CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

RESOLUTION NO. R9-2003-0391

AN EMERGENCY CONDITIONAL TEMPORARY WAIVER OF STATUTORY REQUIREMENTS TO FILE A REPORT OF WASTE DISCHARGE AND FOR ADOPTION OF WASTE DISCHARGE REQUIREMENTS FOR MANAGEMENT AND DISPOSAL OF SOLID WASTE FROM THE 2003 WILDFIRE DESTRUCTION IN THE SAN DIEGO REGION.

1. The devastation caused by the Cedar, Paradise, Otay, Camp Pendleton, and Mountain wildfires have resulted in widespread damage to private and public property in the San Diego Region. The destruction of structures and facilities by the wildfires has created an extraordinary volume of solid waste consisting of or containing pollutants that could affect the quality of waters within the San Diego Region. The nature of these waste could include, but is not limited to, burn-ash, concrete, wood, green waste, electrical appliances, computer equipment, dead animals, food, cars, chemicals, paint, refrigerators, etc.

2. Solid waste derived from the cleanup of burned areas within the San Diego Region may be taken to existing regulated waste management units and solid waste disposal facilities for treatment (including sorting, etc), storage, or disposal and to temporary staging areas at sites not currently regulated as waste management units or solid waste disposal facilities for treatment and storage.

3. On October 26, 2003, the Governor issued a proclamation identifying the County of San Diego as being in a state of emergency.

4. The following active landfills accept discharges of municipal solid waste (MSW) for disposal in waste management units, or isolated areas of pre-existing units, underlain by engineered composite liner systems and leachate collection and removal systems, pursuant to waste discharge requirements implementing State Water Resources Control Board Resolution No. 93-62 and federal Municipal Solid Waste Landfill Criteria in 40 CFR 258:

   Privately Owned/Operated facilities:

   a. Otay Annex Landfill (Order 90-09, Order 93-86, and addenda thereto)
   b. Sycamore Landfill (Order 99-74)
   c. Ramona Landfill (Order 2000-06)

   Publicly Owned/Operated Facilities:

   d. West Miramar Landfill (Order 87-54, Order 93-86, and addenda thereto)
   e. Prima Deshecha Landfill (Order 89-102, 93-86, and addenda thereto)

Military Owned/Operated Facilities:

f. Las Pulgas Landfill (Order 2000-54)
g. San Onofre Landfill (Order 2000-08)

5. Temporary waste staging areas are areas of land, or a portion of a waste management facility, at which waste is temporarily discharged, stored, and treated (sorting of recyclables) and where containment features and ancillary features for precipitation and drainage control are present. Temporary waste staging areas are temporary de facto waste management units.

6. Composite liner systems required for discharges of MSW, pursuant to State Water Resources Control Board Resolution No. 93-62, or engineered alternatives to those prescriptive standards, satisfy minimum containment standards for Class III waste management units promulgated in State Water Resources Control Board regulations governing discharges of designated waste (Title 27, California Code of Regulations, Division 2, Sections 20260 and 20310.

7. The owners/operators of the municipal solid waste landfills identified in Finding 4 of this Resolution may find it necessary to establish temporary waste piles (for purposes of waste staging) at their facility to facilitate the emergency cleanup and disposal of wildfire related solid wastes.

8. Other agencies and jurisdictions, or persons, engaged in cleanup of burned areas within the San Diego Region may find it necessary to establish temporary staging areas (temporary waste piles for short-term storage and treatment of waste from the cleanup of burned areas) that are not located at regulated waste management units or solid waste disposal facilities and have not been classified as suitable for particular categories of solid waste management.

9. "Universal wastes" are defined by California Code of Regulations (CCR) Title 22, Section 66261.9.

10. Solid waste that consists of or contains two or more categories of wastes (*e.g.*, nonhazardous wastes, house-hold hazardous wastes, universal wastes, inert wastes, *etc.)* that have been mixed and damaged such that the individual waste components are not practically separable for purposes of waste management. Wastes from cleanup of property damaged by fire often are "mixed wastes."

11. Inert wastes (as defined in California Code of Regulations, Title 27, Section 20230) may include uncontaminated demolition debris (e.g., concrete, brick, wood, and metal) that are suitable for recycling or reuse. Inert wastes that are suitable for reuse or recycling do not require permanent disposal at a classified waste management unit (landfill).

12. The requirements in Statewide General Construction Stormwater Permit 99-08 pertaining to best management practices that will prevent construction pollutants from contacting storm water and prevent products of erosion from moving off site into receiving waters are relevant and appropriate to apply to temporary waste staging areas.

13. Cover material at temporary waste staging areas used to cover waste piles will adequately prevent rainwater infiltration, runoff, control fugitive dust, vectors, odors, blowing litter, and scavenging. Any material classified as a designated waste cannot be use for daily cover [California Code of Regulations, Title 27, and Section 20705(e)(1)].

14. Under the provisions of California Water Code (CWC) Section 13269(c)(1), it is not against the public interest to waive issuance of waste discharge requirements for the expeditious management and disposal of solid wastes resulting from the cleanup of burned areas of the San Diego Region, provided that certain conditions are met.

15. CWC Sections 13260(a) and (b), 13263(a), and 13264(a), under the authority of CWC Section 13269(c)(1), would enable Regional Board staff resources to be used more effectively during the state of emergency.

16. A temporary conditional waiver of the requirements set forth in CWC Sections 13260(a) and (b), 13263(a), and 13264(a) for the discharge of solid wastes, derived from cleanup of burned areas in the San Diego Region, and for short term discharges into temporary waste piles would not be against the public interest because this discharge would comply with the conditions of this Resolution, would be effectively regulated by other public agencies, and would not result in violation of the Water Quality Control Plan, San Diego Basin.

17. Waiver of reports of waste discharge and waste discharge requirements are categorically exempt from California Environmental Quality Act (CEQA) documentation because the waiver would apply only to emergency activities in a disaster area in which a statue of emergency has been proclaimed by the Governor [Title 14, California Code of Regulations, Section 15269].

BE IT RESOLVED THAT, pursuant to California Water Code (CWC) Section 13269, the Regional Board waives the requirements to submit a report of waste discharge (CWC Sections 13260(a) and (b) and 13264(a)) and establish waste discharge requirements (CWC Section 13263(a)) for the discharge of solid wastes derived from cleanup of burned areas in the San Diego Region provided that the following conditions are met. The conditions set forth in this Resolution are applicable to the Municipal Solid Waste Landfills identified in Finding No. 4 and any discharger who establishes a temporary waste management unit to temporarily store and segregate waste from cleanup of burned areas in the San Diego Region, respectively.

A. Conditions for discharge of wildfire waste at regulated Class III Municipal Solid Waste Landfills in the San Diego Region.

1. Solid waste (not otherwise suitable for recycling or reuse) derived from cleanup of burned areas in the San Diego Region shall not be discharged to areas **not** underlain with an engineered liner system and a leachate collection under this waiver.

2. Liquid hazardous wastes or "restricted hazardous wastes," as defined by CH&S Code Section 25122.7, derived from cleanup of burned areas in the San Diego Region shall not be discharged to municipal solid waste landfills under this waiver.

3. The discharge of solid wastes derived from cleanup of burned areas in the San Diego Region shall not create or contribute to a condition of pollution or nuisance as defined by the California Water Code Section 13050.

4. The discharge of solid wastes derived from cleanup of burned areas in the San Diego Region shall not create or contribute to conditions, which violate the discharge prohibitions of the Water Quality Control Plan (Basin Plan) for the San Diego Region.

5. Solid waste derived from cleanup of burned areas in the San Diego Region shall be discharged **only** to municipal solid waste landfill units underlain with engineered liners and leachate collection systems and that satisfy the requirements of SWRCB Resolution 93-62 and Regional Board waste discharge requirements. Solid waste derived from cleanup of burned areas in the San Diego Region must also be isolated to the extent practicable, from areas of the landfill that are not lined.

6. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of burned areas in the San Diego Region shall be covered expeditiously.

7. "Mixed wastes" (as defined in this Resolution) derived from cleanup of burned areas in the San Diego Region shall be seperated and recycled when appropriate.

8. The following categories of solid wastes derived from burned areas of the San Diego Region may be discharged as alternative daily cover (ADC) to a Class III municipal solid waste landfill:

    a) Solid wastes that are classified as "inert wastes" (per CCR Title 27, § 20230), or

b) Solid wastes that meet the criteria for ADC as prescribed in California Code of Regulations (CCR) Title 27, § 20690 *et seq.*, and

c) Solid wastes identified by the Local Enforcement Agency (LEA) as being suitable for use as ADC.

9. **Required Notification to the Regional Board:** Within 60 days after the expiration date of this Resolution, the owner/operator of the landfills that accepted waste from burned areas in the San Diego Region pursuant to this Resolution shall submit an amendment to their report of waste discharge (Joint Technical Document) describing the material change to their discharge, pertaining to the temporary acceptance of waste derived from cleanup of burned areas in the San Diego Region.

B. Conditions for Discharge of Wildfire Waste to Temporary Waste Staging Areas at regulated Class III Municipal Solid Waste Landfills in the San Diego Region.

In addition to the conditions 1 through 5 in Section A of this Resolution, any person discharging waste from burned areas in the San Diego Region to temporary staging areas at a regulated municipal solid waste landfill shall comply with the following conditions.

1. **Required Notification to the Regional Board:** The discharger shall send the Regional Board a signed/completed Notice of Intent to Establish Temporary Wildfire Waste Staging Operation (Attachment No. 1), within 30 days of the initial discharge of any waste piles established under this Resolution. The discharger shall send the Regional Board a signed/completed Notice of Termination of Temporary Wildfire Waste Staging Operation (Attachment No. 2) within 10 working days of completing removal of all waste and restoring the site to its original condition. All wastes must be removed and the site returned to its original condition by the expiration date of this waiver.

2. **Runon/Runoff Protection:** The discharger shall prevent surface runoff/runon from contacting wastes derived from cleanup of burned areas in the San Diego Region and shall prevent erosion and transport of soils containing fire waste by surface runoff from all waste piles established under this waiver. The discharger shall employ applicable best management practices (BMPs) to the maximum extent practicable for storm water conveyance and control.

3. **Ground Water Protection**: All waste derived from cleanup of burned areas in the San Diego Region shall be placed at least five feet above the highest anticipated level of ground water.

4. **Surface Water Protection**: All waste piles derived from cleanup of burned areas in the San Diego Region shall be located not less than 100 feet from any surface water identified in the Water Quality Control Plan for the San Diego Region.

5. **Flood Protection**: All waste derived from cleanup of burned areas in the San Diego Region shall be protected from flooding and inundation.

6. **Clean Closure of Temporary Waste Piles**: Wastes discharged to temporary waste piles at regulated landfills under this waiver, together with any materials used to contain the temporary waste piles shall be removed from the site of temporary storage/staging by the expiration date of this waiver. Alternatively, the discharger must file an amended Report of Waste Discharge and obtain amended waste discharge requirements from the Regional Board for any waste piles that will continue to exist after the expiration of this waiver. The temporary waste staging site shall be restored to its original state no later than the expiration date of this waiver.

C. Conditions for Temporary Waste Staging Areas NOT located at a classified Municipal Solid Waste Landfill Identified in Finding No. 4 of this Resolution.

1. The discharge of solid wastes into temporary waste piles located at temporary staging areas shall comply with all the discharge prohibitions identified in Section A.1, A.2, A.3, and A.4 of this Resolution.

2. **Required Notification to the Regional Board:** Any person proposing to discharge waste from burned areas in the San Diego Region to temporary waste staging areas that is not located at a regulated solid waste management facility shall send the Regional Board a signed/completed Notice of Intent to Establish Temporary Wildfire Waste Staging Operation (Attachment No. 1), within 30 days of the initial discharge of any wildfire waste established under this Resolution. The discharger shall send the Regional Board a signed/completed Notice of Termination of Temporary Wildfire Waste Staging Operation (Attachment No. 2) within 10 working days of completing removal of all wildfire waste and restoring the site to its original condition. All wastes must be removed by the expiration date of this waiver.

3. **Cover**: All temporary waste staging units/piles shall be covered with either a heavy gage plastic or material that meets the classification criteria for wastes described in Finding 11 of this Resolution. A material that would be classified as a designated waste cannot be utilized for daily or intermediate

cover at a temporary waste staging area. Cover on the temporary waste staging units/piles shall prevent rainwater infiltration, runoff, control fugitive dust, vectors, odors, blowing litter, and scavenging.

4. **Liner**: A heavy gauge plastic sheeting (not less than 20 mils thick) or other impermeable material (*e.g.*, asphalt, concrete, compacted Class II roadbase, etc.) shall be installed prior to establishing a temporary waste pile to protect all natural geological materials from contact with the waste or leachate.

5. **Surface Water Protection**: All waste piles, derived from cleanup of burned areas in the San Diego Region, shall be located not less than 100 feet from any surface water identified in the San Diego Regional Board Basin Plan.

6. **Precipitation and Drainage Controls:** Temporary waste piles shall 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 shall be diverted from the location of the temporary waste pile through implementation of BMPs to the maximum extent practicable for storm water control and conveyance.

7. **Return/Ponded water: A** discharger shall submit written notification to the Regional Board 30 days prior to initiating the discharge of return water or ponded water contained within the temporary staging area if the discharge is to a location other than a sanitary sewer system. Based on the Regional Board determination the discharger may receive: 1) waste discharge requirements; 2) a waiver of waste discharge requirements, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the Regional Board.

8. **Public Notification Requirement**: The discharger shall 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 shall post additional signs as necessary (in languages other tan English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) shall be maintained as required to keep them legible and remain in place while temporary waste piles remain on site.

9. Closure of Temporary Waste Piles**:** Wastes discharged to temporary waste staging area for the purpose of storage and treatment established under this Resolution and any materials used to contain the temporary waste shall be removed for disposal in accordance with applicable Federal, State and local requirements prior to the expiration of this waiver. The discharger shall send the Regional Board a signed/completed Notice of Termination of Temporary Wildfire Waste Staging Operation (Attachment No. 2) within 10 working days

of completing removal of all wildfire waste and restoring the site to its original condition. All wastes must be removed by the expiration date of this waiver.

BE IT FURTHER RESOLVED, this conditional wavier of statutory requirements in Sections 13260(a) and (b), 13263(a), and 13264(a) of the California Water Code shall remain in effect until **June 30, 2004**, unless the Regional Board takes action to extend, revise, or rescind these requirements.

BE IT FURTHER RESOLVED, Requirements of this Emergency Conditional Temporary Waiver apply only to waste derived from the cleanup of areas burned by the wildfires in San Diego Region. All discharges of waste not associated with cleanup of debris from burned areas in the San Diego Region must comply with discharge prohibitions and discharge specifications established in waste discharge requirements for the solid waste management units identified in Finding 4 of this Resolution.

BE IT FURTHER RESOLVED, the Regional Board may consider extending the waiver in particular cases for good cause, provided that a letter of request from the discharger is received at least 10 working days prior to the maximum period allowed under the applicable Conditions.

BE IT FURTHER RESOLVED, the Regional Board may issue specific waste discharge requirements for discharges of waste derived from burned areas in the San Diego Region.

BE IT FURTHER RESOLVED, any waiver of waste discharge requirements is conditional, may be terminated at any time, does not authorize or excuse an illegal discharge, does not preclude the need for any permits, licenses, or authorizations which may be required by other state or local governmental agencies or landowners, and does not preclude the Regional Board from administering enforcement remedies pursuant to Section 13300, et seq., of the California Water Code.

I, John H. Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an emergency Resolution issued by the California Regional Water Quality Control Board, San Diego Region on November 12, 2003.

John H. Robertus
Executive Officer