, are not expected to pose a significant threat to the waters of the State, as long as the discharge is carried out in accordance with the Composting Facilities Waiver general and specific conditions.
2. For the purposes of the Composting Facilities Waiver:
 - a. Composting-related activities, as specified in Appendix B of the Order, are not expected to pose a significant threat to the waters of the state, and are therefore conditionally exempt from the requirements of the Composting Facilities Waiver, but may be subject to other federal, State, or local regulations; and
 - b. “Plant crop residues” refer to those pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, including orchards and vineyard prunings, which are returned to that same land.
3. In order to be eligible for the Composting Facilities Waiver, Dischargers must comply with the general and specific conditions of the Composting Facilities Waiver.
4. Discharges of wastes to land at composting facilities that comply with the general and specific waiver conditions in the Composting Facilities Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge wastes to land at composting facilities, or plant crop residues to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Plant Crop Residues to Land

1. Plant crop residues must:
 - a. Be managed to prevent transport of pollutants to waters of the State;
 - b. Not be burned and applied to land; and

²⁴ As defined in Water Code section 13050(d).

²⁵ For the purposes of the Composting Facilities Waiver: “Agricultural Wastes” refers to plant materials coming directly from lands used in the productions of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, including orchard and vineyard prunings.

- c. Be discharged to land to minimize or eliminate runoff and leachate to surface waters and groundwaters, through the implementation of management measures (MMs) and best management practices (BMPs).
- 2. Pesticides, herbicides, fertilizers, and other products associated with plant crop residues must:
 - a. Be used in accordance with manufacturer's guidelines; and
 - b. Not adversely affect the quality or beneficial uses of any waters of the State.

C. General Waiver Conditions for Compost Facilities

- 1. Wastes used in the production of compost may not be discharged to land, unless the Discharger has:
 - a. Submitted a complete NOI;²⁶
 - b. Submitted a complete *Compost Facility Certification*;²⁷
 - c. Submitted the first years' annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 section 2200; and
 - d. Received confirmation from the San Diego Water Board, that all submitted documents are complete.
- 2. Wastes, additives, amendments, and compost (active or stabilized) discharged to land at a composting facilities must:
 - a. Not cause, threaten to cause, or contribute to conditions of pollution, contamination, or nuisance;
 - b. Be managed to minimize and/or prevent becoming oversaturated and generating leachate;
 - c. Be located on a working surface, if exposed to precipitation or storm water run-on, having the potential to either produce process storm water or leachate; and
 - d. Be removed and recycled, reused, and/or disposed in accordance with all applicable federal, State and local agency requirements, if the Discharger ceases to operate the compost facility.

D. Specific Waiver Conditions for Compost Facilities

- 1. Facility Design and Management
 - a. Compost facilities must:

²⁶ A Notice of Intent to be submitted for enrollment in the Composting Facilities Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

²⁷ A Compost Facility Certification to be submitted for enrollment in the Composting Facilities Waiver is located in Appendix B of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

- i. Comply with any local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies;
 - ii. Implement management measures (MMs) and/or best management practices (BMPs) to minimize or eliminate the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the State;
 - iii. Maintain a minimum buffer zone, of at least 100 feet, between the wastes, additives, amendments, and compost (active or stabilized) areas and any surface water body unless sufficient information is provided to demonstrate that a proposed alternative buffer zone is protective of water quality; and
 - iv. Contain a working surface to prevent, to the greatest extent possible, ponding, infiltration, inundation, erosion, notwithstanding precipitation events, equipment movement, and other aspects of the composting facility operations.
- b. Compost facilities must be designed, constructed, and maintained to:
- i. Prevent to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout, notwithstanding precipitation events, equipment movement, and other aspects of the composting facility operations;
 - ii. Prevent conditions of contamination, pollution, or nuisance resulting from the discharge of waste;
 - iii. Manage/control all run-on, runoff, and precipitation which falls onto or within the boundaries of the compost facility, resulting from a 25-year, 24-hour storm event. In the event the volume of run-on, runoff, and/or precipitation exceeds the 25-year, 24-hour storm event, the composting facility must discharge the process storm water in a manner consistent with the current Municipal Separate Storm Sewer System Storm Water NPDES Permit (MS4 Permit);²⁸ and
 - iv. Prevent wastes, additives, amendments, and/or compost (active or stabilized) from inundation by surface flows associated with the site-specific maximum peak flow from the 25-year, 24-hour storm event that may occur during the period of processing, storage, or treatment of wastes.
- c. Composting facility working surfaces must:
- i. Prevent ponding and impede vertical movement of liquid phase constituents of concern; and

²⁸ National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266)

- ii. Allow all necessary equipment to operate, during all times of the year, without damage, or incapacitation of equipment.
- d. Composting facility evaporation ponds, used to manage leachate, process water, storm water, and wastewater must:
 - i. Maintain at least two feet of freeboard at all times. Staff gauges must be installed to monitor water levels; and
 - ii. Prevent conditions contributing to, causing, or threatening to cause contamination, pollution, or nuisance.

Waiver No. 6 – Discharges from Silvicultural Operations**A. Specific Findings for Discharges from Silvicultural Operations**

1. The conditional waiver for discharges from Silvicultural Operations (Silvicultural Waiver) is for discharges that originate from forest lands, which contain pollutants that can percolate to groundwater or runoff to surface waters. Discharges from forest lands include discharges resulting from timber operations and forest land management activities, and storm water runoff which can also transport pollutants from forest lands to surface waters and groundwater.
2. The following types of discharge not regulated under WDRs may be eligible for the Silvicultural Waiver:
 - a. Discharges of storm water runoff;
 - b. Discharges from timber harvesting projects; and
 - c. Discharges from wildfire suppression and fuels management activities.
3. The US Forest Service (USFS) implements its Land Management Plan including the Design Criteria for the Southern California National Forests and Cleveland National Forest Strategy.
4. In order to be eligible for the Silvicultural Waiver, discharges must comply with both the general and specific conditions of this waiver.
5. Discharges from silvicultural operations that comply with the general and specific waiver conditions in the Silvicultural Waiver are not expected to pose a threat to the quality of the waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge from silvicultural operations, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Discharges from Silvicultural Operations

1. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of waters of the State.
2. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must comply with any federal, State, or local, permitting, licensing, or certification requirements and applicable regulations and ordinances.
3. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

C. Specific Waiver Conditions for Timber Operations on Federal Lands

1. The US Forest Service (USFS) must maintain:
 - a. A water quality program to ensure compliance with water quality objectives and discharge prohibitions in the Basin Plan; and
 - b. A program to monitor the implementation and effectiveness of management measures (MMs) and/or best management practices (BMPs).
2. The USFS must provide the San Diego Water Board copies of the environmental and decision documents containing information documenting that a multi-disciplinary review of the timber harvest proposal has been conducted, and that the proposed MMs/BMPs and additional control measures will be implemented to protect water quality.
3. The USFS must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.

D. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

1. Timber operations located within 150 feet of existing structures (i.e., "FireSafe" treatments) that are conducted pursuant to a Notice of Exemption approved by the California Department of Forestry (CDF) are not required to provide notice to the San Diego Water Board, but must keep a copy of the approved Notice of Exemption for at least one year (from the approval date) on site for inspection.
2. For timber operations approved by the CDF pursuant to a Notice of Exemption or Notice of Emergency, a copy of the notice must be provided to the San Diego Water Board.
3. For timber operations with a Timber Harvest Plan (THP) or Non-industrial Timber Management Plan (NTMP) approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board.
4. Owners/operators of non-federal forest lands must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.

Waiver No. 7 – Discharges from Animal Operations**A. Specific Findings for Discharges from Animal Operations**

1. The conditional waiver for discharges from Animal Operations (Animal Operations Waiver) is for discharges from animal operations, which contain pollutants that can percolate to groundwater or runoff to surface waters. Discharges from animal operations include discharges resulting from animal activities and wastes, and storm water runoff which can also transport pollutants from animal operations to surface waters and groundwater.
2. The following types of discharge not regulated under WDRs may be eligible for the Animal Operations Waiver:
 - a. Discharges from small animal feeding operations (AFOs) (less than 300 animal units, where 1 animal unit is equivalent to one cow or 1,000 animal pounds);
 - b. Discharges from medium AFOs (300 to 999 animal units);
 - c. Discharges of storm water runoff;
 - d. Discharge/application of manure to soil as an amendment or mulch; and
 - e. Discharges from grazing lands.
3. In order to be eligible for the Animal Operations Waiver, discharges must comply with the general and specific conditions of this waiver.
4. Discharges from animal operations that comply with the general and specific waiver conditions in the Animal Operations Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge from animal operations, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Conditions for Discharges from Animal Operations

- ~~1. Discharges from animal operations may not be discharged unless the Discharger has submitted:

 - a. A complete NOI;²⁹ and
 - b. The first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for Discharges to Land or Surface Waters promulgated in Calif. Code Regs. title 23 section 2200.~~
- ~~2.1.~~ The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

Comment [MSOffice1]: Relocate this to the medium and large animal specific conditions.

²⁹ A Notice of Intent required to be submitted for enrollment in the Animal Operations Waiver is located in Appendix A of Order No. R9-2014-0041 (Appendix B of this Technical Report).

~~3-2.~~ Facility Design and Management

- a. Animal operations must comply with any local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
- b. Animal operations must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
- c. Animal operations must implement management measures (MMs) and/or best management practices (BMPs) to minimize or eliminate the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the State. Recommended MMs/BMPs are provided in *Equestrian-Related Waste Quality Best Management Practices* available from the County of San Diego Department of Agriculture, Weights and Measures, and/or the *Field Office Technical Guide* available from the Natural Resource Conservation Service (NRCS), or other sources.
- d. Animal operations must prevent direct contact between animals and surface water bodies. Animals should not be allowed to graze directly adjacent to or within stream banks. Animal operations should maintain a buffer zone or riparian filter strip between the animals and any surface waters of the State. The buffer zone must adequately minimize the discharge of pollutants from an animal operation. There should be no direct exposure of a surface water body to an animal.

4-3. Manure Management

- a. Animal operations must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to any surface waters of the state (including ephemeral streams and vernal pools).
- b. Animal operations must properly manage the wastes (i.e., manure, urine, soiled bedding) generated by the animals at the facility in accordance with the following:
 - i. Animal wastes must be collected and disposed of regularly (at least once every two weeks);
 - ii. Animal wastes can be stored temporarily (no longer than two weeks) on site until disposal, unless animal wastes are composted on site. The amount of animal wastes stored in a temporary storage area must not exceed the capacity of the storage area. If animal wastes exceed, or threaten to exceed the capacity of the temporary storage area, the animal wastes must be disposed of immediately;
 - iii. Areas adjacent to temporary storage area for animal wastes must be graded to prevent storm water and surface runoff from reaching the storage area;

- iv. Temporary storage area must be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to groundwater;
 - v. Temporary storage area must be protected with a roof or cover, or at a minimum be covered with plastic sheeting if precipitation is forecast within the next 24 hours, to prevent direct contact between precipitation and animal wastes;
 - vi. A buffer zone of at least 100 feet must be maintained between the temporary storage area for animal wastes and any surface water body unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality; and
 - vii. If animal wastes are used as a fertilizer, soil amendment, or mulch on grazing lands, application of animal wastes to soil must comply with the conditions specified in section **B.3.cB.4.e** of the Animal Operations Waiver.
- c. Application of Manure from Animal Operations as a Fertilizer, Amendment, or Mulch to Soil
- i. Fresh and/or uncomposted manure, if applied as a fertilizer, amendment, or mulch to soil, manure must be applied to the same property where the manure was generated.
 - ii. Dried, processed, or composted manure may be applied as a fertilizer, amendment, or mulch to soil on sites other than the property where the manure was generated. Dried, processed, or composted manure may also be applied as a fertilizer, amendment, or mulch to soil on the same property where the manure was generated. Use of dried, processed, or composted manure on or off the property where the manure was generated must comply with the waiver conditions specified in section **B.3.cB.4.e** of the Animal Operations Waiver.
 - iii. Manure applied to soil, must maintain a buffer zone of at least 100 feet between the manure applied to soil and any surface waters of the State, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
 - iv. Soil amendments or mulch materials applied to the soil must be applied in an amount:
 - (A) Reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the wet weather season (October 1- April 30). Application rates must not allow soil amendment or mulch materials to be transported off

the property in storm water runoff during the wet weather season. Resources to aid Dischargers with the calculation of appropriate soil amendment or mulch application rates are available from the NRCS, University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection; and

- (B) At site-specific rates appropriate to the season (i.e., dry vs. rainy).
- v. Soil amendments or mulch material areas must implement MMs/BMPs to minimize or eliminate runoff and leachate to surface waters and groundwater.

C. Specific Conditions for Dischargers from Animal Operations

a. Small Animal Feeding Operations

- i. **Small AFOs and grazing lands should be eligible for a conditional waiver without enrollment as long as animal wastes and activities are properly managed. However, owners/operators of small AFOs and grazing lands that violate waiver conditions by not implementing MMs/BMPs and allow the degradation of water quality may be required to file an NOI and pay the annual fee to comply with waiver conditions.**
- ii. **Enforcement actions can be taken against facilities that fail to comply with waiver conditions. Additionally, a small AFO may also be designated as a CAFO and be subject to NPDES regulations, requiring regulation under WDRs that conform to NPDES requirements.**
 - iii. Small AFOs must not discharge any pollutants to waters of the State or the United States through any man-made conveyance, or directly to waters of the State or the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.
 - iv. Small AFOs must be operated and maintained in accordance with the regulations in Calif. Code Regs. title 27 sections 22562 through 22565.

Comment [MSOffice2]: This is language from previous waiver.

b. Medium Animal Feeding Operations

- i. **Submit NOI and Pay fee.**
- ii. Medium AFOs must not discharge any pollutants to waters of the State or the United States through any man-made conveyance, or directly to waters of the State or the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

Waiver No. 8 – Discharges from Aquatic Animal Production Facilities**A. Specific Findings for Discharges from Aquatic Animal Production Facilities**

1. The conditional waiver for discharges from Aquatic Animal Production Facilities (Aquatic Animal Facility Waiver) is for discharges of wastewaters to waters of the State and/or the United State from aquatic animal production facilities which are at production levels less than the Confined Aquatic Animal Production (CAAP) production thresholds.³⁰ For the purposes of the Aquatic Animal Facility Waiver, an aquatic animal production facility means a hatchery, fish farm, aquaculture or other facility that contains, grows, or holds aquatic animals in either of two categories: cold water species or warm water species. Discharges from aquatic animal production facilities may include elevated levels of suspended solids, biochemical oxygen demand, metals, and nutrients.
2. The following types of discharges not otherwise regulated or authorized under WDRs may be eligible for the Aquatic Animal Facilities Waiver:
 - a. Wastewater discharges from facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) per year of cold water aquatic animal species if the feed is less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding;³¹ or
 - b. Wastewater discharges from facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) per year of warm water aquatic animal species.³²
3. In order to be eligible for the Aquatic Animal Production Facilities Waiver, discharges must comply with both the general and specific conditions of this waiver.
4. Discharges from aquatic animal production facilities that comply with the general and specific waiver conditions in the Aquatic Animal Production Facilities Waiver are not expected to pose a threat to the quality of waters of the State and/or the United States.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge from an aquatic animal production facility, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Aquatic Animal Production Facilities

1. Discharges of wastewater from aquatic animal production facilities must:
 - a. Not cause or threaten to cause a condition of contamination, pollution, or nuisance; and
 - b. Not contain any substance, in concentrations toxic to animal or plant life.

³⁰ Title 40 Code of Federal Regulations (CFR) Part 122.24 and Appendix C to Title 40 CFR Part 122.

³¹ Ibid.

³² Ibid.

2. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

C. Specific Waiver Conditions for Aquatic Animal Production Facilities

1. Discharges eligible for enrollment in the Aquatic Animal Facilities Waiver must submit:
 - a. A complete NOI;³³ and
 - b. The first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 section 2200.
2. The Discharger must use efficient feed and feeding strategies to limit feed input to the minimum amount reasonably necessary to achieve cold water and/or warm water species aquatic animal production goals and sustain targeted rates of aquatic animal growth.
3. The Discharger must:
 - a. Routinely inspect production systems and wastewater treatment systems to identify and promptly repair damage;
 - b. Regularly conduct maintenance of production systems and wastewater systems to ensure their proper function;
 - c. Ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills and discharge to waters of the United States and / or State;
 - d. Implement procedures for properly containing, cleaning and disposing of any spilled materials;
 - e. Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent discharge to waters of the United States/ and or State;
 - f. Train all relevant personnel in spill prevention and how to respond in the event of a spill to ensure proper clean-up and disposal of spilled material; and
 - g. Train all relevant personnel on proper operation and cleaning of production and wastewater treatment systems, including feeding procedures and proper use of equipment.
4. The Discharger must monitor the influent water to the aquatic animal production facility for the parameters specified in Table No. 1 below.

³³ A Notice of Intent required to be submitted for enrollment in the Aquatic Animal Facilities Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

Table No. 1: Influent Monitoring Parameters

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹
Flowrate	MGD	Continuous	Daily
pH	NTU	Grab ²	Annual
Biochemical Oxygen Demand 5-day @ 20 °C	mg/L	24-hr composite ³	Annual
Temperature	°C	Grab ²	Annual
Settleable Solids	ml/L	Grab ²	Annual
Total Suspended Solids	mg/L	24-hr composite ³	Annual
Ammonia, un-ionized	mg/L	24-hr composite ³	Annual
Total Nitrogen (as N)	mg/L	24-hr composite ³	Annual
Total Phosphorus	mg/L	24-hr composite ³	Annual
Total Recoverable Copper	µg/L	24-hr composite ³	Annual
Total Recoverable Zinc	µg/L	24-hr composite ³	Annual
Turbidity	NTU	24-hr composite ³	Annual

1. All monitoring results are to be submitted with the annual report.
2. A grab sample is an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.
3. A composite sample is defined as a combination of at least eight sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a Facility over a 24-hour period. For volatile pollutants, aliquots must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquots may be collected manually or automatically.
5. The Discharger must monitoring the effluent, at a location where a representative undiluted and unaltered sampled of the discharge from the facility can be collected prior to commingling with any other waste stream or body of water. Effluent monitoring must be conducted concurrently with the applications of antifoulants (when applicable). Effluent monitoring samples must be analyzed for the parameters specified in Table 2, section C.5 of this waiver.

Table No.2 Effluent Monitoring Parameters

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹
Flowrate	MGD	Continuous	Daily
pH	NTU	Grab ²	Annual
Biochemical Oxygen Demand 5-day @ 20 °C	mg/L	24-hr composite ³	Annual
Temperature	°C	Grab ²	Annual

1. All monitoring results are to be submitted with the annual report.
2. A grab sample is an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.
3. A composite sample is defined as a combination of at least eight sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a Facility over a 24-hour period. For volatile pollutants, aliquots must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquots may be collected manually or automatically.

Table No.2 Effluent Monitoring Parameters (continued)

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹
Settleable Solids	ml/L	Grab ²	Annual
Total Suspended Solids	mg/L	24-hr composite ³	Annual
Ammonia, un-ionized	mg/L	24-hr composite ³	Annual
Total Nitrogen (as N)	mg/L	24-hr composite ³	Annual
Total Phosphorus	mg/L	24-hr composite ³	Annual
Total Recoverable Copper	µg/L	24-hr composite ³	Annual
Total Recoverable Zinc	µg/L	24-hr composite ³	Annual
Turbidity	NTU	24-hr composite ³	Annual

1. All monitoring results are to be submitted with the annual report.
 2. A grab sample is an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.
 3. A composite sample is defined as a combination of at least eight sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a Facility over a 24-hour period. For volatile pollutants, aliquots must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquots may be collected manually or automatically.
6. The Discharger must conduct monitoring in accordance with USEPA test procedures approved in 40 CFR 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants under the Clean Water Act as amended, unless other test procedures are specified in the Order or separately by the San Diego Water Board.
 7. The Discharge must report with each sample result the applicable Reporting Level (RL) and the current Method Detection Limit (MDL), as determined by the procedure in 40 CFR Part 136. The Discharger must report the results of analytical determinations for the presence of chemical constituents in a sample using the following reporting protocols:
 - a. Sample results greater than or equal to the RL shall be reported as measured by the laboratory (i.e., the measured chemical concentration in the sample).
 - b. Sample results less than the RL, but greater than or equal to the laboratory's MDL, shall be reported as "Detected, but Not Quantified," or DNQ. The estimated chemical concentration of the sample shall also be reported.
 - c. For the purposes of data collection, the laboratory shall write the estimated chemical concentration next to DNQ as well as the words "Estimated Concentration" (may be shortened to "Est. Conc"). The laboratory may, if such information is available, include numerical estimates of the data quality for the reported result. Numerical estimates of data quality may be percent accuracy (\pm a percentage of the reported value), numerical ranges (low to high), or any other means considered appropriate by the laboratory.

- d. Sample results less than the laboratory's MDL shall be reported as "Not Detected." or ND.
 - e. Dischargers are to instruct laboratories to establish calibration standards so that the ML value (or its equivalent if there is differential treatment of samples relative to calibration standards) is the lowest calibration standard. At no time is the Discharger to use analytical data derived from extrapolation beyond the lowest point of the calibration curve.
8. The Discharger must prepare and submit an annual report containing the following information:
 - a. The total pounds of food feed used during the calendar month of maximum feeding;
 - b. The species of cold and warm water fish or aquatic animals held at the Facility. For each species the total annual pounds of aquatic animal weight produced by the Facility must be reported as well as the maximum weight present during each calendar month;
 - c. Failures or significant mortalities at the Facility caused by contagious diseases that could be discharged and infect aquatic life in the receiving water;
 - d. Chemical names of all drugs, disinfectants, and other chemicals used at the Facility during the reporting period that could be discharged into the receiving water. This information must include the amounts and dates of application of drugs, disinfectants, and other chemicals. For drugs, disinfectants, and other chemicals used on a routine basis, the frequency of application may be reported instead of each date of application; and
 - e. The annual report must include a tabulation, evaluation, and interpretation of the monitoring data and information, including interpretations and conclusions as to whether the facility operations, production levels and wastewater discharges are in compliance with the waiver conditions described in section 14 a and b above.
 9. The San Diego Water Board may add additional monitoring requirements or increase monitoring frequency as deemed necessary to ensure protection of water quality and beneficial uses in the receiving water.
 10. The San Diego Water Board may require a Discharger to apply for and obtain separate WDRs or NPDES permit if it determines the discharge is a significant source of pollutants to waters of the State and/or United States.
 11. The Discharger must submit the annual report to the San Diego Water Board no later than 5:00 PM on February 1st of each year (or next subsequent immediate business day, if falling on a weekend or state-observed holiday).
 12. Any person signing a document under this section must make the following certification:

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

Waiver No. 9 – Discharges of Slurries to Land**A. Specific Findings for Discharges of Slurries to Land**

1. The conditional waiver for discharges of Slurries to Land (Slurry Waiver) is for discharges of slurries to land, which may be a source of pollutants that can adversely affect the quality of waters of the State. A slurry typically consists of water and some material to form a liquid mixture.
2. The following types of discharge not regulated under WDRs may be eligible for the Slurry Waiver:
 - a. Discharges of drilling muds to land;
 - b. Discharges of concrete grinding residues to land; and
 - c. Discharges of slurries from sand and gravel mining operations to land
3. In order to be eligible for the Slurry Waiver, discharges must comply with the both the general and specific conditions of this waiver.
4. Discharges of slurries to land that comply with the general and specific waiver conditions in the Slurry Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge slurries to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Slurries Discharged to Land

1. Slurries discharged to lands must:
 - a. Not directly or indirectly discharge into any surface waters of the State (including ephemeral streams and vernal pools);
 - b. Be contained to eliminate the potential for runoff from the site;
 - c. Not contain any toxic or hazardous constituents;
 - d. Not adversely affect the quality or beneficial uses of underlying groundwater; and
 - e. Be removed and disposed of at an appropriate disposal facility prior to restoring the storage area or sump to pre-discharge conditions.
2. For slurries discharged to land for storage, the storage area or sump must:
 - a. Be designed to be fully contained and ensure no overflow during discharge with at least 2 feet of freeboard;
 - b. Be at least 5 feet above the highest known historical or anticipated groundwater level;
 - c. Be at least 100 feet away from any surface water body or municipal water well; and
 - d. Be filled in and restored to pre-discharge conditions, if no longer in use.

3. Dischargers eligible for enrollment in the Slurry Waiver must submit a NOI.³⁴
 4. Discharger must submit a technical and/or monitoring program reports when directed by the San Diego Water Board.
- C. **Specific Waiver Conditions for Discharge of Drilling Muds**
1. Drilling mud cannot be from borings advanced for a soil or groundwater contamination investigation or cleanup.
- D. **Specific Waiver Conditions for the Discharge of Slurries from Sand and Gravel Mining Operations**
1. The Discharger must be enrolled in and in compliance with the Industrial Storm Water General Permit Order 2014-0057-DWQ or any subsequently adopted Industrial Storm Water General Permit. Requirements contained within the Industrial Storm Water General Permit supersede all the surface water requirements set forth in these waiver conditions for Slurries Discharged to Land.
 2. The Discharger must comply with any applicable requirements imposed by State and local agencies responsible for ensuring compliance with the NPDES Permit and Waste Discharge Requirements for Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region.³⁵

³⁴ A Notice of Intent required to be submitted for enrollment in the Slurries Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

³⁵ National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266)

Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land.**A. Specific Findings for Discharges/Disposal of Solid Wastes to Land**

1. The conditional waiver for discharges/Disposal of Solid Wastes to Land (Solid Waste Waiver) is for discharges of solid wastes to land, which may be a source of pollutants that can adversely affect the quality of waters of the State.
2. The following types of discharge not regulated under WDRs may be eligible for the Solid Waste Waiver:
 - a. Discharges of plant crop residues to land;
 - b. Discharges/application of amendments and/or mulches to soil;
 - c. Discharges/disposal of inert wastes to solid waste disposal facilities only accepting inert wastes;
 - d. Discharges of soils containing wastes to temporary waste piles; and
 - e. Discharges/disposal/reuse of soils characterized as inert from known contaminated sites to land.
3. In order to be eligible for the Solid Waste Waiver, discharges must comply with both the general and specific conditions of this waiver.
4. Discharges of solid wastes to land that comply with the general and specific waiver conditions in the Solid Waste Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge solid wastes to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Discharges/Disposal of Solid Wastes to Land.

1. Discharges/Disposal of solid wastes to land must:
 - a. Not be allowed to directly or indirectly discharge to any surface waters of the State (including ephemeral streams and vernal pools); and
 - b. Not cause or threaten to cause a condition of contamination, pollution, or nuisance.
2. Discharge operations/facilities accepting and/or discharging solid wastes to land must:
 - a. Comply with local, State, and federal ordinances and regulations and obtain any required permits, certifications, and/or licenses;
 - b. Minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of waters of the State; and
 - c. Allow the San Diego Water Board and/or other local regulatory agencies reasonable access to the site in order to perform inspections and conduct monitoring.

3. Discharges eligible for enrollment in the Solid Waste Waiver must submit a complete NOI.³⁶
4. Discharger must submit a technical and/or monitoring program reports when directed by the San Diego Water Board.

C. **Specific Waiver Conditions for Discharges/Disposal of Solid Wastes to Land**

1. Discharge of Amendments and Mulches to Soil.
 - a. Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided in the NOI to demonstrate that the waste does not pose a potential threat to water quality:
 - i. Municipal solid wastes;
 - ii. Sludges, including sewage sludge, water treatment sludge, and industrial sludge;
 - iii. Septage;
 - iv. Liquid wastes;
 - v. Oil and grease; and
 - vi. Hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
 - b. Soil amendments or mulch materials eligible to be applied to soil, the amount must be reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the wet weather season (October 1 – April 30). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the wet weather season. Resources and assistance may be available from the Natural Resource Conservation Service (NRCS), University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
 - c. Soil amendments or mulch materials to soil must be applied at site-specific rates appropriate to the season (i.e., dry vs. rainy).
 - d. Soil amendments or mulch materials must implement MMs/BMPs to minimize or eliminate runoff and leachate to surface waters and groundwater.
2. Discharge of Soils Containing Wastes to Temporary Waste Piles.
 - a. For **any soils containing wastes** temporarily stored in waste piles, the following conditions apply:

³⁶ A Notice of Intent required to be submitted for enrollment in the Solid Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

- i. The Discharger must submit:
 - (A) A complete Temporary Waste Pile Certification form, section A,³⁷ within 30 days of the initial discharge of any waste piles to be eligible for this waiver. The property owner must approve and acknowledge the placement of the waste at the site;
 - (B) The first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 sections 2200; and
 - (C) A complete Temporary Waste Pile Certification form, section B,³⁸ within 10 working days of completing removal of all waste and restoring the site to its original condition.
- ii. The Discharger, unless otherwise specified in the applicable conditions of this waiver, must not allow temporary waste piles to remain on a site for longer than 6 months or 180 days, whichever is longer.
- iii. The temporary discharge of waste must not cause:
 - (A) The occurrence of coliform or pathogenic organisms in waters pumped from the hydrologic basin;
 - (B) The occurrence of objectionable tastes and odors in water pumped from the hydrologic basin;
 - (C) Waters pumped from the hydrologic basin to foam;
 - (D) The presence of toxic materials in waters pumped from the hydrologic basin;
 - (E) The pH of waters pumped from the hydrologic basin to fall below 6.0 or rise above 9.0;
 - (F) Pollution, contamination or nuisance or adversely affect the quality or beneficial uses of groundwater or surface waters of the hydrologic subareas established in the Basin Plan; and/or,
 - (G) A violation of any discharge prohibitions in the Basin Plan for the San Diego Region.
- iv. The Discharger must conduct regular inspections of temporary waste piles and associated MMs/BMPs at least once per

³⁷ The Temporary Waste Pile Certification required for compliance with the Solid Waste Waiver is located in Appendix D of Order No. R9-2014-0041.

³⁸ The Temporary Waste Pile Certification required for compliance with the Solid Waste Waiver is located in Appendix D of Order No. R9-2014-0041.

- week. Corrective actions must be taken as necessary to ensure compliance with the conditions of this waiver.
- v. Surface drainage must be diverted away from the temporary waste piles. For all temporary waste piles, the discharger must implement effective MMs/BMPs to prevent surface water runoff and runoff from contacting wastes, and to prevent erosion and transport of wastes by surface runoff.
 - vi. Temporary waste piles must be:
 - (A) Placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from any surface water of the State, unless sufficient information is provided in the NOI, to demonstrate that a proposed alternative is protective of water quality;
 - (B) Protected against 100-year peak stream flows as defined by the county flood control agency;
 - (C) Covered by plastic sheeting (not less than 10 mils thick, unless otherwise specified under the applicable Special Conditions) to adequately prevent rainwater infiltration, control fugitive dust, and prevent other nuisances; and
 - (D) Underlain by either plastic sheeting (not less than 10 mils thick, unless otherwise specified under the applicable conditions) or a liner of low permeability material that will prevent leachate from infiltrating to groundwater.
 - vii. Solid wastes discharged to temporary waste piles, together with any containment materials used at the temporary waste pile, and any underlying geologic materials impacted by the discharge, must be removed within 6 months or 180 days (whichever is longer), unless otherwise specified under the applicable Special Conditions. Subsequently, the discharger must remove all wastes, treatment facilities, and related equipment, and dispose of those items in accordance with applicable regulations. The site must be restored to its original state within 30 days after the temporary waste pile is removed, unless otherwise specified under the applicable Special Conditions.
 - viii. The discharger must post at least one clearly visible sign listing the following minimum information:
 - (A) Project name,
 - (B) Name and address of discharger,
 - (C) Brief project description, and

- (D) 24-hour contact information – name, address, facsimile, and telephone number for the project for as long as the temporary waste pile remains on the site.
- b. For **soils containing petroleum hydrocarbons** temporarily stored in waste piles, the following conditions apply:
- i. Soils and associated solid waste containing petroleum hydrocarbons discharged into temporary waste piles must be limited to a maximum time period of 3 months or 90 days on a site.
 - ii. Soils and associated solid waste containing petroleum hydrocarbons discharged into temporary waste piles under an initial certification report must be derived from only one source (e.g., one unauthorized release site).
 - iii. Temporary waste piles must be covered by plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and prevent other nuisances.
 - iv. Temporary waste piles must be underlain by either plastic sheeting (not less than 10 mils thick) or a liner of low permeability that will prevent leachate from infiltrating to groundwater.
 - v. In addition to the conditions stated herein, temporary waste piles must conform to applicable provisions of ordinances and regulations issued by the local regulatory agencies for Orange, Riverside, or San Diego Counties.
 - vi. The site must be restored to its original state within 30 days after removal of the temporary waste pile from the site.
- c. For **dredged spoils containing heavy metals** temporarily stored in waste piles, the following conditions apply:
- i. Dredged spoils and associated solid waste containing heavy metals discharged into temporary waste piles must be limited to a maximum time period of 9 months or 270 days on a site, whichever is longer.
 - ii. Temporary waste piles must be covered by either a plastic sheeting to adequately prevent rainwater infiltration, control fugitive dust, and prevent other nuisances. Alternative control methods may be utilized if sufficient information is provided in the NOI to demonstrate that the proposed alternative is protective of water quality and human health.
 - iii. Temporary waste piles must be underlain by plastic sheeting (not less than 20 mils thick) or a liner of lower permeability that will prevent leachate from infiltrating to groundwater. Sufficient information must be provided in the NOI demonstrating that

- the liner and containment facility has been designed to contain all solid wastes and fluids.
- iv. Materials used in containment structures must have the appropriate chemical and physical properties to ensure that such structures do not fail to contain waste because of: the stress of installation, pressure gradients, physical contact with the waste or leachate, or chemical reactions with soil and rock.
 - v. The site must be restored to its original state within 60 days after removal of the temporary waste pile from the site.
- d. Solid Waste Disposal Facilities Accepting Only Inert Wastes.³⁹
- i. Inert solid waste must not contain hazardous waste, or soluble or decomposable constituents.
 - ii. Inert solid waste cannot contain any “free liquids.”⁴⁰
 - iii. Owner/operator of disposal facility must secure the disposal site and prevent unauthorized disposal by the public.
 - iv. Inert solid wastes exclude any wastes determined by the San Diego Water Board to potentially have an adverse effect on the quality or beneficial uses of waters of the State, even if classified as inert waste.
- e. Discharge/Reuse of Inert Soils and Materials from Contaminated Sites.
- i. For **all waste soils characterized as inert (Tier 1 or Tier 2)**, the following conditions apply:
 - (A) Inert waste soils from known contaminated sites cannot be transported off site and discharged/disposed/reused directly or indirectly to any surface waters of the State (including ephemeral streams and vernal pools).
 - (B) Inert waste soils from known contaminated sites cannot contain significant quantities of decomposable wastes, refuse, or trash.
 - (C) Inert waste soils from known contaminated sites cannot contain any “free liquids.”⁴¹
 - (D) Inert waste soils that are discharged/disposed/reused at any site cannot have any hydrocarbon, chlorinated solvent, or other contaminant-based odor.

³⁹ According to Calif. Code Regs title 27 section 20230(a) “Inert waste” is defined as “that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste.”

⁴⁰ “Free liquids” defined by Calif. Code Regs title 27 section 20164 as “liquid which readily separates from the solid portions of waste under ambient temperature and pressure.”

⁴¹ “Free liquids” defined by Calif. Code Regs title 27 section 20164 as “liquid which readily separates from the solid portions of waste under ambient temperature and pressure.”

- (E) Sites that export or import soils characterized as inert from known contaminated sites for use as fill material or any other purpose must comply with an applicable federal, State, or local permitting requirements, regulations, and/or ordinances pertaining to the use of imported soil.
 - (F) Sites that export or import soils characterized as inert from known contaminated sites for use as fill material or any other purpose must implement MMs/BMPs to eliminate the potential for erosion and transport of sediment off the site.
 - (G) This waiver does not authorize the discharge/disposal/reuse of soil characterized as inert from known contaminated sites outside the boundaries of the San Diego Region.
 - (H) Prior to exporting soil characterized as inert from a known contaminated site, the owner/operator of the export site must file a NOI⁴² with the San Diego Water Board. The NOI must:
 - (1) Be filed no less than 5 working days prior to the beginning of export shipments; and
 - (2) Include a map of the site showing the locations of excavations, borings and/or stockpiles, MMs/BMPs that will be taken to prevent discharges of waste soil that could affect surface water and groundwater quality, estimated volumes (can be a range of volumes) of inert waste soil that will be generated for use off the site, estimated number (can be a range) and locations of samples that will be collected for characterization, and name of the certified environmental analytical laboratory that will perform the analysis.
- ii. Waste soils from a site with a known or discovered unauthorized release must be characterized and certified as inert in order for the soil to be reused off site. Characterization and certification must include the following minimum requirements:
- (A) All temporary waste piles of soils generated during remediation or corrective action must be managed in accordance with the waiver conditions for the discharge of specified soils containing wastes to temporary waste

⁴² A Notice of Intent required to be submitted for enrollment in the Solid Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

piles. Or, waste soils may be sampled and characterized in-situ prior to transport and disposal or reuse off site.

- (B) Waste soil must be segregated into 2 categories:
 - (1) Soil that is impacted by the unauthorized release must be characterized as hazardous, designated, and/or non-hazardous waste and handled in accordance with regulatory requirements for the disposal of solid wastes. Waste soils that do not visually appear impacted, but have detectable odors, must be treated as impacted soil and cannot be characterized as inert.
 - (2) Soil that does not appear to be impacted by the unauthorized release by visual inspection and odor must be sampled and analyzed to confirm the soil can be characterized as inert waste soil.
- (C) Samples must be collected from the waste soil suspected to be inert for laboratory analysis. The minimum number of samples required to characterize the soil are specified in Table No. 1 of the Solid Waste Waiver.

Table No. 1: Sample Analysis Required

Volume of Soil	Required Number of Samples Analyzed
0 to <500 cy	4 samples per 100 cy (12 minimum)
500 to <5,000 cy	1 additional sample per additional 500 cy
5,000 cy or more	1 additional sample per additional 1,000 cy ⁴³

- (D) Samples must be analyzed by a State-certified analytical laboratory using USEPA approved analytical methods for the following constituents:
 - (1) Total concentrations of those Calif. Code Regs title 22 metals identified as contaminants of concern for the export site. For sites identified with burn ash⁴⁴, the site must be investigated and the burn ash must be characterized for disposal purposes according to the protocol established by the lead regulatory agency (e.g., Department of Toxic Substances Control, California Department of Resources Recycling and

⁴³ Volumes greater than 10,000 cubic yards (cy) may rely on fewer samples than 1 per each additional 1,000 cy if characterization complies with SW846 methods for selecting appropriate numbers of samples for waste characterization and statistical analyses. The appropriate number of samples is the least number of samples required to generate a sufficiently representative estimate of the true mean concentration of a chemical contaminant of a waste.

⁴⁴ For the purposes of the Solid Waste Waiver, "burn ash" sites are those where solid waste has been burned at low temperature and the residual burn ash pits and burn ash layers are present in soil.

Recovery, or others) to identify contaminants of concern at the site. The soil outside of the area of impact of the burn ash must be tested for the total concentration of those metals identified as contaminants of concern based on the findings of the burn ash investigation technical study.

- (2) Total petroleum hydrocarbons (by USEPA Method 8015 – full scan if export site includes oil or fuel as potential or actual contaminants of concern).
 - (3) Polychlorinated biphenyls (if export site includes PCBs as potential or actual contaminants of concern)
 - (4) Volatile and semi-volatile organic compounds (if export site includes volatile and semi-volatile organic compounds as potential or actual contaminants of concern)
 - (5) Pesticides (if export site includes a known agricultural area, or pesticides as potential or actual contaminants of concern)
 - (6) Other constituents (if contaminated portion of the export site is found to contain other pollutants or contaminants)
- (E) For detected concentrations of constituents (as defined in section C.2.e.ii(D)(6) of this waiver) other than Calif. Code Regs title 22 metals, a representative number of soil samples must also be analyzed by a State-certified analytical laboratory using a zero headspace extractor and the Synthetic Precipitation Leaching Procedure (SPLP).⁴⁵
- (F) If analytical results indicate leachable detectable concentrations of constituents, the NOI must also explain why the wastes qualify as inert waste under Calif. Code Regs. title 27, section 20230.
- iii. For reuse of ***Tier 1 inert waste soils (full unrestricted reuse within the San Diego Region)***, the following conditions apply:
- (A) Soil cannot contain any detectable concentrations of contaminants other than Calif. Code Regs title 22 metals, or leachable concentrations of constituents that do qualify under the definition of “inert waste” specified in Calif. Code Regs title 27, section 20230. If analytical

⁴⁵ See USEPA SW846 methods, EPA Method 1312 (Synthetic Precipitation Leaching Procedure – SPLP), available online at: <http://www.epa.gov/osw/hazard/testmethods/sw846/online/>.

results indicate leachable detectable concentrations (see sections C.2.e.ii(E) and C.2.e.ii(F) of this waiver) of constituents the NOI must also explain why the wastes qualify as inert waste under Calif. Code Regs. title 27, section 20230.

- (B) For those Calif. Code Regs title 22 metals that have been identified as contaminants of concern for the export Site, samples must be analyzed by an SW846 method using the reporting limits set forth in Table No. 2 below. From these data, the 90 percent upper confidence level (UCL) must be determined. Prior to calculating the 90 percent UCL, the discharger must determine whether the sample set is normally, log-normally or non-normally distributed. If log-normally distributed, one must determine the 90 percent UCL on the log-normal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90 percent UCL on the median (50th percentile), instead of the mean. See USEPA SW846 Chapter 9 and the USEPA Guidance for Data Quality Assessment for a discussion of waste characterization and statistical analysis; in particular the guidance on testing for normality, calculating a 90 percent UCL, and handling of non-detected values.⁴⁶
- (C) For those Calif. Code Regs title 22 metals that have been analyzed in accordance with section C.2.e.iii(B) of this waiver, must be equal to or less than the concentrations provided in Table No. 2, section C.2.e.iii of this waiver.
- (D) An Inert Waste Certification must be filed with the San Diego Water Board by the owner/operator of the export site within 30 days following completion of export activities. The Inert Waste Certification must include the following information:
- (1) Generator name and contact information;
 - (2) Export site location, owner name and contact information;
 - (3) Map of the export site showing the location of the excavation, borings, stockpiles, and/or samples collected;

⁴⁶ See U.S. Environmental Protection Agency, Office of Solid Waste. 1986. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods; <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/chap9.pdf>; and USEPA 2002, RCRA Waste Sampling Draft Technical Guidance, EPA 530-D-02-002 (Appendix F). Office of Solid Waste.

- (4) Approximate volume of inert waste soil exported from the site;
- (5) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport;
- (6) Laboratory analytical data, including number of samples collected, USEPA approved analytical methods used, the 90 percent UCL of the data for the contaminants of concern, and name of certified environmental analytical laboratory that performed the analysis; and
- (7) The export site owner, principal executive officer, or authorized representative, and a California licensed professional engineer or geologist must sign and certify the Inert Waste Certification. The Inert Waste Certification must include the statement, *“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*

Table No. 2: Tier 1 Soil Screening Levels

Calif. Code Regs Title 22 Metals	Inert Waste Target ^a (mg/kg)	Residential CHHSL ^b (mg/kg)	e-PRG ^c (mg/kg)	Background ^d Mean (mg/kg)	Tier 1 SSL ^{e,f} (mg/kg)
Antimony	6.0	30	5.0	0.60	5.0
Arsenic	50	0.07	9.9	3.5	3.5
Barium	1,000	5,200	283	509	509
Beryllium	4.0	150	10	1.28	4.0
Cadmium	5.0	1.7	4.0	0.36	1.7
Chromium, Total	50	NA	0.4	122	50
Chromium, Hexavalent	50	17	NA	NA	17
Cobalt	NA	660	20	14.9	20
Copper	1,300	3,000	60	28.7	60
Lead	15	150	40.5	23.9	15
Mercury	2.0	18	0.00051	0.26	0.26
Molybdenum	NA	380	2.0	1.3	2.0
Nickel	100	1,600	30	57	57

Table No. 2: Tier 1 Soil Screening Levels (*continued*)

Calif. Code Regs Title 22 Metals	Inert Waste Target ^a (mg/kg)	Residential CHHSL ^b (mg/kg)	e-PRG ^c (mg/kg)	Background Mean ^d (mg/kg)	Tier 1 SSL ^{e,f} (mg/kg)
Selenium	50	380	0.21	0.058	0.21
Silver	NA	380	2.0	0.80	2.0
Thallium	2.0	5.0	1.0	0.56	1.0
Vanadium	50	530	2.0	112	50
Zinc	NA	23,000	8.5	149	149

^a Calculated using Central Valley Water Board Designated Level Methodology, where the Water Quality Goal is the lower value of the federal or State drinking water primary maximum contaminant level, the Environmental Attenuation Factor is 10, and the Leachability Factor is 100.

^b Values taken from the California Environmental Protection Agency's *Use of California Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties* (CalEPA 2005).

^c Taken from Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymsen, et al 1997)

^d Taken from Kearney Foundation of Soil Science Division of Agriculture and Natural Resources, University of California *Background Concentrations of Trace and Major Elements in California Soil – Special Report* (Bradford, et al 1996).

^e Tier 1 Soil Screening Level for inert waste soils that can be reused without restriction. Tier I SSLs selected based on the following steps: Step 1) Select lower value of Residential CHHSL or e-PRG; Step 2) Select lower value of Step 1 or Inert Waste Target; and, Step 3) Select higher value of Step 2 and Arithmetic Mean Background.

^f These values are not intended to provide cleanup levels for soil remaining on-site. Such values should be established based on the contaminants of concern, the site use, and in conjunction with the regulatory agency providing oversight for the remediation effort.

iv. For reuse of **Tier 2 inert waste soils (only for commercial or industrial development purposes within the San Diego Region)**, the following conditions apply:

- (A) Soil should not contain any detectable concentrations of contaminants other than Calif. Code Regs title 22 metals, or leachable concentrations of constituents that do not qualify under the definition of "inert waste" specified in Calif. Code Regs title 27, section 20230. If analytical results indicate leachable detectable concentrations (see sections C.2.e.ii(E) and C.2.e.ii(F) of this waiver) of constituents, the NOI must also explain why the wastes qualify as inert waste under Calif. Code Regs. title 27, section 20230.
- (B) Samples must be analyzed by an SW846 method using the reporting limits set forth in Table No. 3 below. From these data, the 90 percent UCL must be determined. Prior to calculating the 90 percent UCL, the discharger must determine whether the sample set is normally, log-normally or non-normally distributed. If log-normally distributed, one must determine the 90 percent UCL on

the log-normal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90 percent UCL on the median (50th percentile), instead of the mean. See USEPA SW846 Chapter 9 and the USEPA Guidance for Data Quality Assessment for a discussion of waste characterization and statistical analysis; in particular the guidance on testing for normality, calculating a 90 percent UCL, and handling of non-detected values.⁴⁷

- (C) For those Calif. Code Regs title 22 metals that have been analyzed in accordance with section C.2.e.iv(B) of this waiver, must be equal to or less than the concentrations provided in Table No. 3, section **0C.2.e.iv** of this waiver.

Table No. 3: Tier 2 Soil Screening Levels

Pollutant	Inert Waste Target ^a (mg/kg)	Industrial CHHSL ^b (mg/kg)	Background ^c		TTLC ^d	Tier 2 SSL ^{e,f} (mg/kg)
			Max (mg/kg)	½ Max (mg/kg)		
Antimony	6.0	380	1.95	0.98	500	6.0
Arsenic	50	0.24	11	5.5	500	5.5
Barium	1,000	3,000	1,400	700	10,000	1,000
Beryllium	4.0	1,700	2.7	1.4	75	4
Cadmium	5.0	7.5	1.70	0.85	100	5
Chromium, Total	50	100,000	1,579	790	2,500	790
Cobalt	NA	3,200	46.9	23.5	8,000	3,200
Copper	1,300	38,000	96.4	48.2	2,500	1,300
Lead	15	3,500	97.1	48.6	1,000	49
Mercury	2.0	180	0.90	0.45	20	2
Molybdenum	NA	4,800	9.6	4.8	3,500	3,500*
Nickel	100	16,000	509	255	2,000	255
Selenium	50	4,800	0.43	0.22	100	50
Silver	NA	4,800	8.30	4.2	500	500*
Thallium	2.0	63	1.10	0.55	700	2
Vanadium	50	6,700	288	144	2,400	144
Zinc	NA	100,000	236	118	5,000	5,000*

* None of the analytical results from any samples collected to characterize the waste soil can exceed the Tier 2 Soil Screening Level for this pollutant.

^a Calculated using Central Valley Water Board Designated Level Methodology, where the Water Quality Goal is the lower value of the Federal or State drinking water primary maximum contaminant level, the Environmental Attenuation Factor is 10, and the Leachability Factor is 100.

^b Values taken from the California Environmental Protection Agency's *Use of California Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties* (CalEPA 2005).

⁴⁷ See U.S. Environmental Protection Agency, Office of Solid Waste. 1986. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods; <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/chap9.pdf>; and USEPA 2002, RCRA Waste Sampling Draft Technical Guidance, EPA 530-D-02-002 (Appendix F). Office of Solid Waste.

- ^c Taken from Kearney Foundation of Soil Science Division of Agriculture and Natural Resources, University of California *Background Concentrations of Trace and Major Elements in California Soil – Special Report* (Bradford, et al 1996).
- ^d Total Threshold Limit Concentration. Concentrations above the TTLIC would be classified as hazardous waste.
- ^e Tier 2 Soil Screening Level for inert waste soils that can be reused only for commercial or industrial land use designation. Tier II SSLs selected based on the following steps: Step 1) Select lower value of Industrial CHHSL or Inert Waste Target; Step 2) Select higher value of Step 1 or 1/2 Maximum Background; and, Step 3) Select lower value of Step 2 and Total Threshold Limit Concentration.
- ^f These values are not intended to provide clean up levels for soil remaining on-site. Such values should be established based on the contaminants of concern, the site use, and in conjunction with the regulatory agency providing oversight for the remediation effort.

(D) An Inert Waste Certification must be filed with the San Diego Water Board by the owner/operator of the export site within 30 days following export and placement of the soil. The Inert Waste Certification must include the following information:

- (1) Generator name and contact information;
- (2) Export site location, owner name and contact information;
- (3) Approximate volume of inert waste soil exported from the site;
- (4) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport;
- (5) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used the 90 percent UCL of the data for the contaminants of concern, and name of certified environmental analytical laboratory performing analysis;
- (6) Import site owner name and contact information, with a map of the site location showing nearby surface water bodies, approximate depth to groundwater, and BMPs that will be implemented to eliminate the potential for discharge of inert waste soils to surface waters;
- (7) The import site owner, principal executive officer, or authorized representative must provide a signature acknowledging the receipt or planned receipt of the inert waste soil; and
- (8) The export site owner, principal executive officer, or authorized representative, and a California licensed professional engineer or geologist must

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sign and certify the Inert Waste Certification. The Inert Waste Certification must include the statement, *“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*

- v. Tier 2 inert waste soil reused at commercial or industrial development sites must comply with the following conditions:
 - (A) Tier 2 inert waste soil may only be reused on commercial or industrial sites. It may not be reused at residential, school, or park sites.
 - (B) Tier 2 inert waste soil must be placed at least 5 feet above the highest historically known or anticipated level of groundwater. The soil that separates the inert waste soil from groundwater must have a clay content greater than 5 percent clay material or an in-situ permeability of less than 10^{-5} cm/sec.
 - (C) Tier 2 inert waste must be placed at least 100 feet from the nearest surface water body.
 - (D) Tier 2 inert waste must be protected against 100-year peak stream flows as defined by the County flood control agency.
 - (E) Tier 2 inert waste must be covered by either:
 - (1) engineered materials such as used as road base, fill beneath buildings, bridge abutments), or
 - (2) not less than 2 feet of non-contaminated, clean fill.

The cover must have a permeability of no more than 10^{-5} cm/sec. Placement of a cover on the inert waste soils must be completed with 30 days of discharging the final load of inert waste soils at the import site.

Waiver No. 11 – Aerially Discharged Wastes Overland**A. Specific Findings for Aerially Discharged Wastes Overland.**

1. This conditional waiver for Aerially Discharged Wastes Overland (Aerial Waste Waiver) is for discharges of wastes that have been discharged aerially over land, which may be a source of pollutants that can adversely affect the quality of waters of the State.
2. The following types of discharge not regulated under WDRs may be eligible for the Aerial Waste Waiver:
 - a. Discharges of wastes related to fireworks displays over land; and
 - b. Other periodic aerial discharges of wastes over land that may adversely affect the quality of the waters of the State, but determined to be “low threat” by the San Diego Water Board.
3. In order to be eligible for the Aerial Waste Waiver, discharges must comply with both the general and specific conditions of the Aerial Waste Waiver.
4. Wastes discharged aerially over land that comply with both the general and specific waiver conditions in the Aerial Waste Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to aerially discharge waste over land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements

B. General Conditions for Aerially Discharged Wastes Over Land

1. Aerially discharged wastes cannot be discharged directly over and/or into surface waters of the State (including ephemeral streams and vernal pools).
2. Aerially discharged wastes must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Aerially discharged wastes must not impact the quality of groundwater in any water wells or surface water in any drinking water reservoirs.
4. Dischargers must comply with any local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
5. Discharger must submit a complete NOI.⁴⁸
6. Dischargers must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

C. Specific Conditions for Discharges of Waste Related to Fireworks Displays Over Land

1. No more than one fireworks display may be conducted from a launch site or within 1.0 mile of another launch site within a 48-hour period.⁴⁹ If the

⁴⁸ A Notice of Intent required to be submitted for enrollment in the Aerial Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

organizer will have more than one fireworks display within a 48-hour period, the organizer must file a NOI containing information about the fireworks to be used, location of launch area and nearby water bodies and groundwater basins, surrounding land uses, planned period of and frequency of discharge, copies of any permits obtained from other public agencies, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect surface water and groundwater quality. Sufficient information must be submitted before the discharge may begin.

2. All fireworks-related debris must be cleaned up from land surface areas.
3. Launch areas and deposition areas of fireworks displays may not be located within areas designated as Zone A for groundwater source area protection, as defined by the California Department of Public Health's (CDPH's) Drinking Water Source Assessment Protection (DWSAP) Program. This condition may be waived if the owner or operator of a groundwater drinking water source, through a permit, specifically allows the fireworks display launch area and/or deposition area within an area designated as Zone A for groundwater source area protection.
4. Launch areas and deposition areas of fireworks displays may not be located within areas designated as Zone A for surface water source protection, as defined by the CDPH's DWSAP Program. This condition may be waived if the owner or operator of a surface water source reservoir or intake structure, through a permit, specifically allows the fireworks display launch area and/or deposition area within an area designated as Zone A for surface water protection.
5. The fireworks display must be permitted by all relevant public agencies that require permits for fireworks displays (e.g., fire departments, municipal governments, law enforcement, water supply agencies). Copies of any permits must be available on site for inspection.
6. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

⁴⁹ This condition is intended to alleviate spatial and temporal accumulation of fireworks-related chemical contaminants.

Waiver No. 12 – Discharges of Emergency/Disaster Related Wastes**A. Specific Findings for Discharges of Emergency/Disaster Related Wastes**

1. This conditional waiver for Discharges of Emergency/Disaster Related Wastes (Emergency Waste Waiver) is for discharges of wastes resulting from a regional emergency or disaster and the Governor of California issues a proclamation, pursuant to Government Code sections 8625 and 8558(b), identifying a portion of the San Diego Region as being in a state of emergency. Waste streams from regional disasters may be a source of pollutants that can adversely affect the quality of waters of the State.
2. The following types of discharge not regulated under WDRs may be eligible for the Emergency Waste Waiver:
 - a. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
 - b. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
 - c. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
 - d. Emergency repair and protection activities in non-federal waters of the State;
 - e. Discharges of dredge or fill material into non-federal waters of the State, under emergency conditions; and/or
 - f. Other discharges of emergency/disaster related wastes.
3. These types of discharge are generated during emergency and disaster related situations, requiring expedited handling and disposal of wastes or emergency discharges of fill material into non-federal waters of the State. Therefore, emergency/disaster related waste discharges were grouped into one discharge classification. Emergency/disaster related waste discharges or discharges of fill material into non-federal waters of the State that comply with the waiver conditions should minimize the potential impact and should not pose a significant threat to the quality of waters of the State.
4. In the event of an emergency or disaster, significant amounts of wastes may be generated. Cleanup, management and disposal of emergency/disaster related waste can result in the discharge of multiple waste streams which can adversely affect the quality of surface water and/or groundwater. The issuance of WDRs would significantly impede the cleanup of emergency/disaster related wastes, which would likely increase the threat to public health and the environment. Therefore, in the interest of expediting the cleanup of emergency/disaster related wastes, issuing a waiver for these types of discharge would be in the public interest.
5. The issuance of waiver conditions should be developed in order for members of the public, cities, counties, local agencies and organizations, and/or the San Diego Water Board to determine if discharges of emergency/disaster related wastes are in conformance with this waiver. If

dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to be eligible for the Emergency Waste Waiver. If dischargers of emergency/disaster related wastes violate any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating the discharge with individual WDRs and/or take other enforcement actions.

6. Discharges of dredged or fill material into non-federal waters of the State⁵⁰ may be necessary for repair and protection measures associated with an emergency situation to mitigate and abate threats caused by emergencies, as defined under CEQA.⁵¹
7. Discharges of dredged or fill material for emergency repair and protection measures may constitute discharges of waste that could affect the quality of waters of the State. Repair and protection activities that may result in such discharges can include, but are not limited to, the cleaning of culverts and associated concrete aprons, bank or slope stabilization, removal of debris (e.g., trash, dead vegetation, structural debris, etc.), repair of transportation routes, and the construction of check dams and sediment basins. Discharges that may occur during the conduct of emergency repair and protection activities can include, but are not limited to, earth, rock, or similar inert materials and discharges of pollutants associated with construction equipment or materials.
8. Eligible discharges to non-federal waters of the State, associated with emergency repair and protection activities, could be subject to *Water Quality Order No. 2004-0004-DWQ, Statewide General Waste Discharge Requirements for Dredged or Fill Discharges To Waters Deemed by The U.S. Army Corps of Engineers To Be Outside of Federal Jurisdiction*.⁵² This Emergency Waste Waiver can expedite projects that are not eligible for enrollment in Order No. 2004-0004-DWQ but are conducted in response to emergency situations.
9. In order to be eligible for the Emergency Waste Waiver, discharges must comply with both the general and specific waiver conditions of this waiver.
 - a. Incidental Discharges During an Oil Spill Response;

⁵⁰ Non-federal waters of the State include surface waters determined by the U.S. Army Corps of Engineers and / or the U.S. Environmental Protection Agency to be outside of federal jurisdiction (e.g., certain vernal pools, other isolated water bodies, and certain intermittent or ephemeral streambeds that lack a significant nexus to traditionally navigable waters).

⁵¹ In addition, wildfires can exacerbate the risk of flooding, erosion, debris flows, and slope failures as a result of the loss of vegetated cover within a watershed. Likewise, damage from earthquakes/after shocks, and landslides can affect vital infrastructure and threaten beneficial uses of waters of the State.

⁵² For instance, the General WDRs in Water Quality Order No. 2004-0004-DWQ are restricted to dredged or fill discharges of not more than two-tenths (0.2) of an acre and 400 linear feet for fill and excavation discharges, and of not more than 50 cubic yards for dredging discharges. Projects that may be covered include land development, detention basins, disposal of dredged material, bank stabilization, revetment, channelization, and other similar projects.

- b. Disaster Related and Mass Mortality Wastes Disposed at Regulated Waste Disposal Facilities;
 - c. Disaster Related and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities;
 - d. Disaster Related Wastes Discharged to Temporary Waste Piles not Located at Regulated Waste Disposal Facilities;
 - e. Disaster Related Wastes Discharged to Temporary Surface Impoundments not Located at Regulated Waste Disposal Facilities;
 - f. Mass Mortality Wastes Discharged to Emergency Landfills not Located at Regulated Waste Disposal Facilities; and
 - g. Discharges of Dredge or Fill Materials into Non-Federal Waters of the State, Under Emergency Conditions.
10. Discharges of emergency/disaster related wastes that comply with both the general and specific waiver conditions in the Emergency Waste Waiver are not expected to pose a significant threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge emergency/disaster related wastes, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements

B. General Conditions for Discharges of Emergency/Disaster Related Wastes

- 1. Discharges made pursuant to the Emergency Waste Waiver cannot occur until after one of the following:
 - a. The Governor of California issues a proclamation, pursuant to Government Code sections 8625 and 8558(b), identifying a portion of the San Diego Region as being in a state of emergency;⁵³ or
 - b. An oil spill incident occurs in the marine waters of the San Diego Region requiring a response authorized by the Administrator of the Office of Spill Prevention and Response; or
 - c. A discharge occurs resulting from emergency activities that are waived of the requirements of Water Code sections 13260(a) and (c), 13263(a), and 13264(a), which are described in Water Code sections 13269(c)(1) and 13269(c)(2).
- 2. This waiver is only in effect temporarily and must expire under the following conditions:
 - a. The state of emergency declared by the Governor expires; or
 - b. The San Diego Water Board takes action to terminate enrollment of individual or all dischargers/Units temporarily enrolled in the waiver; or

⁵³ The Emergency Waste Waiver is only applicable to disaster related waste streams from disaster-impacted areas.

- c. Six months has elapsed since the Governor issued a declaration of the state of emergency for any portion of the San Diego Region, or the oil spill incident occurred, or emergency activities began, unless otherwise directed by the San Diego Water Board.
3. Discharges of emergency/disaster related wastes to land
 - a. Emergency/disaster related waste management and cleanup activities must minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of the waters of the State.
 - b. Temporary waste piles and surface impoundments used to manage emergency/disaster related waste must: prevent the direct or indirect discharge of emergency/disaster related wastes to any surface waters of the State (including ephemeral streams and vernal pools).
 - c. Emergency/disaster related waste management operations must not be:
 - i. Performed in a manner that creates or contributes to a condition of pollution or nuisance;
 - ii. Performed in a manner that creates or contributes to conditions which violate the waste discharge prohibitions promulgated in the Basin Plan;
 - iii. Managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit;⁵⁴ and/or
 - iv. Managed in a manner that mixes or commingles other wastes that can produce a violent reaction (including heat, pressure, fire or explosion), that can produce toxic byproducts, or that can produce any reaction products requiring a higher level of containment, or that results in the mixture being classified as a restricted waste.⁵⁵
 - d. Liquid hazardous wastes or “restricted hazardous wastes”⁵⁶ cannot be discharged to municipal solid waste (MSW) landfills, temporary waste piles, or temporary surface impoundments.
 - e. Temporary waste piles must be covered to adequately prevent rainwater infiltration and runoff, and control fugitive dust, vectors, odors, blowing litter and scavenging. The cover must not consist of or contain material classified as a designated waste.⁵⁷

⁵⁴ Pursuant to Calif. Code Regs title 27 section 20200(b)(1)

⁵⁵ Pursuant to Calif. Code Regs title 27 section 20200(b)(2)

⁵⁶ Defined in Health and Safety Code section 25122.7

⁵⁷ Defined in Calif. Code Regs title 27 section 20210

- f. Inert wastes⁵⁸ that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).
- g. Waste streams must only originate from disaster-impacted areas of the San Diego Region. These waste streams must be discharged for treatment and permanent disposal **only** into:
 - i. Waste management or treatment units (e.g., liquid wastes into wastewater treatment plants) as allowed by WDRs issued by the San Diego Water Board; or
 - ii. Solid waste management units or disposal facilities (e.g., solid wastes into Class III MSW landfills underlain with engineered composite liners and leachate collection systems, and that satisfy the requirements of State Water Board Resolution No. 93-62);
 - iii. Emergency landfills established in accordance with the conditions of this waiver; or
 - iv. As allowed by valid WDRs issued by the San Diego Water Board for other categories of waste management units.
- 4. Discharges of Dredge or Fill Material into Non-Federal Waters of the State, under Emergency Conditions.
 - a. Discharge activities must not:
 - i. Create or contribute to a condition of pollution or nuisance, as defined by Water Code section 13050;
 - ii. Create or contribute to conditions which violate the discharge prohibitions of the Basin Plan for the San Diego Region; and/or
 - iii. Result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of such a species, unless the activity is authorized by the Department of Fish and Wildlife pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.
 - b. Discharges must not consist of unsuitable material (e.g., asphalt, hazardous wastes,⁵⁹ nonhazardous wastes,⁶⁰ designated wastes⁶¹ etc.) and material discharged must be free from toxic pollutants in toxic amounts.
 - c. This waiver is limited to emergency actions that meet the CEQA definition of "emergency" (Public Resources Code section 21060.3),

⁵⁸ Defined in Calif. Code Regs title 27 section 20230

⁵⁹ Wastes that are required to be managed as hazardous wastes pursuant to Calif. Code Regs title 22, Division 4.5

⁶⁰ Nonhazardous wastes are defined in Calif. Code Regs title 27, section 20220.

⁶¹ Designated wastes are defined in Water Code section 13173.

- d. Emergency projects exempt from the requirements of CEQA are defined by the Administrative Code (CEQA Guidelines), Calif. Code Regs. title 14, section 15269 as:
- i. *Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.*
 - ii. *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.*
 - iii. *Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.*
 - iv. *Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.*
 - v. *Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.*

C. Specific Conditions for Discharges of Emergency/Disaster Related Wastes

1. Incidental Discharges During an Oil Spill Response
 - a. Incidental discharges⁶² are confined to the response area which is defined by the daily work plan approved under the Incident Command

⁶² "Incidental discharge" is defined as "the release of oil and/or oily water within the response area in or proximate to the area in which the oil recovery activities are taking place during and attendant to oil spill response activities. Incidental discharges include, but are not limited to, the decanting of oily water; in order to conserve oil storage capacity, and the wash down of vessels, facilities, and equipment used in the response."

System or Unified Command Structure by the Administrator, Federal On-Scene Coordinator, or State On-Scene Coordinator.

- b. Oil spill response must be in marine waters.⁶³
2. Disaster Related and Mass Mortality Wastes Disposed of at Regulated Waste Disposal Facilities
- a. Waste (not otherwise suitable for recycling or reuse) derived from cleanup of emergency/disaster-impacted areas in the San Diego Region and managed under provisions of this waiver must only be discharged *for permanent disposal into units that are underlain with an engineered composite liner system and a leachate collection meeting the requirements of State Water Board Resolution No. 93-62.*
 - b. Wastes derived from cleanup of disaster-impacted areas in the San Diego Region and discharged into regulated waste disposal facilities must be isolated, to the extent practicable, from areas of the facility that are not lined.
 - c. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of disaster-impacted areas in the San Diego Region must be discharged for disposal in compliance with conditions of this waiver and covered expeditiously.
 - d. Inert wastes contained in mixed emergency wastes derived from cleanup of disaster-impacted areas in the San Diego Region, must be separated and recycled when appropriate and practicable.
 - e. The discharger is responsible for accurately classifying disaster related waste streams in accordance with the applicable regulatory requirements.⁶⁴
 - f. The regulated waste disposal facility owner/operator is responsible for properly identifying disaster related waste streams⁶⁵ and identifying wastes that may be suitable for use as alternative daily cover (ADC). Solid wastes that may be used as ADC at a regulated disposal facility are as follows:
 - i. Solid wastes that are classified as inert wastes.
 - ii. Solid wastes that meet the criteria for ADC as prescribed in Calif. Code Regs title 27 sections 20690 to 20705, and
 - iii. Other solid wastes identified by the Local Enforcement Agency (LEA) as being suitable for use as ADC; as long as the waste could be accepted at a Class III MSW landfill without special permission from the San Diego Water Board.

⁶³ "Marine waters" defined in Government Code section 8670.3(i) as "those waters subject to tidal influence"

⁶⁴ Requirements are provided in Calif. Code Regs title 27, title 23,, Chapter 15, and/or title 22 Division 4.5.

⁶⁵ Pursuant to Calif. Code Regs title 27 section 20200(c).

- g. Disposal of large numbers of animal carcasses, and other high-moisture waste streams from mass mortality (e.g., natural disaster, agricultural disease, etc.), may cause wastes to exceed moisture holding capacity at regulated MSW landfills. To limit the impacts from the additional moisture content associated with a mass mortality waste load, the owner/operator responsible for the regulated waste disposal facility should implement the following procedures:
 - i. Discharge high-moisture wastes (animal carcasses, animal related wastes, etc.) only in areas of the composite lined unit with a considerable thickness of other waste.
 - ii. Limit the thickness of the high-moisture waste stream (e.g., animal carcasses, animal related wastes, etc.) to no more than 2 feet.
 - iii. Cover each layer of high-moisture wastes (e.g., animal carcasses, animal related wastes, etc.) with an even thicker layer of absorbent wastes or soil.
 - iv. For disaster related mass mortality wastes streams that are in a liquid form (e.g. raw eggs, etc.) reduce the moisture content prior to discharge by mixing with an absorbent material (e.g., saw dust, mulch, soil, etc.).
 - h. Within 60 days after the expiration in this waiver (see section B of the Emergency Waste Waiver) the owner/operator of the a regulated waste disposal facility that accepted waste from disaster-impacted areas in the San Diego Region must submit an amendment to their ROWD or Joint Technical Document (JTD) describing the material change to their discharge, pertaining to the temporary acceptance, management, and disposal of waste derived from cleanup of disaster-impacted areas of the San Diego Region.
3. Disaster Related and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities
- a. Owners/operators of regulated waste management or disposal facilities proposing to accept discharges of waste from disaster-impacted areas in the San Diego Region to a temporary waste staging area located at a regulated facility must submit a NOI⁶⁶ within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. The name and contact information of the owner/operator of the regulated waste management or disposal facility property;
 - ii. The facility address and contact information;
 - iii. A description of the temporary waste management unit; and

⁶⁶ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

- iv. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- b. Owners/operators of regulated waste management or disposal facilities must prevent surface runoff and run on from contacting wastes derived from cleanup of disaster-impacted areas in the San Diego Region and must prevent erosion and transport of soils containing disaster related wastes or waste constituents by surface runoff from all temporary waste piles. The facility owner/operator must implement management measures (MMs) and/or best management practices (BMPs) for storm water conveyance and control.
- c. All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the State.
- d. All waste derived from disaster-impacted areas in the San Diego Region must be protected from flooding and inundation, in compliance with the current WDRs for the affected unit, or units, at the regulated facility.
- e. Owners/operators of regulated waste management or disposal facilities must manage temporary waste piles for disaster related mass mortality wastes as follows:
 - i. Temporary waste piles of mass mortality wastes can only be located in areas underlain by a composite liner system (or approved engineered alternative) and a significant thickness of other types of solid wastes.
 - ii. Owner/operator must implement a plan to prevent wild animals (e.g., birds, mammals, reptiles, etc.) from coming into contact with mass mortality wastes (e.g., provide and maintain adequate cover for temporary waste piles).
 - iii. Owner/operator must ensure that all temporary waste piles containing mass mortality wastes are discharged into the landfill prior to the end of the working day, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health for a given temporary waste pile.

- iv. Owner/operator must ensure that all mass mortality wastes are covered with soil or other waste immediately after it is discharged into the landfill.
- v. Owner/operator must ensure that any storm water runoff that comes into contact with the disaster related wastes or containing waste constituents is managed as leachate.
- f. Disaster related and mass mortality wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily enrolled in the Emergency Waste Waiver, together with any materials used to contain the temporary waste piles, must be removed from the site. The site must be restored to its original state no later than the 60 days after expiration of this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board. Alternatively, the facility owner/operator must file an amended ROWD/JTD and obtain amended WDRs from the San Diego Water Board for any waste piles that will continue to exist past the expiration date in this waiver.⁶⁷
- g. Owners/operators of regulated waste management or disposal facilities must submit a Notice of Termination (NOT) to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. The name and contact information of the owner/operator of the regulated facility property;
 - ii. The facility address and contact information;
 - iii. A description of waste that was temporarily stored/staged in the temporary waste management unit;
 - iv. The final waste disposal location; and
 - v. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- 4. Disaster Related Wastes Discharged to Temporary Waste Piles not Located at Regulated Waste Disposal Facilities

⁶⁷ The Emergency Waste Waiver expires with the Governor of California lifting the declared state of emergency, or six months have elapsed since the state of emergency was declared by the Governor.

- a. Any agency, jurisdiction or person proposing to establish a temporary waste pile not located at a regulated facility must submit a NOI⁶⁸ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. The name and contact information of the owner/operator the property where the temporary waste pile facility is located;
 - ii. The facility address and contact information;
 - iii. A description of temporary waste management unit; and
 - iv. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
- b. Owners/operators of temporary waste piles not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance with the following minimum prescriptive and performance standards:
 - i. The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the State.
 - ii. Temporary waste piles must be protected from inundation or washout due of floods with a 100-year return frequency.
 - iii. Temporary waste piles cannot be located on a known Holocene fault.
 - iv. Temporary waste piles cannot be located in areas of potential rapid geologic change (*e.g.*, landslides, debris flows, flashflood areas, *etc.*).
 - v. Temporary waste piles must be underlain by a temporary impermeable barrier (*e.g.*, heavy gauge plastic) or located in an area covered by a relatively impermeable surface (*e.g.*, asphalt, concrete, *etc.*). The liner must be installed prior to establishing a temporary waste pile to protect all natural geological materials from contact with the waste and from contact with leachate.

⁶⁸ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

- vi. Temporary waste piles must be covered daily with either a heavy gage plastic or material that meets the classification criteria for inert wastes. A material that would be classified as a designated waste cannot be utilized for daily cover at a temporary waste staging area. Cover on the temporary waste piles must be designed, installed, and maintained to prevent rainwater infiltration and runoff, and control of fugitive dust, vectors, odors, blowing litter, and scavenging.
 - vii. Temporary waste management operations that include wastes with a liquid content exceeding its moisture-holding capacity and/or containing free liquids, must comply with requirements for temporary surface impoundments (see section C.5 of the Emergency Waste Waiver).
 - viii. Temporary waste piles must be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary waste pile must be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.
- c. Owners/operators of temporary waste piles not on regulated facilities must submit written notification to the San Diego Board at least 30 days prior to initiating the discharge of return water or ponded water contained within the temporary waste pile if the discharge is to a location other than a sanitary sewer system. Based on the San Diego Water Board determination, the discharger may receive: 1) WDRs; 2) a waiver of WDRs, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the San Diego Water Board.
- i. Owners/operators of temporary waste piles not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information:
 - (A) Project name;
 - (B) Brief project description; and
 - (C) Operator name and phone number.

The discharger must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while temporary waste piles remain on site.
- d. Solid wastes discharged to temporary waste piles not at regulated waste management or disposal facilities temporarily granted a waiver, together with any materials used to contain the temporary waste piles, must be removed from the site. The site must be restored to its

original state no later than the 60 days after expiration of this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board.

- e. Owners/operators of temporary waste piles not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. The name and contact information of the owner/operator the property;
 - ii. Where the temporary waste pile facility was located;
 - iii. The facility address and contact information;
 - iv. A description of waste that was temporarily stored/staged in the temporary waste management unit;
 - v. The final waste disposal location; and
 - vi. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
5. Disaster Related Wastes Discharged to Temporary Surface Impoundments not Located at Regulated Waste Disposal Facilities
- a. Any agency, jurisdiction or person proposing to establish a temporary surface impoundment not located at a regulated facility must submit a NOI⁶⁹ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain
 - i. The name and contact information of the owner/operator the property;
 - ii. Where the temporary surface impoundment facility is located;
 - iii. The facility address and contact information;
 - iv. A description of the temporary waste management unit; and
 - v. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in*

⁶⁹ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

- b. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance the following minimum prescriptive and performance standards:
- i. The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the State.
 - ii. Temporary surface impoundments must be protected from inundation or washout due of floods with a 100-year return frequency.
 - iii. Temporary surface impoundments cannot be located on a known Holocene fault.
 - iv. Temporary surface impoundments cannot be located in areas of potential rapid geologic change (*e.g.*, landslides, debris flows, flashflood areas, *etc.*).
 - v. Temporary surface impoundments must be underlain by a temporary impermeable barrier (*e.g.*, heavy gauge plastic) or a relatively impermeable surface (*e.g.*, asphalt, concrete, *etc.*). The liner must be installed prior to establishing a temporary surface impoundment to protect all natural geological materials from contact with the waste.
 - vi. Berms and containment structures of temporary surface impoundments must be composed of inert materials that will not cause adverse reactions (*e.g.*, corrosion, decay, or otherwise reduce or impair the integrity of the containment structure) when placed in contact with the liquid wastes stored within the temporary surface impoundment.
 - vii. Temporary surface impoundments must be designed, operated and maintained to ensure that liquid wastes are at least 2 feet below the top of the impoundment (measured vertically from the surface of the liquid up to the point on the surrounding lined berm or dike having the lowest elevation), and must be designed and constructed to prevent overtopping as a results of wind conditions likely to accompany precipitation conditions.

- viii. Direct pipeline discharges of liquid can occur only into temporary surface impoundments with automatic or manually operated fail-safe systems to prevent overfilling.
 - ix. Temporary surface impoundments must be designed and constructed to prevent scouring of containment structures at points of liquid discharge into the impoundments.
 - x. Temporary surface impoundments must be designed, constructed and operated to limit, to the greatest extent possible, inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary surface impoundments must be diverted from the location of the temporary surface impoundment through implementation of MMs/BMPs for storm water control and conveyance.
- c. Owners/operators of temporary surface impoundments not on regulated facilities must submit written notification to the San Diego Board at least 30 days prior to initiating the discharge of return water or ponded water contained within the temporary waste pile if the discharge is to a location other than a sanitary sewer system. Based on the San Diego Water Board determination, the discharger may receive: 1) WDRs; 2) a waiver of WDRs, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the San Diego Water Board.
 - d. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that only disaster related waste streams are discharged into temporary surface impoundments.
 - e. All visible portions of synthetic liner systems in temporary surface impoundments must be inspected weekly (daily, if necessary), until all free liquid is removed from the surface impoundment as part of closure.⁷⁰ If, during the active life of the temporary surface impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection must be made of the bottom of the liner, and observed defects noted prior to refilling the impoundment.
 - f. Owners/operators of temporary surface impoundments not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information: a) project name, b) brief project description, and c) operator name and phone number. The facility owner/operator must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while temporary surface impoundments remain on site.

⁷⁰ Pursuant to Calif. Code Regs title 27 section 21400(a)

- g. Solid wastes discharged to temporary surface impoundments not at regulated waste management or disposal facilities, together with any materials used to contain the temporary surface impoundments, must be removed from the site. The site must be restored to its original state no later than the 60 days after the expiration date in this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board.
 - h. Owners/operators of temporary surface impoundments not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. The name and contact information of the owner/operator the property;
 - ii. Where the temporary surface impoundment facility was located;
 - iii. The facility address and contact information;
 - iv. A description of waste that was temporarily stored/staged in the temporary waste management unit;
 - v. The final waste disposal location; and
 - vi. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
6. Mass Mortality Wastes Discharged to Emergency Landfills not Located at Regulated Waste Disposal Facilities
- a. Any agency, jurisdiction or person proposing to establish an emergency landfill not located at a regulated facility must submit a NOI⁷¹ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. The name and contact information of the owner/operator the property where the emergency landfill facility is located,
 - ii. The facility address and contact information,
 - iii. A description of the emergency waste management unit, and

⁷¹ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

- iv. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- b. Owners/operators of emergency landfills not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance the following minimum prescriptive and performance standards:
 - i. The bottom of an emergency landfill must be placed at least 10 feet above the highest historically known or anticipated level of groundwater, and more than 500 feet from any surface water of the State.
 - ii. Emergency landfills must be protected from inundation or washout due to floods with a 100-year return frequency.
 - iii. Emergency landfills cannot be located on a known Holocene fault.
 - iv. Emergency landfills cannot be located in areas of potential rapid geologic change (*e.g.*, landslides, debris flows, flashflood areas, *etc.*).
 - v. Emergency landfills cannot be located in areas underlain by a fractured bedrock aquifer or highly permeable soils (*e.g.*, gravels, sands, and loamy sands) or in facilities that are characterized by such deposits (*e.g.*, gravel quarry).
 - vi. For disaster related mass mortality wastes streams that are in a liquid form (*e.g.* raw eggs, *etc.*) the moisture content must be reduced prior to discharge by mixing with an absorbent material (*e.g.*, saw dust, mulch, soil, *etc.*).
 - vii. The thickness of each layer of mass mortality wastes must be limited to less than 2 feet.
 - viii. Lime (or another liquid abatement material) must be added to each layer to help reduce the generation of liquid by the mass mortality wastes.
 - ix. Each layer of lime-covered mass mortality wastes must be covered by at least 3 feet of soil before adding another layer of mass mortality wastes.

- x. Mass mortality wastes must be discharged for disposal in compliance with the conditions of this waiver and covered at the end of each working day.
 - xi. The final layer of disaster related mass mortality wastes discharged into the emergency landfill must be overlain by a final layer of not less than 3 feet of soil; or alternatively the unit may be covered by a relatively impermeable engineered surface (*e.g.*, asphalt, concrete, *etc.*). The final soil layer must be placed in a mound configuration so that the final soil layer:
1) Overlaps the mass mortality wastes by several feet on each edge of the emergency landfill; 2) is at least 3 feet thick over all portions of the mass mortality wastes; and 3) is sloped to provide drainage that will not impair the integrity of the emergency landfill.
 - xii. The owner/operator should also evaluate, implement, and document other effective waste isolation and waste moisture reducing methods in conjunction with the procedures identified above.
- c. The emergency landfill must be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. The owner/operator must protect the integrity of the final cover from adverse impacts from erosion by installing and maintaining MMs/BMPs, including:
- i. Installation of run on control features on the up gradient side of the emergency landfill to divert offsite storm water from the emergency landfill.
 - ii. Installation of an effective runoff collection and conveyance ditch.
 - iii. Grading and maintenance of the final cover to eliminate ponding of water over the emergency landfill.
 - iv. Installation and maintenance of erosion control measures on the cover of the emergency landfill (*e.g.*, install straw mulch and/or a vegetative cover).
 - v. Installation of a deer fence around the perimeter of the emergency landfill to discourage access by digging of carnivores.
- d. Owners/operators of emergency landfills not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information: a) clearly identify the area as an emergency landfill for animal and agricultural wastes, b) a warning against trespass, c) a description of the reason for the emergency landfill (*e.g.*, Exotic Newcastle, Avian Flu, *etc.*), d) the type(s) of waste buried at the site (*e.g.*, types of carcasses, egg wastes, manure, *etc.*), and e) the name and telephone number of the current

property owner. The facility owner/operator must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while the emergency landfill remains on site.

- e. Owners/operators of emergency landfills not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. The name and contact information of the owner/operator of the property where the temporary emergency landfill facility was located;
 - ii. The facility address and contact information;
 - iii. A description of waste that was temporarily stored/staged in the temporary emergency landfill;
 - iv. The final waste disposal location; and
 - v. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- f. Owners/operators of emergency landfills not on regulated facilities must submit a ROWD to the San Diego Water Board and apply for WDRs (using Form 200). The ROWD and application for WDRs must be provided to the San Diego Water Board within 6 months of creating the emergency landfill for disposal of disaster related mass mortality wastes. At a minimum, the ROWD must include the following information:
 - i. A short description of the emergency conditions that made the emergency landfill necessary.
 - ii. The identity, physical address, mailing address, and telephone number of the current land owner.
 - iii. Photographs taken to document the location of the emergency landfill, practices used for placement of wastes and soil layers, and the appearance of the emergency landfill after installation of the final cover.

- iv. A map showing the location and perimeter of the emergency landfill, its location relative to local topographical, geographical, biological, and cultural features (e.g. roads, streams, etc.), and Geographical Information System (GIS) data if available.
 - v. A simple cross section of the emergency landfill and a description of the construction (depth, thickness of layers and final cover).
 - vi. An estimate of the amount of wastes in pounds or tons discharged into the emergency landfill.
 - vii. A description of measures taken to ensure that wastes and waste constituents do not migrate outside the emergency landfill.
 - viii. Any other site-specific or discharger related information requested by the San Diego Water Board.
- g. Discharges of Fill Material into Non-Federal Waters of the State, under Emergency Conditions
- i. Discharge activities must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction does not result in significantly increased impacts to aquatic resources, and logistical concerns indicate such reconstruction is as expedient, considering the condition of the project site, and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered by the San Diego Water Board, if the applicant proposes to use bioremediation or other environmentally sensitive solutions.⁷² The Emergency Waste Waiver may not be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources. Such upgrade projects are separate activities for which a ROWD is required.
 - ii. To ensure the project is being or has been accomplished in compliance with the terms and conditions of this waiver, representatives from the San Diego Water Board, or its authorized representatives, must be allowed at all times, upon presentation of credentials:⁷³
 - (A) To enter onto project premises, including all areas on which fill or compensatory mitigation is located, or in which records are kept;

⁷² For example, it may be determined that reconstruction of a bridge crossing or a roadway damaged by flood flows is a more appropriate course of action than temporarily shoring up the facility to allow an immediate return to its use. When continued public safety is an issue, such reconstruction will remain a viable option for consideration under this waiver.

⁷³ Pursuant to statutory authority granted under Water Code section 13267.

- (B) To access and copy any records required to be kept under the terms and conditions of this certification;
 - (C) To inspect any treatment equipment, monitoring equipment, or monitoring method required by this certification; and
 - (D) To sample any discharge or surface water covered by the Emergency Waste Waiver for discharge of fill material.
- iii. Work with heavy equipment must be avoided whenever feasible. If necessary, projects requiring heavy equipment to work in wetlands must implement effective measures to minimize soil disturbance. Such measures may include, but are not limited to, the use of wide-treaded equipment, mats, or flotation devices.
 - iv. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.
 - v. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
 - vi. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
 - vii. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water except within the existing river plain (unless the primary purpose of the activity is to impound waters).
 - viii. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow must be minimized to the maximum extent practicable.
 - ix. Any structure or fill subject to the Emergency Waste Waiver for the discharge of fill material must be maintained; including maintenance to ensure public safety, unless it is later determined by federal, State, or local agencies, that the structure is further contributing to other adverse conditions to private or public property. Corrective measures must be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination by the discharger and appropriate resource agencies. Temporary levees constructed to control flows must not be maintained beyond the current storm season (i.e.,

EOSR Item 10

Supporting Document No. 2

maintenance of temporary levees is not authorized after the storm season in which the need arose).

D-85

Comment Letter No. 804775.07

Mitchell, Roger@Waterboards

From: Jack Monger <jack.monger@iea-sd.com>
Sent: Monday, May 19, 2014 3:26 PM
To: Mitchell, Roger@Waterboards
Cc: Erin Cassidy
Subject: Comments RE Tentative Order No. R9-2014-0041 (Conditional Waivers of WDR)
Attachments: Comment Ltr re Conditional WDR May 2014.docx

Hello Roger,

Attached, please find our comment letter regarding Waste Discharge Requirements for Low Threat Discharges (Tentative Order No. R9-2014-0041)

Thank you for allow us to provide these comments.

Sincerely,

Jack Monger

Jack Monger
Executive Director



Celebrating 30 Years

1330 Orange Avenue, Suite 100 | Coronado, CA 92118
Telephone: 619-522-9000 | Facsimile: 619-522-9005
www.IEA-sd.com

*** **

2014 STATEWIDE ENVIRONMENTAL CONFERENCE
OCTOBER 28-29, MISSION BAY HILTON
SAN DIEGO, CA INFO: www.IEA-sd.com



May 19, 2014

Roger N. Mitchell, P.G.
Engineering Geologist
San Diego Regional Water Quality Control Board
Ground Water Protection Branch
2375 Northside Dr., Ste. 100
San Diego, CA 92108

Sent via email: Roger.Mitchell@waterboards.ca.gov

Re: Comments and Recommendations Regarding Tentative Order No. R9-2014-0041 (Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region)

Dear Mr. Mitchell:

The Industrial Environmental Association (IEA) represents approximately 55 manufacturing companies in the San Diego region. Our member companies come from high tech, biotech, and heavy industry and together account for more than 50,000 jobs.

Thank you for this opportunity to comment on the above referenced tentative order. Following are the key issues for which we would seek your consideration:

Application Requirements – Not all dischargers should have to file an NOI. NOIs should not be required unless the general or specific conditions for a particular discharge state that an NOI is required.

Authorization under a waiver should start upon submittal of the NOI unless otherwise specified in the discharge's general or specific conditions.

For the balance of this letter, our key point is that the requirement to submit an NOI is unclear. NOIs should be required when the threshold trigger in the specific conditions has been exceeded. Now, a NOI is required of all conditional waivers in the preamble, is not included in the discharge general requirements, and may or may not be required

for the specific conditions. If not in the specific conditions, it is not required. The animal waiver (condition 3) is a prime example of this. It is required in the preamble and in the general conditions, but not in the specific conditions, which means it isn't required for small animal operations. The \$455 fee may put horse stables out of business, and although not really an industrial issue, sets an important precedent given there was no dialogue with the regulated community. Small Animal operations need to return to the language of the previous permit where they were required to comply with the BMPs and prohibition, but did not require an NOI unless there is a complaint or if requested by the Regional Board.

Following are specific comments regarding Waivers 1, 3, 5, and 10, which have been identified as particularly important by our members.

Waiver No. 1 – Onsite Graywater Disposal Systems

- a. Should have a minimum threshold
- b. Rather than apply to any dischargers, it should apply to someone discharging greater than a specific volume or servicing a business or household with a threshold number of people
- c. The volume should be greater than a single house or business, i.e. discharges from households or businesses of more than 25 or 50 users, with an equivalent associated volume
- d. If the calculated volume of graywater is in excess of landscaping requirements or exceeds the infiltration capacity of the soil, then an NOI could be required, but we don't think NOIs are applicable in all cases

Waiver No. 3 – Miscellaneous Low Threat Discharges

- a. A NOI is not required for a specific discharge if it does not have a specific threshold or it doesn't exceed a specific
- b. Discharges less than a specific threshold are automatically covered by the waiver
- c. The requirements for discharges from structural BMPs that require infiltration should only apply to new BMPs installed after the effective date of the waiver
- d. The discharge procedures for discharges from utility vaults and underground structures should be revised to be more consistent with the existing NPODES permit requirements
- e. Waiver No. 5 – Composting Facilities. Clarify that this waiver applies to commercial composting facilities, not all composting activities.
- f. Move the list of conditionally exempt composting activities into the waiver from Appendix B

Waiver No. 10 – Discharges of Solid Wastes to Land

- a. The requirements for the discharge/disposal of mulches and amendments is written to apply too broadly. It appears that it would require the submittal of an NOI for any application of mulch or amendment which is unreasonable and unjustified. They do list some specific additives of concern for mulches and amendments. If they regulate the application of amendments and mulches (i.e., products, not waste) they should only regulate those containing the additives of concern and specify that all

other applications are conditionally exempt from WDRs and waiver of WDRs

- b. The number of samples required to characterize soil in Table A should be revised
- c. Due to the variability of natural arsenic concentration in soil in San Diego, the Tier 1 soil screening level in Table 1 for arsenic should be revised to be the “site specific background concentration at the reuse site”, not a single value (i.e., 3.5mg/kg)

Waiver No. 12

- a. The waiver needs to clarify that it can be used even if the discharge could be eligible for coverage under SWRCB order 2004-004-DWQ

That concludes our comments regarding Tentative Order No. R9-2014-0041. Should you have any questions or require any additional explanation of our concerns, please feel free to contact me.

On behalf of our IEA members, thank you for your consideration.

Best regards,



Jack Monger
Executive Director

Comment Letter No. 804775.08

Mitchell, Roger@Waterboards

From: Stalker, Brian@CalRecycle <Brian.Stalker@CalRecycle.ca.gov>
Sent: Monday, May 19, 2014 3:39 PM
To: Mitchell, Roger@Waterboards
Subject: CW-804775:RMitchell
Attachments: Conditional Waiver Comment Letter R9-2014-0041.pdf

Roger Mitchell,

Subject: R9-2014-0041 Conditional Waiver Comment Letter

Please find our attached Comment Letter regarding the Conditional Waivers, R9-2014-0041. If you have any questions regarding the comments made or would like to discuss this further, please contact me, Brian Stalker. My contact information is listed below.

Sincerely,

Brian Stalker
Integrated Waste Management Specialist
1001 I Street
Sacramento, CA 95812
(916) 323-3416



**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027
P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

May 19, 2014

Mr. Roger Mitchell
California Regional Water Quality Control Board – San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92102-2700

RE: TENTATIVE ORDER NO. R9-2014-0041

Thank you for the opportunity to comment on “Tentative Order No. R9-2014-0041.” The California Department of Resources Recycling and Recovery (CalRecycle) leads California’s efforts in support of a statewide 75% recycling goal to reduce the amount of solid waste landfilled and to develop viable sustainable markets for products made from recycled organic materials. CalRecycle is also a key partner in California’s efforts to reduce the impacts of global climate change through increasing diversion of methane generating organic materials from landfills. With our partners in local government, CalRecycle permits and inspects facilities which recycle these organics to ensure these operations follow state laws and regulations designed to protect public health and the environment. This includes testing for pathogens and heavy metal content for composted products produced at permitted or registered facilities.

CalRecycle also supports measures which conserve water and protects water quality. Past research indicates compost and mulch application increases soil water-holding capacity, reduces runoff, and is protective of water quality. Because of the current drought situation and climate change scenarios warning of increasing water scarcity, compost and mulch are essential mitigation strategies.

Given this background, we have some concerns with the Tentative Order, specifically Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land as summarized below.

Compost/Mulch is not Solid Waste

Waiver No. 10 provides provisions for solid waste and references amendments and/or mulches to soil. Per statutory definition (Public Resources Code 40116), compost is a product. We believe it is more appropriate to view compost as a product and not a solid waste.

Requires Notice of Intent (NOI) for application of compost or mulch

Waiver No. 10 requires the filing of an NOI for the application of compost or mulch. Exemptions should be considered such as types of application, quantity and quality of compost and mulch amendments. To address these concerns, we offer the following recommendations:

- Create a new item between section (A)(2) and (A)(3) for specific exemptions from the requirements of this order. Specifically, for the purposes of this waiver (Waiver No. 10 - Discharges/Disposal of Solid Wastes to Land), CalRecycle recommends that the following materials and activities are not expected to pose a significant threat to the waters of the State, and should therefore be conditionally exempt from the requirements of this waiver, although they may still be subject to other federal, State, or local regulations.

- **Type of Application:** Compost/mulch application at residences, schools and colleges, parks, hospitals, prisons and other government properties, city, county or State roadway right of ways, community gardens, and commercial landscapes.
- **Quantity of Amendments:** Application of a de minimis volume of compost or mulch with similar requirements as Ventura County Environmental Health Division's Ordinance for Land Application of Mulch: <http://www.ventura.org/rma/envhealth/pdf/Mulch.pdf>
- **Quality of Amendments:** Compost and mulch produced at a permitted or registered facility.

Explanation:

- **Type of Application:** The requirements of this waiver contain no specificity on when an NOI must be filed. In discussions with San Diego Water Board staff, it was stated that the intent of this waiver is to provide oversight over the application of very large volumes and not have residential home owners submit an NOI to apply amendments and mulch on their own property. Similarly, a park, school, or business should not be required to submit an NOI to apply the same material to their landscapes. In addition, we have suggested a few other scenarios with similar minimal threat concerns.
- **Quantity of Amendments:** Provides a de minimus level to exempt applications of small amounts that present minimal threat concerns.
- **Material Exemption:** Compost is considered a product, and when produced at a facility permitted by CalRecycle, is considered safe for the public health, safety, and the environment. Research shows the water quality and water conservation benefits of compost application (UC Riverside, Compost Best Management Practices and Benefits Report – 2011 (<http://www.calrecycle.ca.gov/Publications/Detail.aspx?PublicationID=1377>)). CalRecycle can provide additional research citations if needed. In addition, CalRecycle is in the process of updating its Compostable Material Handling regulations which would include provisions to regulate mulch applications in a manner that is protective of public health, safety, and the environment.

Thank you for the opportunity to comment on the proposed Conditional Waivers and please contact Brian Stalker (916-323-3416) if you have any questions.

Sincerely,



Mark De Bie, Deputy Director
Waste Permitting, Compliance, and Mitigation Division



Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

cc: Brenda Smyth, CalRecycle
Kyle Pogue, CalRecycle
Brian Stalker, CalRecycle

Comment Letter No. 804775.09

Mitchell, Roger@Waterboards

From: Darton, Kyle <Kyle.Darton@sdcounty.ca.gov>
Sent: Monday, May 19, 2014 3:50 PM
To: Mitchell, Roger@Waterboards
Subject: Comment Letter - Tentative Order No. R9-2014-0041
Attachments: 5.19.14 - Comment Letter - Tentative Order No. R9-2014-0041.pdf

Good afternoon,

The County of San Diego Watershed Protection Program appreciates the opportunity to provide comments on the Regional Water Board's Tentative Order No. R9-2014-0014, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region. Attached is an electronic copy of the County's comments for review.

Thank you,

Kyle Darton
County of San Diego
Watershed Protection Program
5510 Overland Avenue, Suite 410
San Diego, CA 92123
Kyle.Darton@sdcounty.ca.gov
858.495.5285



County of San Diego

RICHARD E. CROMPTON
DIRECTOR

DEPARTMENT OF PUBLIC WORKS
5510 OVERLAND AVE, SUITE 410
SAN DIEGO, CALIFORNIA 92123-1237
(858) 694-2212 FAX: (858) 694-3597
Web Site: www.sdcountry.ca.gov/dpw/

May 19, 2014

VIA EMAIL TO: Roger.Mitchell@waterboards.ca.gov

Roger Mitchell, Registered Geologist
Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: COMMENT LETTER – TENTATIVE ORDER NO. R9-2014-0041
REFERENCE NUMBER CW-804775: RMITCHELL

Dear Mr. Mitchell:

The County of San Diego Watershed Protection Program (County) appreciates the opportunity to provide comments on the Regional Water Board's Tentative Order No. R9-2014-0041, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region.

The County has three general areas of concern:

- Many of the waivers will have direct impact on County residents and businesses, potentially creating confusion regarding overlapping regulations, conflicting guidance, and/or new requirements. The order should provide for efficient regulation and consistent oversight.
- The types of discharges addressed in the waivers are often the subject of other regulatory oversight at the regional and state levels. The conditional waivers should be consistent with other requirements imposed on the dischargers, including other ordinances and state requirements. Of particular concern is the consistency with the current Regional MS4 Permit (Order R9-2013-0001). In order to ensure uniform regulation of these sources by the various regulatory agencies, the County urges the Regional Water Board to carefully review related permits and policies for consistency with the proposed Tentative Order.
- TMDLs have been established for multiple pollutants in watersheds across San Diego County. As a result, the County is subject to water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) which could be affected by the types of discharges proposed to be covered under the conditional waivers. If discharges from these facilities and activities are not

regulated adequately, the County may be liable for violations as the owner and operator of the MS4. To reduce this potential, more rigorous waiver conditions are recommended where there is a potential to contribute TMDL-regulated pollutants.

Thank you for your time and consideration of these comments. If you have questions, please contact Jo Ann Weber at (858) 495-5317 or at JoAnn.Weber@sdcounty.ca.gov.

Sincerely,



CID TESORO, LUEG Program Manager
Department of Public Works

CT:JW:js

Comment Letter No. 804775.10

Mitchell, Roger@Waterboards

From: Roy, Toby <TRoy@sdewa.org>
Sent: Monday, May 19, 2014 3:53 PM
To: Mitchell, Roger@Waterboards
Subject: FW: Letter to Regional Board on Waiver
Attachments: 05_19_2014-CommentsRegionalBoard2014Waiver.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Roger

Attached is a copy of the Water Authority's comments on the waiver

Toby Roy, Water Resources Manager
San Diego County Water Authority



San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

May 19, 2014

VIA EMAIL TO: Roger.Mitchell@waterboards.ca.gov

MEMBER AGENCIES

- Carlsbad
Municipal Water District
- City of Del Mar
- City of Escondido
- City of National City
- City of Oceanside
- City of Poway
- City of San Diego
- Fallbrook
Public Utility District
- Helix Water District
- Lakeside Water District
- Olivenhain
Municipal Water District
- City Water District
- Padre Dam
Municipal Water District
- Comp Pendleton
Marine Corps Base
- Rainbow
Municipal Water District
- Ramona
Municipal Water District
- Rincon del Diablo
Municipal Water District
- San Dieguito Water District
- Santa Fe Irrigation District
- South Bay Irrigation District
- Vallecitos Water District
- Valley Center
Municipal Water District
- Vista Irrigation District
- Yuima
Municipal Water District

Roger Mitchell
Registered Geologist
Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: Comment Letter – TENTATIVE ORDER NO. R9-2014-0041

Dear Mr. Mitchell:

The San Diego County Water Authority (Water Authority) appreciates the opportunity to provide comments on the Regional Water Board's Tentative Order R9-2014-0041, Conditional Waivers of Waste Discharge Requirements (WDR) for Low Threat Discharges to Land in the San Diego Region (Tentative Order). We would like to offer the following comments on the tentative waiver:

Threats to Water Quality (Part 1, Section F)

The permit lists potential threats to water quality from the proposed discharges. Among the proposed discharges potential threats to water quality can include bacteria and pathogens and nutrients. These should be listed in the potential threats.

Waiver No. 1 Discharges from On-site Graywater Disposal Systems

Use of graywater helps offset potable water use, which is particularly important during times of drought. Recent building standards were adopted that ensure proper and safe use of graywater which is also protective of the environment. Regulation that duplicates the oversight of graywater systems currently regulated by the local jurisdiction is not necessary. The waiver requires an NOI to be filed with the Regional Water Board for every graywater system installed in the region. This would include residential graywater systems and could have a chilling effect on the use of graywater, or the compliance with this requirement is likely to be very low. Homeowners with a washing machine graywater system are exempt from obtaining a permit from their local jurisdiction and would not be likely to file an NOI.

OTHER REPRESENTATIVE

County of San Diego

The requirement to file an NOI should be limited to those graywater systems that are most likely to have an impact on water quality. This should include larger multifamily graywater systems. Single family residential graywater systems should be exempt from the waiver requirements. The requirement to evaluate potential effects on groundwater quality and beneficial uses where groundwater quality objectives have been exceeded is not practical or reasonable, particularly for homeowner installed graywater systems.

A public agency providing a safe and reliable water supply to the San Diego region

Waiver No. 2 Discharges of Recycled Water to Land

We support the waiver provisions for recycled water, which allow a streamlined process for short term use of recycled water and agree that this poses a low threat to water quality. During drought conditions the ability to expedite use of recycled water is particularly important as water suppliers look for opportunities to augment local water supplies. Although the State Board is working on a Statewide General Recycling Permit, we still see significant value in this waiver. We ask that the Regional Board provide for flexibility for continuing the use in the event the Regional Board is unable to issue a recycled water permit or waste discharge requirements within the 365-day time period allowed in the waiver.

Waiver No. 7 Discharges from Animal Operations

The waiver does not define "animal operations" or identify how many animals would make up an animal operation. This could create significant confusion on the applicability of the waiver. The applicability should be limited to commercial animal operations with a minimum number of animals. The Water Authority has used goat grazing to maintain easements. This limited use of grazing animals should not be considered an animal operation subject to the Clean Water Act. As currently written, all requirements of the animal operations waiver apply to grazing operations, many of which are not practical. The grazing operations requirement should be limited to only the specific requirements listed for grazing operations.

Source Water Protection Buffer Zones

In several locations, the permit requires a buffer zone of 100 feet to a surface water source. Where a buffer zone is required, the separation of low threat discharges to drinking water supplies should align the California Department of Public Health Service's Drinking Water Source Water Assessment (DWAP) guidance documents. This would require a separation of 400 feet to reservoirs and streams, 200 feet to tributaries and 2500 feet to drinking water surface water intakes.

Multiple Permits Required

With this waiver, there can be multiple sets of requirements for one single activity. For example: dewatering of utility vaults or a construction project may require an NPDES discharge permit, compliance with MS4 requirements and compliance with this waiver. These multiple requirements can be confusing to the regulated community. As a minimum, the Regional Board should ensure consistency among multiple permits and educate the public/regulated community on which permits might be required. Over the long term, the preferable approach would be to have a single permit issued by the Regional Board for each activity.

Thank you for the opportunity to comment. If you have any questions regarding this letter, please contact Toby Roy at (858) 522-6743.

Sincerely,



Ken Weinberg
Director of Water Resources

Comment Letter No. 804775.11

Mitchell, Roger@Waterboards

From: Dan Noble <danwyldernoble@gmail.com>
Sent: Monday, May 19, 2014 4:22 PM
To: Mitchell, Roger@Waterboards
Cc: Smyth, Brenda@CalRecycle; Horowitz, Robert@CalRecycle; Stalker, Brian@CalRecycle; Michael Silva; Paul Relis; Clarke Pauley; Steve Kanow; Mary Matava; Renee Robertson; Bud Chase; Chuck Helget; Kelly Astor; Bob Engel; Jeff Ziegenbein; Kathy Johnson; Melissa Fischer; Paul Ryan; Kathryn Lynch
Subject: CW-804775:RMitchell - ACP Cmnt Ltr on Tentative Order R9-2014-0041, Waiver No. 5 & Waiver No. 10
Attachments: ACP Cmnt Ltr - SDRWQCB Tentative Waiver-Compost 5.19.14.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Mitchell,

Attached please find the ACP's comment letter regarding the proposed Tentative Order R9-2014-0041, especially Waivers No. 5 & Waiver No. 10.

We are requesting that the San Diego Regional Water Quality Control Board postpone a decision on Waivers No. 5 & 10, until the compost industry, State legislature and other CalEPA agencies, who all have a stake in compost industry and product use expansion have an opportunity to clarify the many issues, considerations and profound impacts that this Tentative Order would have on compost use and production, in the San Diego Region.

Some of these issues are spelled out in our comment letter. However, until we have an opportunity to review and discuss these Waivers in greater detail with Board staff and leadership, we are confident that the serious negative impacts on current initiatives of building healthy soil in our state, are not yet understood and appreciated by all parties.

We look forward to continuing to work with you and the Board on these issues.

Sincerely,
Dan

Dan Noble, Executive Director

Association of Compost Producers

The Calif. State Chapter of the US Composting Council
"We Build Healthy Soil" - www.HealthySoil.org

<http://compostingcouncil.org/icaw/>- www.Buy-Compost.com
Cell/text: (619) 992-8389 - DanWylderNoble@gmail.com



**ASSOCIATION OF
COMPOST
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Board Member
Paul Ryan
PF Ryan &
Associates

**Executive
Director**
Dan Noble
Noble Resources
Group

May 19, 2014

Mr. Roger Mitchell, Staff
California Region Water Quality Control Board
San Diego - Region 9
2375 Northside Drive, Suite 100
San Diego, California 92108.

RE: Tentative Order No. R9-2014-0041 - Adoption of Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region - Discharges of solid wastes to land (Waiver No. 5 & Waiver No. 10)

Dear VIP,

The Association of Compost Producers (ACP) is a non-profit association of public and private organizations dedicated to increasing the quality, value and amount of compost being used in California. We do this by promoting activities and regulations that build healthy soil, benefiting people and the environment. ACP is also the State Chapter of the U.S. Composting Council, www.compostingcouncil.org. The USCC is the only national organization committed to the advancement of the composting industry. ACP members, leaders in the California compost industry, work and invest together to increase compost markets and improve compost product and manufacturing standards. The association provides education and communication on compost benefits and proper use through support of scientific research and legislation aligned with developing and expanding quality compost markets while enhancing California's environmental assets.

At the he San Diego Regional Water Quality Control Board (Regional Board), heard a presentation from Regional Water Board Staff Member, Mr. Roger Mitchell, on agenda Item #10, on the "**Tentative Order No. R9-2014-0041 - Adoption of Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region**". This letter contains our comments on one of the twelve Tentative waivers presented by Mr. Mitchell, specifically **Waiver No. 5, Discharges of Wastes to Land at Composting Facilities - Waiver No. 10, Discharges of solid wastes to land**, including the two(2) & four (4) "specific discharges" contained in each waiver, namely (note the numbers are of the specific discharges are from page 9 of the document titled "**Item 10 Supporting Document No. 1 – Draft Technical Report April 23, 2014**", which was made available to the Regional Board and the public on April 23, 2014):

- 26. Discharge/application of amendments and/or mulches to soil;
- 27. Discharges/disposal of inert waste to solid waste disposal facilities only accepting inert wastes;

28. Discharges of soils containing wastes to temporary waste piles;
29. Discharge/disposal/reuse of soils characterized as inert from contaminated sites to land;

ACP staff welcomes the opportunity to make the following specific comments about Waiver No. 5 & 10 of this Tentative Order:

- **"Waste" is not defined:** The term waste is applied to the feedstocks of both mulch and compost operations. However, grass clippings, tree trimmings, etc. are created and used locally by anyone who owns or manages landscapes. Are all of those materials going to be regulated under this Tentative Order? At what point do these materials become a waste? Does waste include only physical "contamination" of these materials with plastics, or only those containing a specified amount of "inert" solid waste material? If so, what level of contamination would render the organic material a "waste"? Does "waste" include other chemicals, for example breakdown products from the natural decomposition of compost production? How are these compounds the same as, or different, from natural, or synthetic fertilizers that are currently, "discharged" on landscapes and agricultural lands in the Region on a daily basis?
- **Mulch vs. Compost not defined:** The difference and/or similarity of conditions and possible "waste characteristics" between "amendments" and "mulches" needs to be made. Are these the same or different? Do they apply to all cases where compost or mulch are being produced? Do they apply to all organic feedstocks, or a limited subset of feedstocks?
- **Compost is not a "waste":** While some compost feedstock material is picked up at curbside, it is not necessarily regarded as a "waste" by compost producers, gardeners and agronomists. However, the definition of waste for the purposes of this Tentative Order is not discussed in any of the documentation that we reviewed. How this definition affects composted materials, which may contain some of these materials as compost or mulch resource feedstocks is well understood by the compost producing industry, but is, apparently not well understood by the Regional Board who is attempting to draft regulations relative to these product uses and applications. This needs to be further understood by the Regional Board and its staff, prior to any Tentative Order implementation.
- **"Discharge to land" is ill defined:** Does the waiver apply to all "discharges/application" of compost or mulch no matter the amount, location or purpose? For example, if a San Diego regional gardener buys a bag of compost at the local garden department, do they now need Regional Board approval prior to them using it on their garden? How is "discharge" to be distinguished from soil amendment or mulch uses?
- **"Compost Facility Certification" is not defined:** There is wording in the Tentative Order about "compost facility certification". This is not defined. What's going to be required here? Is this a new facility certification that is now going to be required by the Regional Board? How does this affect feedstocks that can be accepted at such facilities? Does it apply to all operations of compost production, from Notification, to Registration to Fully Permitted compost production facilities? How does it relate to current permitting process of these compost facilities? What about other mulch operations that are not permitted, but who have made "Notification" to the State Regulatory agency within CalRecycle? Will these facilities now need a special Regional Board permit and/or certification? What will the process be for such a process? This is not addressed in this Tentative Order.

- **No data on impact of reducing water quality degradation:** Staff did not present any evidence that these draconian measures directed explicitly at compost producers would provide any improvement of the Regions water quality. Is it the Regional Boards understanding that degradation is occurring already from the use of soil amendments, compost or mulch? What is the evidence that the implementation of this Tentative Order will stop any perceived "degradation" that compost is believed to impart to surface or groundwaters of the region?
- **Relationship to current Statewide General Order not defined:** There is a current Statewide General Order being applied to compost facilities throughout the state (http://www.waterboards.ca.gov/water_issues/programs/compost/). How does this Tentative Order relate to that order? This needs to be further clarified prior to any acceptance and/or implementation of the Tentative Order.
- **Response time woefully insufficient:** We were invited to attend a workshop on this Tentative Order that occurred last week, May 14, 2014. The agenda item was to occur at 1:00pm on the agenda, it was not heard until 3:50 pm, and the Water Board was scheduled to go into a "Closed Session" at 4:00 pm. Then the public stakeholders were asked to respond, in writing to this order by 5:00 pm on Monday, May 19, 2014 (today!). This is an insufficient amount of time for a response on such an important issue, especially given that the Regional Board and its staff have not collaborated at all directly with any of the stakeholders, both within and beyond the compost production industry.

In short, this Tentative Order was clearly hastily drafted, and many of the provisions are not thought through in terms of their consequences to the local compost production industry, much less the thousands of landscape and garden compost and mulch users in the San Diego Region. If implemented as written, this Tentative Order will not only create a great burden on the existing compost industry, it will add an additional burden on the citizens and businesses of the region who are agricultural, landscape and gardener soil amendment users.

If implemented in its current form, this Tentative Order – Waiver No. 5 & 10, *could effectively shut down the compost industry* in the San Diego Regional Water Quality Control Board area by:

1. **Stopping Compost Use** - At a time when the Compost Industry is endeavoring to grow, in order to meet the legislated Statewide goal of 75% recycling material away landfills, much of which is green material, *while*
2. **Not Improving Water Quality** – There is no evidence that this Tentative Order – Waivers No. 5 and No. 10 would improve, or stop any presumed degradation, of water quality in the Region at all.

The promulgation of this Tentative Order could also frustrate many ongoing legislative, policy and regulatory initiatives that are actively being pursued in California, which will apply to the San Diego Region, as well. For example, just to name a few of the ongoing initiatives:

- É **Legislation:** There are two bills, AB 1594 (Williams) and AB 1826 (Chesbro) , moving through the legislative process this month that are intended to expand the production and use of compost throughout California. This Tentative Order will run cross purposes with the intent of this legislation.
- É **Policy:** CalRecycle is working diligently with the compost industry and other stakeholders to expand organics recycling throughout California, the AB 341 75% Recycling Goal, www.calrecycle.ca.gov/75percent/. One of their representatives was present at last weeks "Workshop" and voiced their concerns as to how this Tentative Order could possibly frustrate the efforts of implementing that policy goal.

- É **Regulations:** CalRecycle is leading a multi-year Title 14/27 regulatory revision of key compost regulations that includes some of the issues raised above, e.g. waste vs. product definitions, site water management, etc. This Tentative Order isn't acknowledging any of the work that is currently going in with this, in addition to the State Water Board General Order on Compost Facilities, mentioned above.

So there are other stakeholders, well beyond just the compost producer industry itself that this Tentative Order would affect. It appears to us that this Tentative Order would be perceived as *very out of step*, with these other initiatives. Therefore, the Regional Board would be well advised to step back and make sure that this Tentative Order is in keeping with all of these other initiatives that are actively being pursued in the California Legislature and various Executive Branches of the State.

We strongly recommend that the Regional Board, not approve this Tentative Order, and consider it in much greater detail, in collaboration with the State's compost producer industry, its local users and the other legislative, policy and regulatory stakeholders who will all be affected, with regard to the seriousness of our concerns. We remain open to work with Regional Board staff to address these and other emerging concerns about this Tentative Order, in a timely fashion.

We look forward to hearing from the Regional Board and staff on a workable way forward on this matter.

Very truly yours,



Dan Noble, Executive Director
Cell/Text: 619-992-8389
danwyldernoble@gmail.com
www.healthysoil.org

CC:

- É **San Diego Regional Water Quality Control Board:** Henry Abarbanel, Chairman, Gary Strawn, *Vice Chair*, David W. Gibson, Executive Officer
- É **State Water Resources Control Board:** Felicia Marcus, Board Chair
- É **Wesley Chesbro**, California Assembly Member, District 2
- É **Das Williams**, California Assembly Member, District 37
- É **CalRecycle:** Brenda Smyth, Branch Chief, Statewide Technical and Analytical Services Branch, Robert Horowitz, Organics Manager, Brian Stalker, Organics Staff
- É **CR&R Waste & Recycling Services:** Michael Silva, VP & Clarke Pauley, VP Organics
- É **Burrtec:** Steve Kanow, Vice President
- É **Agriservice, Inc.,** Mary Matava, President/Founder, El Corazon Compost,
- É **City of San Diego:** Renee Robertson, Supervisor, Miramar Greenery
- É **Republic Services:** Jim Ambroso, Southern California Regional Manager, Bud Chase,
- É **CRRC-Southern District,** Kelly Astor, Executive Director,

Comment Letter No. 804775.12

Mitchell, Roger@Waterboards

From: Cecilia Tipton <CTipton@CityofSanteeCa.gov>
Sent: Monday, May 19, 2014 4:48 PM
To: Mitchell, Roger@Waterboards
Cc: Scott Johnson
Subject: Comment Letter Re: Tentative Order R9-2014-0041
Attachments: Conditional Waivers Comment Letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Roger,
Attached please find our comment letter regarding the Tentative Order on Conditional Waivers. Please let us know if you have any questions or would like to discuss further.

Thank you for your time,

Cecilia Padres-Tipton
Storm Water Program Manager
City of Santee, Department of Development Services
10601 Magnolia Avenue, Santee, CA 92071
(619) 258-4100 x177, ctipton@cityofsanteeca.gov



CITY OF SANTEE

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Randy Voepel

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Jack E. Dale
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John W. Minto
John Ryan

CITY MANAGER
Keith Till

May 19, 2014

VIA EMAIL TO: Roger.Mitchell@waterboards.ca.gov

Roger Mitchell, Registered Geologist
Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108

Subject: COMMENT LETTER – TENTATIVE ORDER NO. R9-2014-0041

Dear Mr. Mitchell:

The City of Santee appreciates the opportunity to provide comments on the Regional Water Board's Tentative Order No. R9-2014-0041, Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region.

We have five general areas of concern:

- As written, the Conditional Waivers may create confusion among the regulated community and lead to ineffective implementation and/or compliance. The waivers have direct impact on residents and businesses which are already governed under various regulations, creating potential for conflicting guidance, and/or new or additional requirements. This order should provide for efficient regulation and consistent oversight.
- The types of discharges addressed in the waivers are often the subject of other regulatory oversight at both the regional and state levels. The conditional waivers should be consistent with other ordinances and state requirements. Of particular concern is the consistency with the current Regional MS4 Permit (Order R9-2013-0001). In order to ensure uniform regulation of these sources by the various regulatory agencies, we request that the Regional Water Board staff carefully review related permits and policies for consistency with the proposed Tentative Order. It would be helpful for both the regulated community and the regulators to be provided a cross walk which aids the end user in identifying all related regulatory requirements that they will be held to.
- TMDLs have been established for multiple pollutants in watersheds across San Diego County. As a result, the Copermitttees are subject to water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) which could be impacted by the types of discharges which are proposed to be conditionally waived. If discharges from these facilities and activities are not duly regulated, the

City, as the owner and operator of the MS4, may not be able to achieve compliance with said limitations. To reduce this potential, we request that more rigorous waiver conditions and/or caveats (exceptions) be added to the language where there is likelihood for a 'waived' source to contribute TMDL-regulated pollutants.

- As stated, it is unclear as to when an NOI will be required for each entity which qualifies for the Conditional Waiver. It is stated within the beginning of the Order that "Dischargers eligible for enrollment under the Low Threat Discharge Waiver must submit a complete *Notice of Intent to Comply with Conditional Waivers of Waste Discharge Requirements for Discharges of Waste (NOI)*." However, within each of the itemized "Low Threat Discharges" it states that 'Discharges of water from each activity' (ie: swimming pool to land) 'must not exceed (xxx) gallons during any continuous 365-day period, unless the discharger has filed a complete NOI containing information about the discharge, planned period of and frequency of discharge.'
- Individual property owners or business operators may feel that their rights are being impinged upon by requiring that the San Diego Water Board and/or other local regulatory agencies be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

Thank you for your time and consideration of these comments. If you have questions, please contact Cecilia Tipton, Stormwater Program Manager at 619-258-4100, x.177.

Sincerely,



Scott A. Johnson, PE, QSD
Principal Civil Engineer
Department of Development Services

Comment Letter No. 804775.13

Mitchell, Roger@Waterboards

From: Koken, George Scott <SKoken@semprautilities.com>
Sent: Monday, May 19, 2014 5:02 PM
To: Mitchell, Roger@Waterboards
Subject: FW: Coamment Letter to TENTATIVE ORDER NO. R9-2014-0041
Attachments: Low Threat Discharges Comment Letter.doc

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

The first letter before the deadline was rejected (due to inaccurate email address in notifications)

From: Koken, George Scott
Sent: Monday, May 19, 2014 4:59 PM
To: 'Roger.Mitchell@waterboards.ca.gov.'
Subject: Coamment Letter to TENTATIVE ORDER NO. R9-2014-0041
Importance: High

Southern California Gas Company Comment Letter is attached
Thank you.



Scott Koken
Principal Environmental Specialist
Southern California Gas Co.
555 West 5th Street
Los Angeles, CA 90013
213-244-5823
skoken@semprautilities.com

May 20, 2014

Roger N. Mitchell, P.G.
Engineering Geologist
San Diego Regional Water Quality Control Board
Groundwater Protection Branch
2375 Northside Drive, Suite 100
San Diego, CA 92108

VIA E-Mail: Roger.Mitchell@waterboards.ca.gov

RE: Comments and Recommendations Regarding Tentative Order No. R9-2014-0041 (Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region)

Dear Mr. Mitchell:

Southern California Gas Company (SCG), a Sempra Energy utility company, appreciates the Regional Water Quality Control Board's expedited efforts to revise and reissue the Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (the "Waivers"). The Waivers are an integral component of both the Regional Board's protection of state waters and the ability of environmentally conscious companies to maintain essential public services as well as a sustained economy. SCG whole heartedly supports and lauds the Regional Board's efforts to maintain and improve water quality with the revision and reissuance of these conditional Waivers. SCG's comments are substantially to recommend the minimization of the time and methodology required to obtain coverage which is important to public safety as well as the environment.

SCG provides essential natural gas supply to private, commercial, institutional, and governmental consumers in southern Orange County as well as much of Southern California. In many instances, such as for hospitals, uninterrupted natural gas supply is critical. Maintenance of the natural gas pipeline and delivery system is an important component of providing a safe uninterrupted supply of natural gas to these users. SCG's use of these waivers in the past has included groundwater dewatering of uncontaminated groundwater when groundwater has been encountered in short term excavations while accessing and repairing pipelines, and in the short term dewatering to land of discharges of hydrostatic pressure test water from new uncontaminated piping. These discharges have been analytically verified as Low threat Discharges. Often, the water is reused for pipeline soil compaction and dust control after analytical verification, saving water which would

otherwise have to be obtained for these purposes. These repairs are often needed to restore service to the above constituencies on an expedited and sometime emergency basis.

We are in support of the letter and comments supplied by San Diego Gas and Electric, also a Sempra utility company. When such discharges to land are of a reasonably short duration, reasonable volume, utilize appropriate Best Management Practices, and pose a low threat to water quality, we recommend that the discharges be automatically covered without the unnecessary delays of formal applications and reviews that could cause an extended interruption of essential services.

If you have any questions, please do not hesitate to call or email me at any time.

Sincerely,

/G. Scott Koken/

Comment Letter No. 804775.14

Mitchell, Roger@Waterboards

From: Clarke Pauley <clarkep@crrmail.com>
Sent: Monday, May 19, 2014 5:36 PM
To: Mitchell, Roger@Waterboards
Subject: Letter Concerning Tentative Order No. R9-2014-0041
Attachments: CR&R RWQCB Region 9 Letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Mitchell,
Attached please find a letter of comment from CR&R, Inc. regarding the above referenced Tentative Order.

Thank you for the opportunity to provide comment.

Sincerely,
Clarke

Clarke Pauley
Vice President
Organics & Biogas Division
CR&R Environmental Services
Mobile: 949-385-2670

* This message is intended for the above selected recipient. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

* Employees of CR&R Incorporated are expressly required not to make defamatory statements and not to infringe or authorize any infringement of copyright or any other legal right by email communications. Any such communication is contrary to company policy and outside the scope of the employment of the individual concerned. CR&R Incorporated will not accept any liability in respect of such communication, and the employee responsible will be personally liable for any damages or other liability arising. Employees who receive such an email must notify their supervisor immediately.

May 19, 2014

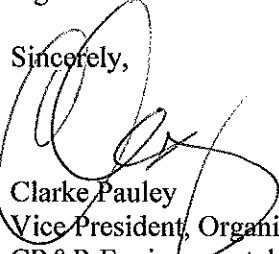
Mr. Roger Mitchell, Staff
California Region Water Quality Control Board
San Diego - Region 9
2375 Northside Drive, Suite 100
San Diego, California 92108.

Dear Mr. Mitchell;

CR&R, Inc. (CR&R Environmental Services) is one of the largest privately held waste/recycling companies in the U.S. We operate several green waste composting facilities and within a year will begin producing digestate as a soil amendment from a large anaerobic digestion facility under construction in Perris, California.

We are writing to support comments on the Region 9's proposed Tentative Order No. R9-2014-0041 for compost materials applied to the land submitted by the Association of Compost Producers (ACP) dated May, 19, 2014. CR&R is a member of the ACP. We believe that ACP's comments accurately reflect the concerns of our company as we respond to efforts by the regulatory agencies, including the Air Resources Board and CalRecycle, to re-direct organic materials now going to landfills to compost and anaerobic digestion facilities.

Sincerely,



Clarke Pauley
Vice President, Organics & Biogas Division
CR&R Environmental Services

cc: Association of Compost Producers, CalRecycle, CRRRC, CARB

Comment Letter No. 804775.15

Mitchell, Roger@Waterboards

From: Stephan Beck <sbeck@ninyoandmoore.com>
Sent: Monday, May 19, 2014 6:51 PM
To: Mitchell, Roger@Waterboards; Odermatt, John@Waterboards
Subject: OEHHA revised Lead CHHSL
Attachments: 4 Aug 2010 revised Lead CHHSL 091709.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Something to consider. DTSC uses this for school sites.

Stephan A. Beck, P.G. 4375
Manager of Environmental Sciences
Ninyo & Moore
Geotechnical & Environmental Sciences Consultants
5710 Ruffin Road
San Diego, CA 92123
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sbeck@ninyoandmoore.com
Experience . Quality . Commitment



REVISED CALIFORNIA HUMAN HEALTH SCREENING LEVELS FOR LEAD

September 2009



**Integrated Risk Assessment Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency**

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Revised California Human Health Screening Levels for Lead

September 2009

Prepared by
Office of Environmental Health Hazard Assessment

LIST OF CONTRIBUTORS

Authors

Jim Carlisle, D.V.M., Senior Toxicologist, Integrated Risk Assessment Branch

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Revised California Human Health Screening Level for Lead

Introduction

The California Office of Environmental Health Hazard Assessment (OEHHA) has recently developed a 1 µg/dL benchmark for source-specific incremental change in blood lead levels for protection of school children and fetuses (OEHHA, 2007). The publication of this value required a review of the residential Soil Screening Level for lead (CHHSL), which currently stands at 150 mg/kg and the commercial/industrial CHHSL, which currently stands at 3500 mg/kg (OEHHA, 2005 revision). Application of this Soil Screening Level is explained in “Use of California Human Health Screening Levels in Evaluation of Contaminated Properties” (Cal/EPA, 2005).

Methods

The essence of this task was to estimate a concentration in soil that would lead to an incremental increase in blood lead (Pb_B) of up to 1 µg/dL, in people exposed to that soil. For the residential CHHSL for lead we evaluated the exposure to a child resident. For the commercial/industrial CHHSL we evaluated the exposure to a pregnant adult worker.

Residential Child Scenario

The Department of Toxic Substances Control’s Leadsread model (DTSC, 2007) was used to estimate blood lead concentrations in children. The Leadsread model considers exposure to lead in soil by three pathways: ingestion, re-suspension and inhalation, and dermal contact. The Leadsread model was queried for the soil lead concentrations that would give rise to a 90th percentile estimate of increase in blood lead of 1 µg/dL using the “goal seek” function in ExcelTM. Model inputs and outputs for the Child Scenario are shown in Table 1.

Table 1: Leadsread Input Values

FACTOR	LEVEL	UNITS
Lead in Soil/Dust	77	µg/g
Soil ingestion	100	mg/day
Ingestion constant	0.16	(µg/dl)/(µg/day)
Oral bioavailability	0.44	unitless
Skin area	2900	cm ²
Soil adherence	200	µg/cm ²
Dermal uptake constant	0.0001	(µg/dl)/(µg/day)
Respirable dust	1.5	ug/m ³
Breathing rate	6.8	m ³ /day
Inhalation constant	0.192	(µg/dl)/(µg/day)
Exposure days per week	7	days/wk
Geometric Standard Deviation ¹	1.6	µg/dL
Background lead in air ²	0	µg/m ³
Lead in water ²	0	µg/L
Home-grown produce ³	0	percent
Resulting 90 th percentile increase in blood lead	1	µg/dL

¹ Based on blood lead levels in geographically limited populations of children (EPA, 2007)

² Because this soil screening level is based on a change in blood lead due to the exposure under evaluation, no background exposures are included.

³ As explained in (OEHHA, 2005) the food pathway is not used in calculating soil screening levels. These screening levels may not be appropriate for sites to be used for gardening or farming.

Occupational Adult Scenario

U.S. EPA's Adult Lead Model (ALM) (EPA, 2005) was used to estimate the blood lead concentration in a fetus of an adult worker exposed to lead-contaminated soil. The model was queried directly for the soil lead concentrations that would give rise to the 90th percentile estimate of change in blood lead of 1 µg/dL using the "goal seek" function in ExcelTM. Model inputs and outputs are shown in Table 2. Inputs that were changed from default values are in bold.

Table 2: ALM Input and Output Values for the Occupational Scenario

FACTOR	UNITS	VALUE
Fetal/maternal Pb _B ratio	--	0.9
Biokinetic Slope Factor	µg/dL per µg/day	0.4
Geometric standard deviation Pb _B (GSD)	--	1.8 ²
Baseline Pb _B	µg/dL	0.0 ³
Soil ingestion rate (including soil-derived indoor dust)	g/day	0.050
Absorption fraction	--	0.12
Exposure frequency	days/yr	250 ⁴
Averaging time	days/yr	365
Pb _B of adult worker, geometric mean	µg/dL	0.6 ¹
90th percentile Pb _B among fetuses of adult workers	µg/dL	1.0
Target Pb _B level of concern	µg/dL	1.0
Probability that fetal Pb _B > Pb _{Bt} , assuming lognormal distribution	percent	10 %
Soil lead concentration	µg/g or ppm	320 ¹

¹ Calculated value

² The default GSD in ALM (2.1) was changed to 1.8. EPA (2001) recommended a value of 1.8 for relatively homogeneous populations. The default GSD in ALM reflects variability in the population as a whole. This variability has many components, including variability in exposure concentration. The latter source of variability is reduced or eliminated in a population exposed to soil containing 320 ppm.

³ No baseline Pb_B is assumed, since the target change in blood lead is an incremental change due to the soil in question.

⁴ The value of 250 days per year is consistent with other CHHSLs.

Results

The Soil Screening Levels resulting from the analyses described above are shown in Table 3.

Table 3: Comparison of 2005 CHHSLs to Revised CHHSLs

Residential CHHSL* (mg/kg)		Commercial/Industrial CHHSL ¹ (mg/kg)	
2005	Revised	2005	Revised
150	80	3500	320

¹ Rounded to nearest multiple of 10.

Discussion

The previous CHHSLs for lead were calculated as the maximum soil concentration which, combined with an assumed background lead exposure from food, air, and water, would result in a total blood lead not to exceed 10 µg/dl. The proposed CHHSLs are calculated differently: they are calculated as the level in soil that could result in up to a 1 µg/dl increase in blood lead, irrespective of background exposures. Background exposures are not typically considered in other CHHSLs or other screening levels.

The proposed CHHSLs for lead consider two sources of uncertainty: the relationship between blood lead level and cognitive ability, and the relationship between lead levels in the environment and blood lead levels. The first source of uncertainty involves the fitting of a model to the blood lead and IQ data in the meta-analysis of Lanphear et al. (2005) that was used to determine the relationship between blood lead and IQ. To be conservative OEHHA (2007) used a 97.5% upper confidence limit on the slope of the IQ versus Pb_B curve.

The other source of uncertainty is the relationship between environmental lead levels and blood lead levels. Both Leadsread and the ALM account for this by predicting a distribution of blood lead values for any given set of environmental inputs. The percentiles of the Pb_B versus soil Pb curve reflect physiological and behavioral variability in individual responses to similar environmental concentrations. Although the previous CHHSL for lead was based on the 99th percentile of that distribution, the revised CHHSL is based on the 90th percentile of the distribution. The reason for this change is that the benchmark change in blood lead concentration is a health-protective estimate, based on risk to children, whereas the previous target blood lead level was based on a “level of concern” that did not incorporate recent scientific information and focused on individual - rather than population - risks.

The overall approach to accommodating the two sources of uncertainty can be summarized as follows: the CHHSLs represent concentrations in soil that have no more than a 2.5% probability of decreasing IQ by more than 1 point in a 90th percentile child or fetus.

References

OEHHA, 2007, Development of Health Criteria for Schools Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): Proposed Child-Specific Benchmark Change in Blood Lead Concentration for School Site Risk Assessment. available at: http://www.oehha.ca.gov/public_info/public/kids/index.html

California Department of Toxic Substances Control, 2007, DTSC Lead Risk Assessment Spreadsheet; available at: <http://www.dtsc.ca.gov/AssessingRisk/leadsread.cfm>

California Environmental Protection Agency, 2005, Use of California Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties, available at: <http://calepa.ca.gov/Brownfields/SB32.htm>

OEHHA, 2005 revision, Human-Exposure-Based Screening Numbers Developed to Aid Estimation of Cleanup Costs for Contaminated Soil <http://www.oehha.ca.gov/risk/Sb32soils05.html>

EPA, 2005. U.S. EPA Technical Review Workgroup for Lead, Adult Lead Committee Version date 05/19/05. available at: <http://www.epa.gov/superfund/lead/products.htm#alm>

DTSC, 1994. California Department of Toxic Substances Control, California Environmental Protection Agency. Preliminary Endangerment Assessment Guidance Manual,

Lanphear, BP, Hornung R, Khoury J, Yolton K, Baghurst P, et al., 2005. Low-level environmental lead exposure and children's intellectual function: an international pooled analysis. *Environ. Health Perspect.* 113:894-899.

EPA 2001, Review of Adult Lead Models: Evaluation of Models for Assessing Human Health Risks Associated with Lead Exposures at Non-Residential Areas of Superfund and Other Hazardous Waste Sites U.S. EPA, Office of Solid Waste and Emergency Response OSWER #9285.7-46 (Table 1.1).

EPA, 2007, Lead: Human Exposure and Health Risk Assessments for Selected Case Studies, Volume I. Human Exposure and Health Risk Assessments - Full-scale, EPA-452/R-07-014a October 2007

Appendix

Response to comments

OEHHA received two comments on the draft CHHSL for lead. Both commentors suggested that the lead CHHSL should be applied only to anthropogenic lead, i.e. that background lead should not be included.

OEHHA response: In its response to comment #48 to the original 2005 CHHSL document, OEHHA stated “The health-based screening number for arsenic is intended for arsenic contamination resulting from human activity.” This could also be applied to lead and other elements. However, the final determination of background levels and how they will be accounted for in any site-specific decision is ultimately up to those making the site-specific decision.

Comment Letter No. 804775.16

Mitchell, Roger@Waterboards

From: Jacobsen, Fred <FJacobsen@semprautilities.com>
Sent: Monday, May 19, 2014 6:59 PM
To: Mitchell, Roger@Waterboards
Subject: FW: CW-804775:RMitchell: Comment Letter re: Draft Waivers
Attachments: SDGE Low Threat Waiver Redline-051914.pdf; SDGE Low Threat Waiver Comment Ltr-051914.pdf

Importance: High

Roger,

Per my attached email, I am forwarding to an electronic copy of the documents that I submitted to the Regional Board's office at approximately 4:50pm this afternoon.

There are two files; one is our comment letter and the other is a redline markup of the waiver document.

Please let me know if you have any questions regarding our comments.

Thank you,

Fredrik J. Jacobsen

San Diego Gas & Electric Company
8315 Century Park Court (CP-21E)
San Diego, Ca 92123-1548

858-637-3723 (Phone)
858-637-3700 (Fax)

fjacobsen@SempraUtilities.com

From: Jacobsen, Fred
Sent: Monday, May 19, 2014 5:19 PM
To: 'Mitchell, Roger@Waterboards'
Subject: CW-804775:RMitchell: Comment Letter re: Draft Waivers

Roger,

I had a scanner mal-function this afternoon and as a last resort drove a hard copy of SDG&E's comments down to the Board's office and submitted them at the window just before 5:00pm. Hopefully later today I can resolve the scanner issue and send these on to you electronically. If I am unable to resolve the scanner issue I will copy the files to a CD and drop them off at the Board's office tomorrow.

I am sorry for any inconvenience this may cause you.

Fredrik J. Jacobsen

San Diego Gas & Electric Company
8315 Century Park Court (CP-21E)

San Diego, Ca 92123-1548

858-637-3723 (Phone)

858-637-3700 (Fax)

fjacobsen@SempraUtilities.com

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE ORDER No. R9-2014-0041

**CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR
LOW THREAT DISCHARGES IN THE SAN DIEGO REGION**

The Discharger, as described in the following table is subject to the waiver of waste discharge requirements as set forth in this Order:

Table A. Discharger Information

Discharger	Any person responsible for the discharge of low threat discharges which in accordance with the general and specific conditions specified in each of the waivers are unlikely to affect the quality of the waters of the State.
<p>Dischargers regulated under this Order and the waivers contained within, must be subject to application and annual fees assessed relative to their assigned threat and complexity ranking or other discharge specific conditions identified in California Code of Regulations, Title 23, section 2200. <u>Dischargers regulated under specific waivers in this Order are subject to application and annual fees assessed relative to their assigned threat and complexity ranking or other discharge specific conditions identified in California Code of Regulations, Title 23, section 2200.7. Accordingly, where this order requires that dischargers under a specific waiver must submit fees, these fees shall be those specified in Title 23, section 2200.7.</u></p>	

Forma

Discharges of wastes by persons from their locations in the San Diego Region are subject to the requirements set forth in this Order. Administrative information regarding this Order is contained in Table B below.

Table B: Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, San Diego Region on:	2014
This Order shall become effective on the date of adoption.	

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all appendices is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on June 26, 2014.

TENTATIVE

David W. Gibson

Tentative Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges

Executive Officer

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CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR
LOW THREAT DISCHARGES IN THE SAN DIEGO REGION

TENTATIVE ORDER NO. R9-2014-0041

PART I GENERAL FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter **San Diego Water Board**), finds that:

- A. LEGAL AUTHORITY TO ISSUE WAIVERS.** Water Code section 13260(a) and (c) require persons proposing to discharge waste,¹ or proposing to make a material change in the character, location, or volume of a discharge to file a report of waste discharge (ROWD) with the appropriate California Regional Water Quality Control Board (Regional Water Board). Water Code section 13264 prohibits persons from initiating any new discharge of waste or making any material changes in any discharge prior to the filing of a ROWD and being issued waste discharge requirements (WDRs) by the appropriate Regional Water Board.

Under authority of Water Code 13263(d), the San Diego Water Board may prescribe WDRs although no ROWD has been filed.

Pursuant to Water Code section 13269(a)(1), the San Diego Water Board may waive the provisions of sections 13260(a) and (c), or 13264(a) for a specific discharge or type of discharge, if it determines the waiver is consistent with the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) and is in the interest of the public. Water Code section 13296(a)(2) stipulates a waiver may not exceed five years in duration, but may be renewed by the San Diego Water Board. Waivers must be conditional and may be terminated at any time by, the State Water Resources Control Board (State Water Board), or the San Diego Water Board.

In accordance with the Basin Plan, Chapter 4, a waiver of WDRs would not be against the public interest if either of the following circumstances apply to the discharges in that category:

1. *The type of discharge does not adversely affect the quality² or the beneficial uses³ of the waters of the State.⁴*
2. *The type of discharge is not readily amenable to regulation through the adoption of WDRs but warrants San Diego Water Board oversight to ensure compliance with mandated conditions.*

Water Code section 13269 does not authorize the San Diego Water Board to issue waivers of WDRs for waste discharges subject to federal regulations⁵ implementing the federal Clean Water Act and the federal National Pollutant Discharge Elimination System (NPDES) regulations.

¹ The term "waste" is as defined in Water Code section 13050(d).

² The term "quality of the water" is as defined in Water Code section 13050(g).

³ The term "beneficial uses" is as defined in Water Code section 13050(f).

⁴ The term "waters of the State" is as defined in Water Code section 13050(e).

⁵ Water Code section 13370 et seq.

B. PURPOSE. The purpose of this Order is to:

1. revise and renew several waivers adopted by the San Diego Water Board as an amendment to the Basin Plan in Resolution No. R9-2007-0104, which expired in February 2014;
2. incorporate a waiver for discharges from aquatic animal production facilities;
3. issue new waivers for specific types of discharges within the San Diego Region, which pose a low threat to the waters of the State, and are not currently regulated by the San Diego Water Board;
4. reorganize the waivers by grouping the specific types of discharge into discharge classifications;
5. provide general waiver conditions applicable to a discharge or discharge operations for all specific types of discharge within a discharge classification; and
6. provide specific waiver conditions for each specific type of discharge within a discharge classification, if applicable.

C. DISCHARGER. As the term applies in this Order, a “Discharger” is any person or persons that discharge, have the potential to discharge, or propose to discharge waste that could directly or indirectly affect the quality and/or beneficial uses of the waters of the State.

D. DISCHARGE LOCATION. All discharges subject to this Order are located within the boundaries of the San Diego Region.

E. WASTE DISCHARGES SUBJECT TO THIS ORDER. Where specified in this Order for a specific waiver or for a specific discharge within a waiver, This Order requires the filing of a ROWD is required for the following types of waste discharges. For the purposes of this Order, a completed Notice of Intent (NOI) may serve as the Dischargers’ ROWD. Where not specified in this Order, the filing of an NOI is not required for coverage under the waiver. As documented in the Technical Report, *Information Sheet for Tentative Order No. R9-2014-0041*, waivers for these specific types of discharges are in the public interest.

1. Discharges from on-site graywater disposal systems;
2. Discharges of recycled water to land from short-term projects;
3. Discharges of recycle water to land from permanent projects;
4. Discharges from construction and test pumping of water wells to land;
5. Discharges of air conditioner condensate and non-contact cooling water to land;
6. Swimming pool discharges to land;
7. Discharges from short-term construction dewatering operations to land;
8. Discharges from utility vaults and underground structures to land;
9. Miscellaneous “Low threat” discharges to land and/or groundwater;

10. Discharges of winery process water to lined evaporation ponds at small wineries;
11. Discharges of waste to land at composting facilities;
12. Discharges of storm water runoff from silvicultural operations;
13. Discharges from timber harvesting projects;
14. Discharges from wildfire suppression and fuels management activities;
15. Discharges from small animal feeding operations;
16. Discharges from medium animal feeding operations;
17. Discharges of storm water runoff from animal operations;
18. Discharges of manure to compost operations;
19. Discharge/application of manure to soil as an amendment or mulch;
20. Discharges from grazing lands;
21. Discharges from aquatic animal production facilities
22. Discharges of drilling muds to land;
23. Discharges of concrete grinding residues to land;
24. Discharge/application of amendments and/or mulches to soil;
25. Discharges/disposal of inert waste to solid waste disposal facilities only accepting inert wastes;
26. Discharges of soils containing wastes to temporary waste piles;
27. Discharges of waste related to fireworks displays over land;
28. Other periodic aerial discharges of wastes over land;
29. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
30. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
31. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
32. Discharges of dredge or fill material into non-federal waters of the State;
33. Emergency repair and protection activities in non-federal waters of the State; and
34. Other discharges of emergency/disaster related wastes.

Each of the discharge types listed above, may originate from a single Discharger, have similar discharge sources and/or environmental settings, and have similar waiver conditions. Therefore, these types of discharges are grouped together into 12 discharge classifications. Discharges which comply with the waiver conditions in this Order are not expected to pose a threat to the quality of waters of the State.

- F. THREAT TO WATER QUALITY.** Discharges from the proceeding categories can and/or do contain wastes, as defined in Water Code section 13050, that could affect the beneficial uses and quality of the waters of the State. If not properly managed, these discharges can percolate to groundwater or runoff to surface waters, adversely affecting both surface water and groundwater. Such wastes that enter or threaten to enter into waters of the State include, but may not be limited to:
1. earthen materials (i.e., soil, silt, sand, clay, and rocks);
 2. inorganic materials (i.e., metals, salts, etc.);
 3. organic materials (i.e., organic pesticides, hydrocarbons, etc.)

Discharges which comply with the waiver conditions in this Order are not expected to pose a threat to the quality of waters of the State.

- G. ANTIDegradation Policy.** This Order is consistent with the provisions of Resolution No. 68-16 "*Statement of Policy with Respect to Maintaining High Quality Waters in California*" (Antidegradation Policy). Likewise, this Order is consistent with the federal Antidegradation Policy.⁶ The San Diego Water Board, in regulating the discharge of waste, must have sufficient ground to adopt findings which demonstrate that any water quality degradation resulting from this Order will:

1. be consistent with the maximum benefit to the people of the State;
2. not unreasonably affect existing and potential beneficial uses of such water; and
3. not result in water quality less than that described in the Basin Plan.

Dischargers, who enroll in these waivers are required to protect beneficial uses, and prevent nuisance⁷ by implementing management measures (MMs) and best management practices (BMPs).

- H. MONITORING.** Water Code section 13269(a)(2) requires waivers be conditioned upon the performance of individual, group, or watershed-based monitoring unless the San Diego Water Board determines the discharges do not pose a significant threat to water quality. Monitoring requirements in this Order must be designed to support the development and implementation of the waiver program including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing requirements, the San Diego Water Board may consider the volume, duration, frequency, and constituents of the discharge, the extent and type of existing monitoring activities including, but not limited to, existing watershed-based compliance and effectiveness monitoring efforts, the size of the project area; and other relevant factors.

The only waiver conditioned upon performance of monitoring is Waiver No. 8. The other waivers are not because the specific types of discharges covered by the waivers do not pose a significant threat to water quality.

The San Diego Water Board adopted *A Framework for Monitoring and Assessment in the San Diego Region*, dated November 2012, to facilitate the transition from discharge-oriented monitoring and assessment to water body-oriented monitoring

⁶ Code of Federal Regulations Title 40, section 131.12.

⁷ The term "nuisance" is as defined in Water Code section 13050(m).

and assessment in the Region. The monitoring requirements of Waiver No. 8 are consistent with the Framework.

All monitoring and reporting requirements specified in Waiver No. 8 are issued pursuant to Water Code sections 13267 and 13269; and are necessary to evaluate:

1. compliance with the terms and conditions of the Waiver No. 8;
2. effectiveness of any measures or actions taken in accordance with Waiver No. 8 and/or the San Diego Basin Plan; and
3. whether revisions of Waiver No. 8, additional regulatory programs, or enforcement actions are warranted.

Failure to submit a report in accordance with schedules established by the waivers, Monitoring and Reporting Requirements approved by the San Diego Water Board Executive Officer, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, or failure to comply with the conditions of the waivers, may subject a Discharger to enforcement action pursuant to Water Code section 13268 and/or 13350 and/or the requirements to submit a ROWD.

The burden, including cost, of these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

In accordance with Water Code sections 13267(b)(1) and 13269(a)(2), the San Diego Water Board has considered the costs of implementing the monitoring requirements specified in Waiver No. 8, and finds they will not result in any additional economic burden for dischargers.

- I. WATER QUALITY STANDARDS.** The Basin Plan and relevant statewide water quality control plans (collectively Plans) establish water quality standards for the San Diego Region. These water quality standards consist of designated beneficial uses, WQOs, and the antidegradation policy. These Plans also contain implementation plans and policies for interpreting and achieving water quality standards.

Table 2 below identifies the beneficial uses designated in the Basin Plan for groundwater and surface water in the San Diego Region.

Table 2: Beneficial Uses for Groundwater and Surface Waters

Beneficial Uses	Abbreviations
Agricultural Supply	AGR
Cold Freshwater Habitat	COLD
Commercial and Sport Fishing	COMM
Estuarine Habitat	EST
Freshwater Replenishment	FRSH
Industrial Process Supply	PROC
Industrial Service Supply	IND
Inland Saline Water Habitat	SAL
Marine Habitat	MAR
Municipal and Domestic Supply	MUN
Noncontact Recreation	REC2

Table 2 (continued): Beneficial Uses for Groundwater and Surface Waters

Beneficial Uses	Abbreviations
Preservation of Rare and Endangered Species	RARE
Warm Freshwater Habitat	WARM
Water Contact Recreation	REC1
Wildlife Habitat	WILD

The requirements of this Order implement the Basin Plan by ensuring discharge types maintained and monitored to prevent releases of wastes or waste constituents to waters of the State in a manner which could impair these beneficial uses.

- J. **ENFORCEMENT ACTIONS.** Any person in violation of any waiver condition, prohibition issued or reissued, or amended by the San Diego Water Board, must be liable civilly under Water Code sections 13323 and 13350(d) and (e).
- K. **CALIFORNIA ENVIRONMENTAL QUALITY ACT.**⁸ In accordance with California Code of Regulations Title (Calif. Code Regs. title) 14, section 15000 et seq., the San Diego Water Board is the lead agency for this project and has adopted a negative declaration for the project.
- L. **ANNUAL FEES.** Dischargers may be required to pay an annual fee (i.e., waste discharge permit fee) established by the State Water Board in accordance with Water Code sections 13260(d)(1) and 13269(a)(4). Pursuant to Water Code section 13269(a)(4), the annual fee must be assessed in accordance with the current fee schedule promulgated in Calif. Code Regs. title 23, section 2200.7.

The following waivers required to pay an annual fee as specified in section 2200.7.

- Waiver No. 4 – Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries
- Waiver No. 5 – Discharges of Waste to Land at Composting Facilities
- Waiver No. 7 – Discharges from Animal Operations
- Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land

- M. **PUBLIC PARTICIPATION.** All of the findings contained within this Order, supplemental information and details in the attached Information Sheet, and incorporated references were considered in establishing the following conditions, requirements, provisions, and specifications.

All known Dischargers and other interested parties and persons were notified of the intent to adopt this Order, and were provided with an opportunity for a public hearing and an opportunity to submit written comments.

In a public meeting, all comments pertaining to this Order were heard and considered.

⁸ Codified in PRC section 21000 et seq., and promulgated in Calif. Code of Regs. title 14, Chapter 3, Division 6.

N. STRATEGIC PLAN. The issuance of this Order and the requirements herein are consistent with the goal to provide water resources protection, enhancement and restoration while balancing economic and environmental impacts as stated in the Strategic Plan of the State Water Board and the San Diego Water Board.

O. APPLICABILITY. Order No. R9-2014-0041 supersedes the waivers adopted as a Basin Plan amendment in Resolution No. R9-2007-0104 except for enforcement purposes regarding violations of Resolution No. R9-2007-0104. All Dischargers previously regulated by Resolution No. R9-2007-0104 are automatically enrolled under Order No. R9-2014-0041.

P. NOTICES OF INTENT. For those discharges that require the submittal of an NOI, coverage under the NOI begins upon submittal of the NOI unless otherwise specified in the waiver's conditions.

Q. Q. Homeland Security Act. Any information provided to the Regional Water Board must comply with the Homeland Security Act and any other federal or state law that concerns security in the United States or California; any information that does not comply must not be submitted.

PART II. CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS

Waiver No. 1 – Discharges from On-site Graywater Disposal Systems

A. Specific Findings Regarding Discharges from On-site Graywater Disposal Systems

1. Waiver No. 1 – Discharges from On-site Graywater Disposal Systems (On-site Graywater Disposal Waiver) is for discharges of effluent from on-site graywater disposal systems which are a potential source of pollutants that can infiltrate to groundwater. Discharges of effluent from on-site graywater disposal systems eligible for this waiver cannot include industrial wastewater, and must be discharged to land within the property from which the waste stream was generated.
2. Graywater consists of wash water originating from showers, bathtubs, clothes washing machines, and hand washing sinks not used for disposal of chemicals or chemical-biological ingredients. Graywater is generally subject to very little treatment or no treatment at all. On-site graywater disposal systems collect graywater and discharge it to a disposal area where it infiltrates to the subsurface. Natural processes in the soil, at the disposal area can provide treatment of the graywater as it percolates through the ground.
3. Effluent discharged from on-site graywater disposal systems can infiltrate to groundwater and pose a potential threat to water quality. On-site graywater disposal systems can discharge effluent that has potentially come in contact with human fecal matter⁹, nitrogen compounds¹⁰, phosphorus¹¹, or other chemicals¹². Therefore, on-site graywater disposal systems can potentially transport and leach pathogens, nutrients, and other pollutants to underlying groundwaters, or to surface waters if the effluent surfaces and runs off the property. Effluent that comes into contact with groundwater or surface water can adversely affect water quality.
4. The use of on-site graywater disposal systems, however, will reduce the use of potable water for irrigation purposes, which, as a conservation measure, is in the public interest. On-site graywater disposal systems that are properly designed, installed, and maintained can minimize the potential impacts to water quality.
5. The design, construction, and installation requirements for on-site graywater disposal systems are provided in regulations adopted by State agencies and/or local authorized agencies. Land owners must obtain the appropriate permits prior to the installation and operation of an on-site graywater disposal system to ensure site conditions are appropriate for construction. Depending on the location, cities, counties, and/or other local authorized agencies may have more stringent design and installation requirements.

⁹ e.g., soiled diapers washed in clothes washing machines.

¹⁰ e.g., urine from children and adults in bathtubs and showers.

¹¹ e.g., laundry detergents used in clothes washing machines.

¹² e.g., cleaning chemicals washed down bathroom washbasins.

6. The Graywater Standard, developed by the California Department of Water Resources (DWR) and adopted by the California Building Standards Commission, pertaining to the construction, installation, or alteration of on-site graywater disposal systems, can be found in the Plumbing Code.¹³ The Water Code states that an on-site graywater disposal system may be installed if the authorized local agencies having jurisdiction over the installation determines that the system complies with the Plumbing Code¹⁴ Graywater Standards, unless exempted under the plumbing code under Chapter 16, section 1603A.1.
7. The design, construction, and installation of on-site graywater systems are regulated and permitted by the cities, counties, and/or other authorized local agencies. The discharge of effluent from on-site graywater disposal systems is subject to regulation by the State and Regional Water Quality Control Boards in order to protect the waters of the State. In the Basin Plan, the San Diego Water Board determined a waiver would not be against the public interest if the type of discharge is effectively regulated by other public agencies. As long as the effluent that is discharged from these properly permitted on-site graywater disposal systems do not have an adverse impact on surface water or groundwater quality, the San Diego Water Board will waive the requirements to file a ROWD and adopting WDRs for these systems.
8. In order to be eligible for the On-Site Graywater Disposal Waiver, discharges must comply with both the general and specific conditions of this waiver.
9. Discharges from on-site graywater disposal systems that comply with the general and specific waiver conditions in the On-site Graywater Disposal Waiver are not expected to pose a significant threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge graywater through an on-site disposal systems, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for On-site Graywater Disposal Systems

1. Effluent from on-site graywater disposal systems must:
 - a. not be directly or indirectly discharged to any surface waters of the State (including ephemeral streams and vernal pools).
 - b. be discharged to the underground or with covering as allowed by local agency requirements and cannot surface or pond.
 - c. not adversely affect the quality or beneficial uses of underlying groundwater.
 - d. not cause or threaten to cause a condition of contamination, pollution, or nuisance.

¹³ Calif. Code Regs. title 24 (also known as the California Building Standards Administrative Code) Part 5 (also known as the California Plumbing Code) Appendix G.

¹⁴ Water Code section 14877.2

- e. be discharged, as to maintain at least 5 feet of vertical separation between the disposal area and the highest known historical or anticipated groundwater level.
 - f. be discharged so it can be contained within the designed irrigation or disposal field and not pond on the surface of the soil or runoff the site.
 - g. not adversely impact the quality or beneficial uses of groundwater in any water wells.
2. On-site graywater disposal systems must be designed and operated in accordance with applicable regulatory requirements and/or standards as provided in the Specific Waiver Conditions for on-site graywater disposal systems, section C of this waiver.
 3. Graywater disposal system owners/operators must:
 - a. comply with local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies. If local agency approvals, permits, certifications, and/or licenses are required for a graywater system, those documents must be available on site for inspection.
 - b. maintain and operate the system in accordance with the design approved by the authorized local agencies or any conditions for exemption from those requirements.
 - c. allow the San Diego Water Board and/or other local regulatory agencies reasonable access to the site in order to perform inspections and conduct monitoring.
 - d. accept only domestic wastes and/or wastewater.

C. Specific Waiver Conditions for On-site Graywater Disposal Systems

1. Operators of an on-site graywater disposal system, proposing to discharge graywater to land must file an NOI.¹⁵
2. An on-site graywater disposal system must comply with the permitting or waiver requirements of any city, county, or other authorized local agency, having jurisdiction over system installation. The on-site graywater system, at a minimum, must be designed and installed in accordance with the Plumbing Code Graywater Standards.¹⁶ If the cities, counties, and/or other authorized local agencies have additional requirements, the on-site graywater disposal system must be designed and installed in accordance with those requirements.
3. On-site graywater disposal systems proposed to be constructed in areas:
 - a. where groundwater water quality objectives have been exceeded, must be evaluated for potential adverse effects on groundwater

¹⁵ A Notice of Intent required to be submitted for enrollment in the On-Site Graywater Disposal Waiver is located in Appendix A of Order No. R9-2014-0041.

¹⁶ Calif. Code of Regs. title 24 (also known as the California Building Standards Administrative Code) Part 5 (also known as the California Plumbing Code) Appendix G

quality and beneficial uses to determine if regulating the system with individual WDRs is more appropriate.

- b. designated as Zone A, as defined by the California Department of Public Health's Drinking Water Source Assessment and Protection Program, must be constructed with an adequate setback from the drinking water supply source that will be protective of drinking water quality.

Waiver No. 2 – Discharges of Recycled Water to Land

A. Specific Findings for Discharges of Recycled Water to Land

1. Waiver No. 2 – Discharges of Recycled Water to Land (Recycled Water Waiver) – is for discharges of recycled water to land from short-term recycled water project,¹⁷ not exceeding 365 days. Discharges of recycled water may contain pollutants that can adversely affect the quality of waters of the State. The application of recycled water to land may result in pollutants being concentrated in soils, which may adversely impact the quality of the waters of the State when those concentrated pollutants are leached out during rainfall events and/or overuse of irrigation water. The Recycled Water Waiver is not available, or applicable, to recycled water projects and users subject to rules and regulations established by master reclamation permits (MRPs) issued pursuant to Water Code section 13523.1, or otherwise regulated under WDRs or water reclamation requirements (WRRs), issued pursuant to Water Code sections 13260 and 13523, respectively.
2. Short term recycled water projects eligible for enrollment in the Recycled Water Waiver, are those without permanent recycled water delivery and/or distribution systems; and are not regulated or authorized under WDRs, WRRs, and/or MRPs.
3. In order to be eligible for the Recycled Water Waiver, discharges must comply with both the general and specific conditions of this waiver.
4. Discharges of recycled water to land that comply with the general and specific waiver conditions in the Recycled Water Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge recycled water as part of a recycled water project, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Recycled Water Projects.

1. All windblown spray and surface runoff of recycled water, not considered "incidental runoff,"¹⁸ on to property not owned or controlled by the discharger must be prevented by implementation of MMs/BMPs.
2. Discharges of recycled water to land must:
 - a. not adversely affect the quality or beneficial uses of underlying groundwater;
 - b. comply with the requirements of Calif. Code Regs. title 22 section 60310(a) through (i) , unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health;

¹⁷ Short-term recycled water projects are those without permanent recycled water delivery and/or distribution systems.

¹⁸ The State Water Boards' *Recycled Water Policy* defines and characterizes "incidental runoff" of recycled water. http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2013/rs2013_0003_a.pdf

- c. not be used for groundwater recharge unless sufficient information is provided to demonstrate that it will be protective of water quality and human health;
 - d. be in compliance with the performance requirements of any applicable basin-specific Salt and Nutrient Management Plan(s).
3. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

C. Specific Waiver Conditions for Short-Term Recycled Water Projects

1. Operators of short-term projects proposing to discharge recycled water must file a NOI:¹⁹
- a. containing information about the operator, location of the project, source of the recycled water, planned period of and frequency of discharge of recycled water, and the MMs/BMPs or other measures that will be taken to eliminate or minimize the discharge of pollutants that might affect surface water and groundwater quality.
 - b. including a letter, from the permitted recycled water agency supplying the recycled water, stating that the project will comply with recycled water regulations promulgated in Calif. Code Regs. title 22, Division 4, Chapter 3, Articles 1 through 10. The letter must also specify any monitoring and/or reporting required by the recycled water agency to demonstrate compliance with Calif. Code Regs. title 22, Division 4, Chapter 3, Reclamation Criteria, Articles 2, 3, 4, 5, and 5.1.

The NOI is valid for 365 days after the submittal of a complete NOI. A new NOI must be filed with the San Diego Water Board if the short-term project will exceed 365 days. A new NOI must be received by the San Diego Water Board at least 60 days prior to the expiration of the previous NOI. If no new NOI is received 60 days prior to the expiration of the previous NOI, the short-term recycled water project must cease operation 365 days after a complete NOI has been submitted.

2. Operators of short-term projects proposing to discharge recycled water must provide sufficient information demonstrating the operator will comply with both the general and specific conditions of this waiver and applicable recycled water regulations before the discharge may begin.
3. Operators of a short-term project proposing to discharge recycled water is not required to submit payment of an annual fee to the San Diego Water Board, in accordance with Water Code section 13269(a)(4).

D. Specific Waiver Conditions for Permanent Recycled Water Projects

1. Recycled water agencies proposing to supply and/or distribute recycled water through permanently installed facilities or structures before receiving

¹⁹ A Notice of Intent required to be submitted for enrollment in the Recycled Water Waiver is located in Appendix A of Order No. R9-2014-0041.

WDRs must file a ROWD²⁰ pursuant to Water Code sections ~~sections~~ 13260 and 13522.5 containing the following:

- a. Sufficient information for the San Diego Water Board to determine that the project will be consistent with the Basin Plan and any State Water Board recycled water policies, and will comply with all applicable recycled water regulations.
 - b. A letter from the California Department of Public Health (CDPH) stating that the project will comply with recycled water regulations in Calif. Code Regs. title 22, Division 4, Chapter 3, Articles 1 through 10. The letter must also specify any provisions, monitoring, and/or reporting required by the CDPH to demonstrate compliance with Calif. Code Regs. title 22, Division 4, Chapter 3, Reclamation Criteria, Articles 2, , 3, , 4, , 5, and 5.1.
 - c. A list of recycled water end users that will be regulated by the recycled water agency, and the proposed monitoring and reporting program the recycled water agency will implement to demonstrate that the end users are complying with the waiver conditions and applicable recycled water regulations.
2. The recycled water agency must submit sufficient information demonstrating that the recycled water agency, and its end users, will comply with the general and specific conditions of this waiver conditions and applicable recycled water regulations before the discharge may begin.
 3. The conditional waiver issued to the recycled water agency is valid for 365 days after a completed ROWD has been submitted, or until WDRs are adopted for the project, whichever occurs first. The San Diego Water Board will adopt WDRs at the earliest possible opportunity. If the WDRs cannot be adopted within 365 days after the completed ROWD has been submitted, the recycled water agency must request an extension of the conditional waiver at least 60 days prior to the expiration of the previous conditional waiver. If no request for an extension is received 60 days prior to the expiration of the previous conditional waiver, the permanent recycled water project must cease the discharge of recycled water 365 days after the completed ROWD was submitted.
 4. If a recycled water agency enrolled in this waiver, in accordance with the waiver conditions in section D of this waiver, proposes to significantly add to or modify the treatment process (e.g., change the disinfection or filtration processes), then the discharger must submit a new ROWD containing the information listed in section D.1A.1.D.1 of this waiver.

²⁰ A Report of Waste Discharge (ROWD) required to be submitted for enrollment in the Recycled Water Waiver as a "Permanent Recycled Water Project" is located on the San Diego Water Boards website at: http://www.waterboards.ca.gov/sandiego/publications_forms/forms/docs/form200m.pdf

Waiver No. 3– Miscellaneous “Low Threat” Discharges to Land

A. Specific Findings for “Low Threat” Discharges to Land

1. Waiver No. 3 – “Low Threat” Discharges to Land (Low Threat Discharge Waiver) – is for “low threat” discharges to land, which can percolate to groundwater. “Low threat” discharges include liquid wastes containing pollutant concentrations that are not expected to adversely impact the quality of waters of the State under ambient conditions. “Low threat” discharges may include potable water or uncontaminated groundwater. Potable water and uncontaminated groundwater are not considered waste when initially discharged. However, when these waters comes into contact with pollutants and transports those pollutants in surface runoff or leaches those pollutants into the soil and groundwater, it becomes a waste. “Low threat” discharges to land are not expected to contain significant concentrations of pollutants that can adversely affect the quality of underlying groundwater.
2. The following types of discharge not regulated under WDRs may be eligible for the Low Threat Discharge Waiver:
 - a. ~~Discharges from the construction and test pumping of water wells to land~~Discharges of air conditioner condensate or non-contact cooling water to land.
 - b. ~~Discharges of air conditioner condensate or non-contact cooling water to land~~Swimming pool discharges to land.
 - c. Discharges from the construction and test pumping of water wells to land.~~Swimming pool discharges to land~~
 - d. Discharges from short-term construction dewatering operations to land.
 - e. ~~Discharges from utility vaults and underground structures to land.~~
 - f.e. “Low Threat” discharges to land and/or groundwater (discussed in, which may ~~including~~include the following:
 - i. Groundwater pumped from drinking water wells;
 - ii. Groundwater from foundation drains, crawl space pumps, and footing drains;
 - iii. Discharges from flushing water lines;
 - iv. Discharges from washing vehicles, pavement, buildings, etc.;
 - v. Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water; and
 - vi. Infiltration from structural infiltration-based BMPs
 - f. Discharges from utility vaults and underground structures to land
 - g. “Low threat” discharges are not expected to adversely affect the quality of groundwater. These types of discharge have similar

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properties, threat to water quality, and proposed waiver conditions. Therefore, these types of “low threat” discharges to land were grouped together into one discharge classification.

- h. Low volumes and infrequent “low threat” discharges are not expected to adversely affect the quality of groundwater because the water would likely evapo-transpire before infiltrating to the underlying groundwater. However, excessive volumes or frequent “low threat” discharges could potentially infiltrate to underlying groundwater and adversely affect the quality of groundwater over time. With proper management, “low threat” discharges to land are not expected to pose a threat to the quality of waters of the State. Therefore, waiver conditions require proper management of “low threat” discharges to land to minimize or eliminate the discharge of pollutants to waters of the State.
- i. The San Diego Water Board finds that compliance with the conditions prescribed in this waiver ~~determined for discharges to be classified~~ as “low threat” discharges to land ~~that will~~ pose a low level of threat to the quality of the waters of the State. If owners/operators with “low threat” discharges are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and required to correct deficiencies in order to be eligible for the -Low Threat Discharge Waiver. However, if the owner/operator of a “low threat” discharge violates any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.
- j. In order to be eligible for the -Low Threat Discharge Waiver, discharges must comply with the general and specific conditions of this waiver.
- k. “Low threat” discharges to land that comply with the general and specific waiver conditions in the Low Threat Discharge Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge miscellaneous low threat wastewaters to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for “Low Threat” Discharges of Water to Land

- 1. Prevent the direct or indirect discharge of “low threat” discharges to any surface waters of the State (including ephemeral streams and vernal pools).
- 2. Any products used to condition or treat “low threat” discharges prior to discharging to land must be in accordance with manufacturer’s instructions and guidelines, and must reliably attenuate before infiltrating to underlying groundwater.
- 3. “Low threat” discharges must not:

- a. Cause or contribute to the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to groundwater.
 - b. Come in contact with any material that consists of or is contaminated with chlorinated solvents, hydrocarbons, or other toxic or hazardous substances prior to discharge to land;
 - c. Adversely affect the quality or beneficial uses of underlying groundwater;
 - d. Cause or threaten to cause a condition of contamination, pollution, or nuisance; or
 - e. Adversely impact the quality or beneficial uses of groundwater in any water wells.
4. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.
 5. Dischargers eligible for enrollment in the Low Threat Discharge Waiver must submit a complete NOI when specified in the Specific Waiver Conditions.²¹ Dischargers are automatically covered by the Waivers when the waste discharges are less than a specified threshold (e.g., the discharge exceeds an average of 1,200 gallons per day for any continuous 365-day period) or a threshold is not specified in the Specific Waiver Conditions.
 6. In addition to the conditions above for “Low Threat” Discharges of Water to Land, compliance with the following Specific Waiver Conditions is required.

C. Specific Waiver Conditions for “Low Threat” Discharges to Land

1. **Air Conditioner Condensate and Non-contact Cooling Water Discharges to Land.**
 - a. Discharges must not contain contact cooling water.
 - b. Discharges of air conditioner condensate and non-contact cooling water to land must not exceed an average of 1,200 gallons per day for any continuous 365-day period, unless the discharger has filed a NOI containing information about the operator, location, and planned period of and average daily volume of discharge.
2. **Swimming Pool Discharges to Land.**
 - a. Discharges of water from each swimming pool to land must not exceed 50,000 gallons during any continuous 365-day period, unless the discharger has filed a complete NOI containing information about the swimming pool location and volume, planned period of and frequency of discharge.
3. **Pumping of Groundwater from Wells to Land.**

²¹ A Notice of Intent required to be submitted for enrollment in the Low Threat Discharge Waiver is located in Appendix A of Order No. R9-2014-0041.

- a. The discharge of groundwater pumped from any well that is used in a soil and/or groundwater contamination investigation or corrective action may not be discharged to land, unless the discharger has filed a complete NOI containing monitoring data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.
- b. For multiple applications of groundwater from wells pumped to land over a 365-day period, or a continuous 24-hour (or longer) application of groundwater from wells pumped to land within a 365-day period, the discharger must file a complete NOI containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.
- c. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.

4. Dewatering Operations Discharged to Land.

- a. The discharge of groundwater pumped from any well or excavation that is used in a soil and/or groundwater contamination investigation or corrective action may not be discharged to land, unless the discharger has filed a complete NOI containing monitoring data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.
- b. ~~For d~~Dewatering operations that have a discharge that exceeds an average of 5,000 gallons per day for any continuous 180-day period, the discharger must file a complete NOI containing information about the operator, location, planned period and rate of discharge, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect groundwater quality. The discharge cannot be initiated until the San Diego Water Board has informed the discharger in writing that the discharge is enrolled in the waiver.
- c. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.

5. Groundwater Pumped from Drinking Water Wells.

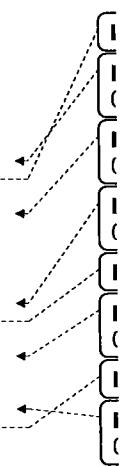
- a. None.

6. Groundwater from Foundation Drains, Crawl Space Pumps, and Footing Drains.

- a. None

7. Discharges from Flushing Water Lines.

- a. None



5-8. Discharges from Washing Vehicles, Pavement, Buildings, etc. to Land.

- a. Discharges of wash water and similar intermittent discharges must not exceed an average of 1,200 gallons per day for any continuous 30-day period, unless the discharger has filed a complete NOI containing information about the operator, location, and planned period of and average daily volume of discharge.

6-9. Infiltration from Residential/Commercial/Industrial/Recreational Facility Landscape and Lawn Irrigation Discharges from Irrigated Lawns and Landscaping Using Groundwater or Municipal Supply Water.

- a. Products applied to lawns and landscaping must be in accordance with manufacturer's instructions and guidelines, and must reliably attenuate before infiltrating to underlying groundwater.

7-10. Infiltration Discharges from Structural Infiltration-Based BMPs that Require Infiltration.

- a. The installation after the effective date of this Order of a new structural BMP that utilizes infiltration must be installed in compliance with the design criteria of the municipalities (or co-permittees) regulated by the most recent Municipal Separate Storm Sewer System (MS4) WDRs (conforming to NPDES storm water regulations),²² and for Additionally, any discharge from a new structural infiltration BMP installed after the effective date of this Order that exceeds an average of 1,200 gallons per day for any continuous 365-day period, the discharger must file a complete NOI containing documentation demonstrating that the quality of the proposed discharge from infiltration will not cause the groundwater at the disposal site to exceed water quality objectives.
- b. Installation of structural BMPs that require infiltration must comply with local, State, and federal ordinances and regulations, and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.

8-11. Discharges to Land from Utility Vaults and Underground Structures.

- a. Discharges to land from utility vaults and underground structures must not exceed an average of 2,500 gallons per day over a continuous 7-day period to a single location unless be initiated until the discharger has filed a complete NOI containing the following information in sections C.11.a.i.-v., and received written confirmation from the San Diego Water Board of the Dischargers enrollment in the Low Threat Discharge Waiver. In the event that a discharge exceeding the above threshold from a vault or underground structure occurs in a situation requiring urgent action to alleviate or prevent a power or natural gas outage, within 48 hours of the start of the discharge a discharge notification must be provided to the Regional

²² National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266

Board and within 5 working days of the start of the discharge an after-the fact NOI must be submitted.

- i. a pre-discharge screening process to be used by the discharger to make a determination of the quality of the water to be discharged and indicate to the discharger which pollution control measures should be used when discharging the water. monitoring data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.
 - ii. a map showing the utility's essential features of the distribution system for the service area boundaries within which discharges may occur and the corresponding land area to which the water will be discharged.
 - iii. a general description of potential sources that may add significant amounts of pollutants to utility vault or underground structure discharges, identifying all activities and significant materials that may potentially be significant pollutant sources, and containing an inventory of the types of materials handled at the site that potentially may be exposed to precipitation and a description of the types of utility materials handled at the site that potentially may be exposed to vault water either within the vault or underground structure or during discharge operations.
 - iv. identification of areas that, due to topography, activities, or other factors, have a high potential for soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion during discharge in areas that may be subject to a high potential for soil erosion due to topography, activities or other factors.
 - v. a description of any BMPs that will be implemented to control the generation or source(s) of pollutants, or used to divert, infiltrate, reuse, or otherwise manage runoff in a manner that reduces pollutants in discharges from the site.
- b. The Discharger must maintain areas that may contribute pollutants to discharges so that they are kept clean and orderly. Store and contain liquid materials in such a manner that if the container is ruptured, the contents will not discharge, flow, or be washed into the storm drainage system, surface waters, or groundwater.
 - c. The Discharger must regularly inspect and maintain during discharges any BMPs implemented for the discharge. wastewater management devices as well as inspect and test equipment and systems to detect conditions that may cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensure appropriate maintenance of such equipment and systems.
 - d. When it is anticipated that there may be frequent discharges that exceed an average of 2,500 gallons per day over a continuous 7-day

period to a single location, a Discharger may file the information contained above in section C.11.a.i.-v. to obtain coverage for the Discharger's entire service territory within this Region until this waiver expires. Coverage for the entire service territory for Discharges that exceed the above threshold will commence upon receipt of written confirmation from the San Diego Water Board of the Dischargers enrollment in the Low Threat Discharge Waiver.

Waiver No. 4 – Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries

A. Specific Findings for Discharges of Winery Process Water to Lined Evaporation Ponds

1. Waiver No. 4 – Discharges of Winery Process Water to Lined Evaporation Ponds (Winery Pond Waiver) – is for small wineries in the San Diego Region that utilize lined evaporation ponds for disposal of process water. For the purpose of enrollment in the Winery Pond Waiver, a “small winery” is defined as a winery with a vineyard, wine production facilities, and wine tasting rooms. Wineries that have additional ancillary facilities such as restaurants, special occasion facilities, or commercial lodging facilities are not eligible for enrollment in this waiver.
2. In order to be eligible for the Winery Pond Waiver, dischargers must comply with the general and specific conditions of this waiver.
3. Discharges of winery process water to lined evaporation ponds at small wineries that comply with the general and specific waiver conditions in the Winery Pond Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge winery process water to lined evaporation ponds at small wineries, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Conditions for Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries

1. Winery process water may not be discharged to onsite evaporation ponds, unless the Discharger has submitted:
 - a. a complete *Notice of Intent to Comply with the Conditional Waivers of Waste Discharge Requirements for Discharges of Waste* (NOI);²³ and
 - b. the first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code of Regs. title 23 section 2200.
2. Winery process water must:
 - a. not be discharged to surface waters;
 - b. be captured, treated, and/or disposed of separately from domestic wastewater;
 - c. not contain wastes classified as "hazardous" as defined in Calif. Code Regs. title 22 section 66261.3 et seq., and Water Code section 13173
3. Wastes and/or other wastewaters, other than winery process water must not be discharged to onsite evaporation ponds.

²³ A Notice of Intent required to be submitted for enrollment in the Waiver Pond Waiver is located in Appendix A of Order No. R9-2014-0041.

C. Specific Conditions for Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries

1. Water-conserving devices (e.g., pressure washers, trigger-handled spray nozzles, automatic barrel cleaners, stainless steel tanks, and smooth floors) should be used to minimize process water generation.
2. The use of cleaning chemicals should be minimized. Low impact methods (e.g., ozonated process water) should be used where practicable for cleaning.
3. The use of water-softening devices, canister-type water softeners, or similar alternatives should be used to prevent the discharge of salt brine. The number of connections to the water softener should be minimized at facilities using self-regenerating water softeners. Large solids should be separated from winery process water through redundant screening and removal systems (such as screened floor drains, rotary drum screens, and/or settling basins) prior to further treatment and disposal. Lees, bentonite, and diatomaceous earth should be excluded from being discharged to onsite evaporation ponds to the extent practicable.
4. All winery process water treatment and disposal systems (including onsite evaporation ponds) must be designed to retain the maximum daily flow of wastewater and organic loading generated (generally at the peak of crush season), including flows resulting from precipitation from a 25 year, 24-hour storm event.
 - a. At least two feet of freeboard must be maintained at all times in onsite evaporation ponds containing winery process water. Staff gauges must be installed to monitor water levels.
 - b. Collected screenings and other solids removed from liquid wastes that will not and/or cannot be used agronomically must be disposed of at a properly permitted point of disposal, and in accordance with Division 2 of Calif. Code Regs. title 27.
 - c. Onsite evaporation ponds used for disposal of winery process water must be lined with either a relatively impermeable membrane, two feet of soil with a permeability of less than 10^{-6} centimeters per second, or an engineered alternative approved in writing by the San Diego Water Board.

Waiver No. 5 – Discharges of Wastes to Land at Commercial Composting Facilities

A. Specific Findings for Discharges of Wastes at Commercial Composting Facilities

1. Waiver No. 5 – Discharges of Waste at Commercial Composting Facilities (Composting Facilities Waiver) – is applicable to discharges of wastes²⁴ to land used in the production of compost at commercial composting facilities. For the purposes of the Composting Facilities Waiver the discharge of:
 - a. agricultural wastes,²⁵ green wastes, paper wastes, vegetative food wastes, or manures; and/or
 - b. additives and amendmentsas defined in Appendix B of this Order are not expected to pose a significant threat to the waters of the State, as long as the discharge is carried out in accordance with the Composting Facilities Waiver general and specific conditions.
2. For the purposes of the Composting Facilities Waiver:
 - a. ~~composting-related activities, as specified in Appendix B of the Order in section A.5,~~ are not expected to pose a significant threat to the waters of the state, and are therefore conditionally exempt from the requirements of the Composting Facilities Waiver, but may be subject to other federal, State, or local regulations.
 - b. “plant crop residues” refer to those pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, including orchards and vineyard prunings, which are returned to that same land.
3. In order to be eligible for the Composting Facilities Waiver, Dischargers must comply with the general and specific conditions of the Composting Facilities Waiver.
4. Discharges of wastes to land at composting facilities that comply with the general and specific waiver conditions in the Composting Facilities Waiver are not expected to pose a threat to the quality of waters of the State.
5. The following activities are conditionally exempt from Waste Discharge Requirements and this Order:
 - a. Agricultural Composting Operations – Composting conducted in agricultural settings where: 1)wastes consisting of materials generated on-site by the production and processing of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, including manures, orchard and vineyard prunings, and crop residues; and 2) the resulting compost is returned

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²⁴ As defined in Water Code section 13050(d).

²⁵ For the purposes of the Composting Facilities Waiver: “Agricultural Wastes” refers to plant materials coming directly from lands used in the productions of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, including orchard and vineyard prunings.

in a similar amount to that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary.

- b. Chipping and Grinding Facilities/Operations – Refer to those operations that do not produce compost, by mechanically reducing the size, or otherwise engages in the handling of “green waste”, and for which each load of “green waste” is removed from the site within 48-hours from receipt, unless the Discharger has received written permission from the Local Enforcement Agency allowing the “green waste” to remain onsite for up to 7 days or longer.
- c. Existing Permitted Facilities/Operations – Composting conducted at facilities (e.g., Wastewater Treatment Plants [WWTPs], landfills, Concentrated Animal Feeding Operations [CAFOs], etc.) with existing waste discharge requirements.
- d. Lot Clearing Operations – Referring to those activities conducted for fire protection or the construction, operations, or maintenance activities conducted by a public utilities agency.
- e. Non-commercial Operations – Referring to operations not conducted at a commercial composting facility including, “backyard” or private residential composting.
- 4.f. Within-Vessel and Fully Enclosed Composting Operations (e.g., anaerobic digestate).

IT IS HEREBY ORDERED, that any Discharger proposing to discharge wastes to land at composting facilities, or plant crop residues to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B.A. General Waiver Conditions for Plant Crop Residues to Land

- 1. Plant crop residues must:
 - a. be managed to prevent transport of pollutants to waters of the State.
 - b. not be burned and applied to land.
 - c. be discharged to land to minimize or eliminate runoff and leachate to surface waters and groundwaters, through the implementation of management measures (MMs) and best management practices (BMPs).
- 2. Pesticides, herbicides, fertilizers, and other products associated with plant crop residues must:
 - a. be used in accordance with manufacturer’s guidelines; and
 - b. not adversely affect the quality or beneficial uses of any waters of the State.

C.B. General Waiver Conditions for Compost Facilities

- 1. Wastes used in the production of compost may not be discharged to land, unless the Discharger has:

- a. submitted a complete NOI;²⁶
 - b. submitted a complete *Compost Facility Certification*;²⁷
 - c. submitted the first years' annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 section 2200, and
 - d. received confirmation from the San Diego Water Board, that all submitted documents are complete.
2. Wastes, additives, amendments, and compost (active or stabilized) discharged to land at a composting facilities must:
- a. not cause, threaten to cause, or contribute to conditions of pollution, contamination, or nuisance;
 - b. be managed to minimize and/or prevent becoming oversaturated and generating leachate;
 - c. be located on a working surface, if exposed to precipitation or storm water run-on, having the potential to either produce process storm water or leachate; and
 - d. be removed and recycled, reused, and/or disposed in accordance with all applicable federal, State and local agency requirements, if the Discharger ceases to operate the compost facility.

D.C. Specific Waiver Conditions for Compost Facilities

1. Facility Design and Management
 - a. Compost facilities must:
 - i. comply with any local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
 - ii. implement management measures (MMs) and/or best management practices (BMPs) to minimize or eliminate the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the State;
 - iii. maintain a minimum buffer zone, of at least 100 feet, between the wastes, additives, amendments, and compost (active or stabilized) areas and any surface water body unless sufficient information is provided to demonstrate that a proposed alternative buffer zone is protective of water quality; and
 - iv. contain a working surface to prevent, to the greatest extent possible, ponding, infiltration, inundation, erosion,

²⁶ A Notice of Intent to be submitted for enrollment in the Composting Facilities Waiver is located in Appendix A of Order No. R9-2014-0041.

²⁷ A Compost Facility Certification to be submitted for enrollment in the Composting Facilities Waiver is located in Appendix B of Order No. R9-2014-0041.

notwithstanding precipitation events, equipment movement, and other aspects of the composting facility operations.

- b. Compost facilities must be designed, constructed, and maintained to:
 - i. prevent to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout, notwithstanding precipitation events, equipment movement, and other aspects of the composting facility operations;
 - ii. prevent conditions of contamination, pollution, or nuisance resulting from the discharge of waste;
 - iii. manage/control all run-on, runoff, and precipitation which falls onto or within the boundaries of the compost facility, resulting from a 25-year, 24-hour storm event. In the event the volume of run-on, runoff, and/or precipitation exceeds the 25-years, 24-hour storm event, the composting facility must discharge the process storm water in a manner consistent with the current Regional Municipal Separate Storm Sewer System Storm Water NPDES Permit (Regional MS4 Permit),²⁸
 - iv. prevent wastes, additives, amendments, and/or compost (active or stabilized) from inundation by surface flows associated with the site-specific maximum peak flow from the 25-year, 24-hour storm event that may occur during the period of processing, storage, or treatment of wastes.
- c. Composting facility working surfaces must:
 - i. prevent ponding and impede vertical movement of liquid phase constituents of concern;
 - ii. allow all necessary equipment to operate, during all times of the year, without damage, or incapacitation of equipment;
- d. Composting facility evaporation ponds, used to manage leachate, process water, storm water, and wastewater must:
 - i. maintain at least two feet of freeboard at all times. Staff gauges must be installed to monitor water levels;
 - ii. prevent conditions contributing to, causing, or threatening to cause contamination, pollution, or nuisance.

²⁸ National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266

Waiver No. 6 – Discharges from Silvicultural Operations

A. Specific Findings for Discharges from Silvicultural Operations

1. Waiver No. 6 – Discharges from Silvicultural Operations (Silvicultural Waiver) – is for discharges that originate from forest lands, which contain pollutants that can percolate to groundwater or runoff to surface waters. Discharges from forest lands include discharges resulting from timber operations and forest land management activities, and storm water runoff which can also transport pollutants from forest lands to surface waters and groundwater.
2. The following types of discharge not regulated under WDRs may be eligible for the Silvicultural Waiver:
 - a. Discharges of storm water runoff,
 - b. Discharges from timber harvesting projects, and
 - c. Discharges from wildfire suppression and fuels management activities.
3. The US Forest Service (USFS) implements its Land Management Plan including the Design Criteria for the Southern California National Forests and Cleveland National Forest Strategy.
4. In order to be eligible for the Silvicultural Waiver, discharges must comply with both the general and specific conditions of this waiver.
5. Discharges from silvicultural operations that comply with the general and specific waiver conditions in the Silvicultural Waiver are not expected to pose a threat to the quality of the waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge from silvicultural operations, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Discharges from Silvicultural Operations

1. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of waters of the State.
2. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must comply with any federal, State, or local, permitting, licensing, or certification requirements and applicable regulations and ordinances.
3. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

C. Specific Waiver Conditions for Timber Operations on Federal Lands

1. The US Forest Service (USFS) must maintain:

- a. a water quality program consistent with the Basin Plan, and
 - b. a program to monitor the implementation and effectiveness of management measures (MMs) and/or best management practices (BMPs).
2. The USFS must provide the San Diego Water Board copies of the environmental and decision documents containing information documenting that a multi-disciplinary review of the timber harvest proposal has been conducted, and that the proposed MMs/BMPs and additional control measures will be implemented to protect water quality.
 3. The USFS must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.

D. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

1. Timber operations within 150 feet of existing structures (i.e., "FireSafe" treatments) that are conducted pursuant to a Notice of Exemption approved by the California Department of Forestry (CDF) are not required to provide notice to the San Diego Water Board, but must keep a copy of the approved Notice of Exemption for at least one year (from the approval date) on site for inspection.
2. For timber operations approved by the CDF pursuant to a Notice of Exemption or Notice of Emergency, a copy of the notice must be provided to the San Diego Water Board.
3. For timber operations with a Timber Harvest Plan (THP) or Non-industrial Timber Management Plan (NTMP) approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board.
4. Owners/operators of non-federal forest lands must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.

Waiver No. 7 – Discharges from Animal Operations

A. Specific Findings for Discharges from Animal Operations

1. Waiver No. 7 – Discharges from Animal Operations (Animal Operations Waiver) is for discharges from animal operations, which contain pollutants that can percolate to groundwater or runoff to surface waters. Discharges from animal operations include discharges resulting from animal activities and wastes, and storm water runoff which can also transport pollutants from animal operations to surface waters and groundwater.
2. The following types of discharge not regulated under WDRs may be eligible for the Animal Operations Waiver:
 - a. Discharges from small animal feeding operations (AFOs) (less than 300 animal units, where 1 animal unit is equivalent to one cow or 1,000 animal pounds);
 - b. Discharges from medium AFOs (300 to 999 animal units);
 - c. Discharges of storm water runoff;
 - d. Discharge/application of manure to soil as an amendment or mulch; and
 - e. Discharges from grazing lands.
3. In order to be eligible for the Animal Operations Waiver, discharges must comply with the general and specific conditions of this waiver.
4. Discharges from animal operations that comply with the general and specific waiver conditions in the Animal Operations Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge from animal operations, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Conditions for Discharges from Animal Operations

1. Discharges from animal operations may not be discharged unless the Discharger has submitted:
 - a. a complete NOI;²⁹ and
 - b. the first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 section 2200.
2. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.
3. Facility Design and Management

²⁹ A Notice of Intent required to be submitted for enrollment in the Animal Operations Waiver is located in Appendix A of Order No. R9-2014-0041

- a. Animal operations must comply with any local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
 - b. Animal operations must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
 - c. Animal operations must implement management measures (MMs) and/or best management practices (BMPs) to minimize or eliminate the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the State. Recommended MMs/BMPs are provided in *Equestrian-Related Waste Quality Best Management Practices* available from the County of San Diego Department of Agriculture, Weights and Measures, and/or the *Field Office Technical Guide* available from the Natural Resource Conservation Service (NRCS), or other sources.
 - d. Animal operations must prevent direct contact between animals and surface water bodies. Animals should not be allowed to graze directly adjacent to or within stream banks. Animal operations should maintain a buffer zone or riparian filter strip between the animals and any surface waters of the State. The buffer zone must adequately minimize the discharge of pollutants from an animal operation. There should be no direct exposure of a surface water body to an animal.
4. Manure Management
- a. Animal operations must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to any surface waters of the state (including ephemeral streams and vernal pools).
 - b. Animal operations must properly manage the wastes (i.e., manure, urine, soiled bedding) generated by the animals at the facility in accordance with the following:
 - i. Animal wastes must be collected and disposed of regularly (at least once every two weeks).
 - ii. Animal wastes can be stored temporarily (no longer than two weeks) on site until disposal, unless animal wastes are composted on site. The amount of animal wastes stored in a temporary storage area must not exceed the capacity of the storage area. If animal wastes exceed, or threaten to exceed the capacity of the temporary storage area, the animal wastes must be disposed of immediately.
 - iii. Areas adjacent to temporary storage area for animal wastes must be graded to prevent storm water and surface runoff from reaching the storage area.
 - iv. Temporary storage area must be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to groundwater.

- v. Temporary storage area must protected with a roof or cover, or at a minimum be covered with plastic sheeting if precipitation is forecast within the next 24 hours, to prevent direct contact between precipitation and animal wastes.
 - vi. A buffer zone of at least 100 feet must be maintained between the temporary storage area for animal wastes and any surface water body unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
 - vii. If animal wastes are used as a fertilizer, soil amendment, or mulch on grazing lands, application of animal wastes to soil must comply with the conditions specified in section B.4.c of the Animal Operations Waiver.
- c. Application of Manure from Animal Operations as a Fertilizer, Amendment, or Mulch to Soil
- i. Fresh and/or uncomposted manure, if applied as a fertilizer, amendment, or mulch to soil, manure must be applied to the same property where the manure was generated.
 - ii. Dried, processed, or composted manure may be applied as a fertilizer, amendment, or mulch to soil on sites other than the property where the manure was generated. Dried, processed, or composted manure may also be applied as a fertilizer, amendment, or mulch to soil on the same property where the manure was generated. Use of dried, processed, or composted manure on or off the property where the manure was generated must comply with the waiver conditions specified in section B.4.c of the Animal Operations Waiver.
 - iii. Manure applied to soil, must maintain a buffer zone of at least 100 feet between the manure applied to soil and any surface waters of the State, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
 - iv. Soil amendments or mulch materials applied to the soil must be applied in an amount:
 - (A) reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the wet weather season (October 1- April 30). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the wet weather season. Resources to calculate application rates are available from the NRCS, University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or

estimate of the application rate must be available on site for inspection.

(B) at site-specific rates appropriate to the season (i.e., dry vs. rainy).

v. Soil amendments or mulch material areas must implement MMs/BMPs to minimize or eliminate runoff and leachate to surface waters and groundwater.

C. Specific Conditions for Dischargers from Animal Operations

a. Small Animal Feeding Operations

i. Small AFOs must not discharge any pollutants to waters of the United States through any man-made conveyance, or directly to waters of the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

ii. Small AFOs must be operated and maintained in accordance with the regulations in Calif. Code Regs. title 27 sections 22562 through 22565.

b. Medium Animal Feeding Operations

i. Medium AFOs must not discharge any pollutants to waters of the United States through any man-made conveyance, or directly to waters of the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

ii. Medium AFOs must be operated and maintained in accordance with the regulations in Calif. Code Regs. title 27 sections 22562 through 22565.

iii. Medium AFO facility owners or operators must file a NOI with the San Diego Water Board containing, at a minimum, the following information:

(A) Property owner name and address

(B) AFO owner/operator name and address

(C) Number and types of animals

(D) Map of the AFO facility showing the locations of manure stockpiles, nearby surface water bodies, and/or water wells

(E) Description of existing and planned MMs/BMPs for the prevention of erosion and discharges of animal wastes that could affect the quality of waters of the State.

iv. In order to be eligible for the Animal Operations Waiver, Dischargers must provide sufficient information demonstrating compliance with general and specific waiver conditions in

order for the medium AFO facility to be eligible for the Animal Operations Waiver.

c. Grazing Operations

- i. Grazing operations must manage grazing fields to allow lands to revegetate and minimize topsoil erosion.
- ii. Owners of pasture and range lands used for grazing, must implement MMs/BMPs to minimize or eliminate any discharge that could adversely affect the quality or beneficial uses of waters of the state.

Waiver No. 8 – Discharges from Aquatic Animal Production Facilities

A. Specific Findings for Discharges from Aquatic Animal Production Facilities

1. Waiver No. 8 – Discharges from Aquatic Animal Production Facilities (Aquatic Animal Facility Waiver) is for discharges of wastewaters to waters of the United States and /or State from aquatic animal production facilities which are at production levels less than the Confined Aquatic Animal Production (CAAP) production thresholds.³⁰ For the purposes of the Aquatic Animal Facility Waiver, an aquatic animal production facility means a hatchery, fish farm, aquaculture or other facility that contains, grows, or holds aquatic animals in either of two categories: cold water species or warm water species. Discharges from aquatic animal production facilities may include elevated levels of suspended solids, biochemical oxygen demand, metals, and nutrients.
2. The following types of discharges not otherwise regulated or authorized under an NPDES Permit or WDRs may be eligible for the Aquatic Animal Facilities Waiver:
 - a. Wastewater discharges from facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) per year of cold water aquatic animal species if the feed is less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding; or
 - b. Wastewater discharges from facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) per year of warm water aquatic animal species.
3. In order to be eligible for the Aquatic Animal Production Facilities Waiver, discharges must comply with both the general and specific conditions of this waiver.
4. Discharges from aquatic animal production facilities that comply with the general and specific waiver conditions in the Aquatic Animal Production Facilities Waiver are not expected to pose a threat to the quality of waters of the United States and/or State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge from an aquatic animal production facility, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Aquatic Animal Production Facilities

1. Discharges of wastewater from aquatic animal production facilities must:
 - a. not cause or threaten to cause a condition of contamination, pollution, or nuisance.
 - b. not contain any substance, in concentrations toxic to animal or plant life.

³⁰ Title 40 Code of Federal Regulations (CFR) Part 122.24 and Appendix C to Title 40 CFR Part 122.

2. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

C. Specific Waiver Conditions for Aquatic Animal Production Facilities

1. Discharges eligible for enrollment in the Aquatic Animal Facilities Waiver must submit:
 - a. a complete NOI;³¹ and
 - b. the first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 section 2200.
2. The Discharger must use efficient feed and feeding strategies to limit feed input to the minimum amount reasonably necessary to achieve cold water and/or warm water species aquatic animal production goals and sustain targeted rates of aquatic animal growth.
3. The Discharger must:
 - a. Routinely inspect production systems and wastewater treatment systems to identify and promptly repair damage;
 - b. Regularly conduct maintenance of production systems and wastewater systems to ensure their proper function;
 - c. Ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills and discharge to waters of the United States and / or State.
 - d. Implement procedures for properly containing, cleaning and disposing of any spilled materials;
 - e. Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent discharge to waters of the United States/ and or State;
 - f. Train all relevant personnel in spill prevention and how to respond in the event of a spill to ensure proper clean-up and disposal of spilled material; and
 - g. Train all relevant personnel on proper operation and cleaning of production and wastewater treatment systems, including feeding procedures and proper use of equipment.
4. The Discharger must monitoring the influent water to the aquatic animal production facility for the parameters specified in Table No. 1, section of this waiver.

Table No. 1: Influent Monitoring Parameters

³¹ A Notice of Intent required to be submitted for enrollment in the Aquatic Animal Facilities Waiver is located in Appendix A of Order No. R9-2014-0041.

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹
Flowrate	MGD	Continuous	Daily
pH	NTU	Grab ²	Annual
Biochemical Oxygen Demand 5-day @ 20 °C	mg/L	24-hr composite ³	Annual
Temperature	°C	Grab ²	Annual

Table No. 1 (continued): Influent Monitoring Parameters

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹
Settleable Solids	ml/L	Grab ²	Annual
Total Suspended Solids	mg/L	24-hr composite ³	Annual
Ammonia, un-ionized	mg/L	24-hr composite ³	Annual
Total Nitrogen (as N)	mg/L	24-hr composite ³	Annual
Total Phosphorus	mg/L	24-hr composite ³	Annual
Total Recoverable Copper	µg/L	24-hr composite ³	Annual
Total Recoverable Zinc	µg/L	24-hr composite ³	Annual
Turbidity	NTU	24-hr composite ³	Annual

- All monitoring results are to be submitted with the annual report.
- A grab sample is an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.
- A composite sample is defined as a combination of at least eight sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a Facility over a 24-hour period. For volatile pollutants, aliquots must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquots may be collected manually or automatically.
- The Discharger must monitoring the effluent, at a location where a representative undiluted and unaltered sampled of the discharge from the facility can be collected prior to commingling with any other waste stream or body of water. Effluent monitoring must be conducted concurrently with the applications of antifoulants (when applicable). Effluent monitoring samples must be analyzed for the parameters specified in Table 2, section 0 of this waiver.

Table No.2 Effluent Monitoring Parameters

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹
Flowrate	MGD	Continuous	Daily
pH	NTU	Grab ²	Annual
Biochemical Oxygen Demand 5-day @ 20 °C	mg/L	24-hr composite ³	Annual
Temperature	°C	Grab ²	Annual
Settleable Solids	ml/L	Grab ²	Annual
Total Suspended Solids	mg/L	24-hr composite ³	Annual
Ammonia, un-ionized	mg/L	24-hr composite ³	Annual
Total Nitrogen (as N)	mg/L	24-hr composite ³	Annual
Total Phosphorus	mg/L	24-hr composite ³	Annual
Total Recoverable Copper	µg/L	24-hr composite ³	Annual
Total Recoverable Zinc	µg/L	24-hr composite ³	Annual
Turbidity	NTU	24-hr composite ³	Annual

1. All monitoring results are to be submitted with the annual report.
2. A grab sample is an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.
3. A composite sample is defined as a combination of at least eight sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a Facility over a 24-hour period. For volatile pollutants, aliquots must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquots may be collected manually or automatically
6. The Discharger must prepare and submit an annual report containing the following information:
 - a. The total pounds of food feed used during the calendar month of maximum feeding;
 - b. The species of cold and warm water fish or aquatic animals held at the Facility. For each species the total annual pounds of aquatic animal weight produced by the Facility must be reported as well as the maximum weight present during each calendar month;
 - c. Failures or significant mortalities at the Facility caused by contagious diseases that could be discharged and infect aquatic life in the receiving water;
 - d. Chemical names of all drugs, disinfectants, and other chemicals used at the Facility during the reporting period that could be discharged into the receiving water. This information must include the amounts and dates of application of drugs, disinfectants, and other chemicals. For drugs, disinfectants, and other chemicals used on a routine basis, the frequency of application may be reported instead of each date of application;
 - e. The annual report must include a tabulation, evaluation, and interpretation of the monitoring data and information, including interpretations and conclusions as to whether the facility operations, production levels and wastewater discharges are in compliance with the waiver conditions described in section 14 a and b above.
7. The San Diego Water Board may add additional monitoring requirements or increase monitoring frequency as deemed necessary to ensure protection of water quality and beneficial uses in the receiving water.
8. The San Diego Water Board may require a Discharger to apply for and obtain separate WDRs or NPDES permit if it determines the discharge is a significant source of pollutants to waters of the United States and /or State.
9. The Discharger must submit the annual report to the San Diego Water Board no later than 5:00 PM on February 1st of each year (or next subsequent immediate business day, if falling on a weekend or state-observed holiday).
10. Any person signing a document under this section must make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the

information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Waiver No. 9 – Discharges of Slurries to Land

A. Specific Findings for Discharges of Slurries to Land

1. Waiver No. 9 – Discharges of Slurries to Land (Slurry Waiver) is for discharges of slurries to land, which may be a source of pollutants that can adversely affect the quality of waters of the State. A slurry typically consists of water and some material to form a liquid mixture.
2. The following types of discharge not regulated under WDRs may be eligible for the Slurry Waiver:
 - a. Discharges of drilling muds to land
 - b. Discharges of concrete grinding residues to land
 - c. Discharges of slurries from sand and gravel mining operations to land
3. In order to be eligible for the Slurry Waiver, discharges must comply with the both the general and specific conditions of this waiver.
4. Discharges of slurries to land that comply with the general and specific waiver conditions in the Slurry Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge slurries to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Slurries Discharged to Land

1. Slurries discharged to lands must:
 - a. not directly or indirectly discharge into any surface waters of the State (including ephemeral streams and vernal pools);
 - b. be contained to eliminate the potential for runoff from the site;
 - c. not contain any toxic or hazardous constituents; and
 - d. not adversely affect the quality or beneficial uses of underlying groundwater;
 - e. be removed and disposed of at an appropriate disposal facility prior to restoring the storage area or sump to pre-discharge conditions.
2. For slurries discharged to land for storage, the storage area or sump must:
 - a. be designed to be fully contained and ensure no overflow during discharge with at least 2 feet of freeboard;
 - b. be at least 5 feet above the highest known historical or anticipated groundwater level;
 - c. ~~be at least 100 feet away from any surface water body or municipal water well;~~ and
 - d. be filled in and restored to pre-discharge conditions, if no longer in use.

3. Dischargers eligible for enrollment in the Slurry Waiver must submit a NOI.³²
4. Discharger must submit a technical and/or monitoring program reports when directed by the San Diego Water Board.

C. Specific Waiver Conditions for Discharge of Drilling Muds

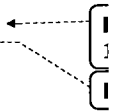
1. Drilling mud cannot be from borings advanced for a soil or groundwater contamination investigation or cleanup.

D. Specific Waiver Conditions for Discharge of Concrete Grinding Wastes

1. None

D.E. Specific Waiver Conditions for the Discharge of Slurries from Sand and Gravel Mining Operations

1. The Discharger must be enrolled in and in compliance with the Industrial Storm Water General Permit Order 97-03-DWQ or any subsequently adopted Industrial Storm Water General Permit. Requirements contained within the Industrial Storm Water General Permit supersede all the surface water requirements set forth in these waiver conditions for Slurries Discharged to Land.
2. The Discharger must comply with any applicable requirements imposed by State and local agencies responsible for ensuring compliance with the NPDES Permit and Waste Discharge Requirements for Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region.³³
- 2.3. For slurries discharged to land for storage, the storage area or sump must be at least 100 feet away from any surface water body or municipal water well.



³² A Notice of Intent required to be submitted for enrollment in the Slurries Waiver is located in Appendix A of Order No. R9-2014-0041.

³³ National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266

Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land.

A. Specific Findings for Discharges/Disposal of Solid Wastes to Land

1. Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land (Solid Waste Waiver) is for discharges of solid wastes to land, which may be a source of pollutants that can adversely affect the quality of waters of the State.
2. The following types of discharge not regulated under WDRs may be eligible for the Solid Waste Waiver:
 - a. Discharges of plant crop residues to land;
 - b. Discharges/application of amendments and/or mulches to soil that contain any of the additives contained in section C.2.b.;
 - c. Discharges of soils containing wastes to temporary waste piles~~Discharges/disposal of inert wastes to solid waste disposal facilities only accepting inert wastes;~~
 - d. Discharges/disposal of inert wastes to solid waste disposal facilities only accepting inert wastes ~~Discharges of soils containing wastes to temporary waste piles;~~ and
 - e. Discharges/disposal/reuse of soils characterized as inert from known contaminated sites to land.
3. In order to be eligible for the Solid Waste Waiver, discharges must comply with both the general and specific conditions of this waiver.
4. Discharges of solid wastes to land that comply with the general and specific waiver conditions in the Solid Waste Waiver are not expected to pose a threat to the quality of waters of the State.
- 4.5. Application of amendments and/or mulches that do not contain the additives identified in section C.2.b. are conditionally exempt from Waste Discharge Requirements (WDRs) and waivers from WDRs

IT IS HEREBY ORDERED, that any Discharger proposing to discharge solid wastes to land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements.

B. General Waiver Conditions for Discharges/Disposal of Solid Wastes to Land.

1. Discharges/Disposal of solid wastes to land must:
 - a. not be allowed to directly or indirectly discharge to any surface waters of the State (including ephemeral streams and vernal pools);and
 - b. not cause or threaten to cause a condition of contamination, pollution, or nuisance;.
2. Discharge operations/facilities accepting and/or discharging solid wastes to land must:
 - a. comply with local, State, and federal ordinances and regulations and obtain any required permits, certifications, and/or licenses;

- b. minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of waters of the State; and
 - c. allow the San Diego Water Board and/or other local regulatory agencies reasonable access to the site in order to perform inspections and conduct monitoring.
3. Discharges eligible for enrollment in the Solid Waste Waiver must submit a complete NOI-³⁴, when required in the Specific Waiver Conditions.
4. Discharger must submit a technical and/or monitoring program reports when directed by the San Diego Water Board.

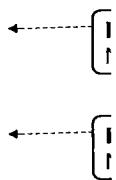
C. Specific Waiver Conditions for Discharges/Disposal of Solid Wastes to Land

1. Discharges of Plant Crop Residues to Land

a. None.

4.2. Discharge of Amendments and Mulches to Soil.

- a. Amendments or mulches applied to soil ~~that cannot~~ include any of the following additives must file an NOI with, ~~unless~~ sufficient information is ~~provided in the NOI~~ to demonstrate that the waste does not pose a potential threat to water quality:
 - i. municipal solid wastes;
 - ii. sludges, including sewage sludge, water treatment sludge, and industrial sludge;
 - iii. septage;
 - iv. liquid wastes;
 - v. oil and grease; and
 - vi. hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
- b. Soil amendments or mulch materials eligible to be applied to soil, the amount must be reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the wet weather season (October 1 – April 30). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the wet weather season. Resources are available from the Natural Resource Conservation Service (NRCS), University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or



³⁴ A Notice of Intent required to be submitted for enrollment in the Solid Waste Waiver is located in Appendix A of Order No. R9-2014-0041

estimate of the application rate must be available on site for inspection.

- c. Soil amendments or mulch materials to soil must be applied at site-specific rates appropriate to the season (i.e., dry vs. rainy).
- d. Soil amendments or mulch materials must implement MMs/BMPs to minimize or eliminate runoff and leachate to surface waters and groundwater.

2.3. Discharge of Soils Containing Wastes to Temporary Waste Piles.

- a. For **any soils containing wastes** temporarily stored in waste piles, the following conditions apply:
 - i. The Discharger must submit:
 - (A) a complete NOI and Temporary Waste Pile Certification form, section A,³⁵ within 30 days of the initial discharge of any waste piles to be eligible for this waiver. The property owner must approve and acknowledge the placement of the waste at the site.
 - (B) the first annual fee. The amount of the annual fee will be determined by the San Diego Water Board, in accordance with Water Code sections 13269(a)(4) and 13260, and the fee schedule for *Discharges to Land or Surface Waters* promulgated in Calif. Code Regs. title 23 sections 2200.
 - (C) a complete Temporary Waste Pile Certification form, section B,³⁶ within 10 working days of completing removal of all waste and restoring the site to its original condition.
 - ii. The Discharger, unless otherwise specified in the applicable conditions of this waiver, must not allow temporary waste piles to remain on a site for longer than 6 months or 180 days, whichever is longer.
 - iii. The temporary discharge of waste must not cause:
 - (A) the occurrence of coliform or pathogenic organisms in waters pumped from the hydrologic basin;
 - (B) the occurrence of objectionable tastes and odors in water pumped from the hydrologic basin;
 - (C) waters pumped from the hydrologic basin to foam;
 - (D) the presence of toxic materials in waters pumped from the hydrologic basin;

³⁵ The Temporary Waste Pile Certification required for compliance with the Solid Waste Waiver is located in Appendix C of Order No. R9-2014-0041.

³⁶ The Temporary Waste Pile Certification required for compliance with the Solid Waste Waiver is located in Appendix C of Order No. R9-2014-0041.

- (E) the pH of waters pumped from the hydrologic basin to fall below 6.0 or rise above 9.0;
 - (F) pollution, contamination or nuisance or adversely affect the quality or beneficial uses of groundwater or surface waters of the hydrologic subareas established in the Basin Plan; and/or,
 - (G) a violation of any discharge prohibitions in the Basin Plan for the San Diego Region.
- iv. The Discharger must conduct regular inspections of temporary waste piles and associated MMs/BMPs at least once per week. Corrective actions must be taken as necessary to ensure compliance with the conditions of this waiver.
 - v. Surface drainage must be diverted away from the temporary waste piles. For all temporary waste piles, the discharger must implement effective MMs/BMPs to prevent surface water runoff and runoff from contacting wastes, and to prevent erosion and transport of wastes by surface runoff.
 - vi. Temporary waste piles must be
 - (A) placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from any surface water of the State, unless sufficient information is provided in the NOI, to demonstrate that a proposed alternative is protective of water quality;
 - (B) protected against 100-year peak stream flows as defined by the county flood control agency;
 - (C) covered by plastic sheeting (not less than 10 mils thick, unless otherwise specified under the applicable Special Conditions) to adequately prevent rainwater infiltration, control fugitive dust, and prevent other nuisances; and
 - (D) underlain by either plastic sheeting (not less than 10 mils thick, unless otherwise specified under the applicable conditions) or a liner of low permeability that will prevent leachate from infiltrating to groundwater.
 - vii. Solid wastes discharged to temporary waste piles, together with any containment materials used at the temporary waste pile, and any underlying geologic materials impacted by the discharge, must be removed within 6 months or 180 days (whichever is longer), unless otherwise specified under the applicable Special Conditions. Subsequently, the discharger must remove all wastes, treatment facilities, and related equipment, and dispose of those items in accordance with applicable regulations. The site must be restored to its original state within 30 days after the temporary waste pile is removed,

unless otherwise specified under the applicable Special Conditions.

- viii. The discharger must post at least one clearly visible sign listing the following minimum information:
 - (A) project name,
 - (B) name and address of discharger,
 - (C) brief project description, and
 - (D) 24-hour contact information – name, address, facsimile, and telephone number for the project for as long as the temporary waste pile remains on the site.

- b. For **soils containing petroleum hydrocarbons** temporarily stored in waste piles, the following conditions apply:
 - i. Soils and associated solid waste containing petroleum hydrocarbons discharged into temporary waste piles must be limited to a maximum time period of 3 months or 90 days on a site.
 - ii. Soils and associated solid waste containing petroleum hydrocarbons discharged into temporary waste piles under an initial certification report must be derived from only one source (e.g., one unauthorized release site).
 - iii. Temporary waste piles must be covered by plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and prevent other nuisances.
 - iv. Temporary waste piles must be underlain by either plastic sheeting (not less than 10 mils thick) or a liner of low permeability that will prevent leachate from infiltrating to groundwater.
 - v. In addition to the conditions stated herein, temporary waste piles must conform to applicable provisions of ordinances and regulations issued by the local regulatory agencies for Orange, Riverside, or San Diego Counties.
 - vi. The site must be restored to its original state within 30 days after removal of the temporary waste pile from the site.

- c. For **dredged spoils containing heavy metals** temporarily stored in waste piles, the following conditions apply:
 - i. Dredged spoils and associated solid waste containing heavy metals discharged into temporary waste piles must be limited to a maximum time period of 9 months or 270 days on a site, whichever is longer.
 - ii. Temporary waste piles must be covered by either a plastic sheeting to adequately prevent rainwater infiltration, control fugitive dust, and prevent other nuisances. Alternative control

methods may be utilized if sufficient information is provided in the NOI to demonstrate that the proposed alternative is protective of water quality and human health.

- iii. Temporary waste piles must be underlain by plastic sheeting (not less than 20 mils thick) or a liner of lower permeability that will prevent leachate from infiltrating to groundwater. Sufficient information must be provided in the NOI demonstrating that the liner and containment facility has been designed to contain all solid wastes and fluids.
- iv. Materials used in containment structures must have the appropriate chemical and physical properties to ensure that such structures do not fail to contain waste because of: the stress of installation, pressure gradients, physical contact with the waste or leachate, or chemical reactions with soil and rock.
- v. The site must be restored to its original state within 60 days after removal of the temporary waste pile from the site.

d.4. Solid Waste Disposal Facilities Accepting Only Inert Wastes.³⁷

i.a. Inert solid waste must not contain hazardous waste, or soluble or decomposable constituents.

ii.b. Inert solid waste cannot contain any "free liquids."³⁸

iii.c. Owner/operator of disposal facility must secure the disposal site and prevent unauthorized disposal by the public.

iv.d. Inert solid wastes exclude any wastes determined by the San Diego Water Board to potentially have an adverse effect on the quality or beneficial uses of waters of the State, even if classified as inert waste.

e.5. Discharge/Reuse of Inert Soils and Materials from Contaminated Sites.

- i. For **all waste soils characterized as inert (Tier 1 or Tier 2)**, the following conditions apply:
 - (A) Inert waste soils from known contaminated sites cannot be transported off site and discharged/disposed/reused directly or indirectly to any surface waters of the State (including ephemeral streams and vernal pools).
 - (B) Inert waste soils from known contaminated sites cannot contain significant quantities of decomposable wastes, refuse, or trash.
 - (C) Inert waste soils from known contaminated sites cannot contain any "free liquids."³⁹

³⁷ According to Calif. Code Regs title 27 section 20230(a) "Inert waste" is defined as "that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste."

³⁸ "Free liquids" defined by Calif. Code Regs title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure."

- (D) Inert waste soils that are discharged/disposed/reused at any site cannot have any hydrocarbon, chlorinated solvent, or other contaminant-based odor.
 - (E) Sites that export or import soils characterized as inert from known contaminated sites for use as fill material or any other purpose must comply with any applicable federal, State, or local permitting requirements, regulations, and/or ordinances pertaining to the use of imported soil.
 - (F) Sites that export or import soils characterized as inert from known contaminated sites for use as fill material or any other purpose must implement MMs/BMPs to eliminate the potential for erosion and transport of sediment off the site.
 - (G) This waiver does not authorize the discharge/disposal/reuse of soil characterized as inert from known contaminated sites outside the boundaries of the San Diego Region.
 - (H) Prior to exporting soil characterized as inert from a known contaminated site, the owner/operator of the export site must file a NOI⁴⁰ with the San Diego Water Board. The NOI must:
 - (1) be filed no less than 5 working days prior to the beginning of export shipments; and
 - (2) include a map of the site showing the locations of excavations, borings and/or stockpiles, MMs/BMPs that will be taken to prevent discharges of waste soil that could affect surface water and groundwater quality, estimated volumes (can be a range of volumes) of inert waste soil that will be generated for use off the site, estimated number (can be a range) and locations of samples that will be collected for characterization, and name of the certified environmental analytical laboratory that will perform the analysis.
- ii. Waste soils from a site with a known or discovered unauthorized release must be characterized and certified as inert in order for the soil to be reused off site. Characterization and certification must include the following minimum requirements:

³⁹ "Free liquids" defined by Calif. Code Regs title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure."

⁴⁰ A Notice of Intent required to be submitted for enrollment in the Solid Waste Waiver is located in Appendix A of Order No. R9-2014-0041.

- (A) All temporary waste piles of soils generated during remediation or corrective action must be managed in accordance with the waiver conditions for the discharge of specified soils containing wastes to temporary waste piles. Or, waste soils may be sampled and characterized in-situ prior to transport and disposal or reuse off site
- (B) Waste soil must be segregated into 2 categories:
 - (1) Soil that is impacted by the unauthorized release must be characterized as hazardous, designated, and/or non-hazardous waste and handled in accordance with regulatory requirements for the disposal of solid wastes. Waste soils that do not visually appear impacted, but have detectable odors, must be treated as impacted soil and cannot be characterized as inert.
 - (2) Soil that does not appear to be impacted by the unauthorized release by visual inspection and odor must be sampled and analyzed to confirm the soil can be characterized as inert waste soil.
- (C) Samples must be collected from the waste soil suspected to be inert for laboratory analysis. The minimum number of samples required to characterize the soil are specified in Table No. 1 of the Solid Waste Waiver.

Table No. 1: Sample Analysis Required

Volume of Soil	Required Number of Samples Analyzed
0 to <500 cy	4 samples per 100 cy (12 minimum)
500 to <5,000 cy	4 samples plus 1 additional sample for every additional 25 cy over per additional 500 cy
500 cy to <5,000 cy	20 samples plus 1 sample for every additional 500 cy over 500 cy
5,000 cy or more	29 samples plus 1 sample for every additional 1,000cy over 5,000cy 1 additional sample per additional 1,000 cy ⁴¹

- (D) Samples must be analyzed by a State-certified analytical laboratory using USEPA approved analytical methods for the following constituents:
 - (1) Total concentrations of those Calif. Code Regs title 22 metals identified as contaminants of

⁴¹ Volumes greater than 10,000 cubic yards (cy) may rely on fewer samples than 1 per each additional 1,000 cy if characterization complies with SW846 methods for selecting appropriate numbers of samples for waste characterization and statistical analyses. The appropriate number of samples is the least number of samples required to generate a sufficiently representative estimate of the true mean concentration of a chemical contaminant of a waste.

concern for the export site. For sites identified with burn ash⁴², the site must be investigated and the burn ash must be characterized for disposal purposes according to the protocol established by the lead regulatory agency (e.g., Department of Toxic Substances Control, California Department of Resources Recycling and Recovery, or others) to identify contaminants of concern at the site. The soil outside of the area of impact of the burn ash must be tested for the total concentration of those metals identified as contaminants of concern based on the findings of the burn ash investigation technical study.

- (2) Total petroleum hydrocarbons (by USEPA Method 8015 – full scan if export site includes oil or fuel as potential or actual contaminants of concern).
 - (3) Polychlorinated biphenyls (if export site includes PCBs as potential or actual contaminants of concern)
 - (4) Volatile and semi-volatile organic compounds (if export site includes volatile and semi-volatile organic compounds as potential or actual contaminants of concern)
 - (5) Pesticides (if export site includes a known agricultural area, or pesticides as potential or actual contaminants of concern)
 - (6) Other constituents (if contaminated portion of the export site is found to contain other pollutants or contaminants)
- (E) For detected concentrations of constituents (as defined in section C.5.ii(D)(6)~~C.2.e.ii(D)(6)~~ of this waiver) other than Calif. Code Regs title 22 metals, a representative number of soil samples must also be analyzed by a State-certified analytical laboratory using a zero headspace extractor and the Synthetic Precipitation Leaching Procedure (SPLP).⁴³
- (F) If analytical results indicate leachable detectable concentrations of constituents, the NOI must also explain why the wastes qualify as inert waste under Calif. Code Regs. title 27, section 20230.

⁴² For the purposes of the Solid Waste Waiver, "burn ash" sites are those where solid waste has been burned at low temperature and the residual burn ash pits and burn ash layers are present in soil.

⁴³ See USEPA SW846 methods, EPA Method 1312 (Synthetic Precipitation Leaching Procedure – SPLP), available online at: <http://www.epa.gov/osw/hazard/testmethods/sw846/online/>.

- iii. For reuse of **Tier 1 inert waste soils (full unrestricted reuse within the San Diego Region)**, the following conditions apply:
- (A) Soil cannot contain any detectable concentrations of contaminants other than Calif. Code Regs title 22 metals, or leachable concentrations of constituents that do qualify under the definition of “inert waste” specified in Calif. Code Regs title 27, section 20230. If analytical results indicate leachable detectable concentrations (see sections C.5.ii(E)C.2.e.ii(E) and C.5.ii(F)C.2.e.ii(F) of this waiver) of constituents the NOI must also explain why the wastes qualify as inert waste under Calif. Code Regs. title 27, section 20230.
 - (B) For those Calif. Code Regs title 22 metals that have been identified as contaminants of concern for the export Site, samples must be analyzed by an SW846 method using the reporting limits set forth in Table No. 2 below. From these data, the 90 percent upper confidence level (UCL) must be determined. Prior to calculating the 90 percent UCL, the discharger must determine whether the sample set is normally, log-normally or non-normally distributed. If log-normally distributed, one must determine the 90 percent UCL on the log-normal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90 percent UCL on the median (50th percentile), instead of the mean. See USEPA SW846 Chapter 9 and the USEPA Guidance for Data Quality Assessment for a discussion of waste characterization and statistical analysis; in particular the guidance on testing for normality, calculating a 90 percent UCL, and handling of non-detected values.⁴⁴
 - (C) For those Calif. Code Regs title 22 metals that have been analyzed in accordance with section C.5.iii(B)C.2.e.iii(B) of this waiver, must be equal to or less than the concentrations provided in Table No. 2, section C.5.iiiC.2.e.iii of this waiver.
 - (D) An Inert Waste Certification must be filed with the San Diego Water Board by the owner/operator of the export site within 30 days following completion of export activities. The Inert Waste Certification must include the following information:
 - (1) Generator name and contact information.

⁴⁴ See U.S. Environmental Protection Agency, Office of Solid Waste. 1986. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods; <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/chap9.pdf>; and USEPA 2002, RCRA Waste Sampling Draft Technical Guidance, EPA 530-D-02-002 (Appendix F). Office of Solid Waste.

- (2) Export site location, owner name and contact information.
- (3) Map of the export site showing the location of the excavation, borings, stockpiles, and/or samples collected.
- (4) Approximate volume of inert waste soil exported from the site.
- (5) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
- (6) Laboratory analytical data, including number of samples collected, USEPA approved analytical methods used, the 90 percent UCL of the data for the contaminants of concern, and name of certified environmental analytical laboratory that performed the analysis.
- (7) The export site owner, principal executive officer, or authorized representative, and a California licensed professional engineer or geologist must sign and certify the Inert Waste Certification. The Inert Waste Certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

Table No. 2: Tier 1 Soil Screening Levels

Calif. Code Regs Title 22 Metals	Inert Waste Target ^f (mg/kg)	Residential CHHSL ^b (mg/kg)	e-PRG ^e (mg/kg)	Background ^d Mean (mg/kg)	Tier 1 SSL ^g (mg/kg)
Antimony	6.0	30	5.0	0.60	5.0
Arsenic	50	0.07	9.9	3.5g	3.5
Barium	1,000	5,200	283	509	509
Beryllium	4.0	150	10	1.28	4.0
Cadmium	5.0	1.7	4.0	0.36	1.7
Chromium, Total	50	NA	0.4	122	50
Chromium, Hexavalent	50	17	NA	NA	17
Cobalt	NA	660	20	14.9	20

Copper	1,300	3,000	60	28.7	60
Lead	15	150	40.5	23.9	15
Mercury	2.0	18	0.00051	0.26	0.26
Molybdenum	NA	380	2.0	1.3	2.0
Nickel	100	1,600	30	57	57
Selenium	50	380	0.21	0.058	0.21
Silver	NA	380	2.0	0.80	2.0
Thallium	2.0	5.0	1.0	0.56	1.0
Vanadium	50	530	2.0	112	50
Zinc	NA	23,000	8.5	149	149

- ^a Calculated using Central Valley Water Board Designated Level Methodology, where the Water Quality Goal is the lower value of the federal or State drinking water primary maximum contaminant level, the Environmental Attenuation Factor is 10, and the Leachability Factor is 100.
- ^b Values taken from the California Environmental Protection Agency's *Use of California Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties* (CalEPA 2005).
- ^c Taken from Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymsen, et al 1997)
- ^d Taken from Kearney Foundation of Soil Science Division of Agriculture and Natural Resources, University of California *Background Concentrations of Trace and Major Elements in California Soil – Special Report* (Bradford, et al 1996).
- ^e Tier 1 Soil Screening Level for inert waste soils that can be reused without restriction. Tier I SSLs selected based on the following steps: Step 1) Select lower value of Residential CHHSL or e-PRG; Step 2) Select lower value of Step 1 or Inert Waste Target; and, Step 3) Select higher value of Step 2 and Arithmetic Mean Background.
- ^f These values are not intended to provide cleanup levels for soil remaining on-site. Such values should be established based on the contaminants of concern, the site use, and in conjunction with the regulatory agency providing oversight for the remediation effort.
- ^{f-g} The background mean concentration for arsenic is the site specific background concentration at the reuse site.

iv. For reuse of **Tier 2 inert waste soils (only for commercial or industrial development purposes within the San Diego Region)**, the following conditions apply:

- (A) Soil should not contain any detectable concentrations of contaminants other than Calif. Code Regs title 22 metals, or leachable concentrations of constituents that do not qualify under the definition of "inert waste" specified in Calif. Code Regs title 27, section 20230. If analytical results indicate leachable detectable concentrations (see sections C.5.ii(E)C.2.e.ii(E) and C.5.ii(F)C.2.e.ii(F) of this waiver) of constituents, the NOI must also explain why the wastes qualify as inert waste under Calif. Code Regs. title 27, section 20230.
- (B) Samples must be analyzed by an SW846 method using the reporting limits set forth in Table No. 3 below. From these data, the 90 percent UCL must be determined. Prior to calculating the 90 percent UCL, the discharger must determine whether the sample set is normally, log-

normally or non-normally distributed. If log-normally distributed, one must determine the 90 percent UCL on the log-normal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90 percent UCL on the median (50th percentile), instead of the mean. See USEPA SW846 Chapter 9 and the USEPA Guidance for Data Quality Assessment for a discussion of waste characterization and statistical analysis; in particular the guidance on testing for normality, calculating a 90 percent UCL, and handling of non-detected values.⁴⁵

- (C) For those Calif. Code Regs title 22 metals that have been analyzed in accordance with section C.5.iv(B)C-2.e.iv(B) of this waiver, must be equal to or less than the concentrations provided in Table No. 3, section C.5.ivC-2.e.iv of this waiver.

Table No. 3: Tier 2 Soil Screening Levels

Pollutant	Inert Waste Target ^a (mg/kg)	Industrial CHHSL ^b (mg/kg)	Background ^c		TTLC ^d	Tier 2 SSL ^{e,f} (mg/kg)
			Max (mg/kg)	½ Max (mg/kg)		
Antimony	6.0	380	1.95	0.98	500	6.0
Arsenic	50	0.24	11	5.5	500	5.5
Barium	1,000	3,000	1,400	700	10,000	1,000
Beryllium	4.0	1,700	2.7	1.4	75	4
Cadmium	5.0	7.5	1.70	0.85	100	5
Chromium, Total	50	100,000	1,579	790	2,500	790
Cobalt	NA	3,200	46.9	23.5	8,000	3,200
Copper	1,300	38,000	96.4	48.2	2,500	1,300
Lead	15	3,500	97.1	48.6	1,000	49
Mercury	2.0	180	0.90	0.45	20	2
Molybdenum	NA	4,800	9.6	4.8	3,500	3,500*
Nickel	100	16,000	509	255	2,000	255
Selenium	50	4,800	0.43	0.22	100	50
Silver	NA	4,800	8.30	4.2	500	500*
Thallium	2.0	63	1.10	0.55	700	2
Vanadium	50	6,700	288	144	2,400	144
Zinc	NA	100,000	236	118	5,000	5,000*

* None of the analytical results from any samples collected to characterize the waste soil can exceed the Tier 2 Soil Screening Level for this pollutant.

^a Calculated using Central Valley Water Board Designated Level Methodology, where the Water Quality Goal is the lower value of the Federal or State drinking water primary maximum contaminant level, the Environmental Attenuation Factor is 10, and the Leachability Factor is 100.

⁴⁵ See U.S. Environmental Protection Agency, Office of Solid Waste. 1986. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods; <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/chap9.pdf>; and USEPA 2002, RCRA Waste Sampling Draft Technical Guidance, EPA 530-D-02-002 (Appendix F). Office of Solid Waste.

- ^b Values taken from the California Environmental Protection Agency's *Use of California Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties* (CalEPA 2005).
- ^c Taken from Kearney Foundation of Soil Science Division of Agriculture and Natural Resources, University of California *Background Concentrations of Trace and Major Elements in California Soil – Special Report* (Bradford, et al 1996).
- ^d Total Threshold Limit Concentration. Concentrations above the TTLC would be classified as hazardous waste.
- ^e Tier 2 Soil Screening Level for inert waste soils that can be reused only for commercial or industrial land use designation. Tier II SSLs selected based on the following steps: Step 1) Select lower value of Industrial CHHSL or Inert Waste Target; Step 2) Select higher value of Step 1 or ½ Maximum Background; and, Step 3) Select lower value of Step 2 and Total Threshold Limit Concentration.
- ^f These values are not intended to provide clean up levels for soil remaining on-site. Such values should be established based on the contaminants of concern, the site use, and in conjunction with the regulatory agency providing oversight for the remediation effort.

(D) An Inert Waste Certification must be filed with the San Diego Water Board by the owner/operator of the export site within 30 days following export and placement of the soil. The Inert Waste Certification must include the following information:

- (1) Generator name and contact information.
- (2) Export site location, owner name and contact information.
- (3) Approximate volume of inert waste soil exported from the site.
- (4) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
- (5) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used the 90 percent UCL of the data for the contaminants of concern, and name of certified environmental analytical laboratory performing analysis.
- (6) Import site owner name and contact information, with a map of the site location showing nearby surface water bodies, approximate depth to groundwater, and BMPs that will be implemented to eliminate the potential for discharge of inert waste soils to surface waters.
- (7) The import site owner, principal executive officer, or authorized representative must provide a signature acknowledging the receipt or planned receipt of the inert waste soil.

- (8) The export site owner, principal executive officer, or authorized representative, and a California licensed professional engineer or geologist must sign and certify the Inert Waste Certification. The Inert Waste Certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- v. Tier 2 inert waste soil reused at commercial or industrial development sites must comply with the following conditions:
- (A) Tier 2 inert waste soil may only be reused on commercial or industrial sites. It may not be reused at residential, school, or park sites.
 - (B) Tier 2 inert waste soil must be placed at least 5 feet above the highest historically known or anticipated level of groundwater. The soil that separates the inert waste soil from groundwater must have a clay content greater than 5 percent clay material or an in-situ permeability of less than 10^{-5} cm/sec.
 - (C) Tier 2 inert waste must be placed at least 100 feet from the nearest surface water body.
 - (D) Tier 2 inert waste must be protected against 100-year peak stream flows as defined by the County flood control agency.
 - (E) Tier 2 inert waste must be covered by either:
 - (1) engineered materials such as used as road base, fill beneath buildings, bridge abutments), or
 - (2) not less than 2 feet of noncontaminated, clean fill.

The cover must have a permeability of no more than 10^{-5} cm/sec. Placement of a cover on the inert waste soils must be completed with 30 days of discharging the final load of inert waste soils at the import site.

Waiver No. 11 – Aerially Discharged Wastes Overland

A. Specific Findings for Aerially Discharged Wastes Overland.

1. Waiver No. 11 – Aerially Discharged Wastes Overland (Aerial Waste Waiver) is for discharges of wastes that have been discharged aerially over land, which may be a source of pollutants that can adversely affect the quality of waters of the State.
2. The following types of discharge not regulated under WDRs may be eligible for the Aerial Waste Waiver:
 - a. Discharges of wastes related to fireworks displays over land; and
 - b. Other periodic aerial discharges of wastes over land that may adversely affect the quality of the waters of the State, but determined to be “low threat” by the San Diego Water Board.
3. In order to be eligible for the Aerial Waste Waiver, discharges must comply with both the general and specific conditions of the Aerial Waste Waiver.
4. Wastes discharged aerially over land that comply with both the general and specific waiver conditions in the Aerial Waste Waiver are not expected to pose a threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to aerially discharge waste over land, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements

B. General Conditions for Aerially Discharged Wastes Over Land

1. Aerially discharged wastes cannot be discharged directly over and/or into surface waters of the State (including ephemeral streams and vernal pools).
2. Aerially discharged wastes must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Aerially discharged wastes must not impact the quality of groundwater in any water wells or surface water in any drinking water reservoirs.
4. Dischargers must comply with any local, State, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
5. Discharger must submit a complete NOI.⁴⁶
6. Dischargers must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

C. Specific Conditions for Discharges of Waste Related to Fireworks Displays Over Land

1. No more than one fireworks display may be conducted from a launch site or within 1.0 mile of another launch site within a 48-hour period.⁴⁷ If the

⁴⁶ A Notice of Intent required to be submitted for enrollment in the Aerial Waste Waiver is located in Appendix A of Order No. R9-2014-0041.

⁴⁷ This condition is intended to alleviate spatial and temporal accumulation of fireworks-related chemical contaminants.

organizer will have more than one fireworks display within a 48-hour period, the organizer must file a NOI containing information about the fireworks to be used, location of launch area and nearby water bodies and groundwater basins, surrounding land uses, planned period of and frequency of discharge, copies of any permits obtained from other public agencies, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect surface water and groundwater quality. Sufficient information must be submitted before the discharge may begin.

2. All fireworks-related debris must be cleaned up from land surface areas.
3. Launch areas and deposition areas of fireworks displays may not be located within areas designated as Zone A for groundwater source area protection, as defined by the California Department of Public Health's (CDPH's) Drinking Water Source Assessment Protection (DWSAP) Program. This condition may be waived if the owner or operator of a groundwater drinking water source, through a permit, specifically allows the fireworks display launch area and/or deposition area within an area designated as Zone A for groundwater source area protection.
4. Launch areas and deposition areas of fireworks displays may not be located within areas designated as Zone A for surface water source protection, as defined by the CDPH's DWSAP Program. This condition may be waived if the owner or operator of a surface water source reservoir or intake structure, through a permit, specifically allows the fireworks display launch area and/or deposition area within an area designated as Zone A for surface water protection.
5. The fireworks display must be permitted by all relevant public agencies that require permits for fireworks displays (e.g., fire departments, municipal governments, law enforcement, water supply agencies). Copies of any permits must be available on site for inspection.
6. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

D. Specific Conditions for Other Periodic Aerial Discharges of Wastes Over Land that may Adversely Affect the Quality of the Waters of the State, but Determined to be "Low Threat" by the San Diego Water Board.

6.1. None.



Waiver No. 12 – Discharges of Emergency/Disaster Related Wastes

A. Specific Findings for Discharges of Emergency/Disaster Related Wastes

1. Waiver No. 12 – Discharges of Emergency/Disaster Related Wastes (Emergency Waste Waiver) is for discharges of wastes resulting from an emergency or disaster, which may be a source of pollutants that can adversely affect the quality of waters of the State.
2. The following types of discharge not regulated under WDRs may be eligible for the Emergency Waste Waiver:
 - a. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
 - b. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
 - c. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
 - d. Emergency repair and protection activities in non-federal waters of the State;
 - e. Discharges of dredge or fill material into non-federal waters of the State, under emergency conditions; and/or
 - f. Other discharges of emergency/disaster related wastes.
3. These types of discharge are generated during emergency and disaster related situations, requiring expedited handling and disposal of wastes or emergency discharges of fill material into non-federal waters of the State. Therefore, emergency/disaster related waste discharges were grouped into one discharge classification. Emergency/disaster related waste discharges or discharges of fill material into non-federal waters of the State that comply with the waiver conditions should minimize the potential impact and should not pose a significant threat to the quality of waters of the State.
4. In the event of an emergency or disaster, significant amounts of wastes may be generated. Cleanup, management and disposal of emergency/disaster related waste can result in the discharge of multiple waste streams which can adversely affect the quality of surface water and/or groundwater. The issuance of WDRs would significantly impede the cleanup of emergency/disaster related wastes, which would likely increase the threat to public health and the environment. Therefore, in the interest of expediting the cleanup of emergency/disaster related wastes, issuing a waiver for these types of discharge would be in the public interest.
5. The issuance of waiver conditions should be developed in order for members of the public, cities, counties, local agencies and organizations, and/or the San Diego Water Board to determine if dischargers of any emergency/disaster related wastes are in conformance with this waiver. If dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to be eligible for the Emergency Waste Waiver. If dischargers of

emergency/disaster related wastes violate any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating the discharge with individual WDRs and/or take other enforcement actions.

6. Discharges of dredged or fill material into non-federal waters of the State⁴⁸ may be necessary for repair and protection measures associated with an emergency situation to mitigate and abate threats caused by emergencies, as defined under CEQA.⁴⁹
7. Discharges of dredged or fill material for emergency repair and protection measures may constitute discharges of waste that could affect the quality of waters of the State. Repair and protection activities that may result in such discharges can include, but are not limited to, the cleaning of culverts and associated concrete aprons, bank or slope stabilization, removal of debris (e.g., trash, dead vegetation, structural debris), repair of transportation routes, and the construction of check dams and sediment basins. Discharges that may occur during the conduct of emergency repair and protection activities can include, but are not limited to, earth, rock, or similar inert materials and discharges of pollutants associated with construction equipment or materials.
8. Eligible discharges to non-federal waters of the State, associated with emergency repair and protection activities, in normal circumstances may be able to be permitted pursuant to ~~could be subject to~~ *Water Quality Order No. 2004-0004-DWQ, Statewide General Waste Discharge Requirements for Dredged or Fill Discharges To Waters Deemed by The U.S. Army Corps of Engineers To Be Outside of Federal Jurisdiction.*⁵⁰ Notwithstanding, this Emergency Waste Waiver can be used to expedite projects required by emergency situations even though they may otherwise be ~~that are not eligible for enrollment in Order No. 2004-0004-DWQ but are conducted in response to emergency situations.~~
9. In order to be eligible for the Emergency Waste Waiver, discharges must comply with both the general and specific waiver conditions of this waiver.
 - a. Incidental Discharges During an Oil Spill Response
 - b. Disaster Related and Mass Mortality Wastes Disposed at Regulated Waste Disposal Facilities

⁴⁸ Non-federal waters of the State include surface waters determined by the U.S. Army Corps of Engineers and / or the U.S. Environmental Protection Agency to be outside of federal jurisdiction (e.g., certain vernal pools, other isolated water bodies, and certain intermittent or ephemeral streambeds that lack a significant nexus to traditionally navigable waters).

⁴⁹ In addition, wildfires can exacerbate the risk of flooding, erosion, debris flows, and slope failures as a result of the loss of vegetated cover within a watershed. Likewise, damage from earthquakes/after shocks, and landslides can affect vital infrastructure and threaten beneficial uses of waters of the State.

⁵⁰ For instance, the General WDRs in Water Quality Order No. 2004-0004-DWQ are restricted to dredged or fill discharges of not more than two-tenths (0.2) of an acre and 400 linear feet for fill and excavation discharges, and of not more than 50 cubic yards for dredging discharges. Projects that may be covered include land development, detention basins, disposal of dredged material, bank stabilization, revetment, channelization, and other similar projects.

- c. Disaster Related and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities
 - d. Disaster Related Wastes Discharged to Temporary Waste Piles not Located at Regulated Waste Disposal Facilities
 - e. Disaster Related Wastes Discharged to Temporary Surface Impoundments not Located at Regulated Waste Disposal Facilities
 - f. Mass Mortality Wastes Discharged to Emergency Landfills not Located at Regulated Waste Disposal Facilities
 - g. Discharges of Dredge or Fill Materials into Non-Federal Waters of the State, Under Emergency Conditions
10. Discharges of emergency/disaster related wastes that comply with both the general and specific waiver conditions in the Emergency Waste Waiver are not expected to pose a significant threat to the quality of waters of the State.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge emergency/disaster related wastes, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements

B. General Conditions for Discharges of Emergency/Disaster Related Wastes

- 1. Discharges made pursuant to the Emergency Waste Waiver cannot occur until after one of the following:
 - a. The Governor of California issues a proclamation, pursuant to Government Code sections 8625 and 8558(b), identifying a portion of the San Diego Region as being in a state of emergency⁵¹ or
 - b. An oil spill incident occurs in the marine waters of the San Diego Region requiring a response authorized by the Administrator of the Office of Spill Prevention and Response; or
 - c. A discharge occurs resulting from emergency activities that are waived of the requirements of Water Code sections 13260(a) and (c), 13263(a), and 13264(a), which are described in Water Code sections 13269(c)(1) and 13269(c)(2).
- 2. This waiver is only in effect temporarily and must expire under the following conditions:
 - a. The state of emergency declared by the Governor expires, or
 - b. The San Diego Water Board takes action to terminate enrollment of individual or all dischargers/Units temporarily enrolled in the waiver, or
 - c. Six (6) months has elapsed since the Governor issued a declaration of the state of emergency for any portion of the San Diego Region, or

⁵¹ The Emergency Waste Waiver is only applicable to disaster related waste streams from disaster-impacted areas.

the oil spill incident occurred, or emergency activities began, unless otherwise directed by the San Diego Water Board.

3. Discharges of emergency/disaster related wastes to land
 - a. Emergency/disaster related waste management and cleanup activities must minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of the waters of the State.
 - b. Temporary waste piles and surface impoundments used to manage emergency/disaster related waste must: prevent the direct or indirect discharge of emergency/disaster related wastes to any surface waters of the State (including ephemeral streams and vernal pools).
 - c. Emergency/disaster related waste management operations must not be
 - i. performed in a manner that creates or contributes to a condition of pollution or nuisance;
 - ii. performed in a manner that creates or contributes to conditions which violate the waste discharge prohibitions promulgated in the Basin Plan.
 - iii. managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit.⁵²
 - iv. managed in a manner that mixes or commingles other wastes that can produce a violent reaction (including heat, pressure, fire or explosion), that can produce toxic byproducts, or that can produce any reaction products requiring a higher level of containment, or that results in the mixture being classified as a restricted waste.⁵³
 - d. Liquid hazardous wastes or "restricted hazardous wastes"⁵⁴ cannot be discharged to municipal solid waste (MSW) landfills, temporary waste piles, or temporary surface impoundments.
 - e. Temporary waste piles must be covered to adequately prevent rainwater infiltration and runoff, and control fugitive dust, vectors, odors, blowing litter and scavenging. The cover must not consist of or contain material classified as a designated waste.⁵⁵
 - f. Inert wastes⁵⁶ that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).

⁵² Pursuant to Calif. Code Regs title 27 section 20200(b)(1)

⁵³ Pursuant to Calif. Code Regs title 27 section 20200(b)(2)

⁵⁴ Defined in Health and Safety Code section 25122.7

⁵⁵ Defined in Calif. Code Regs title 27 section 20210

⁵⁶ Defined in Calif. Code Regs title 27 section 20230

- i. *Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.*
- ii. *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.*
- iii. *Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.*
- iv. *Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.*
- v. *Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.*

C. Specific Conditions for Discharges of Emergency/Disaster Related Wastes

1. Incidental Discharges During an Oil Spill Response
 - a. Incidental discharges⁶⁰ are confined to the response area which is defined by the daily work plan approved under the Incident Command System or Unified Command Structure by the Administrator, Federal On-Scene Coordinator, or State On-Scene Coordinator.

⁶⁰ "Incidental discharge" is defined as "the release of oil and/or oily water within the response area in or proximate to the area in which the oil recovery activities are taking place during and attendant to oil spill response activities. Incidental discharges include, but are not limited to, the decanting of oily water; in order to conserve oil storage capacity, and the wash down of vessels, facilities, and equipment used in the response."

- b. Oil spill response must be in marine waters.⁶¹
2. Disaster Related and Mass Mortality Wastes Disposed of at Regulated Waste Disposal Facilities
 - a. Waste (not otherwise suitable for recycling or reuse) derived from cleanup of emergency/disaster-impacted areas in the San Diego Region and managed under provisions of this waiver must only be discharged *for permanent disposal into units that are underlain with an engineered composite liner system and a leachate collection meeting the requirements of State Water Board Resolution No. 93-62.*
 - b. Wastes derived from cleanup of disaster-impacted areas in the San Diego Region and discharged into regulated waste disposal facilities must be isolated, to the extent practicable, from areas of the facility that are not lined.
 - c. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of disaster-impacted areas in the San Diego Region must be discharged for disposal in compliance with conditions of this waiver and covered expeditiously.
 - d. Inert wastes contained in mixed emergency wastes derived from cleanup of disaster-impacted areas in the San Diego Region, must be separated and recycled when appropriate and practicable.
 - e. The discharger is responsible for accurately classifying disaster related waste streams in accordance with the applicable regulatory requirements.⁶²
 - f. The regulated waste disposal facility owner/operator is responsible for properly identifying disaster related waste streams⁶³ and identifying wastes that may be suitable for use as alternative daily cover (ADC). Solid wastes that may be used as ADC at a regulated disposal facility are as follows:
 - i. Solid wastes that are classified as inert wastes.
 - ii. Solid wastes that meet the criteria for ADC as prescribed in Calif. Code Regs title 27 sections 20690 to 20705, and
 - iii. Other solid wastes identified by the Local Enforcement Agency (LEA) as being suitable for use as ADC; as long as the waste could be accepted at a Class III MSW landfill without special permission from the San Diego Water Board.
 - g. Disposal of large numbers of animal carcasses, and other high-moisture waste streams from mass mortality (e.g., natural disaster, agricultural disease, etc.), may cause wastes to exceed moisture holding capacity at regulated MSW landfills. To limit the impacts from

⁶¹ "Marine waters" defined in Government Code section 8670.3(i) as "those waters subject to tidal influence"

⁶² Requirements are provided in Calif. Code Regs title 27, title 23,, Chapter 15, and/or title 22 Division 4.5.

⁶³ Pursuant to Calif. Code Regs title 27 section 20200(c).

the additional moisture content associated with a mass mortality waste load, the owner/operator responsible for the regulated waste disposal facility should implement the following procedures:

- i. Discharge high-moisture wastes (animal carcasses, animal related wastes, etc.) only in areas of the composite lined unit with a considerable thickness of other waste.
 - ii. Limit the thickness of the high-moisture waste stream (e.g., animal carcasses, animal related wastes, etc.) to no more than 2 feet.
 - iii. Cover each layer of high-moisture wastes (e.g., animal carcasses, animal related wastes, etc.) with an even thicker layer of absorbent wastes or soil.
 - iv. For disaster related mass mortality wastes streams that are in a liquid form (e.g. raw eggs, etc.) reduce the moisture content prior to discharge by mixing with an absorbent material (e.g., saw dust, mulch, soil, etc.).
- h. Within 60 days after the expiration in this waiver (see section B of the Emergency Waste Waiver) the owner/operator of the a regulated waste disposal facility that accepted waste from disaster-impacted areas in the San Diego Region must submit an amendment to their ROWD or Joint Technical Document (JTD) describing the material change to their discharge, pertaining to the temporary acceptance, management, and disposal of waste derived from cleanup of disaster-impacted areas of the San Diego Region.
3. Disaster Related and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities
- a. Owners/operators of regulated waste management or disposal facilities proposing to accept discharges of waste from disaster-impacted areas in the San Diego Region to a temporary waste staging area located at a regulated facility must submit a NOI⁶⁴ within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. the name and contact information of the owner/operator of the regulated waste management or disposal facility property,
 - ii. the facility address and contact information,
 - iii. a description of the temporary waste management unit, and
 - iv. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my*

⁶⁴ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041.

inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

- b. Owners/operators of regulated waste management or disposal facilities must prevent surface runoff and runoff from contacting wastes derived from cleanup of disaster-impacted areas in the San Diego Region and must prevent erosion and transport of soils containing disaster related wastes or waste constituents by surface runoff from all temporary waste piles. The facility owner/operator must implement management measures (MMs) and/or best management practices (BMPs) for storm water conveyance and control.
- c. All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any immediately adjacent surface water of the State.
- d. All waste derived from disaster-impacted areas in the San Diego Region must be protected from flooding and inundation, in compliance with the current WDRs for the affected unit, or units, at the regulated facility.
- e. Owners/operators of regulated waste management or disposal facilities must manage temporary waste piles for disaster related mass mortality wastes as follows:
 - i. Temporary waste piles of mass mortality wastes can only be located in areas underlain by a composite liner system (or approved engineered alternative) and a significant thickness of other types of solid wastes.
 - ii. Owner/operator must implement a plan to prevent wild animals (e.g., birds, mammals, reptiles, etc.) from coming into contact with mass mortality wastes (e.g., provide and maintain adequate cover for temporary waste piles).
 - iii. Owner/operator must ensure that all temporary waste piles containing mass mortality wastes are discharged into the landfill prior to the end of the working day, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health for a given temporary waste pile.
 - iv. Owner/operator must ensure that all mass mortality wastes are covered with soil or other waste immediately after it is discharged into the landfill.

- v. Owner/operator must ensure that any storm water runoff that comes into contact with the disaster related wastes or containing waste constituents is managed as leachate.
 - f. Disaster related and mass mortality wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily enrolled in the Emergency Waste Waiver, together with any materials used to contain the temporary waste piles, must be removed from the site. The site must be restored to its original state no later than the 60 days after expiration of this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board. Alternatively, the facility owner/operator must file an amended ROWD/JTD and obtain amended WDRs from the San Diego Water Board for any waste piles that will continue to exist past the expiration date in this waiver.⁶⁵
 - g. Owners/operators of regulated waste management or disposal facilities must submit a Notice of Termination (NOT) to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. the name and contact information of the owner/operator of the regulated facility property,
 - ii. the facility address and contact information,
 - iii. a description of waste that was temporarily stored/staged in the temporary waste management unit,
 - iv. the final waste disposal location, and
 - v. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
4. Disaster Related Wastes Discharged to Temporary Waste Piles not Located at Regulated Waste Disposal Facilities
- a. Any agency, jurisdiction or person proposing to establish a temporary waste pile not located at a regulated facility must submit a NOI⁶⁶ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:

⁶⁵ The Emergency Waste Waiver expires with the Governor of California lifting the declared state of emergency.

⁶⁶ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041.

- i. the name and contact information of the owner/operator the property where the temporary waste pile facility is located,
 - ii. the facility address and contact information,
 - iii. a description of temporary waste management unit, and
 - iv. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
- b. Owners/operators of temporary waste piles not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance with the following minimum prescriptive and performance standards:
- i. The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any immediately adjacent surface water of the State.
 - ii. Temporary waste piles must be protected from inundation or washout due ~~of~~ to floods with a 100-year return frequency.
 - iii. Temporary waste piles cannot be located on a known Holocene fault.
 - iv. Temporary waste piles cannot be located in areas of potential rapid geologic change (e.g., landslides, debris flows, flashflood areas, etc.).
 - v. Temporary waste piles must be underlain by a temporary impermeable barrier (e.g., heavy gauge plastic) or located in an area covered by a relatively impermeable surface (e.g., asphalt, concrete, etc.). The liner must be installed prior to establishing a temporary waste pile to protect all natural geological materials from contact with the waste and from contact with leachate.
 - vi. Temporary waste piles must be covered daily with either a heavy gage plastic or material that meets the classification criteria for inert wastes. A material that would be classified as a designated waste cannot be utilized for daily cover at a temporary waste staging area. Cover on the temporary waste piles must be designed, installed, and maintained to prevent

rainwater infiltration and runoff, and control of fugitive dust, vectors, odors, blowing litter, and scavenging.

- vii. Temporary waste management operations that include wastes with a liquid content exceeding its moisture-holding capacity and/or containing free liquids, must comply with requirements for temporary surface impoundments (see section C.5 of the Emergency Waste Waiver).
 - viii. Temporary waste piles must be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary waste pile must be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.
- c. Owners/operators of temporary waste piles not on regulated facilities must submit written notification to the San Diego Board at least 30 days prior to initiating the discharge of return water or ponded water contained within the temporary waste pile if the discharge is to a location other than a sanitary sewer system. Based on the San Diego Water Board determination, the discharger may receive: 1) WDRs; 2) a waiver of WDRs, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the San Diego Water Board.
- i. Owners/operators of temporary waste piles not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information:
 - (A) Project name,
 - (B) Brief project description, and
 - (C) Operator name and phone number.

The discharger must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while temporary waste piles remain on site.

- d. Solid wastes discharged to temporary waste piles not at regulated waste management or disposal facilities temporarily granted a waiver, together with any materials used to contain the temporary waste piles, must be removed from the site. The site must be restored to its original state no later than the 60 days after expiration of this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board.
- e. Owners/operators of temporary waste piles not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working

days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:

- i. the name and contact information of the owner/operator the property,
- ii. where the temporary waste pile facility was located,
- iii. the facility address and contact information,
- iv. a description of waste that was temporarily stored/staged in the temporary waste management unit,
- v. the final waste disposal location, and
- vi. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

5. Disaster Related Wastes Discharged to Temporary Surface Impoundments not Located at Regulated Waste Disposal Facilities

- a. Any agency, jurisdiction or person proposing to establish a temporary surface impoundment not located at a regulated facility must submit a NOI⁶⁷ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain
 - i. the name and contact information of the owner/operator the property,
 - ii. where the temporary surface impoundment facility is located,
 - iii. the facility address and contact information,
 - iv. a description of the temporary waste management unit, and
 - v. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

⁶⁷ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041.

- b. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance the following minimum prescriptive and performance standards:
- i. The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any immediately adjacent surface water of the State.
 - ii. Temporary surface impoundments must be protected from inundation or washout due of floods with a 100-year return frequency.
 - iii. Temporary surface impoundments cannot be located on a known Holocene fault.
 - iv. Temporary surface impoundments cannot be located in areas of potential rapid geologic change (e.g., landslides, debris flows, flashflood areas, etc.).
 - v. Temporary surface impoundments must be underlain by a temporary impermeable barrier (e.g., heavy gauge plastic) or a relatively impermeable surface (e.g., asphalt, concrete, etc.). The liner must be installed prior to establishing a temporary surface impoundment to protect all natural geological materials from contact with the waste.
 - vi. Berms and containment structures of temporary surface impoundments must be composed of inert materials that will not cause adverse reactions (e.g., corrosion, decay, or otherwise reduce or impair the integrity of the containment structure) when placed in contact with the liquid wastes stored within the temporary surface impoundment.
 - vii. Temporary surface impoundments must be designed, operated and maintained to ensure that liquid wastes are at least 2 feet below the top of the impoundment (measured vertically from the surface of the liquid up to the point on the surrounding lined berm or dike having the lowest elevation), and must be designed and constructed to prevent overtopping as a results of wind conditions likely to accompany precipitation conditions.
 - viii. Direct pipeline discharges of liquid can occur only into temporary surface impoundments with automatic or manually operated fail-safe systems to prevent overfilling.
 - ix. Temporary surface impoundments must be designed and constructed to prevent scouring of containment structures at points of liquid discharge into the impoundments.

- x. Temporary surface impoundments must be designed, constructed and operated to limit, to the greatest extent possible, inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary surface impoundments must be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.
- c. Owners/operators of temporary surface impoundments not on regulated facilities must submit written notification to the San Diego Board at least 30 days prior to initiating the discharge of return water or ponded water contained within the temporary waste pile if the discharge is to a location other than a sanitary sewer system. Based on the San Diego Water Board determination, the discharger may receive: 1) WDRs; 2) a waiver of WDRs, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the San Diego Water Board.
- d. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that only disaster related waste streams are discharged into temporary surface impoundments.
- e. All visible portions of synthetic liner systems in temporary surface impoundments must be inspected weekly (daily, if necessary), until all free liquid is removed from the surface impoundment as part of closure.⁶⁸ If, during the active life of the temporary surface impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection must be made of the bottom of the liner, and observed defects noted prior to refilling the impoundment.
- f. Owners/operators of temporary surface impoundments not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information: a) project name, b) brief project description, and c) operator name and phone number. The facility owner/operator must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while temporary surface impoundments remain on site.
- g. Solid wastes discharged to temporary surface impoundments not at regulated waste management or disposal facilities, together with any materials used to contain the temporary surface impoundments, must be removed from the site. The site must be restored to its original state no later than the 60 days after the expiration date in this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board.

⁶⁸ Pursuant to Calif. Code Regs title 27 section 21400(a)

- h. Owners/operators of temporary surface impoundments not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. the name and contact information of the owner/operator the property,
 - ii. where the temporary surface impoundment facility was located,
 - iii. the facility address and contact information,
 - iv. a description of waste that was temporarily stored/staged in the temporary waste management unit,
 - v. the final waste disposal location, and
 - vi. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
6. Mass Mortality Wastes Discharged to Emergency Landfills not Located at Regulated Waste Disposal Facilities
- a. Any agency, jurisdiction or person proposing to establish an emergency landfill not located at a regulated facility must submit a NOI⁶⁹ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. the name and contact information of the owner/operator the property where the emergency landfill facility is located,
 - ii. the facility address and contact information,
 - iii. a description of the emergency waste management unit, and
 - iv. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant*

⁶⁹ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Appendix A of Order No. R9-2014-0041.

penalties for submitting false information, including the possibility of fine and imprisonment."

- b. Owners/operators of emergency landfills not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance the following minimum prescriptive and performance standards:
 - i. The bottom of an emergency landfill must be placed at least 10 feet above the highest historically known or anticipated level of groundwater, and more than 500 feet from any surface water of the State.
 - ii. Emergency landfills must be protected from inundation or washout due to floods with a 100-year return frequency.
 - iii. Emergency landfills cannot be located on a known Holocene fault.
 - iv. Emergency landfills cannot be located in areas of potential rapid geologic change (*e.g.*, landslides, debris flows, flashflood areas, *etc.*).
 - v. Emergency landfills cannot be located in areas underlain by a fractured bedrock aquifer or highly permeable soils (*e.g.*, gravels, sands, and loamy sands) or in facilities that are characterized by such deposits (*e.g.*, gravel quarry).
 - vi. For disaster related mass mortality wastes streams that are in a liquid form (*e.g.* raw eggs, *etc.*) the moisture content must be reduced prior to discharge by mixing with an absorbent material (*e.g.*, saw dust, mulch, soil, *etc.*).
 - vii. The thickness of each layer of mass mortality wastes must be limited to less than 2 feet.
 - viii. Lime (or another liquid abatement material) must be added to each layer to help reduce the generation of liquid by the mass mortality wastes.
 - ix. Each layer of lime-covered mass mortality wastes must be covered by at least 3 feet of soil before adding another layer of mass mortality wastes.
 - x. Mass mortality wastes must be discharged for disposal in compliance with the conditions of this waiver and covered at the end of each working day.
 - xi. The final layer of disaster related mass mortality wastes discharged into the emergency landfill must be overlain by a final layer of not less than 3 feet of soil; or alternatively the unit may be covered by a relatively impermeable engineered surface (*e.g.*, asphalt, concrete, *etc.*). The final soil layer must be placed in a mound configuration so that the final soil layer:
 - 1) Overlaps the mass mortality wastes by several feet on each

- edge of the emergency landfill; 2) is at least 3 feet thick over all portions of the mass mortality wastes; and 3) is sloped to provide drainage that will not impair the integrity of the emergency landfill.
- xii. The owner/operator should also evaluate, implement, and document other effective waste isolation and waste moisture reducing methods in conjunction with the procedures identified above.
- c. The emergency landfill must be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. The owner/operator must protect the integrity of the final cover from adverse impacts from erosion by installing and maintaining MMs/BMPs, including:
- i. Installation of runoff control features on the upgradient side of the emergency landfill to divert offsite storm water from the emergency landfill.
 - ii. Installation of an effective runoff collection and conveyance ditch.
 - iii. Grading and maintenance of the final cover to eliminate ponding of water over the emergency landfill.
 - iv. Installation and maintenance of erosion control measures on the cover of the emergency landfill (e.g., install straw mulch and/or a vegetative cover).
 - v. Installation of a deer fence around the perimeter of the emergency landfill to discourage access by digging of carnivores.
- d. Owners/operators of emergency landfills not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information: a) clearly identify the area as an emergency landfill for animal and agricultural wastes, b) a warning against trespass, c) a description of the reason for the emergency landfill (e.g., Exotic Newcastle, Avian Flu, etc.), d) the type(s) of waste buried at the site (e.g., types of carcasses, egg wastes, manure, etc.), and e) the name and telephone number of the current property owner. The facility owner/operator must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while the emergency landfill remains on site.
- e. Owners/operators of emergency landfills not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:

- i. the name and contact information of the owner/operator of the property where the temporary emergency landfill facility was located,
 - ii. the facility address and contact information,
 - iii. a description of waste that was temporarily stored/staged in the temporary emergency landfill ,
 - iv. the final waste disposal location, and
 - v. a certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- f. Owners/operators of emergency landfills not on regulated facilities must submit a ROWD to the San Diego Water Board and apply for WDRs (using Form 200). The ROWD and application for WDRs must be provided to the San Diego Water Board within 6 months of creating the emergency landfill for disposal of disaster related mass mortality wastes. At a minimum, the ROWD must include the following information:
- i. A short description of the emergency conditions that made the emergency landfill necessary.
 - ii. The identity, physical address, mailing address, and telephone number of the current land owner.
 - iii. Photographs taken to document the location of the emergency landfill, practices used for placement of wastes and soil layers, and the appearance of the emergency landfill after installation of the final cover.
 - iv. A map showing the location and perimeter of the emergency landfill, its location relative to local topographical, geographical, biological, and cultural features (e.g. roads, streams, etc.), and Geographical Information System (GIS) data if available.
 - v. A simple cross section of the emergency landfill and a description of the construction (depth, thickness of layers and final cover).
 - vi. An estimate of the amount of wastes in pounds or tons discharged into the emergency landfill.

- vii. A description of measures taken to ensure that wastes and waste constituents do not migrate outside the emergency landfill.
- viii. Any other site-specific or discharger related information requested by the San Diego Water Board.

g. Discharges of Dredge or Fill Material into Non-Federal Waters of the State, under Emergency Conditions

- i. Discharge activities must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction does not result in significantly increased impacts to aquatic resources, and logistical concerns indicate such reconstruction is as expedient, considering the condition of the project site, and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered by the San Diego Water Board, if the applicant proposes to use bioremediation or other environmentally sensitive solutions.⁷⁰ The Emergency Waste Waiver may not be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources. Such upgrade projects are separate activities for which a ROWD is required.
- ii. To ensure the project is being or has been accomplished in compliance with the terms and conditions of this waiver, representatives from the San Diego Water Board, or its authorized representatives, must be allowed at all times, upon presentation of credentials:⁷¹
 - (A) To enter onto project premises, including all areas on which fill or compensatory mitigation is located, or in which records are kept;
 - (B) To access and copy any records required to be kept under the terms and conditions of this certification;
 - (C) To inspect any treatment equipment, monitoring equipment, or monitoring method required by this certification; and
 - (D) To sample any discharge or surface water covered by the Emergency Waste Waiver for discharge of fill material.
- iii. Work with heavy equipment must be avoided whenever feasible. If necessary, projects requiring heavy equipment to

⁷⁰ For example, it may be determined that reconstruction of a bridge crossing or a roadway damaged by flood flows is a more appropriate course of action than temporarily shoring up the facility to allow an immediate return to its use. When continued public safety is an issue, such reconstruction will remain a viable option for consideration under this waiver.

⁷¹ Pursuant to statutory authority granted under Water Code section 13267.

work in wetlands must implement effective measures to minimize soil disturbance. Such measures may include, but are not limited to, the use of wide-treaded equipment, mats, or flotation devices.

- iv. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.
- v. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
- vi. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
- vii. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water except within the existing river plain (unless the primary purpose of the activity is to impound waters).
- viii. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow must be minimized to the maximum extent practicable.
- ix. Any structure or fill subject to the Emergency Waste Waiver for the discharge of fill material must be maintained; including maintenance to ensure public safety, unless it is later determined by federal, State, or local agencies, that the structure is further contributing to other adverse conditions to private or public property. In such situations, corrective measures must be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination among the discharger and appropriate resource agencies. Temporary levees constructed to control flows must not be maintained beyond the current storm season (i.e., maintenance of temporary levees is not authorized after the storm season in which the need arose).

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Add the following text from Order 2007-0211:

- Finding 4;
- Finding 11;
- Section I.B. (Mitigation); and
- Section I.C. (Notification Conditions).

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Tentative Order No. R9-2014-0041
Appendices A through D

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
 TENTATIVE ORDER NO. R9-2014-0041
 (APPENDIX A)



NOTICE OF INTENT
 TO COMPLY WITH THE CONDITIONAL WAIVERS OF WASTE DISCHARGE
 REQUIRMENTS FOR LOW THREAT DISCHARGES IN THE SAN DIEGO REGION

I. PROPERTY/FACILITY INFORMATION

Property/Facility Name:			
Property/Facility Contact:			
Property/Facility Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	
Assessor Parcel Number(s):		Hydrologic Area/Subarea:	

II. PROPERTY/FACILITY OWNER INFORMATION

Property/Facility Owner Name:			
Property/Facility Owner Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	

III. PROPERTY/FACILITY OPERATOR INFORMATION

Property/Facility Operator Name:			
Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	

IV. CONDITIONAL WAIVER FOR NOTICE OF INTENT

Mark (☒) the waiver proposed for the discharge:

<input type="checkbox"/> Waiver No. 1 - Discharges from on-site graywater disposal systems <input type="checkbox"/> Waiver No. 2 - Discharges of recycled water to land <input type="checkbox"/> Waiver No. 3 - "Low" threat" discharges to land <input type="checkbox"/> Waiver No. 4 - Discharges of winery waste to lined evaporation ponds wineries <input type="checkbox"/> Waiver No. 5 - Discharges of wastes at composting facilities <input type="checkbox"/> Waiver No. 6 - Discharges from silvicultural operations <input type="checkbox"/> Waiver No. 7 - Discharges from animal operations <input type="checkbox"/> Waiver No. 8 - Discharges from aquatic animal production facilities <input type="checkbox"/> Waiver No. 9 - Discharges of slurries to land <input type="checkbox"/> Waiver No. 10 - Discharges/disposal of solid wastes to land <input type="checkbox"/> Waiver No. 11 - Aerially discharged wastes over land <input type="checkbox"/> Waiver No. 12 - Discharges of emergency/disaster related wastes

V. DESCRIPTION OF DISCHARGE

Describe the discharge (i.e., source(s) of discharge, pollutants of concern, period and frequency, etc.). Use additional pages as needed. Provide a map of the property/facility if necessary.

VI. DESCRIPTION OF MANAGEMENT MEASURES/BEST MANAGEMENT PRACTICES

Describe what management measures (MMs) and best management practices (BMPs) will be implemented to minimize or eliminate the discharge of pollutants to waters of the State. Use additional pages as needed. Provide a map of the property/facility showing locations of MMs/BMPs if necessary.

VII. ADDITIONAL INFORMATION

Please provide additional information, as needed or required, about the discharge and/or how the discharger intends to comply with the waiver conditions of the waiver. Use additional pages as needed.

VIII. CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Signature (Owner or Authorized Representative)

Date

Print Name

Title

Telephone Number

Email

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
 TENTATIVE ORDER NO. R9-2014-0041
 (APPENDIX B)



COMPOST FACILITY CERTIFICATION

I. COMPOST GENERATOR INFORMATION

Generator Name:			
Generator Contact and Title:			
Generator Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	

II. WASTE/FEEDSTOCK INFORMATION

Agricultural Waste – Consisting of pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, including orchard and vineyard prunings, and crop residues.

Green Waste – Consisting of, or containing, materials from plants, including leaves, clippings, cuttings, trimmings of grass, weeds, shrubbery, bushes, or trees, residential or community garden waste, and untreated wood waste.

Manures – Consisting of manures derived from cattle, chickens, horses, or pigs, which may include urine, and any bedding materials, spilled feed, or soil that is mixed with feces or urine.

Paper Waste – Consisting of nonhazardous paper and paper by-products.

Vegetative Food Waste – Consisting of food waste resulting from the production or processing of food for animal or human consumption, but no longer intended for such consumption, that is derived solely from plants and is separated from the municipal solid waste stream. Vegetative food wastes may be processed or cooked but must otherwise remain in its essentially natural state and no salts, preservatives, fats or oils, or other adulterants must have been added.

Anaerobic Digestate Waste – Consisting of only solid materials remaining after to anaerobic digestion of any combination of agricultural wastes, green waste, manure, paper waste, or vegetative food waste.

III. ADDITIVE INFORMATION

Fertilizing Materials – Referring to commercial fertilizer, agricultural minerals, auxiliary soil and plant substance, organic input, or packaged soil amendment.
Annual Average Quantity: _____

Liquid Food Wastes – Resulting from the production or processing of food for animal or human consumption – but is no longer intended for such consumption – that is separated from the municipal waste stream (i.e., cheese whey, brewery waste, etc.).
Annual Average Quantity: _____

Other Materials – Provide a complete description (including annual average quantity) of all other additives proposed to be composted at the facility.

IV. AMENDMENT INFORMATION

Provide a complete description (including annual average quantity) of all other amendments proposed stored at the facility and added finished compost.

Print Name

Title

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
 TENTATIVE ORDER NO. R9-2014-0041
 (APPENDIX C)



INERT WASTE CERTIFICATION
[SECTION A - ENROLLMENT]

I. INERT WASTE SOIL GENERATOR INFORMATION

Generator Name:			
Generator Contact and Title:			
Generator Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	

II. INERT WASTE SOIL EXPORT SITE INFORMATION

Export Site Property Owner Name:			
Export Site Address:			
City:	County:	State:	Zip:
Local Oversight Program Case No.:			
San Diego Water Board File No.:			

III. EXPORTED INERT WASTE SOIL INFORMATION *(Use additional pages as needed.)*

Date(s) Inert Waste Soil Exported:
Quantities of Inert Waste Soil Exported: (in cubic yards for each date of export)
<input type="checkbox"/> Mark the box (☒) if the inert waste soil was temporarily stockpiled prior to export. If the box is marked, please provide a copy of the Temporary Waste Pile Certification.
Provide a map of the export site showing the location of the nearby surface water bodies and/or water wells, excavation(s), stockpile(s), samples collected for characterization. Include approximate extent and depths of excavation(s), extent and height of stockpile(s), and depth of samples collected.

IV. DESCRIPTION OF EXPORT SITE BEST MANAGEMENT PRACTICES

Describe what management measures (MMs) and best management practices (BMPs) were implemented at the export site to minimize or eliminate the discharge of pollutants to waters of the State. Use additional pages as needed. Provide a map of the property/facility showing locations of MMs/BMPs if necessary.

V. INERT WASTE SOIL CHARACTERIZATION

Name of Certified Analytical Laboratory:			
Certified Analytical Laboratory Contact:			
Certified Analytical Laboratory Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	
Number of samples collected for characterization:			
<input type="checkbox"/> Mark the box (☒) to confirm that no samples collected to characterize waste soil as inert contained detectable concentrations of constituents other than Calif. Code title 22 metals.			
Title 22 Metals Contaminant of Concern	EPA Approved Analytical Method	90% UCL Concentration (mg/kg)*	

Use additional pages if there are additional contaminants of concern. Attach copy of laboratory analytical report.

* If molybdenum, silver, and/or zinc exceed the Tier 2 SSLs, then the waiver does not apply and a Report of Waste Discharge (ROWD) must be submitted to the San Diego Water Board.

VI. ENROLLMENT FOR REUSE OF TIER 1 or TIER 2 INERT WASTE SOIL

Mark the box (☒) next to the tier that the inert waste soil has been characterized, as supported with data provided in section VI.

<input type="checkbox"/> Tier 1 (Complete section X) Management of Tier 1 inert waste soils	<input type="checkbox"/> Tier 2 (Complete sections VII - X) Management of Tier 2 inert waste soils
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VII. TIER 2 INERT WASTE SOIL IMPORT SITE INFORMATION

Import Site Property Owner Name:			
Import Site Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	
Assessor Parcel Number(s):		Hydrologic Area/Subarea:	
<i>Provide a map of the import site showing the location of the nearby surface water bodies and/or water wells, and approximate depth to groundwater.</i>			

VIII. DESCRIPTION OF IMPORT SITE BEST MANAGEMENT PRACTICES

Describe what management measures (MMs) and best management practices (BMPs) were implemented at the import site to minimize or eliminate the discharge of pollutants to waters of the State. Use additional pages as needed. Provide a map of the property/facility showing locations of MMs/BMPs if necessary.

IX. PROPERTY OWNER ACKNOWLEDGMENT

Mark all the boxes (☒) to acknowledge that the applicable Tier 2 inert waste soil waiver conditions have been or will be met:

- Import site is designated for commercial or industrial land use.
- Inert waste soil placed at least 5 feet above highest historically known or anticipated level of groundwater.
- Soil that separates inert waste soil from groundwater has clay content greater than 5 percent and/or in situ permeability of less than 10^{-5} cm/sec.
- Inert waste soil placed at least 100 feet from the nearest surface water body.
- Inert waste soil is protected against 100-year peak storm flows as defined by the county flood control agency.
- Inert waste soil covered by either: 1) engineered materials (e.g. used as road base, fill beneath buildings, bridge abutments), or 2) not less than 2 feet of noncontaminated, clean fill. The cover has a permeability of no more than 10^{-5} cm/sec.
- Placement of a cover on the inert waste soils completed within 30 days of discharging the final load of inert waste soils at the import site.

"I acknowledge the receipt or planned receipt of the waste soil described in sections V and VI and that the soil will be managed pursuant to the restrictions set forth in Solid Waste Waiver"

Signature (Owner or Authorized Representative)

Date

Print Name

Title

X. GENERATOR AND CONSULTANT CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Print Name (Generator)

Print Name (Consultant)

Signature (Generator)

Signature (Consultant)

Title (Generator)

Title and Professional Registration No.
(Consultant)

Date

Date

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
 TENTATIVE ORDER NO. R9-2014-0041
 (APPENDIX C)



INERT WASTE CERTIFICATION
[SECTION B – NOTICE OF TERMINATION]

I. FINAL WASTE DISPOSAL INFORMATION

Final Disposition of Waste:	<input type="checkbox"/> Off-site/Landfill Disposal	<input type="checkbox"/> On-site Reuse/Disposal	
	<input type="checkbox"/> Off-site Reuse/Disposal	<input type="checkbox"/> Other: _____	
Property Owner/Discharger Name:			
Property Owner/Discharger Contact and Title:			
Property Owner/Discharger Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	
Assessor Parcel Number(s):		Hydrologic Area/Subarea:	
Date(s) Waste Disposed:			
Quantity of Waste Disposed (in cubic yards for each <u>each</u> disposal date):			
Disposal Location(s) (for each disposal date):			

II. FINAL DISPOSAL CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

 Signature (Owner or Authorized Representative)

 Date

 Print Name

 Title

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
 TENTATIVE ORDER NO. R9-2014-0041
 (APPENDIX D)



TEMPORARY WASTE PILE CERTIFICATION
[SECTION A – GENERATOR INFORMATION]

I. TEMPORARY WASTE PILE GENERATOR INFORMATION

Generator Name:			
Generator Contact and Title:			
Generator Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	

II. WASTE INFORMATION

Local Oversight Program Case No.:							
San Diego Water Board File No.:							
Waste Type: <input type="checkbox"/> Gasoline <input type="checkbox"/> Diesel <input type="checkbox"/> Other Petroleum Hydrocarbons (check all that apply) <input type="checkbox"/> Other Impacted Dredged Spoils <input type="checkbox"/> Other:							
Contaminant Concentrations (<i>Use additional pages as needed</i>):							
Mean	Mean+80%CL	Mean	Mean+80%CL	Mean	Mean+80%CL	Mean	Mean+80%CL
Mean	Mean+80%CL	Mean	Mean+80%CL	Mean	Mean+80%CL	Mean	Mean+80%CL
Mean	Mean+80%CL	Mean	Mean+80%CL	Mean	Mean+80%CL	Mean	Mean+80%CL
Waste Pile Quantity (yd ³):							
Description of Containment Method:							

III. TEMPORARY WASTE PILE GENERATOR INFORMATION

Site Property Owner Name:			
Site Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	
Assessor Parcel Number(s):		Hydrologic Area/Subarea:	

IV. PROPERTY OWNER ACKNOWLEDGMENT

"I hereby acknowledge receipt of the waste soil described in section II of this Temporary Waste Pile Certification, and that I have reviewed any associated reports. By signing this form I acknowledge that the Generator of this waste has certified that all Solid Waste Waiver conditions applicable to the temporary waste piles have been met."

Signature (Owner or Authorized Representative)

Date

Print Name

Title

V. GENERATOR CERTIFICATION

"I hereby certify that the information provided regarding soil characterization is a complete and accurate representation of the subject soil, and that the soil is not hazardous waste as defined by California Code of Regulations Title 22 and by the U.S. Environmental Protection Agency (Code of Federal Regulations Title 40), and that all Solid Waste Waiver conditions applicable to the temporary waste piles have been met."

Generator Signature

Date

Print Name

Title



TEMPORARY WASTE PILE CERTIFICATION
[SECTION B – FINAL DISPOSAL INFORMATION]

I. TEMPORARY WASTE PILE GENERATOR INFORMATION

Final Disposition of Waste:			
<input type="checkbox"/> Off-site/Landfill Disposal	<input type="checkbox"/> On-site Reuse/Disposal		
<input type="checkbox"/> Off-site Reuse/Disposal	<input type="checkbox"/> Other:		
Property Owner/Discharger Name:			
Property Owner/Discharger Contact and Title:			
Property Owner/Discharger Mailing Address:			
City:	County:	State:	Zip:
Telephone:	Fax:	Email:	
Assessor Parcel Number(s):		Hydrologic Area/Subarea:	
Date(s) Waste Disposed:			
Quantity of Waste Disposed: (in cubic yards for each disposal date)			
Disposal Location(s): (for each disposal date)			

VI. FINAL DISPOSAL CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

 Signature (Owner or Authorized Representative)

 Date

 Print Name

 Title



Fredrik J. Jacobsen
Principal Environmental Specialist
8315 Century Park Court
CP21E
San Diego, CA 92123
(T) 858-637-3723 (F) 858-637-3700

May 19, 2014

Roger N. Mitchell, P.G.
Engineering Geologist
San Diego Regional Water Quality Control Board
Groundwater Protection Branch
2375 Northside Drive, Suite 100
San Diego, CA 92108

VIA E-Mail: Roger.Mitchell@waterboards.ca.gov

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2014 MAY 19 PM 4:49

RE: CW-804775:RMitchell: Comments and Recommendations Regarding Tentative Order No. R9-2014-0041 (Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region)

Dear Mr. Mitchell:

San Diego Gas & Electric Company provides essential public services to over 3.4 million consumers in San Diego and southern Orange counties in a service area of over 4,100 square miles. Services are provided to the region's communities, businesses, government and other entities, including fire protection, law enforcement, and emergency care.

San Diego Gas & Electric Company (SDG&E) appreciates the Regional Board's expedited efforts to revise and reissue the Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (the "Waivers"). The Waivers are an integral component of the Regional Board's protection of state waters and, recognizing that the waivers regulate "low threat" discharges, previous waivers have provided a balance between water quality protection and regulatory oversight. This balance facilitated the application of practical protective measures, staff involvement, waiver application requirements and minimization of the time required to obtain coverage.

SDG&E's use of the Waivers has included the use of the provisions for discharge of low threat discharges to land and we look forward to the reissuance of the Waivers.

Enclosed in this letter are recommendations for revisions to the draft Waivers to improve their clarity, and usability, and to minimize the administrative burdens in the application process for both staff and the dischargers. We have also provided a copy of the draft Waivers in which, where feasible, we have identified proposed revisions in underline/ strikeout mode.

GENERAL COMMENTS

Application Requirements-Report of Waste Discharge (ROWD)

Historically, the Waivers have been, for most discharge categories, “self-implementing.” That is, a discharge was covered by the Waivers when it was a covered discharge and the discharger implemented the waiver’s general and specific conditions for the discharge. A Report of Waste Discharge and a fee were not required to obtain coverage. The draft Waiver states in Part I.E. (p. 2) that:

“This Order requires the filing of a ROWD for the following types of waste discharges”.

This section goes on to list the 34 specific discharges that are authorized under this waiver. This, in effect, requires a ROWD to be filed for use of any and all of the discharges covered by the Waivers. Further, in Part I.E. (p. 2) it states that:

“For the purposes of this Order, a completed Notice of Intent (NOI) may serve as the Dischargers’ ROWD.”

These statements cause confusion over the application requirements as some waste discharges appear to only be required to submit an NOI when the discharge will exceed a specific threshold (e.g., Waiver No. 3, Section C.1.-C.5.). This creates confusion regarding the application requirements.

We recommend that:

- The draft Waivers not require an NOI to be submitted to obtain coverage for every discharge, but only for selected discharges (see Waiver pp. 2, 17, 43, 44, 47);
- Part I.E. (p. 2) be revised to state that the requirement to submit an NOI to obtain coverage is identified in the specific waiver or discharge (see Waiver p. 2).

NOI Approval

For discharges that require the submittal of an NOI, the Waivers do not identify the process that is used to confirm the NOI has been accepted and that coverage under the Waiver is in force. In these cases, it appears that coverage is immediate once the applicant has submitted the NOI. We support this approach since the Waivers are for “low threat” discharges and one of the intents of the Waivers is to facilitate coverage for the covered activities. Providing this streamlined process addresses this intent and ensures quick coverage.

We recommend that the Waivers address this approach by incorporating the following language into the Waivers in a new section “P” in Part 1:

“For those discharges that require the submittal of an NOI, coverage under the NOI begins upon submittal of the NOI unless otherwise specified in the waiver’s conditions. (see Waiver p. 7)

Numbering/References

The draft Waivers contain twelve waivers that address thirty-four separate covered waste discharges. These waste discharges are enumerated in Part I.E. (p.2-3). Since there are more waste discharges than waivers, some but not all of the twelve waivers contain multiple waste discharges. Each waiver contains “Specific Findings”, “General Waiver Conditions” and “Specific Waiver Conditions”. We observed some inconsistencies in the draft Waivers regarding the numbering and or references to each of the discharges.

We recommend that:

- The waste discharges be listed in the same order in the General Waiver Conditions and in the Specific Waiver Conditions (see Waiver pp. 15, 19, 42); and
- In cases where there are no Specific Waiver Conditions, it would help to list the waste discharge and state there are no specific conditions (see Waiver pp. 18, 41, 43, 58).

Proposed revisions have been shown in the attached Waiver Document to implement these recommendations for Waiver Nos. 3, 9, 10 and 11. We urge the Board to also review Waiver No. 12 to which these comments also apply and resolve the inconsistency between those discharges listed in Section A.2. and A.9.

Fees

Table A in the waiver refers to California Code of Regulations (CCRs) Title 23, Section 2200, as follows:

“Dischargers regulated under this Order and the waivers contained within, must be subject to application and annual fees assessed relative to their assigned threat and complexity ranking or other discharge specific conditions identified in California Code of Regulations, Title 23, section 2200.” (page i)

However, Section 2200 specifies fees for waste discharge requirements, not waivers. CCRs Title 23, Section 2200.7 (“Annual Fee Schedule for Waivers of Waste Discharge Requirements”) is the section that specifies the annual fees for waivers of waste discharge requirements.

Section 2200.7. states:

“(a) Any person for whom waste discharge requirements have been waived pursuant to Section 13269 of the Water Code shall submit an annual fee to the State Board if a fee is specified for the waiver in this section. No ambient water monitoring surcharge shall apply to annual fees specified in this section.

(b) [reserved]”

It appears that Title 23 does not currently specify application and/ or annual fee for waivers of waste discharge requirements.

We recommend that Table A be revised to state:

“Dischargers regulated under specific waivers in this Order are subject to application and annual fees assessed relative to their assigned threat and complexity ranking or other discharge specific conditions identified in California Code of Regulations, Title 23, section 2200.7. Accordingly, where this order requires that dischargers under a specific waiver must submit fees, these fees shall be those specified in Title 23, section 2200.7.”

Further, we recommend that the second and third sentences in Section L (Annual Fees) on p. 6 be revised to state:

“Pursuant to Water Code section 13269(a)(4), the annual fee must be assessed in accordance with the current fee schedule promulgated in Calif. Code Regs title 23, section 2200.7.

The following waivers are required to pay an annual fee as specified in section 2200.7.”

Formatting/Minor Edits

As appropriate, we have suggested some formatting changes and minor edits throughout the Order.

SPECIFIC WAIVER/WASTE DISCHARGE COMMENTS

Waiver No. 3 – Miscellaneous “Low Threat” Discharges to Land

This section contains comments on Waiver No. 3's:

- NOI thresholds;
- Specific Conditions;
- NOI Threshold for Dewatering Operations;
- Discharges from Structural BMPs that Require Infiltration; and
- Discharges to Land from Utility Vaults and Underground Structures.

NOI Thresholds

Waiver No. 3 has two conflicting statements about the requirement to submit an NOI. Section A.2. generally finds that low threat discharges to land that comply with the general and specific waiver conditions will not pose a threat to the quality of the waters of the State. That is, these discharges are very low threat discharges. However, Part II, Waiver No. 3, section B.5. requires the submittal of a complete NOI. Further the following waste discharges require an NOI when a discharge threshold (typically volume within a specific period of time) is exceeded.

These separate statements in this waiver create confusion regarding when a listed discharge is covered and whether a discharge requires the filing of a NOI. Further, this creates an unreasonable situation that would require submittal of a NOI for any discharge to land from:

- Air conditioner condensate and non-contact cooling water;
- Swimming pools;
- Construction and test pumping of water wells;
- Short-term construction dewatering operations ;
- Utility vaults and underground structures;
- Groundwater pumped from drinking water wells;
- Groundwater from foundation drains, crawl space pumps, and footing drains;
- Flushing water lines;
- Washwater from vehicles, pavement, buildings, etc.;
- Irrigated lawns and landscaping (i.e., residential/commercial/industrial/recreational facility) using groundwater or municipal supply water; and
- Structural BMPs that require infiltration.

Since these are all low threat discharges, submittal of a NOI should only be required when the listed threshold is exceeded. Otherwise, the Waivers will create an unmanageable and unreasonable process that will inundate the Regional Board with NOIs, put many discharges with small discharges into non-compliance with the Waivers, and will not provide any significant environmental benefit. For example, anyone that waters a lawn, washes a car with a discharge to land, etc. would be required to submit an NOI.

We recommend that the waiver be revised to clarify that:

- A NOI is not required for the listed waste discharges unless the discharge exceeds a threshold, if specified (or does not have a threshold) (see Waiver p. 17); and
- Waste discharges that are below a specific threshold are automatically covered by the waiver (see Waiver p. 7).

Specific Conditions

Many, but not all, covered wastewater discharges identified in the General Conditions have specific conditions. For those discharges that do not have specific conditions, it would be helpful to clarify this in the specific conditions section by listing the discharge and specifying that the specific condition is “None”. This will help eliminate confusion.

We recommend that the specific conditions be revised to clarify when a listed discharge does not have any specific conditions (see Waiver p. 18).

NOI Threshold for Dewatering Operations

There appears to be an error in the way the threshold is specified for dewatering operations. The threshold criteria contained in the specific condition is “...operations that discharge an average of 5,000 gallons per day for any continuous 180-day period.” This should be expressed as discharges that “...exceed 5,000 gallons per day...”.

We recommend that the specific condition be revised to state:

“Dewatering operations that have a discharge that exceeds an average of 5,000 gallons per day for any continuous 180-day period, the discharger must file a complete NOI.” (see Waiver p. 18)

Discharges from Structural BMPs that Require Infiltration

This waiver would require structural BMPs that utilize infiltration to be installed in compliance with the design criteria of the municipalities (or co-permittees) regulated by the most recent Municipal Separate Storm Sewer System (MS4) WDRS (conforming to NPDES regulations)...” This could be read to require existing structural infiltration BMPs to be upgraded every time the co-permittee changes its design criteria. This would be an unreasonable requirement. This requirement should be revised to clarify that it applies to the installation of new structural infiltration BMPs.

We recommend that the specific condition be revised to state:

“The installation after the effective date of this Order of a new structural BMP that utilizes infiltration must be installed in compliance with the design criteria of the municipalities (or co-permittees) regulated by the most recent Municipal Separate Storm Sewer System (MS4) WDRs (conforming to NPDES storm water regulations).²² Additionally, any discharge from a new structural infiltration BMP installed after the effective date of this Order that exceeds an average of 1,200 gallons per day for any continuous 365-day period,...” (see Waiver p. 19)

Discharges to Land from Utility Vaults and Underground Structures

Discharges from utility vaults and underground structures (“vaults”) are conducted when it is necessary to perform work in the vaults. Removal of the water is required for safety purposes. Work in the vaults is required for the delivery of a safe and reliable essential public service. Work in vaults is conducted for maintenance and for emergency response and quick access is needed to minimize the duration of outages. Therefore removal of water in a timely fashion is imperative so that work within the vault can be conducted without inordinate delays and in a safe environment. Under the State Water Board’s Vault Dewatering NPDES permit, the discharger is required to conduct a pre-screening evaluation of the water prior to its discharge. If the water does not pass the prescreen analysis it is not discharged and an

alternate disposal method is arranged. The prescreening analysis helps to assure that contaminated water is not discharged to land. Vaults are typically located in developed areas and the opportunities to discharge large volumes of water to land are limited which means that the typical discharge volume is relatively small. Further, discharges from any one vault do not occur on a continuous basis. In other words, the discharges are typically of short duration and small volume, and occur infrequently at any one location. Based upon these factors (e.g., pre-screening, small discharge volumes, infrequent discharges at any one location), it is highly unlikely that pre-screened discharges to land from vaults would cause groundwater contamination.

The Waiver contains some requirements that assume that vault discharges are planned far in advance which provides time to conduct analyses and develop individual NOIs submittals. This situation would be the rare exception and not a normal circumstance. Further, some of the specified NOI information would require disclosure of system information that cannot be disclosed pursuant to state and federal security laws and regulations (e.g., Homeland Security Act). Establishing Waiver conditions that require this information would preclude the use of the Waiver and eliminate the Waiver's potential benefit.

We recommend that dischargers of water from vaults should (see Waiver pp19-21):

- Be required to implement a screening process similar to that required in the State Water Board's Vault Dewatering NPDES Permit;
- Identify the BMPs that will be implemented for discharges, including the situations under which the BMPs would be utilized;
- Not be required to file an NOI to obtain coverage under the waiver except for a discharge that will exceed an average of 2,500 gallons per day over a continuous 7-day period to a single location. Where a discharger believes exceeding this volume may occur on a frequent basis, the Waiver should allow the option for the discharger to file one NOI for the life of the Waiver ("Continuing Coverage") that would cover all vault discharges that exceed the threshold.
- When such a discharger is not covered under "Continuing Coverage" and a discharge exceeding the NOI threshold occurs as the result of a situation requiring urgent action to alleviate or prevent a power or natural gas outage, the Waiver should provide that a discharge notification may be made to the Regional Board within 48 hours and the after-the fact NOI can be submitted within five working days.
- For NOIs, the discharger should be required to submit:
 - A map of its service territory boundary to provide an overview of where the waiver may be used;
 - A description of the screening process that will be implemented to determine whether a discharge to land is made; and
 - A description of the BMPs that will be implemented and the situations under which the BMPs would be utilized.
- Clarify that submittal of information that is subject to the Homeland Security Act or other federal and/or State laws shall not be submitted to the Regional Water Board (see Waivers p. 7)

Waiver No. 5 – Discharges of Wastes to Land at Composting Facilities

This Waiver is for composting activities conducted at composting facilities. At the "stakeholder's meeting held on April 22, 2014, staff clarified that this waiver is only applicable to "commercial" composting facilities. It would be helpful to clarify in the waiver itself that waste discharge requirements (WDRs) or a waiver from WDRs is only required at commercial composting facilities. This

clarification could be further enforced by specifying that non-commercial composting operations, such as those listed as conditionally exempt operations, are not subject to WDRS or a waiver from WDRS.

We recommend the following revisions:

- Clarify that it applies only to commercial composting operations (see Waiver p. 5);
- Move the list of “Conditionally Exempt Operations” from Appendix B into Waiver No. 5 (see Waiver pp. 24-25); and
- Clarify in the list of “Conditionally Exempt Operations” that composting activities that are not conducted at a commercial composting facility are conditionally exempt (see Waiver p. 25).

Waiver No. 9 – Discharges of Slurries to Land

This waiver covers the discharge of slurries, including drilling muds, concrete grinding residues and slurries from sand and gravel mining operations. It includes general conditions for all discharges of slurries to land and specific conditions for discharge of drilling muds and for discharges from sand and gravel mining operations.

General Condition B.2.C. contains the requirement that a storage area or sump containing slurries must be “...at least 100 feet away from any surface water body or municipal water well.” Horizontal directional drilling (HDD) operations are many times conducted to install utilities beneath state and/or federal surface waters to minimize the impacts to the waters. The logistics of siting the drilling and receiving rigs and the associated drilling mud sumps can be very difficult and they are typically located adjacent to the surface water that is being drilled beneath to minimize the distance of the drilling operation. For these reasons, it would be helpful to not have this further restriction placed on this type of drilling operation. Staff indicated at the April 22, 2014 stakeholder’s meeting that the primary focus of this condition was on sand and gravel mining operations, not HDD operations.

We recommend that this condition (B.2.C) be moved from the general conditions section (B) to the specific conditions section (D) for the sand and gravel mining operations (see Waiver pp. 40-41).

Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land

We recommend this waiver be revised to:

- Clarify that the application of products (i.e., not waste) such as mulches and amendments are exempt from waste discharge requirements (WDRs) and/ or waivers of WDRs or specify that the application of amendments or mulches that do not contain the additives listed in section C.1.a. is not required to file an NOI.
- Provide a further breakdown in Table 1 of the number of samples that are required ; and
- Modify the Tier 1 Soil Screening Level “Background Mean” value in Table 2 for arsenic to be “the site specific background concentration at the reuse site”, rather than 3.5 mg/kg.

This waiver covers the discharge/disposal of solid wastes to land and identifies that the following discharges may be eligible for coverage under the waiver:

- Discharges of plant crop residues to land;
- Discharges/application of amendments and/or mulches to soil;
- Discharges/disposal of inert wastes to solid waste disposal facilities only accepting inert wastes; and
- Discharges/disposal of soils characterized as inert from known contaminated sites to land.

Mulches and Amendments

Mulches and amendments are used extensively throughout the San Diego region. These provide ground cover to conserve water and to minimize erosion and to build soil and establish vegetation to help to retain stormwater. Mulches and amendments are products that are applied within manufacturers' recommendations or other readily available guidance (the waiver cites both the Natural Resource Conservation Service (NCRS) and the University of California Cooperative Extension (UCCE)) and should not be considered "wastes" that are regulated.

We recommend that the waiver be revised to clarify that mulch and soil amendment products are not subject to waste discharge requirements (WDRs) or waivers of WDRs or specify that the application of amendments or mulches that do not contain the additives listed in section C.1.a. is not subject to filing an NOI.

Soil Samples

Table 1 specifies the number of soil samples required for characterizing soil that is suspected to be inert. The table specifies that the minimum number of samples for less than 500 cubic yards of soil is 12 samples. This is an excessive number of samples for smaller volumes of soil. We recommend that this table contain a further breakdown on the number of samples required for smaller amounts of soil.

We recommend this table be revised as follows (see Waiver p. 49):

Volume of Soil	Required Number of Samples Analyzed
$\leq 100\text{cy}$	4 samples
$100\text{cy} < \text{volume} \leq 500\text{cy}$	4 samples plus 1 sample for every additional 25cy over 100cy
$500\text{cy} < \text{volume} \leq 5,000\text{cy}$	20 samples plus 1 sample for every additional 500cy over 500cy
$\text{volume} > 5,000\text{cy}$	29 samples plus 1 sample for every additional 1,000cy over 5,000cy

Tier 1 Soil Screening Levels

Table 2 contains Tier 1 soil screening levels, including a "Background Mean" level for arsenic. Many areas within the San Diego region have natural concentrations of arsenic in excess of 3.5 mg/kg. As a result, this Table 2 level sets an artificially low screening level for this region. In order to beneficially reuse soil considered inert within this region, it would be helpful to establish the Tier 1 soil screening level Background Mean concentration for arsenic as the "reuse site background concentration". This will allow reuse of soil at a site that has an arsenic concentration no higher than what is already present at the site.

We recommend that the waiver be revised to state the "Background Mean" value in Table 2 for arsenic to be the "site specific background concentration at the reuse site", rather than 3.5 mg/kg (see Waiver pp. 52-53).

Waiver No. 12 – Discharges of Emergency/Disaster Related Wastes

This Waiver addresses many different types of discharges that may be required as a result of emergencies and includes authorization of dredge or fill into non-federal waters.

Authorized Dredge and Fill Activities are Conditioned upon Not Being Eligible Under SWRCB Order 2004-0004-DWQ

Section A.8. could be read to exclude authorization of discharges pursuant to this waiver if they could be eligible for authorization pursuant to SWRCB Order 2004-0004-DWQ (Statewide General Waste

Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction). Order 2004-0004-DWQ was adopted to address projects that were being applied for and conducted in the ordinary course of business and does not contain any provisions for its use in emergencies. In fact, it could take up to 45 days or more after submittal of a NOI to obtain a Notice of Applicability under Order 2004-0004-DWQ. For utilities that need to restore the essential public services (e.g., gas, electric, telecommunications, etc.) they provide, this is too long of a time period to delay work. Coverage needs to be available under this waiver so that work can be initiated quickly to facilitate restoration of services.

We recommend that section A.8. be revised to allow use of this waiver even though emergency work may be eligible under normal circumstances to obtain coverage under Order 2004-0004-DWQ (see p. 60).

Missing Conditions

This draft waiver incorporates most but not all of the language from San Diego Regional Board Order R9-2007-0211 (A Conditional Waiver of Statutory Requirements to File a Report of Waste Discharge and for Adoption of Waste Discharge Requirements for Discharges to Non-Federal Waters of the State Associated with Repair and Protection Activities in Emergency Situations in the San Diego Region). Order 2007-0211 established requirements for conducting dredge and fill activities within waters of the State during a declared state of emergency. The draft waiver omits Sections B (Mitigation Conditions) and C (Notification Conditions) and several findings (i.e., Finding Nos. 4 and 11), that are referenced within Sections B and C.

We request that these sections and findings be incorporated into the draft Waiver.

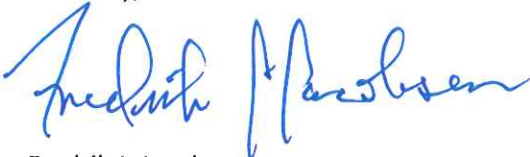
Formatting

The specific conditions for “Discharges of Fill Material into Non-Federal Waters of the State, under Emergency Conditions” start on page 81. First, this section should be titled “Discharges of Dredge or Fill Material into Non-Federal Waters of the State, under Emergency Conditions”, consistent with Waiver No. 12, sections A.1.e., A.9.g. and B.4. Second, the specific condition on p.81 should be numbered as section C.7.

We recommend making these title and formatting changes.

Please feel free to contact me if you have any questions regarding these comments.

Sincerely,



Fredrik J. Jacobsen

Attachment:

Redline version of the draft Waivers