California Regional Water Quality Control Board
San Diego Region

Basin Plan Amendment to Renew and Issue Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region

Draft Technical Report

July 6, 2007

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Draft Technical Report

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California Regional Water Quality Control Board
San Diego Region
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The existing conditional waivers became effective January 1, 2003 and are set to expire on December 31, 2007. The existing conditional waivers must be renewed or allowed to expire. Since the existing conditional waivers were adopted in 2002, several types of discharge regulated by the existing conditional waivers have been identified as potentially significant sources of pollutants to waters of the state. In addition to the types of discharge regulated by the existing conditional waivers, several new types of discharge have been identified that are not currently regulated in the San Diego Region, but could be regulated by conditional waivers.

The purpose of this Basin Plan amendment is to revise the conditional waivers in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan) to include waiver conditions that will minimize or eliminate the discharge or potential discharge of pollutants to waters of the state, as well as include additional types of discharge that can be regulated by conditional waivers.

There is a total of 35 (26 existing and 9 new) types of discharge that the San Diego Water Board has proposed for regulation by conditional waivers. Instead of developing conditional waivers for each specific type of discharge, an integrated approach was developed to simplify the proposed conditional waivers. Types of discharge that are similar in nature or originate from a common setting or operation have been grouped together into a "discharge classification."

Conditional waivers for regulating the following discharge classifications have been proposed for adoption by the San Diego Water Board to amend the Basin Plan:

1. Discharges from on-site disposal systems
2. "Low threat" discharges to land
3. Discharges from animal operations
4. Discharges from agricultural and nursery operations
5. Discharges from silvilcultural operations
6. Discharges of dredged or fill materials nearby or within surface waters
7. Discharges of recycled water to land
8. Discharges/disposal of solid wastes to land
9. Discharges/disposal of slurries to land
10. Discharges of emergency/disaster related wastes
11. Aerially discharged wastes

General Conditions were developed that are applicable to all specific types of discharge within a discharge classification, and Specific Conditions were developed for individual types of discharge if additional or discharge-specific conditions were necessary.

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1 Introduction

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is charged with protection of the quality of groundwater and surface waters of the state within the Region. The *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan) provides the foundation for regulatory activities of the San Diego Water Board.

The Basin Plan fulfills the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act requirement that the San Diego Water Board adopts and maintains a water quality control plan (the Basin Plan) to guide and coordinate the management of water quality in the San Diego Region. The purpose of the Basin Plan is to: (1) designate beneficial uses of the Region's surface waters and groundwater; (2) designate water quality objectives for the reasonable protection of those uses; and (3) establish an implementation plan to achieve the objectives.

Chapter 4 (Implementation) of the Basin Plan was amended in September 2002 to incorporate the existing conditional waivers of waste discharge requirements (WDRs) and/or requirement to file reports of waste discharge (RoWDs), referred to herein as the "existing conditional waivers."[1] The existing waivers currently waive WDRs and/or the requirement to file RoWDs for 26 specific types of discharge.

The existing conditional waivers became effective January 1, 2003 and are set to expire on December 31, 2007. The existing conditional waivers must be renewed or allowed to expire. The purpose of this Basin Plan amendment is to renew the existing conditional waivers with some modifications to the associated waiver conditions, as well as include some new conditional waivers for additional types of discharge.

1.1 Role of Conditional Waivers in Regulating Discharges

Conditional waivers may be utilized to regulate specific discharges or specific types of discharge for which the San Diego Water Board would otherwise adopt and issue WDRs. Conditional waivers include requirements that a discharger must comply with in order to be eligible for regulation by a waiver. However, compliance with the requirements of a conditional waiver does not entitle a discharger to regulation by a waiver. A conditional waiver is not a method of regulation required to be used by the San Diego Water Board. Even if a discharger complies with all the conditions of a conditional waiver, the San Diego Water Board may still choose to regulate any specific discharge with WDRs instead of a conditional waiver. Regulation by a conditional waiver instead of WDRs is a privilege, not a right, which is granted to the discharger.

Nevertheless, there are several types or categories of discharge that the San Diego Water Board would prefer to regulate with conditional waivers. Conditional waivers

[1] Resolution R9-2002-0186, *Amendment to the Water Quality Control Pan for the San Diego Region (9) to Incorporate a Waste Discharge Requirement Waiver Policy for Certain Specific Types of Discharges,* adopted in September 2002

allow the San Diego Water Board to regulate discharges with fewer resources, allowing the San Diego Water Board to focus on discharges that have a higher potential threat to water quality in the Region. Dischargers also benefit from fewer resource requirements when regulated by a conditional waiver. Therefore, regulating discharges with conditional waivers, whenever possible, is in the best interest of the San Diego Water Board, the dischargers, and the public.

A conditional waiver provides the minimum requirements that are expected of a discharger to minimize or eliminate the discharge or potential discharge of pollutants to waters of the state. Compliance with waiver conditions may not ensure that water quality is protected in every situation. Therefore, regulating a specific discharge or specific type of discharge with a waiver is conditional and *may be terminated at any time* if the San Diego Water Board determines that a specific discharge or specific type of discharge is no longer consistent with the Basin Plan or no longer in the public interest.

A conditional waiver does not authorize any discharge that is otherwise prohibited or regulated. A conditional waiver does not preclude the need for permits, licenses, or certificates that may be required from other local or governmental agencies and entities. If any regulations or ordinances have more restrictive requirements than the applicable waiver conditions, those requirements supersede the waiver conditions. However, if requirements of a conditional waiver are more restrictive than the applicable regulations or ordinances, as they pertain to water quality protection, the discharger must comply with the conditions of the waiver in order to be regulated by a conditional waiver.

Finally, a conditional waiver does not preclude the San Diego Water Board from taking enforcement actions for violation of waiver conditions, or for any discharges that cause or threaten to cause violation of provisions in the Basin Plan, or that create or threaten to create a condition of nuisance or pollution.

2 Background

The Water Code defines "*waste*" as "*sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of disposal*."[2]

"Discharge of waste" is any waste that enters "waters of the state," which is "any surface water or groundwater, including saline water, within the boundaries of the state."[3]

Section 13264(a) of the Water Code states that "*no person shall initiate any new discharge of waste…prior to the filing of the reports required by section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:*

(1) The issuance of waste discharge requirements pursuant to section 13263.
(2) The expiration of 140 days after compliance with section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance.
(3) The issuance of a waiver pursuant to Section 13269."

Section 13260(a)(1) of the Water Code requires that any person (including any city, county, district, or other entity) discharging, or proposing to discharge, wastes within any region that could affect the quality of waters of the state, other than into a community sewer system, must file a RoWD with the appropriate California Regional Water Quality Control Board (Regional Water Board).

Water Code section 13263(a) requires that each Regional Water Board prescribe discharge requirements for any existing or proposed waste discharges within its area of jurisdiction, except discharges into a community sewer system, even if no RoWD has been filed.

Finally, Water Code section 13269 gives each Regional Water Board the authority to conditionally waive the provisions of sections 13260(a)(1), 13263(a), and 13264(a) for a specific discharge or type of discharge. In order to do so, a Regional Water Board must determine that a waiver for a specific discharge or type of discharge is consistent with the Basin Plan and is not against the public interest.

Because the resources available to the San Diego Water Board are significantly less than those needed to regulate all possible waste discharges in the Region, focusing on discharges based on their potential threat to water quality is necessary. Most types of discharge that have a higher threat to water quality are typically point sources.

[2] Defined in Water Code section 13050(d)
[3] Defined in Water Code section 13050(e)

Discharges from point sources are readily amenable to regulation and shown to be effectively regulated through the adoption of general or individual WDRs.

However, there are several types of point source, as well as nonpoint source discharges that may not have an adverse affect on the quality of the waters of the state, and/or are not readily amenable to regulation through adoption of WDRs. For these types of discharge, a conditional waiver of WDRs and/or the requirement to file RoWDs may be the most appropriate method of regulation. The types of discharge that that can be waived of WDRs and/or the requirement to file RoWDs only include discharges to land and groundwater, and discharges to surface waters that are not otherwise subject to National Pollutant Discharge Elimination System (NPDES) regulations.[4] NPDES regulations are federal regulations. There are no federal or state regulations that allow NPDES regulations to be waived.

The San Diego Water Board developed and formally initiated the conditional waivers for the San Diego Region with a resolution adopted in 1983.[5] The conditional waivers were incorporated into the Basin Plan in 1994 to centralize the information in one location for the public. The conditional waivers are described in Chapter 4 (Implementation) of the Basin Plan.

Water Code sections 13269 (pertaining to waivers) and 13350 (pertaining to civil liability) were amended in 1999.[6] The amendments to section 13269 require the following:

- For waivers in effect on January 1, 2000, review the terms, conditions and effectiveness of each waiver issued;
- Renew waivers for specific discharges or types of discharge by January 1, 2003 (failure to renew a waiver automatically results in termination of the waiver);
- Determine if general or individual WDRs should be issued for ongoing discharges where waivers have been terminated;
- Establish waiver conditions;
- Enforce waiver conditions; and,
- Renew each waiver every five years (or each waiver will expire automatically).

In order for the conditional waivers to be consistent with the Basin Plan, the following general overall conditions apply to each specific type of discharge that is waived of WDRs and/or the requirement to file RoWDs:

- The discharge shall not create a nuisance[7] or pollution[8] as defined in the Water Code;

[4] Defined in Code of Federal Regulations Title 40 section 122.3
[5] Resolution No. 83-21, *A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Certain Specific Types of Discharges,* adopted in July 1983
[6] On October 10, 1999, Senate Bill 390 was ratified and effectively amended Water Code sections 13269 and 13350.

- The discharge shall not cause a violation of any applicable water quality standard for receiving waters adopted by the San Diego Water Board, or the State Water Resources Control Board (State Water Board), as required by the Clean Water Act; and
- The discharge of any substance in concentrations toxic to animal or plant life is prohibited.

In addition to the general overall conditions listed above, issuing conditional waivers would not be against the public interest under one or more of the following circumstances:

- The type of discharge is effectively regulated by other public agencies; or
- The type of discharge does not adversely affect the quality of the beneficial uses of the waters of the state; or
- The type of discharge is not readily amenable to regulation through adoption of WDRs, but warrants San Diego Water Board oversight to ensure compliance with the mandated conditions (e.g., Basin Plan water quality objectives).

The San Diego Water Board re-issued the conditional waivers for the San Diego Region in accordance with the amendments to Water Code section 13269 on September 11, 2002.[9] The existing conditional waivers became effective January 1, 2003 and are set to expire on December 31, 2007.

[7] "Nuisance" is defined by Water Code section 13050(m) as anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and (3) Occurs during, or as a result of, the treatment or disposal of wastes.

[8] "Pollution" is defined by Water Code section 13050(l)(1) as an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects waters for beneficial uses or facilities which serve these beneficial uses. Pollution may include contamination.

[9] Resolution No. 2002-186, ***Amendment to the*** **Water Quality Control Plan for the San Diego Region (9)** ***to Incorporate a Waste Discharge Requirement Waiver Policy for Certain Specific Types of Discharges,*** **adopted September 11, 2002**

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3 Purpose of the Proposed Basin Plan Amendment

The existing conditional waivers are set to expire on December 31, 2007. The existing conditional waivers must be renewed or allowed to expire. Because the existing conditional waivers are part of the Basin Plan, renewal and any revisions to the conditional waivers and waiver conditions require a Basin Plan amendment. Therefore, the purpose of this Basin Plan amendment is to renew and revise the existing conditional waivers and waiver conditions, as well as adopt and issue new conditional waivers for additional types of discharge that have been identified.

The conditions of each existing conditional waiver must be reviewed for effectiveness in minimizing or eliminating the discharge of pollutants and protecting water quality. In reviewing the effectiveness of a waiver and its conditions, the San Diego Water Board should consider the volume, duration, frequency, and constituents of a type of discharge, as well as resources required and available for regulating the type of discharge. If waiver conditions are shown to be ineffective in minimizing or eliminating the discharge of pollutants for a type of discharge, the waiver conditions should be revised to improve effectiveness. If the waiver conditions cannot be revised to improve effectiveness, the conditional waiver should be terminated and the San Diego Water Board should adopt and issue conditional waivers for specific discharges, WDRs for specific individual discharges, or general WDRs for a type or category of discharge in the Region.

For each type of discharge regulated by an existing conditional waiver that is allowed to expire, the San Diego Water Board must determine whether the type of discharge should be subject to general or individual WDRs. For each type of discharge regulated by an existing conditional waiver that is renewed, the conditions of the waiver must be reviewed for effectiveness and revised, as needed. In addition, new types of discharge may be identified and issued conditional waivers and waiver conditions if the San Diego Water Board determines that waiving WDRs and/or the requirement to file RoWDs for the newly proposed types of discharge is consistent with the Basin Plan and in the public interest.

Available evidence and water quality monitoring data collected within the Region since 2002 indicate that the types of discharge that are currently regulated by existing conditional waivers may not be complying with waiver conditions, or that existing waiver conditions are not effective enough to minimize or eliminate the discharge of pollutants for the protection of water quality. The potential threat to water quality and waiver conditions for each type of discharge regulated by an existing conditional waiver were reviewed, and revised, as needed, to ensure discharges are consistent with the Basin Plan, and sufficient information is provided to verify the effectiveness of the waiver in minimizing or eliminating the discharge of pollutants for the protection of water quality.

This following sections of this technical report review the effectiveness of the existing waivers and waiver conditions; describe and discuss the new types of discharge proposed for regulation by waivers; discuss how the types of discharge to be

conditionally waived of WDRs and/or the requirement to file RoWDs can be grouped into discharge classifications; and, describe and discuss the conditional waivers proposed for adoption to replace the existing conditional waivers.

4 Types of Discharge Regulated by the Existing Conditional Waivers

Table 4-4 in Chapter 4 of the Basin Plan lists the types of discharge regulated by the existing conditional waivers. Since the existing conditional waivers were adopted in 2002, several types of discharge regulated by the existing conditional waivers have been identified as potential sources of pollutants in the development of Total Maximum Daily Loads (TMDLs) for several water bodies on the Clean Water Act section 303(d) List of Water Quality Limited Segments (303(d) List) for the San Diego Region.

The existing conditional waivers for the discharge types of concern identified by the TMDL projects do not include waiver conditions that provide the San Diego Water Board the information or data necessary to identify discharges occurring within the Region regulated by conditional waivers, the ability to verify compliance with waiver conditions, or the ability to assess the effectiveness of the waiver conditions. Therefore, the existing conditional waivers need to be reviewed for effectiveness, and the conditions should be revised, if necessary, to provide additional requirements to minimize or eliminate discharges of pollutants and better protect water quality in the Region.

The existing conditional waivers currently waive WDRs and/or the requirement to file RoWDs for the following 26 discharging operations (or specific types of discharge):

1. Conventional septic tank/subsurface disposal systems for residential units.
2. Conventional septic tank/subsurface disposal systems for commercial/industrial establishments.
3. Alternative individual sewerage systems.
4. Conventional septic tank/subsurface disposal systems for campgrounds.
5. Construction and test pumping of water wells.
6. Air conditioner condensate.
7. Animal feeding operations (300 to 999 animal units).
8. Animal feeding operations (less than 300 animal units).
9. Plant crop residues.
10. Storm water runoff.
11. Sand and gravel mining operations.
12. Intermittent swimming pool discharges.
13. Dredging project wastes.
14. Short-term construction dewatering operations.
15. Manure composting and soil amendment operations.
16. Solid waste disposal facilities accepting only inert wastes.
17. Stream channel alterations.
18. Agricultural irrigation return water.
19. Nursery irrigation return water.
20. Short-term use of reclaimed wastewater.
21. On-site drilling mud discharge.
22. Timber harvesting.
23. Temporary discharge of specified contaminated soils.
24. Green waste composting facilities.

25. Incidental discharges within a response area during a spill response.
26. Permanent reclaimed water projects.

The types of discharge regulated by the existing conditional waivers are reviewed in detail in Appendix A.

The existing conditional waivers for all 26 types of discharge should be renewed. However, in order for the conditional waivers to be renewed, revisions to the waiver conditions of several existing conditional waivers are needed to minimize or eliminate discharges of pollutants and better protect water quality in the Region. The waiver conditions proposed for revising and renewing the conditional waivers are also provided in Appendix A.

5 New Types of Discharge to be Regulated by the Proposed Conditional Waivers

In addition to the types of discharge regulated by the existing conditional waivers, several new types of discharge were identified that are not currently regulated in the Region, but could be regulated by conditional waivers. These new types of discharge include the following:

1. “Low threat” discharges to land.
2. Discharges from on-site graywater systems.
3. Discharges from grazing lands.
4. Fire suppression and fuels management activities.
5. Discharge/reuse of soils characterized as inert from known contaminated sites.
6. Concrete grinding residues.
7. Temporary waste piles and surface impoundments for disaster-related wastes.
8. Temporary waste piles and emergency landfills for mass mortality wastes.
9. Discharges of wastes related to fireworks displays.

These new types of discharge proposed for regulation by conditional waivers are reviewed and discussed in Appendix B. The proposed waiver conditions for the new types of discharge proposed for regulation by conditional waivers are also provided in Appendix B.

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6 Classification of Waste Discharge Types for Proposed Conditional Waivers

Appendices A and B review and discuss the existing and new types of discharge that San Diego Water Board has proposed for regulation by conditional waivers. There is a total of 35 (26 existing and 9 new) types of discharge that the San Diego has proposed for regulation by conditional waivers.

If there are 35 conditional waivers developed, a discharger may be required to identify several conditional waivers that may be applicable to their operation. However, in examining the existing and new types of discharge proposed for regulation by conditional waivers, several of the discharge types are similar and/or related in terms of discharge setting, discharge source, and/or proposed waiver conditions.

Instead of developing conditional waivers for each individual type of discharge, an integrated approach can simplify the proposed conditional waivers. Types of discharge that are similar in nature or originate from a common setting or operation could be grouped together into a "discharge classification."

For example, discharge types that could be classified as similar are discharges that typically require a Clean Water Act section 401 water quality certification (401 Certification). A type of discharge that typically requires a 401 Certification is one where dredged and/or fill material may be discharged to land and/or surface waters. These types of discharge include sand and gravel mining operations (existing Waiver No. 11), dredging project wastes (existing Waiver No. 13), and stream channel alterations (existing Waiver No. 17). All of these types of discharge have similar proposed waiver conditions.

Another example is the several types of discharge that could be classified as discharges from agricultural and/or nursery operations. Discharges of plant crop residues (existing Waiver No. 9), storm water runoff from agricultural lands (existing Waiver No. 10), manure compost applied to soil as mulch and/or soil amendment (existing Waiver No. 15), agricultural return water (existing Waiver No. 18) or nursery irrigation return water (existing Waiver No 19), and green waste for composting (existing Waiver No 24) can all occur on the same site. Many of the proposed waiver conditions are similar, and many, if not all, of these types of discharge are found on nursery or agricultural operations.

Therefore, we grouped the types of discharge proposed for regulation by conditional waivers into discharge classifications. General Conditions were developed that are applicable to all discharge types within a discharge classification, and Specific Conditions were developed for individual types of discharge if additional or discharge-specific conditions are necessary.

The table below lists the proposed discharge classifications, and groups the existing and new types of discharge that were discussed in the previous sections according to those classifications.

Table 6-1. Proposed Conditional Waivers and Discharge Classifications

Proposed Waiver No.	Proposed Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification
1	Discharges from on-site disposal systems	Conventional septic tank/subsurface disposal systems for residential units (**1***) Conventional septic tank/subsurface disposal systems for commercial/industrial establishments (**2***) Alternative individual sewerage systems (**3***) Conventional septic tank/subsurface disposal systems for campgrounds (**4***) On-site graywater disposal systems (**NEW****)
2	"Low threat" discharges to land	Construction and test pumping of water wells (**5***) Air conditioner condensate (**6***) Swimming pool discharges (**12***) Short-term construction dewatering operations (**14***) "Low Threat" discharges to land and/or groundwater (**NEW****), including the following: -Groundwater pumped from drinking water wells -Groundwater from foundation drains, crawl space pumps, and footing drains -Discharges from flushing water lines -Discharges from washing vehicles, pavement, buildings, etc. -Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water -Infiltration from structural infiltration-based BMPs -Other waste discharges to land, determined to be "low threat" by the San Diego Water Board
3	Discharges from animal operations	Medium (300-999 animal units) animal feeding operations (**7***) Small (less than 300 animal units) animal feeding operations (**8***) Storm water runoff (**10***) Manure composting/soil amendment operations (**15***) Discharges from grazing lands (**NEW****)
4	Discharges from agricultural and nursery operations	Plant crop residues (**9***) Storm water runoff (**10***) Soil amendment operations (**15***) Agricultural irrigation return water (**18***) Nursery irrigation return water (**19***) Green waste composting facilities (**24***)
5	Discharges from silvicultural operations	Storm water runoff (**10***) Timber harvesting (**22***) Green waste composting facilities (**24***) Fire suppression and fuels management (**NEW****)
6	Discharges of dredged or fill materials nearby or within surface waters	Sand and gravel mining operations (**11***) Dredging project wastes (**13***) Stream channel alternations (**17***)
7	Discharges of recycled water to land	Short-term use of reclaimed (recycled) wastewater (**20***) Permanent reclaimed (recycled) water projects (**26***)

Table 6-1. Proposed Conditional Waivers and Discharge Classifications (Cont'd)

Proposed Waiver No.	Proposed Discharge Classification	Discharge Types Included in Conditional Waiver Discharge Classification
8	Discharges/disposal of solid wastes to land	Plant crop residues (**9***) Manure composting and soil amendment operations (**15***) Solid waste disposal facilities accepting only inert wastes (**16***) Temporary discharge of specified contaminated soils (**23***) Green waste composting facilities (**24***) Discharge/reuse of soils characterized as inert from contaminated sites (**NEW****)
9	Discharges/disposal of slurries to land	On-site drilling mud discharge (**21***) Concrete grinding residues (**NEW****)
10	Discharges of emergency/disaster-related wastes	Incidental discharges within a response area during a spill response (**25***) Temporary waste piles and surface impoundments for disaster-related wastes (**NEW****) Temporary waste piles and emergency landfills for mass mortality wastes (**NEW****)
11	Aerially discharged wastes	Discharges of wastes related to fireworks displays (**NEW****) Other wastes discharged aerially that may adversely affect the quality of the groundwaters of the state, but determined to be "low threat" by the San Diego Water Board

* Waiver number provided based on the existing conditional waivers, effective January 1, 2003. Review and discussion of discharge types regulated by the existing conditional waivers provided in Appendix A.

**** NEW** is used for waste discharge types or "facilities" that were not included in the existing conditional waivers. Review and discussion of discharge types proposed for regulation by conditional waivers is provided in Appendix B.

There are a several types of discharge that are included in more than one discharge classification. Storm water runoff that is not subject to federal National Pollution Discharge Elimination System (NPDES) regulations is a type of discharge that is applicable to both agricultural and silvicultural operations. Manure composting may occur at animal feeding operations (AFO) facilities, disposal facilities or compost manufacturers, and composted manure may be used as a soil amendment on agricultural and nursery operations. Green waste composting is an activity that may occur at agricultural or silvicultural operations, disposal facilities, or other facilities that may discharge or dispose of green wastes on land. Therefore, these types of discharge were included in more than one discharge classification.

Based on these conditional waiver discharge classifications, General Conditions and Specific Conditions, if applicable, were developed. The conditional waivers and waiver conditions proposed for adoption are discussed in the following section.

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7 Conditional Waivers Proposed for Adoption

7.1 Proposed Conditional Waiver No. 1 – Discharges from On-site Disposal Systems

Proposed Conditional Waiver No. 1 regulates the discharges of effluent from on-site disposal systems. Discharges of effluent from on-site disposal systems that can be regulated by Proposed Conditional Waiver No. 1 includes domestic wastewater (sewage) and graywater, but not industrial wastewater, which is discharged to the subsurface located within the property that generated the waste stream.

Proposed Conditional Waiver No. 1 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Conventional septic tank/subsurface disposal systems for residential units (see Appendix A, section A.3.1)
- Conventional septic tank/subsurface disposal systems for commercial/industrial establishments (see Appendix A, section A.3.1)
- Alternative individual sewerage systems (see Appendix A, section A.3.1)
- Conventional septic tank/subsurface disposal systems for campgrounds (see Appendix A, section A.3.1)
- On-site graywater disposal systems (see Appendix B, section B.1.2)

These types of discharge have similar system design and installation requirements and proposed waiver conditions. All these types of discharge can be regulated with waiver conditions developed for one discharge classification.

Conventional septic tank/subsurface disposal systems and alternative individual sewerage systems, or on-site wastewater treatment systems (OWTSs), collect and treat wastewater and sewage, or “black water,” and discharge effluent to the subsurface on land. Natural processes in the soil of the disposal area are usually an integral component of OWTSs and provide further treatment of the effluent as it percolates through the ground.

Graywater systems collect graywater and also discharge effluent to the subsurface on land. Graywater includes wash water originating from showers, bathtubs, clothes washing machines, and hand washing sinks that are not used for disposal of chemicals or chemical-biological ingredients and generally subject to very little treatment or no treatment at all. Natural processes in the soil of the disposal area can provide treatment of the effluent as it percolates through the ground.

The discharge of effluent from on-site disposal systems can pose a potential threat to water quality and is therefore defined as a waste. Due to all the human fecal matter that is collected and treated by OWTSs, effluent that is discharged can contain high levels of pathogens (e.g., bacteria, viruses, protozoa), nutrients (i.e., phosphorus and nitrogen compounds), and other chemicals. Graywater systems can discharge effluent that has

potentially come in contact with human fecal matter (e.g., soiled diapers washed in clothes washing machines), nitrogen compounds (e.g., urine from children and adults in bathtubs and showers), phosphorus (e.g., laundry detergents used in clothes washing machines), or other chemicals (e.g., cleaning chemicals washed down bathroom washbasins). Therefore, on-site 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 degrade water quality. However, proper design, installation and maintenance of on-site disposal systems can eliminate the potential treat to water quality.

The design, construction, and installation requirements for on-site 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 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.

As of the writing of this report, the State Water Board is still in the process of developing the new OWTS regulations, which would be applicable to conventional septic tank/subsurface systems or alternative individual sewerage systems. The OWTS regulations that will be adopted by the State Water Board may have requirements that are more protective of water quality than those currently enforced by authorized local agencies. The authorized local agencies will be responsible for bringing OWTSs in compliance with the new regulations.

The Graywater Standards, 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 graywater systems, can be found in the California Plumbing Code (CPC).[10] The Water Code states that a graywater system may be installed if the authorized local authorities having jurisdiction over the installation determines that the system complies with the CPC Graywater Standards.[11]

The design, construction, and installation of on-site wastewater systems are regulated and permitted by the city, county, and/or other authorized local authority. However, the discharge of effluent from on-site disposal systems is subject to regulation by the State and Regional Water Boards in order to protect the waters of the state. The San Diego Water Board determined that it is consistent with the Basin Plan and in the public interest to delegate regulation of specific types of discharge to another public agency. In this case, owners/operators of on-site disposal systems must obtain the appropriate permits from a city, county, and/or other authorized local agencies. As long as the effluent that is discharged from these properly permitted on-site wastewater systems do not have an adverse impact on surface water or groundwater quality, the San Diego

[10] California Code of Regulations Title 24 (also known as the California Building Standards Administrative Code) Part 5 (also known as the California Plumbing Code) Appendix G
[11] Water Code section 14877.2

Water Board will waive the requirements to file a RoWD and adopting WDRs for these systems.

However, 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 from on-site disposal systems pose a threat to the quality of the waters of the state. If owners/operators of on-site disposal systems are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to continue being regulated under Proposed Conditional Waiver No. 1. If the owner/operator of an on-site disposal system violates waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 1 include the following:

1.I.A. General Waiver Conditions for On-site Wastewater Systems

1.II.A. Specific Waiver Conditions for On-site Septic and Sewerage Systems
1.II.B. Specific Waiver Conditions for On-site Graywater Systems

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 1 are as follows:

1.I.A. General Waiver Conditions for On-site Wastewater Systems

1. Effluent from on-site disposal systems cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Effluent from on-site disposal systems must be discharged to the subsurface and cannot surface or pond.
3. Effluent from on-site disposal systems must not degrade the quality of underlying groundwater.
4. Effluent from on-site disposal systems must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
5. Effluent from on-site disposal systems must be discharged at least 5 feet above highest known historical groundwater level.
6. Effluent from on-site disposal systems must by discharged at least 100 feet away from any surface water body.
7. Effluent from on-site disposal systems must not impact the quality of groundwater in any water wells.
8. On-site disposal systems must be designed and operated in accordance with applicable regulatory requirements and/or standards as provided in the Specific Conditions.
9. The owner/operator of an on-site disposal system must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies. Copies of any

approvals, permits, certifications, and/or licenses must be available on site for inspection.

10. The owner/operator of an on-site disposal system must maintain and operate the system in accordance with the design approved by the authorized local agencies.
11. 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.

In addition to the General Conditions above the following Specific Conditions are required:

1.II.A. Specific Waiver Conditions for On-site Septic and Sewerage Systems

1. For <u>existing</u> on-site septic or sewerage systems, the following conditions apply:
   a) Existing on-site septic or sewerage systems serving campgrounds must not allow connections from recreational vehicles.
   b) Owners/operators of existing on-site septic or sewerage systems that cause a condition of contamination, pollution, or nuisance must cease the use of the system and repair or replace it with a compliant system, or permanently remove the system from operation.
   c) After adoption of State Water Board OWTS regulations, any existing on-site septic or sewerage systems that is replaced, requires major repair, pools or discharges to the surface of the ground, or has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of waters of the state must be brought into compliance with new OWTS regulations. Owners/operators of on-site septic or sewerage systems that cannot bring their system into compliance must cease the use of the system and replace it with a complaint system, or permanently remove the system from operation.
2. For new on-site septic or sewerage systems, the following conditions apply:
   a) New on-site septic or sewerage systems installed at campgrounds must not allow connections from recreational vehicles.
   b) New on-site septic or sewerage systems must comply with the conditions set forth in section entitled *Guidelines for New Community and Individual Sewerage Facilities* in Chapter 4 (Implementation) of the Basin Plan.
   c) New on-site septic or sewerage systems cannot be constructed and effluent from new on-site septic or sewerage systems cannot be discharged in areas where groundwater water quality objectives have been exceeded.
   d) New on-site septic or sewerage systems must not be constructed within areas designated as Zone A, as defined by the California Department of Health Services' (DHS's) *Drinking Water Source Assessment and Protection Program.*

e) Six (6) months after adoption of State Water Board OWTS regulations, applications received by the authorized local authority for the construction of new on-site septic or sewerage systems must be in compliance with new OWTS regulations for design and installation.

1.II.B Specific Waiver Conditions for On-site Graywater Systems

1. The on-site graywater system must be designed and installed, at a minimum, according to the CPC Graywater Standards. If the city, county, and/or other authorized local authorities have additional requirements, the graywater system must be designed and installed to comply with those requirements.
2. On-site graywater systems cannot be constructed and effluent from on-site graywater systems cannot be discharged in areas where groundwater water quality objectives have been exceeded.

7.2 Proposed Conditional Waiver No. 2 – "Low Threat" Discharges to Land

Proposed Conditional Waiver No. 2 regulates the "low threat" discharges to land, which can percolate to groundwater. "Low threat" discharges that can be regulated by Proposed Conditional Waiver No. 2 includes liquid wastes containing pollutant concentrations that will not impact the quality of waters of the state under ambient conditions.

Proposed Conditional Waiver No. 2 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Construction and test pumping of water wells (see Appendix A, section A.3.2)
- Air conditioner condensate (see Appendix A, section A.3.3)
- Swimming pool discharges (see Appendix A, section A.3.8)
- Short-term construction dewatering operations (see Appendix A, section A.3.10)
- "Low Threat" discharges to land and/or groundwater (see Appendix B, section B.1.1), which may including the following:
  - -Groundwater pumped from drinking water wells
  - -Groundwater from foundation drains, crawl space pumps, and footing drains
  - -Discharges from flushing water lines
  - -Discharges from washing vehicles, pavement, buildings, etc.
  - -Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water
  - -Infiltration from structural infiltration-based BMPs
  - -Other discharges of water to land, determined to be "low threat" by the San Diego Water Board

"Low threat" discharges are not expected to degrade the quality of groundwater. These types of discharge have similar properties, threat to water quality, and proposed waiver conditions. All these types of "low threat" discharges to land can be regulated with waiver conditions developed for one discharge classification.

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 any "low threat" discharges to land pose a 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 and required to correct deficiencies in order to continue being regulated under Proposed Conditional Waiver No. 2. If the owner/operator of a "low threat" discharge violates waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 2 include the following:

2.I.A. General Waiver Conditions for "Low Threat" Discharges of Water to Land

2.II.A. Specific Waiver Conditions for Cooling Water Discharges
2.II.B. Specific Waiver Conditions for Swimming Pool Discharges
2.II.C. Specific Waiver Conditions for Pumping of Groundwater from Wells
2.II.D. Specific Waiver Conditions for Dewatering Operations
2.II.E. Specific Waiver Conditions for Discharges from Washing Vehicles, Pavement, Buildings, etc.
2.II.F. Specific Waiver Conditions for Discharges from Irrigated Lawns and Landscaping Using Groundwater or Municipal Supply Water
2.II.G. Specific Waiver Conditions for Discharges from Structural BMPs that Require Infiltration

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 2 are as follows:

2.I.A. General Waiver Conditions for "Low Threat" Discharges of Water to Land

1. "Low threat" discharges cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this waiver.
2. "Low threat" discharges must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to groundwater.
3. "Low threat" discharges must not 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.
4. 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.
5. "Low threat" discharges to land must not degrade the quality of underlying groundwater.
6. "Low threat" discharges to land must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
7. "Low threat" discharges to land must not impact the quality of groundwater in any water wells.
8. 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.

In addition to the General Conditions above, the following Specific Conditions are required:

2.II.A Specific Waiver Conditions for Cooling Water Discharges

1. Discharges must not contain contact cooling water.
2. Discharges of 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 Notice of Intent containing information about the operator, location, and planned period of and average daily volume of discharge.

2.II.B. Specific Waiver Conditions for Swimming Pool Discharges

1. 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 Notice of Intent containing information about the swimming pool location and volume, planned period of and frequency of discharge.

2.II.C. Specific Waiver Conditions for Pumping of Groundwater from Wells

1. 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 Notice of Intent 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.
2. 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 Notice of Intent containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to minimize 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.

2.II.D. Specific Waiver Conditions for Dewatering Operations

1. 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 Notice of Intent 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.
2. For dewatering operations that discharge an average of 5,000 gallons per day for any continuous 180-day period, the discharger must file a Notice of Intent containing information about the operator, location, planned period and rate of discharge, and measures that will be taken to minimize the discharge of pollutants that might affect groundwater quality. Sufficient information

demonstrating compliance with waiver conditions must be submitted before the discharge may begin.

3. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.

2.II.E. Specific Waiver Conditions for Discharges from Washing Vehicles, Pavement, Buildings, etc.

1. 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.

2.II.F. Specific Waiver Conditions for Discharges from Irrigated Lawns and Landscaping Using Groundwater or Municipal Supply Water

1. 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.

2.II.G. Specific Waiver Conditions for Discharges from Structural BMPs that Require Infiltration.

1. Installation of structural BMP that utilizes infiltration must comply with the design criteria of the municipality regulated by MS4 WDRs (conforming to NPDES storm water regulations), **or** for any discharge that exceeds an average of 1,200 gallons per day for any continuous 365-day period, the discharger must file a Notice of Intent 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.

7.3 Proposed Conditional Waiver No. 3 – Discharges from Animal Operations

Proposed Conditional Waiver No. 3 regulates the discharges from animal operations, which can percolate to groundwater or runoff to surface waters. Discharges from animal operations that can be regulated by Proposed Conditional Waiver No. 3 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.

Proposed Conditional Waiver No. 3 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Small (less than 300 animal units) animal feeding operations (see Appendix A, section A.3.4)
- Medium (300 to 999 animal units) animal feeding operations (see Appendix A, section A.3.4)
- Storm water runoff (see Appendix A, section A.3.6)
- Manure composting (see Appendix A, section A.3.11)
- Applying manure to soil as an amendment or mulch (see Appendix A, section A.3.11)
- Discharges from grazing lands (see Appendix B, section B.1.3)

Discharges from animal operations can be significant sources of sediment, nutrients, and pathogens (i.e., bacteria, viruses, protozoa), which can degrade the quality of waters of the state if the animals, animal activities, and animal wastes are not properly managed. Discharges from these types of operations can originate from one land owner/operator, and have similar discharge sources, environmental settings, and proposed waiver conditions. Discharges from animal operations can be regulated with waiver conditions developed for one discharge classification.

Animals maintained at any of these operations generate wastes (i.e., manure, urine, soiled bedding) and may cause erosion. Wastes generated by the animals may be disposed of off site, or stockpiled and/or composted on site by the property/facility owner/operator, or allowed to decompose on site at the point of discharge by an animal, and/or used as a fertilizer, soil amendment, or mulch.

Animal wastes that remain on site can be a significant source for several pollutants that can degrade water quality. Animals that are allowed to roam and/or graze freely may cause significant amounts of erosion, which can result in destruction of wildlife habitat, increased runoff, in addition to degrading water quality.

The number of facilities and/or properties that could be regulated by a conditional waiver for discharges from animal operations is not known. According to the United States Department of Agriculture, there are over 700 horse farms in San Diego County. If animal operations with other types of animals are included, the number is likely to be in the thousands. Current San Diego Water Board resources would not be sufficient to issue WDRs to all the animal operations in the Region. However, cumulative

discharges from these types of facilities can potentially have a significant impact on the quality of the waters in the Region. This, in turn, can increase the efforts required by cities and counties to comply with NPDES storm water and/or TMDL requirements.

A medium sized animal feeding operation (AFO), which manages 300 to 999 animal units (where 1 animal unit is equivalent to 1 cow or approximately 1,000 animal pounds), could, by itself, potentially be a significant source of pollutants due to the number of animals maintained. Depending on the design and management of a medium AFO, the facility may be designated as a CAFO and regulated by WDRs that implement NPDES regulations. Knowledge of the design and operation of a medium AFO is required to ensure MMs/BMPs are implemented and effective, and determine whether or not the facility should be designated as a CAFO. Therefore, medium AFOs should require enrollment as required in the existing conditional waivers.

Small AFOs and grazing lands, on the other hand, may only potentially be significant sources of pollutants if MMs/BMPs for animal wastes and activities are not properly implemented. Small AFOs and grazing lands should be eligible for regulation by conditional waivers 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 should be notified of their responsibilities and required to comply with waiver conditions or face enforcement actions. Small AFOS and grazing lands that repeatedly violate waiver conditions should be required to file a RoWD and be regulated with WDRs. 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 regulated by WDRs that implement NPDES regulations.

Because the San Diego Water Board resources are limited, enforcing waiver conditions for animal operations that do not require enrollment is often limited to violators that are brought to the attention San Diego Water Board. Therefore, the San Diego Water Board must rely upon the assistance of the municipalities, government agencies, non-governmental organizations, and members of the public to identify animal operations that are not in compliance with waiver conditions.

Waiver conditions should be developed in order for members of the public, cities, counties, local agencies and organizations, as well as the San Diego Water Board to determine if an animal operation is adequately managing its discharges and meeting its responsibilities to be regulated by a conditional waiver. If owners/operators of animal operations are not in compliance with waiver conditions, they can be notified issued a Notice of Violation and be required to file Notice of Intent with the San Diego Water Board and required to comply with waiver conditions in order to be regulated under a Proposed Conditional Waiver No. 3. Sufficient information demonstrating compliance with the waiver conditions would have to be submitted in order for the animal operation to be regulated by this conditional waiver.

Or, depending on the seriousness of the violation, small and medium AFOs could also be designated as CAFOs and be subject to NPDES regulations, which requires regulation by WDRs. Other enforcement actions could also be taken against facilities that fail to comply with waiver conditions, including issuing Notices of Violation, Cease and Desist Orders, or Cleanup and Abatement Orders.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 3 include the following:

3.I.A. General Facility Design and Management Waiver Conditions
3.I.B. General Manure Management Waiver Conditions
3.I.C. General Waiver Conditions for Composting Manure from Animal Operations
3.I.D. General Waiver Conditions for Application of Manure from Animal Operations as a Fertilizer, Amendment, or Mulch to Soil
3.I.E. General Inspection and Reporting Waiver Conditions

3.II.A. Specific Waiver Conditions for Small Animal Feeding Operations
3.II.B. Specific Waiver Conditions for Medium Animal Feeding Operations
3.II.C. Specific Waiver Conditions for Grazing Operations

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 3 are as follows:

3.I.A. General Facility Design and Management Waiver Conditions

1. Animal operations must comply with any local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
2. Animal operations must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality 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 NRCS. Additional references may be available from other sources.
3. Animal operations must prevent direct contact of animals with 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 (at least 100 feet is recommended) between the animals and any surface waters of the state. The buffer zone must adequately minimize the discharge of pollutants from animal operation. There should be no direct exposure of a surface water body to an animal. Above-ground watering troughs or basins and fencing should be installed to eliminate direct exposure of animals to surface water bodies.

3.I.B. General Manure Management Waiver Conditions

1. Animal operations must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to any surface waters of the state.

2. 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 guidelines:
   a) Animal wastes should be collected and disposed of regularly (at least once every two weeks).
   b) 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 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 should be disposed of immediately.
   c) Area adjacent to temporary storage area for animal wastes should be graded to prevent surface water and runoff from reaching the storage area.
   d) Temporary storage area should be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to groundwater.
   e) Temporary storage area should 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.
   f) A buffer zone of at least 100 feet should 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.
   g) If animal wastes are composted on site, composting activities must comply with the conditions in 3.I.C.
   h) If fresh and/or uncomposted 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 in 3.I.D.

3.I.C. General Waiver Conditions for Composting Manure from Animal Operations

1. Compost and compost feedstocks cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Compost pile(s) must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Compost pile(s) should 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 compost.
4. Precipitation and surface drainage should be diverted away from compost pile(s).
5. A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is

provided to demonstrate that a proposed alternative is protective of water quality.

6. Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
7. The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

3.I.D. General Waiver Conditions for Application of Manure from Animal Operations as a Fertilizer, Amendment, or Mulch to Soil

1. If fresh and/or uncomposted manure is applied as a fertilizer, amendment, or mulch to soil, manure must be applied to the same property where the manure was generated.
2. A buffer zone of at least 100 feet should be maintained between the fresh and/or uncomposted 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.
3. The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
4. Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
5. Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.
6. Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

3.I.E. General Inspection and Reporting Waiver Conditions

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.
2. Animal operations must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

In addition to the General Conditions above, the following Specific Conditions are required:

3.II.A. Specific Waiver Conditions for Small Animal Feeding Operations

1. 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.
2. Small AFOs must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to surface waters of the state.
3. Small AFOs must be operated and maintained in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565.

3.II.B. Specific Waiver Conditions for Medium Animal Feeding Operations

1. 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.
2. Medium AFOs must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to surface waters of the state.
3. Medium AFOs must be operated and maintained in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565.
4. Medium AFO facility owners or operators must file a Notice of Intent 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.

   Sufficient information demonstrating compliance with general and specific waiver conditions must be submitted in order for the medium AFO facility to be regulated by this conditional waiver.

3.II.C. Specific Waiver Conditions for Grazing Lands

1. Grazing operations must prevent the direct or indirect discharge of animal wastes (i.e., manure, urine) to any surface waters of the state.
2. Grazing operations must manage grazing fields to allow lands to revegetate and minimize topsoil erosion.
3. Owners of pasture and range lands used for grazing, must minimize any discharge that could adversely affect the quality of waters of the state

The following list of references provides additional information that is available regarding appropriate MMs/BMPs for minimizing pollutants in runoff and other discharges from animal operations.

1. Equestrian-Related Waste Quality Best Management Practices, County of San Diego Department of Agriculture, Weights and Measures http://www.sdcounty.ca.gov/awm/docs/equestrian_bmp.pdf
2. Electronic Field Office Technical Guide (eFOTG), United States Department of Agriculture, Natural Resources Conservation Service http://www.nrcs.usda.gov/technical/efotg/
3. Agricultural Management Measures, State Water Resources Control Board http://www.swrcb.ca.gov/nps/docs/guidance/agricmms.pdf
4. California Nonpoint Source Encyclopedia, State Water Resource Control Board http://www.swrcb.ca.gov/nps/docs/encyclopedia/agriculture.pdf

7.4 Proposed Conditional Waiver No. 4 – Discharges from Agricultural and Nursery Operations

Proposed Conditional Waiver No. 4 regulates the discharges from agricultural and nursery operations, which can percolate to groundwater or runoff to surface waters. Discharges from agricultural and nursery operations that can be regulated by Proposed Conditional Waiver No. 4 include discharges resulting from irrigation return flows, and storm water runoff which can also transport pollutants from agricultural and nursery operations to surface waters and groundwater.

Proposed Conditional Waiver No. 4 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Plant crop residues (see Appendix A, section A.3.5)
- Storm water runoff (see Appendix A, section A.3.6)
- Green waste composting (see Appendix A, section A.3.11)
- Applying amendments or mulches to soil (see Appendix A, section A.3.11)
- Agricultural irrigation return water (see Appendix A, section A.3.14)
- Nursery irrigation return water (see Appendix A, section A.3.15)

Discharges from lands used for agricultural or nursery operations can be significant sources of sediment, dissolved solids, nutrients, pesticides, hydrocarbons, and pathogens (i.e., bacteria, viruses, protozoa), which can degrade the quality of waters of the state if irrigation return flows and storm water runoff is not properly managed. Discharge from these types of operations can all originate from one land owner/operator, and have similar discharge sources, environmental settings, and/or proposed waiver conditions. Discharges from agricultural or nursery operations can be regulated with waiver conditions developed for one discharge classification.

Agricultural and nursery operations can utilize composted materials and/or plant crop residues as soil amendments or mulches, as well as compost green wastes on site to be used later as a mulch or soil amendment. Agricultural and nursery irrigation return flows can produce surface runoff that may transport pollutants from soil (e.g., sediment, hydrocarbons, dissolved solids, pesticides) and soil amendments or mulches (e.g., nutrients, organics, pesticides, pathogens) to surface waters. Storm water and irrigation return flows from agricultural and nursery operations can also leach pollutants into underlying groundwater.

There are two main types of nurseries: field (in-ground) and container. Container nurseries can be indoor or outdoor. Indoor container nurseries (e.g., greenhouses) may be completely contained with no direct or indirect discharges to waters of the state because of an impermeable floor where all irrigation return water is collected and reused or properly disposed of in a sanitary sewer. Indoor and/or completely contained nurseries do not discharge nursery irrigation return water that requires regulation by a conditional waiver or WDRs. However, outdoor container and field nurseries can

discharge nursery irrigation return water directly and/or indirectly to waters of the state without proper management.

In order for nursery operations to sell their products, they must apply for a license from the CFDA. The CFDA has a record of all the nurseries in the San Diego Region licensed to sell nursery products. According to CDFA records, the approximate number of nurseries operating in San Diego County is well over 2,000. However, the CDFA records also includes nurseries that are located in supermarkets as wells as home improvement stores. According to the County of San Diego Department of Agriculture, Weights and Measures, there are approximately 900 nurseries in San Diego County, which includes self-contained indoor container nurseries. The number of field or container nurseries that may discharge nursery irrigation return water directly or indirectly to waters of the state is likely in the hundreds.

While these nursery operations are licensed with the CDFA, there is no requirement to report water quality management measures that have been implemented at their facilities with their applications. Without this information, the San Diego Water Board cannot verify that MMs/BMPs have been properly implemented.

As for the agricultural operations in the San Diego Region, the number of agricultural operations is not known. The San Diego Region has agricultural operations on a wide range of parcel sizes. The number of part-time and full-time agricultural operations in the Region is likely in the thousands. According to the Farm Bureau, more than half (60 percent or more) of farms in the San Diego Region are small agriculture operations on parcels with 10-acres or less, with owners and/or operators that do not occupy the parcels or are present only part of the year, and/or operate on a seasonal, part-time, or sporadic schedule. The rest of the farms (40 percent or less) are probably implementing MMs/BMPs and/or affiliated with or getting information or assistance from organizations such as the Farm Bureau, UCCE, NRCS, regional RCDs, and/or other organizations.

Current San Diego Water Board resources would not be sufficient to issue WDRs to all the agricultural and nursery operations in the Region. However, discharges from these types of facilities can potentially have a significant impact on the quality of the waters in the Region. This, in turn, can increase the efforts required by cities and counties to comply with NPDES storm water and/or TMDL compliance.

The State Water Board has a NPS Program Plan to control the pollution from nonpoint sources (NPSs) such as storm water runoff from lands used for agricultural and nursery operations. The NPS Program Plan describes a “three-tiered approach” for addressing NPS pollution problems: Tier 1) Self-Determined Implementation of Management Practices; Tier 2) Regulatory Based Encouragement of Management Practices; and Tier 3) Effluent Limitations and Enforcement Actions.

For discharges of irrigation return flows and storm water runoff from agricultural or nursery operations, the existing conditional waivers utilize a Tier 1 approach of self-

determined or voluntary implementation of MMs/BMPs without any enrollment, monitoring, or reporting requirements. However, the existing waiver conditions for agricultural and nursery operations do not include any requirements that would compel the owner or operator of an agricultural or nursery operation to comply with waiver conditions. Also, because there are no requirements to compel compliance with waiver conditions, many of the agricultural and nursery operations are very likely unaware of their responsibilities under the existing conditional waivers, or the consequences of their actions on water quality and the environment. Educating these operators of their responsibilities is necessary to ensure that their practices do not degrade water quality.

Other Regional Water Boards have adopted waivers to control runoff from "irrigated" lands (including agricultural and nursery operations) with conditions that require enrollment, implementation of MMs/BMPs, monitoring, reporting, and preparation of water quality management plans. These regions have many operations that are on large 100-acre and greater size parcels that can be easily located, have easily identified owners and/or operators, and operate on a full-time and/or year-round schedule. Thus, the Regional Water Boards from these regions can easily identify owners and/or operators that are not enrolled in their irrigated lands conditional waiver programs.

The irrigated lands waiver programs from other Regional Water Boards provide the option of enrolling as an individual discharger, or joining a group or coalition to share the cost of a monitoring and reporting program. Joining a monitoring group or coalition is a much more cost effective and affordable option, because the cost of monitoring and reporting is shared among the group or coalition participants, and is encouraged by the other Regional Water Boards. The irrigated lands waiver programs from other Regional Water Boards also include incentives in the form of reduced monitoring and/or reporting requirements for early enrollment.

The San Diego Water Board would also like to adopt a conditional waiver with a similar program that includes enrollment, monitoring, and reporting. However, because many of the growers in the San Diego Region own very small (10 acres or less) operations, immediately including conditions such as putting together water quality management plans, and monitoring and/or reporting requirements may create significant initial resistance to enrollment and/or compliance with waiver conditions among small agricultural and nursery operators at this time. In the interest of working with agricultural and nursery operations and giving them time to prepare for future monitoring and reporting requirements, the San Diego Water Board will implement Proposed Conditional Waiver No. 4 in two phases over two waiver re-issuance cycles. Phase I will consist of Proposed Conditional Waiver No. 4 in this Basin Plan amendment, effective January 1, 2008. Phase II will consist of new waiver conditions added to Conditional Waiver No. 4 upon its future renewal, effective January 1, 2013.

During Phase I (January 2008 – December 2012) of Proposed Conditional Waiver No. 4, our priority is locating agricultural and nursery operators, reaching out and educating them about their responsibilities to protect water quality, and encouraging them to form and/or join groups or coalitions. The waiver conditions that are proposed

for this period focus primarily on having the agricultural or nursery owner/operator evaluate their facilities to identify potential sources of pollutants that can affect the quality of waters of the state, and implement MMs/BMPs to minimize or eliminate the discharge of pollutants to waters of the state. The waiver conditions will require that the owners/operators of agricultural or nursery operations file a Notice of Intent with the San Diego Water Board by December 31, 2012 to continue being regulated by this conditional waiver in the next waiver period, anticipated to begin January 2013.

The waiver conditions for Phase II (January 2013 – December 2017) will likely require owners/operators of agricultural and nursery operations to perform water quality monitoring.[12] The conditions that will be added to Phase II of the conditional waiver cannot be specified at this time. However the additional conditions will likely include the preparation of facility water quality management plans, sampling and monitoring plans, collecting and analyzing water samples, and filing periodic (semi-annual, annual, or biennial) water quality monitoring reports. The costs associated with the anticipated conditions requiring a monitoring program have not been evaluated at this time. However, we anticipate that the cost of implementing a monitoring program could be significant if an individual owner/operator of an agricultural or nursery operation were responsible for the entire cost.

Therefore, during Phase I of the conditional waiver (January 2008 – December 2012), the owners/operators of agricultural or nursery operations will be given an opportunity and encouraged to form and/or join a monitoring group and/or coalition to divide the anticipated cost of the monitoring programs among several facilities. Owners/operators of agricultural and nursery operations that form and/or join and monitoring group/coalitions and file a Notice of Intent with the San Diego Water Board to comply with waiver conditions will be designated as ”preferred” conditional waiver participants. “”Preferred” conditional waiver participants will be given special status and conditions in Phase II of the conditional waivers. “Preferred” conditional waiver participant waiver conditions may include reduced monitoring and/or reporting requirements, annual fee (payable to the State Water Board) reductions, and/or other incentives.

Owners/operators of agricultural and nursery operations that choose not to be member of a monitoring group/coalition will also be required to file a Notice of Intent to comply with waiver conditions and be designated as “common” conditional waiver participants. Responsibility for implementing the requirements of the monitoring program would be the sole responsibility of each “common” conditional waiver participant, which would likely be a relatively large expense for an individual discharger. Enrolling in a monitoring group/coalition would reduce the enrollment, monitoring, and reporting requirements, as well as divide the requirements and financial responsibility among the participants in the monitoring group/coalition. For these reasons, enrollment in a monitoring group/coalition is in the best interest of all agricultural and nursery operators, and is encouraged by the San Diego Water Board. Owners/operators of agricultural or nursery operations and/or “common” conditional waiver participants that do not comply with Phase I of the conditional waivers may be issued individual WDRs and/or have

[12] As required by Water Code section 13269(a)(2)

other enforcement actions taken against them, which will likely require their participation in a monitoring group/coalition, as well as additional fees and/or fines.

Reaching out and informing all the agricultural and nursery operations about the conditional waiver in the Region would exceed the resources currently available to the San Diego Water Board. Additionally, contact from a regulatory agency is often met with an ambivalent or negative response by agricultural and/or nursery owners/operators. Therefore, assistance from non-regulatory agencies and organizations is required to reach out and educate these owner/operators about the conditional waiver and steps needed to comply with the waiver conditions.

The San Diego Water Board has already contacted the San Diego County Farm Bureau (Farm Bureau), UCCE, NRCS, and regional RCDs about reaching out to owners/operators of agricultural and nursery operations. These organizations, and others, can help the San Diego Water Board educate the owners/operators of agricultural and nursery operations about the conditional waiver and waiver conditions, and prepare them for Phase II (January 2013 – December 2017) of this conditional waiver. These organizations can also provide guidance to agricultural and nursery operators to help them form and/or join groups or coalitions that can be in place for the next period of the conditional waivers, anticipated to begin in January 2013.

In addition to the outreach efforts from the Farm Bureau, UCCE, NRCS, and regional RCDs, the municipalities (i.e., cities and counties), government agencies, and San Diego Water Board can encourage agricultural and nursery operators to implement MMs/BMPs and join a monitoring group/coalition. When municipalities, government agencies, and/or the San Diego Water Board perform a compliance inspection, as authorized by state, county or local ordinances, or in response to a complaint or a reported violation of waiver conditions, during the inspection they can inform owner/operator of the agricultural and nursery operation of their responsibilities to be regulated by this conditional waiver. Agricultural and nursery operators can be issued Notices of Violation, or other enforcement actions for not implementing waiver-required MMs/BMPs and can be encouraged to form and/or join a monitoring group/coalition.

Agricultural or nursery operators that violate waiver conditions by not implementing MMs/BMPs and that allow the degradation of water quality should be notified of their responsibilities and required to comply with waiver conditions. Agricultural or nursery operations that repeatedly violate waiver conditions should be required to file a RoWD and be regulated with WDRs. Enforcement actions could also be taken against facilities that fail to comply with waiver conditions.

Therefore, for Phase I of Proposed Conditional Waiver No 4, waiver conditions should be developed to encourage the education of agricultural and nursery operators, and encourage agricultural and nursery operators to form and/or join monitoring groups or coalitions that will be enrolled in Phase II of the conditional waiver. The waiver conditions should also provide explicit requirements that the owners/operators of

agricultural and nursery operations are expected to meet in order to be eligible for regulation by this conditional waiver.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 4 include the following:

4.I.A. General Facility Design and Management Waiver Conditions
4.I.B. General Enrollment and Education Waiver Conditions
4.I.C. General Waiver Conditions for Composting Green Wastes from Agricultural and Nursery Operations
4.I.D. General Waiver Conditions for Application of Compost as a Fertilizer, Amendment, or Mulch to Soil
4.I.E. General Waiver Conditions for Application of Products Used in Agricultural and Nursery Operations
4.I.F. General Inspection and Reporting Requirements

4.II.A. Specific Waiver Conditions for Agricultural Operations
4.II.B. Specific Waiver Conditions for Nursery Operations

The proposed Phase I waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 4 are as follows:

4.I.A. General Facility Design and Management Waiver Conditions

1. Agricultural and nursery operations must comply with any local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses.
2. Agricultural and nursery operations must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality of waters of the state. Recommended MMs/BMPs are available in the State Water Board's NPS Program Plan and/or available from UCCE, NRCS, and/or regional RCDs. Additional references may be available from other sources.

4.I.B. General Enrollment and Education Waiver Conditions

1. Agricultural and nursery operators must perform a self assessment to identify the pollutants present on the site and assess the potential for runoff and/or infiltration to degrade the quality of the waters of the state. Annual self assessments must be available on site for inspection. If an agricultural or nursery operator does not have proof available during an inspection, the operator must submit proof to the inspecting agency and the San Diego Water Board within 45 days from the date of inspection. Self assessment questionnaires are available from the UCCE.
2. Agricultural and nursery operators must complete at least 2 hours of water quality management related training annually. Training may include formal classroom training or meetings with a training component. Proof of training must be available on site for inspection. Agricultural and nursery operators who do not have proof available during an inspection must submit proof to the

inspecting agency and the San Diego Water Board within 45 days from the date of inspection.

3. Agricultural and nursery operators must be in regular contact with the local Farm Bureau, UCCE, NRCS, and/or regional RCDs so they can be informed of the latest MMs/BMPs and developments with water quality issues. Proof of contact (e.g., newsletter addressed to facility, NRCS conservation plan, UCCE self assessment) must be available on site for inspection. Agricultural and nursery operators who do not have proof available during an inspection must submit proof to the inspecting agency and the San Diego Water Board within 45 days from the date of inspection.
4. Agricultural and nursery operations must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality of waters of the state. Recommended MMs/BMPs are available in the State Water Board's NPS Program Plan and/or available from UCCE, NRCS, and/or regional RCDs. Additional references may be available from other sources.
5. Agricultural and nursery operators shall maintain records pertaining to the water quality management efforts for the operation. The records shall include the following information:
   a) Site map showing locations of MMs/BMPs and nearby surface water bodies and/or water wells.
   b) List of hazardous materials kept on the property.
   c) Location and amount of waste materials (e.g., green wastes, trash) generated and composted and/or reused on site, or disposed of off site.
   d) Pesticide use reports and records.
   e) Fertilizer, soil amendment, and mulch use records.
   f) Irrigation management records (i.e., water use, irrigation system, irrigation schedule, etc.).
   g) Equipment maintenance records.
   h) List of MMs/BMPs implemented to minimize and/or eliminate runoff to surface waters and/or infiltration to groundwater.
   i) Owner, operator, and employee education and training records.
   j) Inspection reports.
   k) Self assessments.
   l) Contacts with Farm Bureau, UCCE, NRCS, regional RCDs, and/or other organizations.
   m) Copies of any permits, licenses, and certifications required for the operation.
   n) Water quality monitoring data (if any).

   Recommended water quality record keeping documentation is available from the UCCE. Water quality management records must be available on site for inspection.
6. **No later than June 30, 2012**, agricultural and nursery operations must form or join a monitoring group/coalition. The function of the monitoring group/coalition is to perform water quality monitoring and report the results to the San Diego Water Board. The monitoring group/coalition will also report on the implementation and effectiveness of MMs/BMPs on behalf of its

members. Agricultural and nursery operations that have implemented MMs/BMPs and joined a monitoring group/coalition will be designated as ”preferred” conditional waiver participants. “Preferred” conditional waiver participants will be given special status and conditions during Phase II of the conditional waivers. For “preferred” conditional waiver participants, waiver conditions may include reduced monitoring and/or reporting requirements, annual fee (payable to the State Water Board) reductions, and/or other incentives.

7. **No later than December 31, 2012**, monitoring groups and/or coalitions must file a Notice of Intent with the San Diego Water Board containing the following information to be granted “preferred” conditional waiver participant status:
   a) Identify the representative(s) authorized to sign reports submitted on behalf of the group/coalition.
   b) An electronic list of landowners and/or operators participating in the group/coalition including: (a) assessor parcel number(s), (b) parcel size, (c) parcel owner or operator name, (d) types of crops grown on each parcel, (e) number of irrigated acres on each parcel, and (f) parcel owner or operator mailing address.
   c) A detailed map of the area included within the group/coalition, preferably in GIS format, identifying individual parcels and/or districts that are participating in the group/coalition.
   d) A detailed description of irrigation, storm water runoff, nutrient, pesticide, erosion control, composting, and other site-specific MMs/BMPs that have been implemented by each participant in the group/coalition, which must be provided as a written description, on a map, and/or using pictures.

   Sufficient information must be submitted by each participant in order to be eligible for regulation by this waiver and granted “preferred” conditional waiver participant status.
8. **By December 31, 2012**, owners/operators of agricultural and nursery operations that do not file a Notice of Intent as part of a monitoring group and/or coalition must file a Notice of Intent as an individual person containing the following information:
   a) Information about the agricultural or nursery operation including: (a) assessor parcel number(s), (b) parcel size, (c) parcel owner and operator name(s), (d) types of crops grown on each parcel, (e) number of irrigated acres, and (f) parcel owner and operator mailing address(es).
   b) A detailed map of the operation, preferably in GIS format, with locations of operation boundaries, nearby surface waters and water wells.
   c) A detailed description of irrigation, storm water runoff, nutrient, pesticide, erosion control, composting, and other site-specific MMs/BMPs that have been implemented by the operation, which must be provided as a written description, on a map, and/or using pictures.

   Sufficient information must be submitted in order for the discharger to be eligible for regulation by this conditional waiver. Individual persons filing a Notice of Intent will be granted “common” conditional waiver participant status.

4.I.C. General Waiver Conditions for Composting Green Wastes from Agricultural and Nursery Operations

1. Compost and compost feedstocks cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Plant crop residues may be composted as green waste.
3. Compost pile(s) must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
4. Compost pile(s) should 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 compost.
5. Precipitation and surface drainage must be diverted away from compost pile(s).
6. A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
7. Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
8. The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; ((e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

4.I.D. General Waiver Conditions for Application of Compost as a Fertilizer, Amendment, or Mulch to Soil

1. Amendments or mulches cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Plant crop residues may be utilized as soil amendment or mulch.
3. Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided to demonstrate that the additive does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
4. The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the

rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
5. Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
6. Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.
7. Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

4.I.E. General Waiver Conditions for Application of Products Used in Agricultural and Nursery Operations

1. Products used in agricultural or nursery operations cannot be applied directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. The application of any products used in agricultural or nursery operations that contain pollutants that may be transported in surface runoff to surface waters or may infiltrate to groundwater must be applied in accordance with manufacturer instructions and guidelines, and must not have an adverse effect on the quality of any waters of the state.
3. Excessive amounts of any products used in agricultural or nursery operations spilled to land must be contained and properly disposed.
4. Any products used in agricultural or nursery operations applied to land must not impact the quality of groundwater in any water wells.

4.I.F General Inspection and Reporting Waiver Conditions

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.
2. Owners/operators must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

In addition to the General Conditions above, the following Specific Conditions are required:

4.II.A. Specific Waiver Conditions for Agricultural Operations

1. Agricultural activities must minimize or eliminate the discharge of any pollutants that could adversely affect the quality of any waters of the state.
2. Agricultural operators cannot alter surface waters of the state on or off the property, unless the proposed alteration has received a 401 Certification or waiver from the San Diego Water Board.

4.II.B. Specific Waiver Conditions for Nursery Operations

1. Nursery irrigation return water cannot be discharged directly or indirectly to any surface waters of the United States.

2. Nursery operations must minimize discharge of any pollutants that could adversely affect the quality of any waters of the state.
3. Nursery operators cannot alter surface waters of the state on or off the property, unless the proposed alteration has received a 401 Certification or waiver from the San Diego Water Board.

The following list of references provides additional information that is available regarding appropriate MMs/BMPs for minimizing pollutants in runoff and other discharges from agricultural and nursery operations.

1. Industrial Storm Water Program, State Water Resources Control Board http://www.swrcb.ca.gov/stormwtr/industrial.html
2. Construction Storm Water Permit, State Water Resources Control Board http://www.swrcb.ca.gov/stormwtr/gen_const.html
3. Agricultural Management Measures, State Water Resources Control Board http://www.swrcb.ca.gov/nps/docs/guidance/agricmms.pdf
4. California Nonpoint Source Encyclopedia, State Water Resource Control Board http://www.swrcb.ca.gov/nps/docs/encyclopedia/agriculture.pdf
5. Developing a Management Plan for Irrigation Runoff, Dept. of Horticultural Sciences, Texas A&M University http://aggie-horticulture.tamu.edu/greenhouse/nursery/environ/wmplan1.html
6. Management Options for Nonpoint Source Pollution for Greenhouse and Container Crops, UC Cooperative Extension, San Diego http://commserv.ucdavis.edu/CESanDiego/Stormwater/index.htm
7. BMPs Nurseries And Greenhouses, County of Orange http://www.ocwatershed.com/StormWater/documents_bmp_existing_development.asp#ind
8. Electronic Field Office Technical Guide (eFOTG), Natural Resources Conservation Service http://www.nrcs.usda.gov/technical/efotg/
9. Grower Resources (including self assessment questionnaires and water quality record keeping notebook), San Diego County University of California Cooperative Extension http://cesandiego.ucdavis.edu/Clean%5FWater/Grower_Resources.htm

7.5 Proposed Conditional Waiver No. 5 – Discharges from Silvicultural Operations

Proposed Conditional Waiver No. 5 regulates the discharges that originate from forest lands, which can percolate to groundwater or runoff to surface waters. Discharges from forest lands that can be regulated by Proposed Conditional Waiver No. 5 includes discharges resulting from timber operations, and storm water runoff which can also transport pollutants from timber operations to surface waters and groundwater.

Proposed Conditional Waiver No. 5 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Storm water runoff (see Appendix A, section A.3.6)
- Green waste composting (see Appendix A, section A.3.11)
- Timber harvesting projects (see Appendix A, section A.3.18)
- Fire suppression and fuels management activities (see Appendix B, section B.1.4)

These types of discharge can originate from one land owner/operator and have similar environmental settings and proposed waiver conditions. Timber-related, or silvicultural, discharges can be regulated with waiver conditions developed for one discharge classification.

Silvicultural operations and storm water runoff from forest lands can be significant sources of sediment, dissolved solids, nutrients, pesticides, hydrocarbons, and pathogens, which can degrade the quality of the waters of the state. Storm water runoff from forest lands is not subject to NPDES regulations.[13] Timber operations, such as timber harvesting and fire suppression and fuels management activities, may generate sediment and solids during harvesting and clearing activities and/or may include the composting of green wastes. Storm water runoff can produce surface runoff that may transport pollutants from soil (e.g., sediment, dissolved solids, pesticides) and green wastes (e.g., nutrients, organics, pesticides) to surface waters. Storm water can also percolate and leach pollutants into underlying groundwater.

Timber operations on National Forest Service (NFS) lands in California are regulated by the U.S. Forest Service (USFS). The USFS is designated as the Water Quality Management Agency (WQMA) for silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) on NFS lands.[14] The Regional Water Boards have agreed to waive the issuance of WDRs and the requirement to file RoWDs for USFS timber operations that may result in NPS discharges, provided that the USFS designs and implements its projects in accordance with the MMs/BMPs certified by the State

[13] Code of Federal Regulations Title 40 sections 122.3(e)
[14] In accordance with the 1981 MAA between the USFS and State Water Board

Water Board and USEPA.[15] Silvicultural operations on NFS lands must prepare environmental and decision documents pursuant to the National Environmental Policy Act (NEPA).

Timber operations on private and state lands in California are regulated by the California Board of Forestry (BOF) and California Department of Forestry (CDF). The BOF/CDF are jointly designated as the WQMA for timber operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) on state and private forest lands.[16] The State Water Board conditionally certified the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*. This plan has not been certified by the USEPA. Timber operations on nonfederal lands must submit a Notice of Exemption, Notice of Emergency, THP, or NTMP to the CDF for approval in accordance with the State-certified plan. The CDF is supposed to circulate THPs and NTMPs to the Regional Water Boards for comment on potential water quality impacts.

The Water Quality Management Plans that are administered by the USFS and BOF/CDF for timber operations include measures for the protection of water quality. However, in the event water quality protection measures are not fully implemented, the San Diego Water Board may still regulate silvicultural discharges by issuing individual or general WDRs to ensure water quality is protected.

The San Diego Water Board determined that delegating regulation of specific types of discharge to another public agency is consistent with the Basin Plan and in the public interest. In this case, owners/operators of silvicultural operations must obtain the appropriate approvals from the USFS or BOF/CDF to perform timber harvest or fire suppression and fuels management projects. As long as the discharges from forest lands 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 WDRs for these operations.

However, 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 from silvicultural operations pose a threat to the quality of the waters of the state. If owners/operators of silvicultural operations are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to continue being regulated under Proposed Conditional Waiver No. 5. If the owner/operator of a silvicultural operation violates waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 5 include the following:

[15] Certified MMs/BMPs can be found in the USFS's document entitled *Water Quality Management Plan for National Forest System Lands in California.*
[16] In accordance with the 1988 MAA between the BOF/CDF and State Water Board

5.I.A. General Waiver Conditions for Silvicultural Operations
5.I.B. General Waiver Conditions for Composting Green Wastes During/From Silvicultural Operations

5.II.A. Specific Waiver Conditions for Timber Operations on Federal Lands
5.II.B. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 5 are as follows:

5.I.A. General Waiver Conditions for Silvicultural Operations

1. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must minimize the discharge of any pollutants that could adversely affect the quality 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.

5.I.B. General Waiver Conditions for Composting Green Wastes During/From Silvicultural Operations

1. Compost and compost feedstocks cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Compost pile(s) must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Compost pile(s) should 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 compost.
4. Precipitation and surface drainage should be diverted away from compost pile(s).
5. A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
6. Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
7. The following wastes cannot be added to compost pile(s), unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge;

(c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

In addition to the General Conditions above, the following Specific Conditions are required:

5.II.A. Specific Waiver Conditions for Timber Operations on Federal Lands

1. The State Water Board and USEPA must continue to certify the *Water Quality Management Plan for National Forest System Lands in California*.
2. The USFS must maintain: (a) a water quality program consistent with the Basin Plan, and (b) a program to monitor the implementation and effectiveness of MMs/BMPs.
3. 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 the proposed MMs/BMPs and additional control measures that will be implemented to protect water quality.
4. The USFS must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

5.II.B. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

1. The State Water Board must continue to certify the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*.
2. Timber operations within 150 feet of existing structures (i.e., “FireSafe” treatments) that are conducted pursuant to a Notice of Exemption approved by the 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.
3. 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, and the owner/operator must submit technical and/or monitoring program reports to the San Diego Water Board when directed by the San Diego Water Board.
4. For timber operations with a THP or NTMP approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board, and the owner/operator must submit technical and/or monitoring program reports to the San Diego Water Board when directed by the San Diego Water Board.
5. Owners/operators of non-federal forest lands must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

7.6 Proposed Conditional Waiver No. 6 – Discharges of Dredged or Fill Materials Nearby or Within Surface Waters

Proposed Conditional Waiver No. 6 regulates discharges of dredged or fill materials nearby or within surface waters that may be subject to Clean Water Act section 401 water quality certification requirements. Proposed Conditional Waiver No. 6 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges from sand and gravel mining operations (see Appendix A, section A.3.7)
- Discharges from dredging projects (see Appendix A, section A.3.9)
- Discharges from stream channel alteration projects (see Appendix A, section A.3.13)

Discharges from these types of projects have similar properties, enrollment requirements, and proposed waiver conditions. Discharges from all these types of projects can be regulated with waiver conditions developed for one discharge classification.

Obstruction or alteration of navigable waters of the United States is regulated under River and Harbors Act section 10. Discharges of soil, sediment, dredged or fill material in or near waters of the United States are regulated under Clean Water Act section 404. In most cases, a water quality certification pursuant to Clean Water Act section 401 must be obtained in order for the project to proceed.

Sand and gravel mining, dredging, and stream channel alteration projects typically must apply for regulation by a Clean Water Act section 404 permit (404 Permit) from the United State Army Corps of Engineers (ACOE). In order for the project to obtain a 404 Permit, the project must first obtain a Clean Water Act section 401 water quality certification (401 Certification) from the appropriate Regional Water Board.

However, these types of projects may not always need a 401 Certification. There are water bodies that are considered "*waters of the state*" but not "*waters of the United States*." These waters include nonnavigable, isolated, and intrastate waters that do not have interstate commerce ties, which may include ephemeral streams and vernal pools. In such cases, the ACOE may determine that a 404 Permit is not required, which means a 401 Certification may not be required.

Mining of sand and gravel is subject also to the Surface Mining and Reclamation Action (SMARA) regulations.[17] SMARA includes water quality protection and management requirements. Sand and gravel mining operations are required to obtain a Surface Mining Permit from the city or county "lead agency" (typically the local planning or building department). In addition to the requirements of SMARA, sand and gravel

[17] Public Resources Code section 2710 et seq. and California Code of Regulations Title 14 section 3500 et seq.

mining operations that involve the removal or placement of soil, sediment and other materials in or near waters of the United States must also obtain a 404 Permit from the ACOE. However, as discussed above the ACOE may determine that a 404 Permit is not required, which means a 401 Certification may not be required. SMARA also does not apply to mining operations where less than 1,000 cubic yards of minerals are extracted for commercial purposes. Thus, there is the potential that the discharge of pollutants from these small sand and gravel mining operations would not be regulated by a Surface Mining Permit, 404 Permit, or 401 Certification.

Under the existing conditional waivers, enrollment for a conditional waiver of WDRs and/or the requirement to file RoWDs for these projects is fulfilled with a 401 Certification. Regulation by a Surface Mining Permit, 404 Permit and/or 401 Certification would effectively regulate discharges of dredged or fill materials nearby or within surface waters. However, as discussed above, there are cases where a Surface Mining Permit, 404 Permit and/or 401 Certification may not be required.

Obtaining the required Surface Mining Permits, 404 Permits and/or 401 Certifications should be included as waiver conditions that can serve as the method of enrollment for regulation by a conditional waiver for discharges from these types of projects. Completed and approved documentation for these types of projects can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers.

However, in cases where a Surface Mining Permit, 404 Permit, or 401 Certification is not required, a Notice of Intent filed with the San Diego Water Board about the planned project would provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate.

In addition, 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 dredged or fill materials nearby or with surface waters pose a threat to the quality of the waters of the state. 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 continue being regulated under Proposed Conditional Waiver No. 6. If dischargers violate waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 6 include the following:

6.I.A. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters Required to Obtain a Surface Mining Permit, 404 Permit, and/or 401 Certification

6.I.B. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters NOT Required to Obtain a Surface Mining Permit, 404 Permit, and/or 401 Certification

6.II.A. Specific Waiver Conditions for Sand and Gravel Mining Operations

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 6 are as follows:

6.I.A. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters <u>Required to Obtain</u> a Surface Mining Permit, 404 Permit, and/or 401 Certification

1. Operators must comply with measures included in the Surface Mining Permit, 404 Permit, and/or 401 Certification to protect surface water and groundwater quality.
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. At least one copy of any permits, licenses, and certifications must be available on site for inspection.
4. Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.

6.I.B. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters <u>NOT Required to Obtain</u> a Surface Mining Permit, 404 Permit, and/or 401 Certification

1. File a Notice of Intent with San Diego Water Board containing information about the operator, location and extent of the project, planned period of operation, and measures that will be taken to minimize or eliminate the discharge of any pollutants that might affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the operation may begin.
2. Operators must comply with any federal, state, or local permitting, licensing, or certification requirements and applicable regulations and ordinances.
3. Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
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.

In addition to the General Conditions above, the following Specific Conditions are required:

6.II.A. Specific Waiver Conditions for Sand and Gravel Mining Operations

1. Sand and gravel mining operations cannot be conducted in flowing streams or other water bodies.

7.7 Proposed Conditional Waiver No. 7 – Discharges of Recycled Water to Land

Proposed Conditional Waiver No. 7 regulates discharges of recycled wastewater. Proposed Conditional Waiver No. 7 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges from short-term recycled wastewater projects (see Appendix A, section A.3.16)
- Discharges from permanent recycled wastewater projects (see Appendix A, section A.3.16)

Discharges from these types of projects have similar properties, threat to water quality, and proposed waiver conditions. Discharges from all these types of projects can be regulated with waiver conditions developed for one discharge classification.

The California Department of Health Services (DHS) established statewide wastewater recycling criteria for each type of recycled wastewater use to protect public health.[18] Depending on the planned use of the recycled wastewater, the wastewater must be treated to one of the following minimum standards:

- Undisinfected Secondary Recycled Water[19]
- Disinfected Secondary-23 Recycled Water[20]
- Disinfected Secondary-2.2 Recycled Water[21]
- Disinfected Tertiary Recycled Water[22]

[18] California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10

[19] Defined in California Code of Regulations Title 22 section 60301.900 as "oxidized wastewater" or "wastewater in which the organic matter has been stabilized, is nonputrescible, and contains dissolved oxygen."

[20] Defined in California Code of Regulations Title 22 section 60301.225 as wastewater "that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a most probable number (MPN) of 23 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform bacteria does not exceed an MPN of 240 per 100 milliliters in more than one sample in any 30 day period."

[21] Defined in California Code of Regulations Title 22 section 60301.220 as wastewater "that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a MPN of 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period."

[22] Defined in California Code of Regulations Title 22 section 60301.230 as "a filtered and subsequently disinfected wastewater that meets the following criteria: (a) The filtered wastewater has been disinfected by either: (1) A chlorine disinfection process following filtration that provides a CT (the product of total chlorine residual and modal contact time measured at the same point) value of not less than 450 milligram-minutes per liter at all times with a modal contact time of at least 90 minutes, based on peak dry weather design flow; or (2) A disinfection process that, when combined with the filtration process, has been demonstrated to inactivate and/or remove 99.999 percent of the plaque-forming units of F-specific bacteriophage MS2, or polio virus in the wastewater. A virus that is at least as resistant to disinfection as polio virus may be used for purposes of the demonstration; (b)The median concentration of total coliform

Wastewater that is treated to DHS secondary treatment standards will contain more pollutants than wastewater that is treated to DHS tertiary treatment standards. Wastewater treated to DHS secondary treatment standards will likely have higher concentrations of nutrients, suspended and dissolved solids, and possibly metals compared to wastewater treated to DHS tertiary treatment standards. DHS wastewater reclamation treatment criteria also require disinfection for most recycled wastewater uses. However, for those uses that do not require disinfection, bacteria may be present in relatively high concentrations.

Therefore, the discharge of recycled wastewater to land can potentially transport and leach bacteria, nutrients, and other pollutants to underlying groundwaters. Recycled wastewater that comes into contact with groundwater can potentially degrade water quality. However, proper planning and application of recycled water to land can minimize or eliminate the potential treat to water quality.

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 any discharges of recycled wastewater to lands pose a threat to the quality of the waters of the state. If recycled wastewater dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to continue being regulated under Proposed Conditional Waiver No. 7. If recycled wastewater dischargers violate waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed General Waiver Conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 7 include the following:

7.I.A. General Waiver Conditions for Recycled Wastewater Projects

7.II.A. Specific Waiver Conditions for Short-term Recycled Water Projects
7.II.B. Specific Waiver Conditions for Permanent Recycled Water Projects

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 7 are as follows:

7.I.A. General Waiver Conditions for Recycled Wastewater Projects

1. Recycled wastewater cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Recycled wastewater discharged to land must not degrade the quality of underlying groundwater.

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bacteria measured in the disinfected effluent does not exceed an MPN of 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed and the number of total coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters."

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.
4. The use of recycled wastewater must comply with the requirements of California Code of Regulations 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.
5. Recycled wastewater cannot be used for groundwater recharge unless sufficient information is provided to demonstrate that it will be protective of water quality and human health.

In addition to the General Conditions above, the following Specific Conditions are required:

7.II.A. Specific Waiver Conditions for Short-term Recycled Water Projects

1. Operator must file a Notice of Intent containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to eliminate or minimize the discharge of pollutants that might affect surface water and groundwater quality. The Notice of Intent must include written notification from the local health department and/or DHS that the project will comply with recycled water regulations in California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10.
2. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin. The Notice of Intent is valid for 365 days, or 1 year.
3. A new Notice of Intent must be filed with the San Diego Water Board if the short-term project exceeds 1 year. A new Notice of Intent must be received by the San Diego Water Board at least 60 days prior to the expiration of the previous Notice of Intent. If no new Notice of Intent is received 60 days prior to the expiration of the previous Notice of Intent, the short-term recycled wastewater project must cease operation 365 days, or 1 year, after the beginning of the operation.

7.II.B. Specific Waiver Conditions for Permanent Recycled Water Projects

1. Operator must file a RoWD containing enough information for the San Diego Water Board to determine that the project will comply with applicable recycled wastewater regulations. The RoWD must include written notification from the local health department and/or DHS that the project will comply with recycled water regulations in California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10.
2. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.
3. The conditional waiver of WDRs for the permanent recycled water project will remain in effect until the San Diego Water Board can adopt permanent WDRs for the project. The San Diego Water Board will adopt WDRs at the earliest

possible opportunity, and in accordance with San Diego Water Board priorities.

4. The operator must submit technical and/or monitoring program reports as directed by the San Diego Water Board, until permanent WDRs are issued.

7.8 Proposed Conditional Waiver No. 8 – Discharges/Disposal of Solid Wastes to Land

Proposed Conditional Waiver No. 8 regulates discharges of solid wastes to land. Proposed Conditional Waiver No. 8 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges of plant crop residues to land (see Appendix A, section A.3.5)
- Discharges of manure and/or green wastes to compost operations (see Appendix A, section A.3.11)
- Discharges of amendments and/or mulches to soil (see Appendix A, section A.3.11)
- Discharges/disposal of inert wastes to solid waste disposal facilities on accepting inert wastes (see Appendix A, section A.3.12)
- Discharges of contaminated soils to temporary waste piles (see Appendix A, section A.3.19)
- Discharges/disposal/reuse of soils characterized as inert from known contaminated sites (see Appendix B, section B.1.5)

Discharges from these types of projects have similar properties, threat to water quality, and proposed waiver conditions. Discharges from all these types of projects can be regulated with waiver conditions developed for one discharge classification.

Solid wastes that are discharged to land may contain bacteria, nutrients, pesticides, and other pollutants. However, the primary pollutant of concern is often sediment. With proper management, the potential impact to the quality of the waters of the state can be minimized or eliminated.

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 any discharges or disposal of solid wastes to lands pose a threat to the quality of the waters of the state. If dischargers of solid wastes are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to continue being regulated under Proposed Conditional Waiver No. 8. If dischargers of solid wastes violate waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

Proposed Conditional Waiver No. 8 only applies to discharges/disposal of solid wastes to land within the San Diego Region. Discharges/disposal of solid wastes to lands outside of the San Diego Region must comply with conditional waivers and/or WDRs issued by the appropriate Regional Water Board.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 8 include the following:

8.I.A. General Waiver Conditions for Discharges of Solid Wastes to Land

8.II.A. Specific Waiver Conditions for Plant Crop Residues
8.II.B. Specific Waiver Conditions for Composting Operations
8.II.C. Specific Waiver Conditions for Application of Amendments and Mulches to Soil
8.II.D. Specific Waiver Conditions for the Temporary Discharge of Contaminated Soil
8.II.E. Specific Waiver Conditions for Solid Waste Disposal Facilities Only Accepting Inert Wastes
8.II.F. Specific Waiver Conditions for the Discharge/Reuse of Inert Soils and Materials from Contaminated Sites

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 8 are as follows:

8.I.A. General Waiver Conditions for Discharges of Solid Wastes to Land

1. Solid wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Operations or facilities that discharge solid wastes must comply with local ordinances and regulations and obtain any required permits, certifications, and/or licenses.
3. Solid wastes must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
4. The discharger must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
5. 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

In addition to the General Conditions above, the following Specific Conditions are required:

8.II.A. Specific Waiver Conditions for Plant Crop Residues

1. Plant crop residues must be managed to prevent transport of pollutants to waters of the state. This waiver does not apply to composting or burning of plant crop residues.
2. Application of any products (e.g., fertilizers, pesticides) to plants or soil must be used in accordance with manufacturer's guidelines and must not have an adverse effect on the quality of any waters of the state.
3. Concentrations of pesticides and/or herbicides or any other pollutants associated with the plant crop residues must not degrade the quality of underlying groundwater.
4. Implement MMs/BMPs around areas with plant crop residues to minimize or eliminate runoff and leachate to surface waters and groundwater.

8.II.B. Specific Waiver Conditions for Composting Operations

1. For composting operations or facilities that store 500 cubic yards or less on site at any one time, and the compostable materials are generated on-site and if no more than 1,000 cubic yards of materials are either sold or given away annually, or other CIWMB excluded composting activities, [23], the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:
   a) Compost pile(s) should 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 compost.
   b) Precipitation and surface drainage should be diverted away from compost pile(s).
   c) A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
   d) Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
   e) The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
   f) Submit technical and/or monitoring program reports when directed by the San Diego Water Board.
2. For composting operations or facilities that store more than 500 cubic yards on site at any one time, or other CIWMB-regulated composting activities, the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:
   a) Composting operation or facility must be sited, designed and operated in accordance with the California Integrated Waste Management Board's (CIWMB) requirements in California Code of Regulations Title 14 sections 17865 through 17870. Records must be available on site for inspection.
   b) Compost pile(s) should 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 compost.
   c) Precipitation and surface drainage should be diverted away from compost pile(s).
   d) A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.

[23] California Code of Regulations Title 14 section 17855(a)(1) through (9)

e) Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
f) The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
g) Containment structures such as embankments, liners or surface impoundments must be maintained in order to ensure proper performance whenever compost feedstocks (e.g., manure and/or green wastes) are discharged.
h) File a Notice of Intent containing information about the facility owner/operator, map of the facility showing the locations of compost pile(s) and nearby surface water bodies and/or water wells, and MMs/BMPs that will be taken to prevent discharges of compost that could affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted in order for the facility to be regulated by this conditional waiver.

8.II.C. Specific Waiver Conditions for Application of Amendments and Mulches to Soil

1. Amendments or mulches cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Amendments or mulches applied to soil cannot include any of the following additives, unless s sufficient information is provided to demonstrate that the additive does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
3. The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
4. Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
5. Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.

6. Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

8.II.D. Specific Waiver Conditions for the Temporary Discharge of Contaminated Soils

1. For ***any soils*** temporarily stored in waste piles, the following conditions apply:
   a) The discharger must submit a signed/completed Section A of the Temporary Waste Pile Certification form within 30 days of the initial discharge of any waste piles to be regulated by this waiver. The property owner must approve and acknowledge the placement of the waste at the site.
   b) The discharger must submit a signed/completed Section B of the Temporary Waste Pile Certification form within 10 working days of completing removal of all waste and restoring the site to its original condition.
   c) Unless otherwise specified in the applicable conditions, no temporary waste piles may remain on a site for longer than 6 months or 180 days.
   d) The temporary discharge of waste must not (a) cause the occurrence of coliform or pathogenic organisms in waters pumped from the basin; (b) cause the occurrence of objectionable tastes and odors in water pumped from basin; (c) cause waters pumped from the basin to foam; (d) cause the presence of toxic materials in waters pumped from the basin; (e) cause the pH of waters pumped from the basin to fall below 6.0 or rise above 9.0; (f) cause pollution, contamination or nuisance or adversely affect the quality of groundwater or surface waters of the hydrologic subareas established in the Basin Plan; and/or, (g) cause a violation of any discharge prohibitions in the Basin Plan for the San Diego Region.
   e) 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.
   f) 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 runon and runoff from contacting wastes and to prevent erosion and transport of wastes by surface runoff.
   g) Temporary waste piles must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from any surface water of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
   h) Temporary waste piles must be protected against 100-year peak stream flows as defined by the County flood control agency.
   i) Temporary waste piles must be 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 other nuisances.

j) Temporary waste piles must be 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.
k) Solid wastes discharged to temporary waste piles, together with any containment materials used at the temporary waste pile, and any underlying geologic materials contaminated by the discharge, shall be removed within 180 days, unless otherwise specified under the applicable Special Conditions. Subsequently, the discharger must remove all wastes, treatment facilities, 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.
l) 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.

2. For ***soils contaminated with petroleum hydrocarbons*** temporarily stored in waste piles, the following conditions apply:
   a) Temporary waste piles contaminated by petroleum hydrocarbons regulated by this waiver shall be limited to a maximum time period of 3 months or 90 days on a site.
   b) Soils and associated solid waste contaminated by 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).
   c) Temporary waste piles must be covered by plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances.
   d) 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.
   e) In addition to the conditions stated herein, temporary waste piles must conform to applicable provisions in the state's LOP for Orange, Riverside, or San Diego Counties.
   f) The site must be restored to its original state within 30 days after removal of the temporary waste pile from the site.
3. For ***dredged spoils contaminated with heavy metals*** temporarily stored in waste piles, the following conditions apply:
   a) Temporary waste piles contaminated by heavy metals regulated by this waiver shall be limited to a maximum time period of 9 months or 270 days on a site.
   b) Temporary waste piles must be covered by either a plastic sheeting to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances. Alternative control methods may be utilized if sufficient

information is provided to demonstrate that the proposed alternative is protective of water quality and human health.

c) Temporary waste piles must be underlain by plastic sheeting (not less than 20 mils thick) or a liner of lower permeability that can prevent leachate from infiltrating to groundwater. Sufficient information must be provided to the San Diego Water Board demonstrating that the liner and containment facility has been designed to contain all solid wastes and fluids.
d) 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.
e) The site must be restored to its original state within 60 days after removal of the temporary waste pile from the site.

8.II.E. Specific Waiver Conditions for Solid Waste Disposal Facilities Accepting Only Inert Wastes[24]

1. Inert solid waste must not contain hazardous waste, or soluble or decomposable constituents to be considered inert waste.
2. Inert waste cannot contain any "free liquids."[25]
3. Owner/operator of disposal facility must secure the disposal site and prevent unauthorized disposal by the public.
4. Inert wastes exclude any wastes determined by the San Diego Water Board to have the potential to degrade the quality of waters of the state, even if classified as inert waste.

8.II.F. Specific Waiver Conditions for the Discharge/Reuse of Inert Soils and Materials from Contaminated Sites

1. 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 waste.
   c) Inert waste soils from known contaminated sites cannot contain any "free liquids."[26]

[24] According to California Code of Regulations 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."
[25] "Free liquids" defined by California Code of Regulations Title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure"
[26] Ibid

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 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 conditional 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 Notice of Intent with the San Diego Water Board. The Notice of Intent must be filed no less than 3 days prior to the beginning of export shipments. The Notice of Intent must include information about the site owner/operator, 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.
i) 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:
    i) All waste soils generated during remediation or corrective action must be stockpiled on the site in accordance with the waiver conditions for the temporary discharge of specified contaminated soil, or waste soils may be sampled and characterized in situ prior to transport and disposal or reuse off site.
    ii) Waste soil must be segregated into 2 categories:
        (A) 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 smells impacted, must be treated as impacted soil and cannot be characterized as inert.
        (B) 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.

iii) Samples must be collected from the waste soil suspected to be inert for laboratory analysis. The minimum number is samples required to characterize the soil is as follows: [27]

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[28]

cy = cubic yards

iv) Samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents:
(A) Total concentrations of those Title 22 metals identified as contaminants of concern for the export site. For sites identified with burn ash (i.e., a site where solid waste has been burned at low temperature and the residual burn ash pits and burn ash layers are present in soil), the site shall be investigated and the burn ash will be characterized for disposal purposes according to the protocol established by the lead regulatory agency (e.g., Department of Toxic Substances Control, California Integrated Waste Management Board, or others) to identify contaminants of concern at the site. The soil outside of the area of impact of the burn ash shall 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.
(B) Total petroleum hydrocarbons (by EPA Method 8015[29] – full range if export site includes oil or fuel spill or release investigation or remediation).
(C) Polychlorinated biphenyls (if export site includes PCB spill or release investigation or remediation).
(D) Volatile and semi-volatile organic compounds (if export site includes organic solvent spill or release investigation or remediation).
(E) Pesticides (if export site includes a known agricultural area, or pesticide spill or release investigation).
(F) Other constituents (if the contaminated portion of the export site is found to contain other pollutants or contaminants).

j) *If analytical results indicate detectable concentrations of constituents other than Title 22 metals, waste soil cannot be characterized as inert*.

[27] Department of Toxic Substances Control, Information Advisory Clean Imported Fill Material, October 2001 http://www.dtsc.ca.gov/Schools/upload/SMP_FS_Cleanfill-Schools.pdf
[28] Volumes greater than 10,000 cubic yards may rely on fewer samples than 1 per each additional 1,000 cubic yards 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 precise estimate of the true mean concentration of a chemical contaminant of a waste.

[29] Or latest version USEPA SW846 method.

2. 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 contaminants other than Title 22 metals.
   b) For those Title 22 metals that have been identified as contaminants of concern for the export site, samples shall be analyzed by an SW846 method using the reporting limits set forth in the Table provided in Attachment 1. From these data, the 90% upper confidence level (UCL) shall be determined. Prior to calculating the 90% UCL, one must determine whether the sample set is normally, lognormally or non-normally distributed. If lognormally distributed, one must determine the 90% UCL on the lognormal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90% 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% UCL, and handling of non-detected values.[30]

Tier 1 Soil Screening Levels

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] (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**
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.

[30] 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 Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymson, 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.

c) 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:
   i) Generator name and contact information.
   ii) Export site location, owner name and contact information.
   iii) Map of the export site showing the location of the excavation, borings, stockpiles, and/or samples collected.
   iv) Approximate volume of inert waste soil exported from the site.
   v) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
   vi) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, maximum reported concentrations of Title 22 metals for the contaminants of concern, number of samples exceeding Tier 1 Soil Screening Levels, and name of certified environmental analytical laboratory that performed the analysis.
   vii) The export site owner, principal executive officer, or authorized representative, and a California registered 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*."

3. 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 cannot contain any contaminants other than Title 22 metals.
   b) Samples shall be analyzed by an SW846 method using the reporting limits set forth in the Table provided in Attachment 1. From these data, the 90% upper confidence level (UCL) shall be determined. Prior to calculating the 90% UCL, one must determine whether the sample set is normally, lognormally or non-normally distributed. If lognormally distributed, one must determine the 90% UCL on the lognormal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90% 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% UCL, and handling of non-detected values.[31]

Tier 2 Soil Screening Levels

Pollutant	Inert Waste Target[a] (mg/kg)	Industrial CHHSL[b] (mg/kg)	Background[d] Max (mg/kg)	Background[d] ½ Max (mg/kg)	TTLC[e] (mg/kg)	Tier 2 SSL[f] (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	63,000	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**
Chromium, Hexavalent	50	37	NA	NA	500	**37**
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).
c. Taken from Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymson, 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. Total Threshold Limit Concentration. Concentrations above the TTLC would be classified as hazardous waste.
f. 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.

c) 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

[31] 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.

and placement of the soil. The Inert Waste Certification must include the following information:

i) Generator name and contact information.
ii) Export site location, owner name and contact information.
iii) Approximate volume of inert waste soil exported from the site.
iv) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
v) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, maximum reported concentrations of Title 22 metals for the contaminants of concern, number of samples exceeding Tier 2 Soil Screening Levels, and name analytical laboratory performing analysis.
vi) 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.
vii) 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.
viii) The export site owner, principal executive officer, or authorized representative, and a California registered 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*."

d) Tier 2 inert waste soil reused at commercial or industrial development sites must comply with the following conditions:
   i) 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.
   ii) Tier 2 inert waste soil must be placed at least 5 feet above the highest historically known level of groundwater. The soil that separates the inert waste soil from groundwater shall have a significant clay content (greater than 5% clay material) or an in situ permeability of less than 10^{-5} cm/sec.
   iii) Tier 2 inert waste shall be placed at least 100 feet from the nearest surface water body.
   iv) Tier 2 inert waste shall be protected against 100-year peak stream flows as defined by the County flood control agency.
   v) Tier 2 inert waste shall be 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 shall

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

7.9 Proposed Conditional Waiver No. 9 – Discharges/Disposal of Slurries to Land

Proposed Conditional Waiver No. 9 regulates the discharges of slurries to land. A slurry typically consists of water and some material to form a liquid mixture. Proposed Conditional Waiver No. 9 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges/disposal of drilling muds to land (see Appendix A, section A.3.17)
- Discharges/disposal of concrete grinding residues to land (see Appendix B, section B.1.6)

These types of discharge have similar properties, threat to water quality, and proposed waiver conditions. All these types of slurry discharges to land can be regulated with waiver conditions developed for one discharge classification.

Drilling mud and concrete grinding slurries typically consists of water mixed with very fine-grained solids. If these slurries are discharged to land in a disposal area or sump for storage and/or disposal, proper management measures must be taken to prevent the degradation of surface water or groundwater quality. Slurries must be properly contained to prevent them from running off to surface waters. Slurries consist of high liquid content, which can potentially infiltrate to groundwater. However, the very fine-grained materials in these types of slurries would likely seal the disposal area surface, which will severely reduce or eliminate any leaching potential as the water content evaporates. Containment of the slurries would eliminate the threat to surface waters.

As long as a certified analytical laboratory can demonstrate that slurries are non-toxic and non-hazardous, the sump or containment area can be covered and graded to the original pre-sump conditions. Containment of slurries within the sump or containment area eliminates the threat to surface waters.

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 any discharges or disposal of slurries to lands pose a threat to the quality of the waters of the state. If dischargers of slurries are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to continue being regulated under Proposed Conditional Waiver No. 9. If dischargers of slurries violate waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 9 include the following:

9.I.A. General Waiver Conditions for Slurries Discharged to Land

9.II.A. Specific Waiver Conditions for Discharge of Drilling Muds

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 9 are as follows:

9.I.A. General Waiver Conditions for Slurries Discharged to Land

1. Slurries cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Slurries must be contained to eliminate the potential for runoff from the site.
3. If slurries are discharged to land, the containment area or sump must be designed to be fully contained and ensure no overflow during discharge with at least 2 feet of freeboard.
4. The floor of the containment area or sump must be at least 5 feet above the highest known historical groundwater level.
5. The walls of the containment area or sump must be at least 100 feet away from any surface water body or municipal water well.
6. Slurries cannot contain any toxic or hazardous constituents.
7. Slurries discharged/disposed to land must not degrade the quality uses of underlying groundwater.
8. Slurries must be removed and disposed of at an appropriate disposal facility prior to restoring the containment area or sump to pre-sump conditions.
9. The containment area or sump must be filled in and restored to pre-sump conditions.

In addition to the General Conditions above, the following Specific Conditions are required:

9.II.A. Specific Waiver Conditions for Discharge of Drilling Muds

1. Drilling mud cannot be from borings advanced for a soil or groundwater contamination investigation.

7.10 Proposed Conditional Waiver No. 10 – Discharges of Emergency/Disaster Related Wastes

Proposed Conditional Waiver No. 10 regulates the discharges of wastes resulting from an emergency or disaster. Proposed Conditional Waiver No. 10 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters (see Appendix A, section A.3.21)
- Discharges of disaster-related wastes to temporary waste piles and surface impoundments (see Appendix B, section B.1.7)
- Discharges of mass mortality wastes temporary waste piles and emergency landfills (see Appendix B, section B.1.8)
- Discharges of other emergency/disaster related wastes

All these types of emergency/disaster-related waste discharges can be regulated with waiver conditions developed for one discharge classification.

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 degrade the quality of surface water and/or groundwater. However, 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.

However, 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 the conditional 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 continue being regulated under Proposed Conditional Waiver No. 10. If dischargers of slurries violate waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 10 include the following:

10.I.A. General Waiver Conditions for Discharges of Emergency/Disaster-Related Wastes

10.II.A. Specific Waiver Conditions for Incidental Discharges During an Oil Spill Response

10.II.B. Specific Waiver Conditions for Emergency/Disaster Related *Solid and Mass Mortality Wastes* Disposed at Regulated Waste Disposal Facilities
10.II.C. Specific Waiver Conditions for Emergency/Disaster Related *Solid and Mass Mortality Wastes* Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities
10.II.D. Specific Waiver Conditions for Emergency/Disaster Related *Solid Wastes* Discharged to Temporary Waste Piles *NOT* Located at Regulated Waste Disposal Facilities
10.II.E. Specific Waiver Conditions for Emergency/Disaster Related *Solid Wastes* Discharged to Temporary Surface Impoundments *NOT* Located at Regulated Waste Disposal Facilities
10.II.F. Specific Waiver Conditions for Emergency/Disaster-Related *Mass Mortality Wastes* Discharged to Emergency Landfills *NOT* Located at Regulated Waste Disposal Facilities

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 10 are as follows:

10.I.A. General Waiver Conditions for Discharges of Emergency/Disaster-Related Wastes

1. This conditional waiver does not become active and available until one of the following occurs:
   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, and applies only to disaster-related waste streams from disaster-impacted areas; 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 section 13269(c)(1) and (2).
2. This conditional waiver is only in effect temporarily and shall 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 regulated by this waiver, or
   c) Six (6) months have 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. Emergency/disaster-related waste management and cleanup activities must minimize the discharge of any pollutants that could adversely affect the quality of the waters of the state.

4. For all temporary waste piles and surface impoundments used to manage emergency/disaster-related waste, the following conditions apply:
   a) Emergency/disaster-related wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
   b) Emergency/disaster-related waste management operations shall not be performed in a manner that creates, or contributes to a condition of pollution or nuisance.
   c) Emergency/disaster-related waste management operations shall not be performed in a manner that creates, or contributes to conditions; which violate the waste discharge prohibitions promulgated in the Basin Plan.
   d) Emergency/disaster-related wastes shall not be managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit regulated by this waiver.[32]
   e) Emergency/disaster-related wastes shall not be 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 results in the mixture being classified as a restricted waste.[33]
   f) Liquid hazardous wastes or "restricted hazardous wastes"[34] cannot be discharged to MSW landfills, temporary waste piles, or temporary surface impoundments.
   g) 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 shall not consist of or contain material classified as a designated waste.[35]
   h) Inert wastes[36] that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).
   i) Waste streams must only originate from disaster-impacted areas of the San Diego Region. These waste streams shall 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); or

[32] Pursuant to California Code of Regulations Title 27 section 20200(b)(1)
[33] Pursuant to California Code of Regulations Title 27 section 20200(b)(2)
[34] Defined in California Health and Safety Code section 25122.7
[35] Defined in California Code of Regulations Title 27 section 20210
[36] Defined in California Code of Regulations Title 27 section 20230

iii) Emergency landfills established in accordance with the conditions of this waiver; and
iv) As allowed by valid WDRs issued by the San Diego Water Board for other categories of waste management units.

In addition to the General Conditions above, the following Specific Conditions are required:

10.II.A. Specific Waiver Conditions for <u>Incidental Discharges During an Oil Spill Response</u>

1. Incidental discharges[37] 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.
2. Oil spill response must be in marine waters.[38]

10.II.B. Specific Waiver Conditions for Emergency/Disaster-Related <u>Solid and Mass Mortality Wastes Disposed at Regulated Waste Disposal Facilities</u>

1. Solid 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 shall 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*.
2. Solid 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.
3. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of disaster-impacted areas in the San Diego Region shall be discharged for disposal in compliance with conditions of this waiver and covered expeditiously.
4. Inert wastes contained in mixed emergency wastes derived from cleanup of disaster-impacted areas in the San Diego Region, shall be separated and recycled when appropriate and practicable.
5. The discharger is responsible for accurately classifying disaster-related solid waste streams in accordance with the applicable regulatory requirements.[39]

[37] "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."
[38] "Marine waters" defined in Government Code section 8670.3(i) as "those waters subject to tidal influence"
[39] Requirements are provided in California Code of Regulations Title 27, Title 23, Chapter 15, and/or Title 22 Division 4.5.

6. The regulated waste disposal facility owner/operator is responsible for properly identifying disaster-related solid waste streams[40] and identifying wastes that may be suitable for use as ADC. Solid waste that may be used as ADC at a regulated disposal facility are as follows:
7. Solid wastes that are classified as inert wastes.
8. Solid wastes that meet the criteria for ADC as prescribed in California Code of Regulations Title 27 sections 20690 to 20705, and.
9. Other solid wastes identified by the Local Enforcement Agency (LEA) as being suitable for use as ADC; so long as the waste could be accepted at a Class III MSW landfill without special permission from the San Diego Water Board.
10. 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 such a large an 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:
    a) 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.
    b) Owner/operator must limit the thickness of the high-moisture waste stream (*e.g.,* animal carcasses, animal related wastes, *etc.*) to no more than 2 feet.
    c) Owner/operator must 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.
    d) 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.*).
11. Within 60 days after the expiration of this waiver (see above) 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 (Joint Technical Document) 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.

10.II.C. Specific Waiver Conditions for Emergency/Disaster-Related Solid and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities

1. 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 Notice of Intent to the San Diego Water

[40] Pursuant to California Code of Regulations Title 27 section 20200(c)

Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator of the regulated waste management or disposal facility property, facility address and contact information, description of temporary waste management unit, 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*."

2. Owners/operators of regulated waste management or disposal facilities must prevent surface runoff/runon from contacting wastes derived from cleanup of disaster-impacted areas in the San Diego Region and shall 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 MMs/BMPs for storm water conveyance and control.
3. All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.
4. 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.
5. Owners/operators of regulated waste management or disposal facilities must manage temporary waste piles for disaster related mass mortality wastes as follows:
   a) Temporary waste piles of mass mortality wastes can only be located in areas underlain by a composite liner system (or approved engineering alternative) and a significant thickness of other types of solid wastes.
   b) 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).
   c) Owner/operator must ensure that all temporary waste piles containing mass mortality wastes are discharged into 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.
   d) Owner/operator must ensure that all mass mortality wastes are covered with soil or other waste immediately after it is discharged into the landfill.

e) 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.

6. Solid and mass mortality wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary waste piles, shall be removed from the site. The site shall be restored to its original state no later than the 60 days after expiration of this waiver (see above), or as required by the San Diego Water Board. Alternatively, the facility owner/operator must file an amended RoWD (Joint Technical Document) and obtain amended WDRs from the San Diego Water Board for any waste piles that will continue to exist past the expiration date of this waiver.
7. Owners/operators of regulated waste management or disposal facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator of the regulated facility property, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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.*"

10.II.D. Specific Waiver Conditions for Emergency/Disaster-Related <u>Solid Wastes Discharged to</u> <u>Temporary Waste Piles NOT Located at Regulated Waste Disposal Facilities</u>

1. Any agency, jurisdiction or person proposing to establish a temporary waste pile not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the temporary waste pile facility is located, facility address and contact information, description of temporary waste management unit, 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."

2. Owners/operators of temporary waste piles 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:
   a) The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.
   b) Temporary waste piles must be protected from inundation of washout due of floods with a 100-year return period.
   c) Temporary waste piles cannot be located on a known Holocene fault.
   d) Temporary waste piles cannot be located in areas of potential rapid geologic change (*e.g.,* landslides, debris flows, flashflood areas, *etc.*).
   e) 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.
   f) 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.
   g) Temporary waste management operations that include wastes with a liquid content exceeding its moisture-holding capacity and/or containing free liquids, shall comply with requirements for temporary surface impoundments (see below).
   h) 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 shall be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.
3. 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.

4. 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) shall be maintained as required to keep them legible and shall remain in place while temporary waste piles remain on site.
5. Solid wastes discharged to temporary waste piles not at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary waste piles, shall be removed from the site. The site shall be restored to its original state no later than the 60 days after expiration of this waiver (see above), or as required by the San Diego Water Board.
6. Owners/operators of temporary waste piles not on regulated facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary waste pile facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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*."

10.II.E. Specific Waiver Conditions for Emergency/Disaster-Related Solid Wastes Discharged to Temporary Surface Impoundments NOT Located at Regulated Waste Disposal Facilities

1. Any agency, jurisdiction or person proposing to establish a temporary surface impoundment not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the temporary surface impoundment facility is located, facility address and contact information, description of temporary waste management unit, 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."

2. 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:
   a) The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.
   b) Temporary surface impoundments must be protected from inundation of washout due of floods with a 100-year return period.
   c) Temporary surface impoundments cannot be located on a known Holocene fault.
   d) Temporary surface impoundments cannot be located in areas of potential rapid geologic change (*e.g.,* landslides, debris flows, flashflood areas, *etc.*).
   e) 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.
   f) 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.
   g) 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.
   h) Direct pipeline discharges of liquid can occur only into temporary surface impoundments with automatic or manually operated fail-safe systems to prevent overfilling.
   i) Temporary surface impoundments must be designed and constructed to prevent scouring of containment structures at points of liquid discharge into the impoundments.
   j) 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 shall be diverted from the location of

the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.

3. 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.
4. Owners/operators of temporary surface impoundments not on regulated facilities temporarily regulated by this waiver must ensure that only disaster related waste streams are discharged into temporary surface impoundments.
5. All visible portions of synthetic liner systems in temporary surface impoundments must be inspected weekly, or daily as necessary, until all free liquid is removed from the surface impoundment as part of closure.[41] 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 shall be made of the bottom of the liner prior to refilling the impoundment.
6. 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) shall be maintained as required to keep them legible and shall remain in place while temporary surface impoundments remain on site.
7. Solid wastes discharged to temporary surface impoundments not at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary surface impoundments, shall be removed from the site. The site shall be restored to its original state no later than the 60 days after expiration of this waiver (see above), or as required by the San Diego Water Board.
8. Owners/operators of temporary surface impoundments not on regulated facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary surface impoundment facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, certification, and signature of the owner, operator,

[41] Pursuant to California Code of Regulations Title 27 section 21400(a)

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*."

10.II.F. Specific Waiver Conditions for Emergency/Disaster-Related Mass Mortality Wastes Discharged to Emergency Landfills NOT Located at Regulated Waste Disposal Facilities

1. Any agency, jurisdiction or person proposing to establish an emergency landfill not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the emergency landfill facility is located, facility address and contact information, description of emergency waste management unit, 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.*"
2. 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:
   a) The bottom of an emergency landfill must be placed at least 10 feet above the highest historically known level of groundwater, and more than 500 feet from any surface water of the state.
   b) Emergency landfills must be protected from inundation of washout due of floods with a 100-year return period.
   c) Emergency landfills cannot be located on a known Holocene fault.
   d) Emergency landfills cannot be located in areas of potential rapid geologic change (*e.g.,* landslides, debris flows, flashflood areas, *etc.*).
   e) Emergency landfills cannot be located in areas underlain by 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).
   f) 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.*).

g) The thickness of each layer of mass mortality wastes must be limited to less than 2 feet.
h) Lime (or another liquid abatement material) must be added to each layer to help reduce the generation of liquid by the mass mortality wastes.
i) 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.
j) 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
k) 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 shall 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 good drainage that does not impair the integrity of the emergency landfill.
l) Owner/operator should also evaluate, implement, and document other effective waste isolation (and waste moisture reducing methods) in conjunction with the procedures identified above

3. 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 by erosion by installing and maintaining MMs/BMPs, including:
   a) Installation of runon control features on the upgradient side of the emergency landfill to divert offsite storm water from the emergency landfill.
   b) Installation of an effective runoff collection and conveyance ditch.
   c) Grading and maintenance of the final cover to eliminate ponding of water over the emergency landfill.
   d) Installation and maintenance of erosion control measures on the cover of the emergency landfill (*e.g.,* install straw mulch and/or a vegetative cover).
   e) Installation of a deer fence around the perimeter of the emergency landfill to discourage access by digging of carnivores.
4. 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.), the type(s) of waste buried at the site (e.g., types of carcasses, egg wastes, manure, etc.), and d) 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) shall be maintained as required to keep them legible and shall remain in place while the emergency landfill remains on site.

5. Owners/operators of emergency landfills not on regulated facilities must submit Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary waste pile facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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. 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 shall include the following information:
   a) A short description of the emergency conditions that made the emergency landfill necessary.
   b) The identity, physical address, mailing address and telephone number of the current land owner.
   c) 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.
   d) 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 provide Geographical Information System (GIS) data as available.
   e) A simple cross section of the emergency landfill and a description of the construction (depth, thickness of layers and final cover).
   f) An estimate of the amount of wastes (*e.g.,* in pounds or tons) discharged into the emergency landfill.
   g) A description of measures taken to ensure that wastes and waste constituents do not migrate outside the emergency landfill.
   h) Any other site-specific or discharger related information requested by the San Diego Water Board.

7.11 Proposed Conditional Waiver No. 11 – Aerially Discharged Wastes

Proposed Conditional Waiver No. 11 regulates wastes that have been discharged aerially. Proposed Conditional Waiver No. 11 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges of wastes related to fireworks displays (see Appendix B, section B.1.9)
- Other wastes discharged aerially that may adversely affect the quality of the groundwaters of the state, but determined to be "low threat" by the San Diego Water Board

All these types of waste discharges can be regulated with waiver conditions developed for one discharge classification.

For waste discharges related to fireworks displays, available studies suggest annual or infrequent fireworks displays present a low threat to groundwater quality. However, there may be potential water quality impacts that are cumulative for shallow groundwaters used as drinking water sources with recurring fireworks displays.

There may be other aerially discharged wastes in the San Diego Region that are determined to pose a low threat to the quality of groundwaters of the state. These aerially discharged wastes would likely require the same minimum conditions to be protective of the quality of groundwaters of the state.

The permitting process and permits issued by other public agencies (e.g., air pollution control districts, municipalities, fire departments) can provide preliminary information and data to the San Diego Water Board to determine compliance with conditions of a waiver for aerially discharged wastes. Obtaining the proper permits from appropriate public agencies can be a waiver condition that serves as the method of enrollment for regulation by a conditional waiver.

However, 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 aerially discharged wastes are in conformance with the conditional waiver, or causing significant adverse effects on the waters of the state. Significant adverse effects include, but are not limited to, one-time observations of exceedences of drinking water maximum contaminant levels in reservoirs and groundwater source water wells, persistent pollutant concentrations in the water column that exceed water quality objectives for surface waters, and persistent pollutant concentrations in the sediments of surface water bodies that exceed sediment screening levels or sediment criteria.

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 continue being regulated under Proposed Conditional Waiver No. 11. If dischargers violate waiver conditions, the

San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

The proposed waiver conditions applicable to the types of discharge that can be regulated by Proposed Conditional Waiver No. 11 include the following:

11.I.A. General Waiver Conditions for Aerially Discharged Wastes

11.II.A. Specific Waiver Conditions for Discharges of Waste Related to Fireworks Displays

The proposed waiver conditions that dischargers must comply with in order to be eligible for regulation by Proposed Conditional Waiver No. 11 are as follows:

11.I.A General Waiver Conditions for Aerially Discharged Wastes

1. Aerially discharged wastes cannot be discharged directly over and/or into surface waters of the state (including ephemeral streams and vernal pools) for regulation by this waiver.
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 ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.

In addition to the General Conditions above, the following Specific Conditions are required:

11.II.A. Specific Waiver Conditions for Discharges of Waste Related to Fireworks Displays

1. Fireworks displays must be conducted at least 0.5 miles from the nearest surface waters of the state for regulation by this waiver, unless sufficient information is provided to demonstrate that a proposed distance is protective of surface water quality.
2. 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.[42] If the organizer will have more than one fireworks display within a 48-hour period, the organizer must file a Notice of Intent 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 the discharge of

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

pollutants that might affect surface waters and groundwater quality. Sufficient information must be submitted before the discharge may begin.

3. All fireworks-related debris must be cleaned up from land surface areas.
4. 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 Health Services' Drinking Water Source Assessment Protection Program.
5. 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 California Department of Health Services' Drinking Water Source Assessment Protection 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.
6. The fireworks display must be permitted by all relevant public agencies that require permits for fireworks displays, including fire departments, municipal governments, law enforcement, water supply agencies, and the U.S. Coast Guard. Copies of any permits must be available on site for inspection.
7. 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

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8 Environmental Review

This section presents the environmental analysis for the proposed Basin Plan amendment. The San Diego Water Board must comply with the California Environmental Quality Act (CEQA) when amending the Basin Plan.[43] The CEQA process requires the San Diego Water Board to analyze and disclose the potential adverse environmental impacts of a Basin Plan amendment it is initiating or approving. The San Diego Water Board process must consider alternatives, develop proposals to mitigate or avoid impacts to the extent feasible, and involve the public and other public agencies in the evaluation process.

The San Diego Water Board is the Lead Agency for evaluating the environmental impacts of Basin Plan amendments pursuant to CEQA. Although subject to CEQA, the San Diego Water Board's basin planning process is certified by the Secretary for Resources as "functionally equivalent to" and therefore exempt from CEQA's requirement for preparation of an environmental impact report or negative declaration and initial study.[44] The State Water Board's CEQA implementation regulations describe the environmental documents required for any Regional Water Board basin planning actions .[45] These documents include a written report, an initial draft of the Basin Plan amendment, and a completed Environmental Checklist Form.[46] This technical report serves as the required written report. The proposed Basin Plan amendment is described in the previous section and in Appendix C (Attachment A to Tentative Resolution No. R9-2007-0104). The completed Environmental Checklist Form is provided in Appendix D.

The written report must also include the following:[47]

- A brief description of the proposed action (provided in the sections above and in Appendix D);
- Reasonable alternatives to the proposed action;
- Mitigation measures to minimize any significant adverse environmental impacts of the proposed action.

The reasonable alternatives and mitigation measures are discussed in the following subsections.

[43] Public Resources Code section 21080
[44] California Code of Regulations Title 14 section 15251(g)
[45] California Code of Regulations Title 23 section 3720 *et seq*.
[46] California Code of Regulations Title 23 section 3777
[47] California Code of Regulations Title 23 section 3777(a)

8.1 Reasonable Alternatives for Proposed Basin Plan Amendment

8.1.1 Alternative 1: No Action (Allow Existing Conditional Waivers to Expire)

Under this alternative, no action would be taken to renew the existing conditional waivers in the Basin Plan. This would cause all the existing waivers to expire beginning January 1, 2008.

If this alternative were to occur, all discharges that were regulated by a conditional waiver would no longer be waived of the need for WDRs and/or filing RoWDs. Therefore, dischargers would be required to file RoWDs for any discharge no longer regulated by a conditional waiver, and issued an individual waiver or individual WDRs for each discharge. This would also be the case for any of the new types of discharge that were proposed for regulation by conditional waivers.

Unless the San Diego Water Board were to issue general WDRs for these types of discharge, which would require an annual fee as well as annual monitoring and/or reporting requirements, no conditions would be in place to regulate these types of discharge. Under this alternative, significant San Diego Water Board resources would likely have to be diverted from discharges that have a higher threat to water quality to process the documentation required to regulate discharges that are typically considered a lower threat to water quality. If the San Diego Water Board diverts resources away from discharges that have a higher threat to water quality, water quality in the Region would likely degrade.

8.1.2 Alternative 2: Re-adopt the Existing Conditional Waivers without Revisions

Under this alternative, the existing conditional waivers in the Basin Plan would be renewed and adopted without revising the waiver conditions. The existing conditional waivers and waiver conditions would be effective for another 5 years. No additional types of discharge would be regulated by conditional waivers and waiver conditions.

If this alternative were to occur, several deficiencies in the waiver conditions that were identified would continue to exist. In many cases, the existing waiver conditions do not provide the San Diego Water Board, or the public, the information or data necessary to identify discharges regulated by conditional waivers occurring within the Region, the ability to verify compliance with waiver conditions, or the ability to assess the effectiveness of the waiver conditions. Available evidence and water quality monitoring data collected within the Region since 2002 indicates that the several types of discharge that are regulated by the existing conditional waivers may not be complying with existing waiver conditions, or that existing waiver conditions are not effective enough to minimize or eliminate the discharge of pollutants for the protection of water quality.

New types of discharge that have been identified for regulation by conditional waivers also could not be regulated by waivers. Therefore, these new types of discharge identified in the Region would be required to file RoWDs and issued an individual waiver or individual WDRs for each discharge. Unless the San Diego Water Board were to issue general WDRs for these new types of discharge, which would require an annual

fee as well as annual monitoring and/or reporting requirements, no conditions would be in place to regulate these types of discharge. San Diego Water Board resources may have to be diverted from discharges that have a higher threat to water quality to investigate and/or process the documentation required to regulate discharges that may be considered a lower threat to water quality. If the San Diego Water Board diverts resources away from discharges that have a higher threat to water quality, water quality in the Region would likely degrade.

Additionally, the existing waiver conditions, as written, are difficult for members of the public and/or the San Diego Water Board to determine if any of the discharges regulated by the existing conditional waivers may be a threat to the quality of the waters in the Region. Therefore, renewing the existing conditional waivers and waiver conditions without any revisions would continue to make it difficult for the San Diego Water Board to identify discharges that may be a potential or significant threat to water quality of the water in the Region.

This alternative would continue the status quo. Since available evidence indicates that existing waiver conditions may not be effective enough to minimize or eliminate the discharge of pollutants for the protection of water quality, water quality in the Region may degrade.

8.1.3 Alternative 3: Adopt Conditional Waivers with Revisions (Proposed Alternative)

Under this alternative, the existing conditional waivers in the Basin Plan would be revised as proposed in section 7. In addition, conditional waivers would be issued that would regulate several new types of discharge that have been identified.

In reviewing the effectiveness of the existing conditional waivers, available evidence and water quality monitoring data collected within the Region since 2002 indicate that the waiver conditions for several types of discharge that are regulated by the existing conditional waivers are not effective enough to minimize or eliminate the discharge of pollutants for the protection of water quality. Revisions to the waiver conditions for several types of discharge were proposed to provide the San Diego Water Board the information or data necessary to identify discharges regulated by conditional waivers occurring within the Region, the ability to verify compliance with waiver conditions, and the ability to assess the effectiveness of the waiver conditions.

Moreover, the proposed revisions to the waiver conditions would allow members of the public and/or the San Diego Water Board to identify any discharges may be a threat to the quality of the waters in the Region. If dischargers are identified as not complying with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to continue being regulated under a conditional waiver. If dischargers violate waiver conditions and the violation is brought to the attention of the San Diego Water Board, the San Diego Water Board can regulate the discharge with individual WDRs and/or take other enforcement actions. Additionally, waivers can be terminated at any time by the San Diego Water Board if determined to be ineffective in protecting water quality, and individual or general WDRs can be issued. This alternative

provides the San Diego Water Board the most options for regulating discharges. This alternative also allows to San Diego Water Board to focus its resources on discharges that are a higher threat to water quality.

8.1.4 Alternative 4: Adopt General Waste Discharge Requirements for Specific Types of Discharge

Under this alternative, the existing conditional waivers in the Basin Plan would be allowed to expire and the San Diego Water Board would develop and adopt general WDRs for the specific types of discharge regulated by the existing conditional waivers, and the new types of discharge proposed for regulation by conditional waivers.

If this alternative were to occur, the specific types of discharge in the proposed Basin Plan amendment would have to enroll for regulation by general WDRs. Enrollment for regulation by general WDRs would require an annual fee as well as annual monitoring and/or reporting requirements. The potential effects and/or benefits to the environment would likely be the similar because the conditions required for discharge would likely be similar.

However, under this alternative significant San Diego Water Board resources and time would be required to develop and adopt general WDRs to regulate the specific types of discharge discussed above. Resources and time would be also required by the dischargers to enroll for regulation by general WDRs. Additionally, significant San Diego Water Board resources would likely have to be diverted from discharges that have a higher threat to water quality to process the documentation required to regulate discharges that are typically considered a lower threat to water quality. If the San Diego Water Board diverts resources away from discharges that have a higher threat to water quality, water quality in the Region would likely degrade.

8.2 Recommended Basin Plan Amendment Alternative

The recommended Basin Plan amendment is Alternative 3, which is to revise the waiver conditions of the existing conditional waivers and issue waivers and waiver conditions to regulate several new types of discharge. The revised waiver conditions for the existing conditional waivers provide more explicit requirements that can be used to determine compliance. In addition, issuing conditional waivers for several new types of discharge that have been identified also allow the San Diego Water Board to begin regulating several types of discharge that have gone unregulated in the past.

A type of discharge that is considered “low threat” can be regulated with little oversight until the public or the San Diego Water Board identifies it as a potential or significant threat. At that time, the waiver conditions for that type of discharge can be revised to provide more information and/or oversight, or the conditional waiver can be terminated.

For dischargers identified by the public or the San Diego Water Board that do not comply with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies if the discharger would like to continue being regulated under a conditional waiver. If dischargers violate waiver conditions, the San Diego Water Board

can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

Also, if a conditional waiver and its waiver conditions do not appear to be effective in regulating a type of discharge and protecting water quality, the San Diego Water Board may terminate the conditional waiver for a specific type of discharge or specific discharge at any time. If the San Diego Water Board decides to terminate a conditional waiver, individual conditional waivers or WDRs can be issued on a case-by-case basis, or general WDRs can be issued for the Region.

Alternative 3 is recommended because this alternative provides the San Diego Water Board the most options to regulate waste discharges. Alternative 3 provides members of the public and/or San Diego Water Board more guidance to identify dischargers that are not providing adequate protection for the quality of the waters of the state. Finally, Alternative 3 will also allow the San Diego Water Board to efficiently utilize its limited resources by focusing on the discharges with the highest threat to the quality of the waters in the Region. Therefore, water quality in the Region will likely improve and beneficial uses of the waters of the state in the Region will be supported.

8.3 Mitigation Measures for Recommended Basin Plan Amendment Alternative

Amending the Basin Plan to renew and issue conditional waivers will not directly impact the environment, but compliance with waiver conditions may potentially have an impact on the environment if the implementation of non-structural and/or structural MMs/BMPs is required. However, as the Environmental Checklist in Appendix D indicates, the proposed Basin Plan amendment is not expected to result in any significant adverse environmental impacts.

Proposed Conditional Waiver No. 10, for discharges of emergency/disaster-related wastes, could potentially have significant adverse environmental impacts. However, emergency projects are exempt from the requirements of CEQA.[48]

Other proposed conditional waivers may require the implementation of specific non-structural and/or structural MMs/BMPs which could impact the environment. However, once MMs/BMPs are installed or implemented to comply with waiver conditions, the long term effects on the environment are not expected to be adverse. Therefore, any potential impacts to the environment are expected to be less than significant. In most cases, proper management of the pollutant sources, rather than implementing specific MMs/BMPs, would fulfill waiver conditions and protect water quality. Proper management of pollutant sources would typically have less than significant or no adverse impact on the environment. If specific MMs/BMPs that could adversely impact the environment are required, those potential adverse impacts to the environment are expected to be short term, and implementation should be performed in the most environmentally sensitive manner to minimize adverse impacts.

[48] California Code of Regulations Title 14 section 15269

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9 Necessity of Regulatory Provisions

The Office of Administrative Law (OAL) is responsible for reviewing administrative regulations proposed by State agencies for compliance with standards set forth in California's Administrative Procedure Act[49] for transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations. Following State Water Board approval of this Basin Plan amendment, any regulatory portions of the amendment must be approved by the OAL.[50] The State Water Board must include in its submittal to the OAL a summary of the necessity for the regulatory provision.

This Basin Plan amendment meets the "necessity standard" of Government Code section 11353(b). Amendment of the Basin Plan to renew and issue conditional waivers of WDRs and/or the requirement to file RoWDs is necessary to continue the regulation of specific types of discharge by conditional waivers. Renewal and issuance of the conditional waivers also provides the conditions under which specific types of discharge would not be a threat to water quality and remain consistent with the Basin Plan.

[49] Government Code section11340 *et seq.*
[50] Government Code section 11352

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10 Public Participation

Public participation is an important component of Basin Plan planning projects. The federal regulations require that Basin Planning projects be subject to public review. Public participation was provided through the San Diego Water Board's Basin Plan amendment process, which included a CEQA scoping meeting and public workshop, a public hearing, and a formal public comment period. These public hearings and meetings have been conducted as stipulated in the regulations (40 CFR 25.5 and 25.6), for all programs under the Clean Water Act.

Public Participation Milestones

Date	Event
March 2, 2007	Notice for Public Workshop and CEQA Scoping Meeting
April 5, 2007	Public Workshop and CEQA Scoping Meeting
June 22, 2007	Notice of Filing and Notice of Public Hearing
July 6, 2007	Release Basin Plan amendment and Technical Report with Environmental Checklist for public review
August 8, 2007	Public Hearing
TBD ~ September 2007	Adoption Hearing

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Appendix A

Review of
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A Review of Types of Discharge Regulated by the Existing Conditional Waivers

Since the existing conditional waivers were renewed in 2002, several types of discharge regulated by the existing conditional waivers have been identified as potentially significant sources of pollutants in the development of Total Maximum Daily Loads (TMDLs) for several water bodies on the Clean Water Act section 303(d) List of Water Quality Limited Segments (303(d) List) for the San Diego Region.

The existing conditional waivers for the discharge types of concern identified by the TMDL projects do not include waiver conditions that provide the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) the information or data necessary to identify discharges occurring within the San Diego Region regulated by conditional waivers, the ability to verify compliance with waiver conditions, or the ability to assess the effectiveness of the waiver conditions. Therefore, the existing conditional waivers need to be reviewed for effectiveness, and the conditions should be revised, if necessary, to provide additional requirements to minimize or eliminate discharges of pollutants and better protect water quality in the Region. This review also fulfills the requirements of Water Code section 13269(f).

A.1 Types of Discharge Regulated by Existing Conditional Waivers

Table 4-4 in Chapter 4 of the Basin Plan lists the types of discharge regulated by the existing conditional waivers. The existing conditional waivers currently waive waste discharge requirements (WDRs) and/or the requirement to file reports of waste discharge (RoWDs) for the following 26 discharging operations (or specific types of discharge):

1. Conventional septic tank/subsurface disposal systems for residential units.
2. Conventional septic tank/subsurface disposal systems for commercial/industrial establishments.
3. Alternative individual sewerage systems.
4. Conventional septic tank/subsurface disposal systems for campgrounds.
5. Construction and test pumping of water wells.
6. Air conditioner condensate.
7. Animal feeding operations (300 to 999 animal units).
8. Animal feeding operations (less than 300 animal units).
9. Plant crop residues.
10. Storm water runoff.
11. Sand and gravel mining operations.
12. Intermittent swimming pool discharges.
13. Dredging project wastes.
14. Short-term construction dewatering operations.
15. Manure composting and soil amendment operations.
16. Solid waste disposal facilities accepting only inert wastes.
17. Stream channel alterations.
18. Agricultural irrigation return water.

19. Nursery irrigation return water.
20. Short-term use of reclaimed wastewater.
21. On-site drilling mud discharge.
22. Timber harvesting.
23. Temporary discharge of specified contaminated soils.
24. Green waste composting facilities.
25. Incidental discharges within a response area during a spill response.
26. Permanent reclaimed water projects.

A.2 Enrollment Requirements for Existing Conditional Waivers

The existing waivers include 26 types of discharge that were considered in 2002 to be "low threat" to water quality, or regulated by another agency or program that would effectively protect water quality. Types of waste discharge were classified as Category 1 or Category 2 discharges for purposes of San Diego Water Board oversight to determine compliance with waiver conditions.

Category 1 types of discharge were not considered a significant threat to water quality, but determined to be a potential threat to water quality. A waiver for a Category 1 type of discharge was developed if site and/or discharge information was provided in some form and/or could be accessed by the San Diego Water Board. Thus, for Category 1 types of discharge, in order to be eligible for regulation by a waiver, some form of enrollment is required. Enrollment was fulfilled either by submitting an enrollment form directly to the San Diego Water Board, or through enrollment with another public agency or San Diego Water Board regulatory program.

Category 2 types of discharge were determined to be very low threat to water quality with little likelihood of impacting the quality of waters of the state. Under the existing conditional waivers, the San Diego Water Board does not require enrollment to be eligible for regulation by a conditional waiver for Category 2 types of discharge. It was assumed that the San Diego Water Board could assess compliance with Category 2 waiver conditions by means of surveys or other indirect methods.

Several types of discharge regulated by the existing conditional waivers continue to pose a low threat to water quality and can still be regulated without enrollment by a discharger. However, there are several types of discharge regulated by the existing conditional waivers (both Category 1 and 2 types of discharge) that may actually pose a potential threat to water quality and should require enrollment.

For the proposed conditional waivers, discussed in section 7 of the Technical Report, the San Diego Water Board has discontinued the Category 1 and 2 types of discharge designations. The potential threat to water quality that a type of discharge may pose can be determined by whether or not there is an enrollment requirement included in the waiver conditions. For the types of discharge that are not expected to pose a threat to water quality, minimum requirements for allowing a discharge to occur were developed so a discharger can implement measures that will allow the discharge to be regulated by a waiver without enrollment. For the types of discharge that may pose a potential

threat to water quality, the waiver conditions include some form of enrollment requirement, in addition to the minimum requirements that must be implemented to minimize or eliminate the discharge, or potential discharge, of pollutants to waters of the state in the San Diego Region.

A.3 Review of the Existing Conditional Waivers

The types of discharge regulated by the existing conditional waivers are reviewed and discussed below in the following subsections. Proposed waiver conditions required to renew the existing conditional waivers are also provided in the following subsections.

A.3.1 Existing Conditional Waiver Nos. 1 through 4 - Conventional Septic Tank/Subsurface Disposal Systems for Residential Units, Commercial/Industrial Establishments, and Campgrounds, and Alternative Individual Sewerage Systems

On-site wastewater treatment systems (OWTSs) treat wastewater and sewage, or "black water," and discharge effluent to the subsurface on land. Natural processes in the soil of the disposal area are usually an integral component of OWTSs and provide further treatment of the effluent as it percolates through the ground. Different OWTSs include conventional septic tank/subsurface disposal systems and alternative individual sewerage systems, and provide varying levels of wastewater and sewage treatment. An OWTS can adequately provide public health, water quality, and environmental protection when properly designed, sited, constructed, maintained and operated. However, when these conditions are not met, discharges from an OWTS may potentially degrade the quality of groundwater and/or surface water with nutrients, bacteria, and other organic wastewater contaminants.

The section entitled *Guidelines for New Community and Individual Sewerage Facilities* in Chapter 4 (Implementation) of the Basin Plan contains the principles, goals, and policy of the San Diego Water Board for the protection of groundwater quality from discharges of domestic wastewater from OWTSs. WDRs and the requirement to file RoWDs for individual sewerage systems with subsurface discharge are waived under existing Conditional Waiver Nos. 1 through 3, subject to the conditions set forth in Chapter 4 of the Basin Plan. The Basin Plan specifies different conditions for discharges of domestic wastewater from OWTSs at industrial or commercial projects and residential housing projects involving more than 5 family units. Additionally, WDRs and the requirement to file RoWDs for subsurface discharges from OWTSs at campgrounds are waived under existing Conditional Waiver No. 4, subject to the condition that the campground does not allow recreational vehicles to connect to the OWTS.

The San Diego Water Board utilizes existing Conditional Waiver Nos. 1 through 4 to regulate effluent discharged from OWTSs. However, existing Conditional Waiver Nos. 1 through 4 defer the regulation of the discharge to the appropriate county health officer with the primary condition that the design of the OWTS has been approved by the county environmental health agency (authorized local agency) having jurisdiction where the system has been or will be constructed. County approval is usually in the form of a

separate permit for the construction, installation, or repair of an OWTS, or as part of a building or plumbing permit. Existing Conditional Waiver Nos. 1 through 4 also prohibit the construction of OWTSs within areas designated as Zone A, as defined by the California Department of Health Services' (DHS) *Drinking Water Source Assessment and Protection Program*.

The State Water Resources Control Board (State Water Board) is in the process of developing new regulations for OWTSs.[1] After the new OWTS regulations are adopted, the following OWTSs must be brought into compliance with the regulations:

- OWTSs constructed or replaced on or after July 1, 2004 (or 6 months after the adoption date of the regulations, whichever is sooner)
- OWTSs subject to a major repair[2]
- OWTSs that pools or discharges to the surface of the ground
- OWTSs that, in the judgment of the Regional Water Board or the authorized local authorities, has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of waters of the state.

As of the writing of this report, the State Water Board is still in the process of developing the new OWTS regulations. The OWTS regulations that will be adopted by the State Water Board may have requirements that are more protective of water quality than those currently enforced by authorized local agencies. The authorized local agencies will be responsible for bringing OWTSs in compliance with the new regulations.

Until the new State Water Board's OWTS regulations are adopted, the Basin Plan provisions related to OWTSs, including the conditional waivers, will continue to be the method by which water quality will be protected. Additionally, until the new OWTS regulations are adopted, the design, installation, construction, maintenance and operation of new and existing OWTSs should be in accordance with the authorized local agency's requirements and local ordinances.

Obtaining the appropriate permits from authorized local authorities for OWTSs should continue to be a waiver condition that can serve as the method of enrollment for regulation by a conditional waiver. Completed and approved permit applications and inspection reports for OWTSs that can be obtained from the authorized local authorities can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers for OWTSs.

[1] As required, pursuant to Water Code section 13291
[2] "Major repair" means OWTS enlargement or corrective work necessary to eliminate a failure condition to an OWTS where such improvements involve the replacement, or modification of a septic tank, supplemental treatment unit, or dispersal system, excluding non-perforated distribution pipes, regardless of whether or not a failure condition exists.

Proposed Conditions for Renewing Existing Conditional Waiver Nos. 1 through 4:

The waiver of WDRs and/or the requirement to file RoWDs for OWTSs should be renewed with the following proposed waiver conditions:

1. Effluent from an OWTS cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Effluent from an OWTS must be discharged to the subsurface and cannot surface or pond.
3. Effluent from an OWTS must not degrade the quality of underlying groundwater.
4. Effluent from an OWTS must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
5. Effluent from an OWTS must be discharged at least 5 feet above highest known historical groundwater level.
6. Effluent from an OWTS must be discharged at least 100 feet away from any surface water body.
7. Effluent from an OWTS must not impact the quality of groundwater in any water wells.
8. An OWTS must comply with the requirements and conditions for Individual Sewerage Systems and Alternative Systems of Chapter 4 of the Basin Plan.
9. An OWTS serving a campground must not allow connections from recreational vehicles and will be considered in the same manner as an OWTS at a commercial facility.
10. The OWTS owner/operator must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies. Copies of any approvals, permits, certifications, and/or licenses must be available on site for inspection.
11. The OWTS owner/operator must maintain and operate the OWTS in accordance with the design approved by the authorized local agencies.
12. 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.
13. For <u>existing</u> OWTSs, the following conditions should apply:
    a) Owners/operators of existing OWTSs that cause a condition of contamination, pollution, or nuisance must cease the use of the OWTS and repair or replace it with a compliant OWTS, or permanently remove the OWTS from operation.
    b) After adoption of State Water Board OWTS regulations, any existing OWTS that is replaced, requires major repair, pools or discharges to the surface of the ground, or has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of waters of the state must be brought into compliance with new OWTS regulations. Owners/operators of OWTSs that cannot bring their OWTS into compliance must cease the use of the OWTS and replace it with a compliant OWTS, or permanently remove the OWTS from operation.

c) For owners/operators of existing OWTSs that did not properly obtain the appropriate permits from the authorized local agencies, the owner/operator must obtain the appropriate permits to continue operation.

14. For new OWTSs, the following conditions should apply:
    a) New OWTSs installed at campgrounds must not allow connections from recreational vehicles.
    b) New OWTSs must comply with the conditions set forth in the section entitled "Guidelines for New Community and Individual Sewerage Facilities" in Chapter 4 (Implementation) of the Basin Plan.
    c) New OWTS cannot be constructed and effluent from a new OWTS cannot be discharged in areas where groundwater water quality objectives have been exceeded.
    d) New OWTSs must not be constructed within areas designated as Zone A, as defined by the DHS's Drinking Water Source Assessment and Protection Program.
    e) Six (6) months after adoption of State Water Board OWTS regulations, applications received by the authorized local authority for the construction of a new OWTS must be in compliance with new OWTS regulations for design and installation.

A.3.2 Existing Conditional Waiver No. 5 – Construction and Test Pumping Water Wells

Potable or relatively contaminant-free water can be pumped and discharged during construction, development, and maintenance of water wells. Existing Conditional Waiver No. 5 only regulates the discharge of pumped well water to land. Most discharges from groundwater extraction projects to surface water are subject to federal National Pollutant Discharge Elimination System (NPDES) regulations and regulated by WDRs.[3]

The pollutants of concern are suspended solids, turbidity, chlorine, and other water treatment, conditioning, and well maintenance chemicals. However, these types of discharge are expected to pose a low threat to groundwater. Suspended solids and turbidity are filtered out by the soil as the water infiltrates through the vadose zone, and is usually the same or better quality than the shallowest part of the underlying groundwater. Chlorine and other typical water treatment, conditioning, and well maintenance chemicals are typically used in low concentrations and attenuate quickly. Suspended solids, turbidity, and water treatment chemicals discharged to land are not expected to affect water quality if discharges are infrequent.

[3] San Diego Water Board Order No. 2000-90, NPDES No. CAG919001, *General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto;* and,
San Diego Water Board Order No. 2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region Except for San Diego Bay*

One-time or infrequent discharges of groundwater from water wells are not expected to degrade the quality of groundwater. However, frequent discharges could potentially degrade water quality over time. A Notice of Intent filed with the San Diego Water Board about these discharges could provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate. Therefore, enrollment should be required for frequent or regular discharges from water wells.

For sites where soil or groundwater contamination is known to be present or discovered, operators are obligated to report the finding to the authorized local regulatory agencies. In such cases, discharge of water from these sites would not be eligible for regulation by a conditional waiver and would require proper treatment and/or disposal.

Proposed Conditions for Renewing Existing Conditional Waiver No. 5:

The waiver of WDRs and/or the requirement to file RoWDs for discharges from construction and test pumping of water wells should be renewed with the following proposed waiver conditions:

1. Discharges of pumped well water to land cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this conditional waiver. Any discharges of pumped well water to surface waters must be regulated either by general or individual WDRs or in accordance with the conditions of an applicable conditional waiver.
2. Discharges of pumped well water to land must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to any waters of the state.
3. Pumped well water discharged to land must not 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; and where the well was not constructed for and is not to be used in groundwater and/or soil remediation operations.
4. Pumped well water discharged to land must not degrade the quality of waters of the state.
5. Any products used to condition or treat groundwater or wells that may discharge to land must be applied in accordance with manufacturer instructions and guidelines, and must reliably attenuate before infiltrating to underlying groundwater.
6. Discharges of pumped well water to land must not impact the quality of groundwater in any water wells.
7. Discharges 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 Notice of Intent containing monitoring and analytical data demonstrating that the quality of the proposed discharge would not cause the groundwater at the disposal site to exceed water quality objectives.

8. For multiple applications of pumped groundwater to land over a continuous 365-day period, or a cumulative 24–hours (or longer) application of groundwater from wells pumped to land within a continuous 365-day period, the discharger must file a Notice of Intent containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to minimize 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.

A.3.3 Existing Conditional Waiver No. 6 – Air Conditioner Condensate

Waste generated from air conditioning, cooling, or refrigeration systems are collectively referred to herein as cooling water. Existing Conditional Waiver No. 5 only regulates the discharge of cooling water to land. Under the existing conditional waivers, there is no waiver of WDRs and/or requirement to file RoWDs specific to discharges cooling water to surface waters.

Cooling water may be contact or non-contact. Contact cooling water is generated when a material or product is submerged in chilled water. Non-contact cooling water does not contact any raw material, product, or waste product. Non-contact cooling water is not expected to contain pollutant concentrations that will impact the quality of waters of the state under ambient conditions. Discharges of cooling water from a facility to surface waters would be considered a point source, thus subject to NPDES regulations and would require WDRs. However, discharges of non-contact cooling water to land would not be subject to NPDES regulations and may be regulated by conditional waivers.

Non-contact cooling water may contain dissolved metals from contact with metal piping, as well as chlorine or other chemicals added to the water to prevent scaling. Dissolved metals concentrations are usually in non-detectable to trace amounts. Therefore, concentrations of dissolved metals in cooling water are expected to pose a low threat to groundwater. Chlorine and other chemicals used to condition or treat cooling water are typically used in low concentrations and dissipate quickly. The cooling water may also have elevated temperatures. However, temperature is not a concern for groundwater. Dissolved metals, scaling-prevention chemicals, and temperature in cooling water are not expected to affect the quality of waters of the state.

These types of discharge are typically relatively low in volume, duration and frequency, and consist of water that does not come in contact with any product. These types of discharge are not expected to pose a threat to the quality of the waters of the state.

However, frequent discharges could potentially degrade the quality of groundwater over time. A Notice of Intent filed with the San Diego Water Board about these discharges could provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate. Therefore, enrollment should be required for frequent or regular discharges of cooling water.

Proposed Conditions for Renewing Existing Conditional Waiver No. 6:

The waiver of WDRs and/or the requirement to file RoWDs for discharges of cooling water to land should be renewed with the following proposed waiver conditions:

- Discharges must not contain contact cooling water.
- Discharges of cooling water to land cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this conditional waiver. Any discharges of cooling water to surface waters must be regulated either by general or individual WDRs or in accordance with the conditions of an applicable conditional waiver.
- Discharges of cooling water to land must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to any waters of the state.
- Discharges of cooling water to land must not 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.
- Discharges of cooling water to land must not degrade the quality of waters of the state.
- Any products used to treat or condition cooling water must be used in accordance with manufacturer's instructions and guidelines and reliably attenuate before infiltrating to underlying groundwater.
- Discharges of 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 Notice of Intent containing information about the operator, location, and planned period of and average daily volume of discharge.

A.3.4 Existing Conditional Waiver Nos. 7 and 8 – Animal Feeding Operations

Animals generate wastes such as manure, urine, and soiled bedding, which are sources of sediment, nutrients, and bacteria (i.e., bacteria, viruses, protozoa). Additionally, animal activities can augment and/or accelerate erosion, which increases the amount of sediment that can be transported in runoff. Therefore, surface water runoff and infiltration from animal feeding operations (AFOs) can transport excessive sediment, nutrients, and pathogens to surface waters and groundwater, which can degrade water quality. However, proper management of animal wastes and activities can significantly reduce the impact of animals on water quality.

Existing Conditional Waiver No. 7 is for regulating AFOs with 300 to 999 animal units (where 1 animal unit is equivalent to 1 cow or approximately 1,000 animal pounds), or medium-sized AFOs (referred to herein as medium AFOs). Existing Conditional Waiver No. 8 is for regulating AFOs with less than 300 animal units, or small-sized AFOs (referred to herein as small AFOs).

The existing waiver conditions for AFOs include: 1) no discharge of 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; and, 2) operating and maintaining the facility in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565, which pertain to wastewater and manure management practices for concentrated animal feeding operations (CAFOs).

According to federal NPDES regulations, an AFO is defined as a lot or facility that stables or confines and feeds or maintains animals for a total of 45 days or more in any 12-month period, and does not sustain crops, vegetation, forage growth, or post harvest residues during the normal growing season over any portion of the lot or facility.[4] The discharges from AFOs that are determined to be CAFOs are subject to WDRs[5] that conform with NPDES regulations.

The factors that determine whether an AFO is a CAFO vary depending on the number of animals confined in the lot. Large AFOs (1,000 or more animal units) are defined as CAFOs based on animal units alone.[6] These facilities are subject to NPDES regulations and must obtain WDRs. Therefore, large AFOs are not eligible for regulation by a conditional waiver.

Medium AFOs are facilities that have 300 to 999 animal units, which are equivalent to, but not limited to, the following numbers of animals:

- 300-999 dairy cows
- 300-999 veal calves
- 300-999 cattle (not dairy or veal)
- 750-2,499 swine (55 lbs or heavier)
- 3,000-9,999 swine (less than 55 lbs)
- 150-499 horses
- 3,000-9,999 sheep or lambs
- 16,500-54,999 turkeys
- 9,000-29,999 laying hens (if with liquid manure handling)
- 25,000-81,999 laying hens (if without liquid manure handling)
- 37,500-124,999 chickens (not laying hens, without liquid manure handling)
- 1,500-4,999 ducks (if with liquid manure handling)
- 10,000-29,999 ducks (if without liquid manure handling)

According to the NPDES regulations, a medium AFO is a CAFO if: (a) pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device, or (b) pollutants are directly discharged into waters of the United States which originate outside of and passes over, across, or through the facility or otherwise comes into direct contact with the confined animals.[7]

[4] Code of Federal Regulations Title 40 section 122.23(b)(1)(i)&(ii)
[5] In California, WDRs are issued in lieu of federal NPDES permits.
[6] Code of Federal Regulations Title 40 section 122.23(b)(4)
[7] Code of Federal Regulations Title 40 section 122.23(b)(4)

So, a medium AFO that discharges to waters of the United States during dry weather conditions and/or storm events is considered a CAFO, and must be regulated by WDRs that implement NPDES regulations. However, an AFO is not a CAFO if the AFO discharges only during a 25-year, 24-hour storm event or greater. If a medium AFO does not discharge to waters of the United States, it is eligible for regulation by a conditional waiver.

According to existing Conditional Waiver No. 7, medium AFOs must submit an enrollment form to the San Diego Water Board for regulation by a conditional waiver. To date, no medium AFOs have submitted any enrollment forms to the San Diego Water Board. This may be due to lack of knowledge or awareness of the conditional waivers and waiver conditions on the part of medium AFO facility owners, or such facilities simply may not exist in the San Diego Region.

If these types of facilities do exist, they must contact the San Diego Water Board to determine if they are eligible for regulation by a conditional waiver. A letter or report submitted to the San Diego Water Board about the medium AFO facility could provide sufficient information and data to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs that implement NPDES regulations is appropriate.

An AFO with less than 300 animal units is a small AFO. A small AFO is not a CAFO unless the San Diego Water Board designates it as a CAFO on a case-by-case basis. A small AFO can be designated as a CAFO if it is a potentially significant contributor of pollution to waters of the United States. Based on the definition of an AFO,[8] properties where horses, pigs, cows, sheep, turkeys, hens, chickens, ducks, or other any other types of animals are kept as pets may be considered AFOs. Therefore, many properties with non-commercial animals or pets may technically be considered small AFOs. If the San Diego Water Board does not designate these lots or facilities as CAFOs, they are eligible for regulation by a conditional waiver. According to existing Conditional Waiver No. 8, no enrollment is required for AFOs with less than 300 animal units.

In 2002, small AFOs were not expected to pose a significant threat to water quality. However, since then, observations and reports from the municipalities involved in the development of bacteria Total Maximum Daily Loads (TMDLs) suggests that small AFOs (primarily related to recreational equestrian ownership and activities) could be causing the direct and/or indirect discharge of a significant amount of pollutants into streams and creeks in the Region. Municipalities are specifically concerned about small AFOs in the watersheds with river and beach segments listed as impaired for bacteria (total coliform, fecal coliform, *E. coli* and/or *Enterococci*), sediment, and/or nutrients on the Clean Water Act section 303(d) List of Water Quality Limited Segments (303(d) List).

[8] Code of Federal Regulations Title 40 section 122.23(b)(1)(i)&(ii)

Runoff from several small AFOs in the same area that are not properly maintained and managed can collectively transport excessive amounts of sediment, nutrients, and bacteria into nearby surface waters during storm events. Activities such as spraying down pavement to "wash away" manure and urine or washing animals without containment of wash water can cause dry weather nuisance flows to transport pollutants to nearby surface waters. Animals that are allowed to enter surface waters can discharge manure and urine directly into the water, as well as accelerate the erosion of stream and creek banks and channels. These types of activities can degrade the quality of surface waters, as well as groundwater.

The number of land parcels that could be classified as small AFOs in the Region is not known. According to the United States Department of Agriculture, there are over 700 horse farms in San Diego County. If animal operations with other types of animals are included, the number is likely to be in the thousands. Current San Diego Water Board resources would not be sufficient to issue WDRs to all the potential small AFOs in the Region. However, the collective discharges from small AFOs can be a significant source of pollutants to waters in the Region.

Proper management of animal facilities, wastes and activities can significantly reduce the impact of animals on water quality. A guidance document prepared by several public and private entities in Orange and San Diego counties entitled *Equestrian-Related Water Quality Best Management Practices* outlines the management measures (MMs) and best management practices (BMPs) that can be taken by horse owners to reduce the impact of horses on water quality. The same MMs/BMPs could be used by any small AFO to protect water quality. Types of MMs/BMPs recommended in the document include:

- Runoff Management
- Erosion Control
- Bacteria/Nutrient Transportation Prevention
- General Housekeeping
- Protection of Waterbodies

Additional MMs/BMPs for animal operations are also available from the United States Department of Agriculture Natural Resource Conservation Service (NRCS) in their *Field Office Technical Guide.*

Small AFOs that implement MMs/BMPs at their facilities can prevent the discharge of pollutants that may adversely impact the quality of surface waters and groundwater. Small AFOs that implement MMs/BMPs should remain eligible for regulation by a conditional waiver without enrollment. However, small AFOs that violate waiver conditions by not implementing MMs/BMPs and allow the degradation of water quality should be required to comply with waiver conditions. Small AFOS and grazing lands that violate waiver conditions could be required to file a RoWD and be regulated with individual WDRs. These facilities could also be designated as CAFOs and be subject to

NPDES regulations. Enforcement actions could also be taken against facilities that fail to comply with waiver conditions.

Proposed Conditions for Renewing Existing Conditional Waiver Nos. 7 and 8:

The waiver of WDRs and/or the requirement to file RoWDs for discharges from small and medium AFOs should be renewed with the following proposed waiver conditions:

1. Small and 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.
2. Small and medium AFOs must be operated and maintained in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565.
3. Small and medium AFOs must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
4. Small and medium AFOs must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality 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, or the *Field Office Technical Guide* available from the NRCS. Additional references may be available from other sources.
5. Small and medium AFOs must prevent direct contact of animals with surface water bodies. Animals should not be allowed adjacent to or within stream banks. Small and medium AFOs should maintain a buffer zone or riparian filter strip (at least 100 feet is recommended) between the animal and any surface waters of the state. The buffer zone must adequately minimize the discharge of pollutants from grazing lands. There should be no direct exposure of a surface water body to an animal. Above-ground watering troughs or basins and fencing should be installed to eliminate direct exposure of animals to surface water bodies.
6. Small and medium AFOs must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to surface waters of the state.
7. Small and medium AFOs must properly manage the wastes (i.e., manure, urine, soiled bedding) generated by the animals at the facility in accordance with the following guidelines:
   a) Animal wastes should be collected and disposed of regularly (at least once every two weeks).
   b) 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 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 should be disposed of immediately.
   c) Area adjacent to temporary storage area for animal wastes should be graded to prevent surface water and runoff from reaching the storage area.

d) Temporary storage area should be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to groundwater.
e) Temporary storage area should 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.
f) A buffer zone of at least 100 feet should 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.
g) If animal wastes are composted on site, composting activities must comply with the conditions applicable to composting operations for regulation by a conditional waiver.

8. 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.
9. Small and medium AFOs must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
10. For medium AFOs, owners or operators must file a Notice of Intent containing information about the facility owner/operator, number and types of animals, map of the facility showing the locations of nearby surface water bodies and/or water wells, and MMs/BMPs that have been, or are planned to be implemented to prevent erosion and discharges of animal wastes that could affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted in order for the medium AFO facility to be regulated by this conditional waiver.

A.3.5 Existing Conditional Waiver No. 9 – Plant Crop Residues

Plant crop residues include the leaves, stems and roots that remain after agricultural row and field crops (e.g., vegetable, grain, feed, melon, berry) have been harvested. Plant crop residues can also include culled fruit and prunings from tree crops. Disposal of plant crop residues is often through land disposal. Land disposal may include plowing crop residues back into the ground, or chipping and grinding the residues and using it as a mulch. Proper management of plant crop residues can reduce the amount of waste that an agricultural operator must dispose of, as well as reduce runoff and erosion.

Land disposal of crop residues is a relatively low cost disposal option and allows the return of organic matter and nutrients into the soil as the residues decompose. Crop residues may contain pesticides or other products that were applied to the crops, which could affect surface water or groundwater. Surface water runoff from crop residues may also transport organic material to surface waters.

However, research findings indicate that certain plant diseases may be controlled through the action of soil microbes that are active in compost and mulches that have been applied to the soil, such as plant crop residues. Crop residues plowed into the ground as a soil amendment or applied to the surface as a mulch also help to reduce

wind and water erosion of the soil, to retain moisture in the soil, and to decrease the impact of precipitation by slowing the runoff of water.

The discharge of plant crop residues to soil is not expected to impact groundwater quality, and can help reduce surface runoff to surface waters. Therefore, enrollment should not be required for plant crop residues plowed into the ground.

Proposed Conditions for Renewing Existing Conditional Waiver No. 9:

The waiver of WDRs and/or the requirement to file RoWDs for discharge of plant crop residues should be renewed with the following proposed waiver conditions:

1. Plant crop residues cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Plant crop residues must be managed to prevent transport of pollutants to waters of the state. This waiver does not apply to composting or burning of plant crop residues.
3. Application of any products (e.g., fertilizers, pesticides) to plants or soil must be used in accordance with manufacturer's guidelines and must not have an adverse effect on the quality of any waters of the state.
4. Operators must implement MMs/BMPs around areas with plant crop residues to minimize or eliminate runoff and leachate to surface waters and groundwater.
5. Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.

A.3.6 Existing Conditional Waiver No. 10 – Storm Water Runoff

Existing Conditional Waiver No. 10 regulates storm water runoff, "*where no NPDES permit and where appropriate best management practices…are implemented to minimize the discharge of contaminants in runoff to groundwater aquifers*." Existing Conditional Waiver No. 10 only regulates the discharge of storm water runoff that infiltrates to groundwater. Under the existing conditional waivers, there is no waiver of WDRs and/or requirement to file RoWDs specific to discharges of storm water runoff to surface waters.

However, according to Code of Federal Regulations Title 40 section 122.3(e), "*An introduction of pollutants from nonpoint source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands*" are not subject to NPDES regulations. This does not include runoff discharges from CAFOs,[9] from concentrated aquatic animal facilities,[10] to aquaculture projects,[11] or from silvicultural point sources.[12]

[9] Defined in Code of Federal Regulations Title 40 section 122.23
[10] Defined in Code of Federal Regulations Title 40 section 122.24
[11] Defined in Code of Federal Regulations Title 40 section 122.25
[12] Defined in Code of Federal Regulations Title 40 section 122.27

Nonpoint source (NPS) pollution, or polluted runoff, is the leading cause of water quality impairments in California according to the State Water Board's *Plan for California's Nonpoint Source Pollution Control Program*[13] (NPS Program Plan). Storm water runoff from lands utilized for agricultural and/or silvicultural activities and/or grazing can be a significant source of pollutants to surface waters and/or groundwater if proper MMs/BMPs are not implemented. This conclusion is supported by the fact that several surface water bodies in the northern part of the San Diego Region, where agricultural land uses are most prevalent, are not meeting water quality objectives for several agriculture related pollutants and are on the 303(d) List.

Storm water runoff from NPSs can transport sediment, dissolved solids, pesticides, nutrients, hydrocarbons, and pathogens (i.e., bacteria, viruses, protozoa) to groundwater as well as surface waters, which can degrade water quality. Discharges of storm water runoff not subject to NPDES regulations, which can include infiltration to groundwater and runoff to surface waters from agricultural and silvicultural activities (including pasture and range lands used for grazing), may be regulated by conditional waivers.

The State Water Board's NPS Program Plan describes a "three-tiered approach" for addressing NPS pollution problems: Tier 1) Self-Determined Implementation of Management Practices; Tier 2) Regulatory Based Encouragement of Management Practices; and Tier 3) Effluent Limitations and Enforcement Actions.

Under existing Conditional Waiver No. 10, discharges of storm water runoff are waived of WDRs and/or the requirement to file RoWDs where the only condition is essentially a NPS Program Plan Tier 1 approach of self-determined, or voluntary, implementation of MMs/BMPs without any enrollment, monitoring, or reporting requirements. However, the conditions of existing Conditional Waiver No. 10 only apply to infiltration of storm water runoff to groundwater and do not include conditions for storm water runoff discharging to surface waters. The waiver conditions of existing Conditional Waiver No. 10 should be revised to include the minimum requirements expected of owners/operators of agricultural and silvicultural activities and or grazing to minimize or eliminate pollutants in storm water runoff that may discharge to surface waters.

While existing Conditional Waiver No. 10 does not include conditions for NPS storm water runoff discharges to surface water, there are regulatory mechanisms in place for silvicultural activities. For the control of storm water runoff from silvicultural lands, the State Water Board entered into Management Agency Agreements (MAAs) with the U.S. Department of Agriculture Forest Service (USFS) and the California Board of Forestry/California Department of Forestry (BOF/CDF), and designated these agencies as the Water Quality Management Agencies (WQMAs) for the National Forest System and nonfederal forest lands, respectively. This is a NPS Program Plan Tier 2 approach. For each WQMA, the State Water Board certified and approved Water Quality Management Plans, which include approved MMs/BMPs to be implemented during timber operations. Under the MAAs, the Regional Water Boards have agreed to waive

[13] http://www.waterboards.ca.gov/nps/protecting.html

WDRs and the requirement to file RoWDs for timber operations where approved MMs/BMPs are implemented in accordance with the Water Quality Management Plans.

Implementation of MMs/BMPs for timber operations approved by the WQMAs normally include: (1) implementing MMs/BMPs according to specific site conditions; (2) monitoring to assure that MMs/BMPs are properly applied and are effective; (3) immediate mitigation of a problem where MMs/BMPs are not effective (including regulatory action, if necessary); and (4) improvement of an approved MM/BMP or implementation of additional MMs/BMPs when needed to resolve a deficiency. However, if evidence indicates the WQMAs are not complying with their obligations under the MAAs and/or water quality is degrading due to storm water runoff from silvicultural lands, the Regional Water Boards may require the operators to file RoWDs, implement additional MMs/BMPs, regulate by WDRs, and/or issue enforcement actions (e.g., Investigation Orders, Notices of Violation, Administrative Assessments of Civil Liability, Cease and Desist Orders, Cleanup and Abatement Orders).

For the control of storm water runoff from agricultural lands and pasture and range lands used for grazing, there is no agency that the San Diego Water Board can enter into an agreement with to act as a WQMA. At this time, the San Diego Water Board must rely upon the conditional waivers to regulate discharges of storm water runoff from agricultural lands and pasture and range lands used for grazing.

However, the existing waiver conditions only apply to protection of groundwater, so there are no waiver conditions in place for the protection of surface waters. Additionally, the conditions of existing Conditional Waiver No. 10 provide little or no information or data to identify agricultural NPS pollutant sources, verify implementation of MMs/BMPs, or ability to assess effectiveness of any MMs/BMPs that may be in place. Based on available water quality data collected since 2002, the conditions for existing Conditional Waiver No. 10 are not effective in regulating storm water runoff from agricultural NPSs (including pasture and range lands used for grazing).

For agricultural activities (e.g., row crops, orchards, nurseries), other Regional Water Boards have adopted waivers to control runoff from “irrigated” agricultural lands with conditions that require enrollment, implementation of MMs/BMPs, monitoring, reporting, and preparation of water quality management plans. These regions have many agriculture operations that are on large 100-acre and greater size parcels that can be easily located, have easily identified owners and/or operators, and operate on a full-time and/or year-round schedule. Thus, the Regional Water Boards from these regions can easily identify owners and/or operators that are not enrolled in their irrigated lands waiver programs.

However, the San Diego Region has several factors that make regulating runoff from agricultural activities very challenging. The San Diego Region has agriculture operations on a wide range of parcel sizes. According to the San Diego County Farm Bureau (Farm Bureau), more than half (60 percent or more) of the farms in the San Diego Region are small agriculture operations on parcels with 10-acres or less, with

owners and/or operators that do not occupy the parcels or are present only part of the year, and/or operate on a seasonal, part-time, or sporadic schedule. The rest of the farms (40 percent or less) are probably implementing MMs/BMPs and/or affiliated with or getting information or assistance from organizations such as the Farm Bureaus, University of California Cooperative Extension (UCCE), U.S. Department of Agriculture Natural Resource Conservation Service (NRCS), regional resource conservation districts (RCDs), or other organizations.

Many of these small agriculture operations are very likely unaware of their responsibilities to implement MMs/BMPs, or the consequences of their actions. Educating these small agriculture operations of their responsibilities is necessary to ensure that their practices do not degrade water quality. Reaching out to small agriculture operators will take a significant amount of time due to the anticipated numbers of such operations. However, the collective discharges from small agricultural operations can be a significant source of pollutants to waters of the state in the Region.

For lands that are used for grazing, storm water runoff has not been considered a significant threat to water quality and there has been little or no regulation. A special use permit is required from the USFS for livestock grazing on NFS lands, which may include implementation of MMs/BMPs to minimize erosion and runoff and prevent overgrazing. However, for state and private lands used for grazing, it is unknown if land owners in the Region impose any requirements.

The waiver conditions for regulating discharges of storm water runoff should be revised to include conditions that require implementation of MMs/BMPs to minimize or eliminate pollutants in storm water runoff from NPS sources to surface waters. Other conditions for storm water runoff from agricultural and grazing lands could include preparation of Water Quality Management Plans, monitoring, and/or reporting. However, including too many conditions may create resistance among small agricultural and/or grazing land owners/operators at this point in time. These conditions should be considered for inclusion in future iterations of the conditional waivers if water quality in areas with agriculture, silviculture, and/or grazing does not improve. Education and outreach should be the primary focus for the waiver conditions at this time.

Proposed Conditions for Renewing Existing Conditional Waiver No. 10:

The waiver of WDRs and/or the requirement to file RoWDs for discharges of storm water runoff should be renewed with the following proposed waiver conditions:

1. Owners/operators of agricultural, silvicultural, or grazing operations must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
2. Owners/operators of silvicultural operations must comply with USFS or BOF/CDF MM/BMP implementation requirements, in accordance with the applicable State Water Board-certified Water Quality Management Plan.

3. Owners/operators of agricultural and grazing operations must implement MMs/BMPs to minimize storm water runoff and infiltration recommended in the State Water Board's NPS Program Plan and by UCCE, NRCS, or RCDs.
4. Owners/operators of agricultural and grazing operations should receive annual water quality management related training (e.g., implementation of MMs/BMPs, nutrient management, irrigation water management, range management, etc.). Proof of training must be available on site for inspection.
5. Owners/operators of agricultural operations should be in regular contact with the local Farm Bureau, UCCE, NRCS, and/or regional RCD so they can be informed of the latest storm water runoff MMs/BMPs and developments with water quality issues. Proof of contact (e.g., newsletter addressed to facility, NRCS conservation plan, UCCE self assessment) must be available on site for inspection.
6. For agricultural, silvicultural, or grazing operations where no MMs/BMPs have been, or are planned to be, implemented, the owner/operator must file a RoWD demonstrating that MMs/BMPs are not required to comply with the waiver conditions.

A.3.7 Existing Conditional Waiver No. 11 – Sand and Gravel Mining Operations

Operations that mine sand and gravel can discharge significant amounts of sediment and other waste materials, which can affect the quality of surface waters and groundwater. Existing Conditional Waiver No. 11 regulates discharges from sand and gravel mining operations, "*where operations are not conducted in flowing streams; and where water quality certification pursuant to Federal Clean Water Act Section 401 has been issued*" and "*does not apply to wash water or other discharges from sand and gravel processing operations*."

Most sand and gravel mining operations are also effectively regulated to prevent impacts to water quality under the Surface Mining and Reclamation Act (SMARA). However, there are some situations where a sand and gravel mining operation may not require a Clean Water Act section 401 water quality certification (401 Certification), or may be exempt from the SMARA regulations. Therefore, existing Conditional Waiver No. 11 should be revised to include requirements for sand and gravel mining operations that may not be subject to these regulations.

Mining of sand and gravel is subject to SMARA.[14] Sand and gravel mining operations are required to obtain a Surface Mining Permit from the city or county "lead agency" (typically the local planning or building department). In order to obtain a Surface Mining Permit the applicant must submit an application and reclamation plan.

The Surface Mining Permit application and reclamation plan includes the following standards and requirements pertaining to the protection of water quality: 1) performance standards for drainage, diversion structures, waterways, and erosion control;[15] 2) performance standards for stream protection, including surface water and

[14] Public Resources Code section 2710 et seq. and California Code of Regulations Title 14 section 3500 et seq.
[15] California Code of Regulations Title 14 section 3706

groundwater;[16] 3) performance standards for tailing and mine waste management;[17] 4) performance standards for closure of surface openings;[18] 5) a description of how contaminants will be controlled and mining wastes will be disposed;[19] and 6) a description of how affected streams will be rehabilitated to minimize erosion and sedimentation.[20]

In addition to the requirements of SMARA, sand and gravel mining operations that involve the removal or placement of soil, sediment and other materials in or near waters of the United States must also obtain a Clean Water Act section 404 permit (404 Permit) from the Army Corps of Engineers (ACOE).[21] In order for the applicant to obtain a 404 Permit from the ACOE, the project must first obtain a water quality certification pursuant to Clean Water Act section 401 (401 Certification) from a Regional Water Board to demonstrate that the mining operations will not adversely affect water quality.[22]

Not all sand and gravel mining operations subject to SMARA may require a 404 Permit and/or 401 Certification if the mining operation is not near a surface water body. However, mining operations can also affect groundwater quality, and runoff from mining operations can affect surface waters that are not within the immediate vicinity of the project. So, the requirements of SMARA would be the only mechanism for the protection of water quality if no 404 Permit or 401 Certification is required.

Additionally, sand and gravel mining project may not always need a 404 Permit, thus there would be no requirement to obtain a 401 Certification. Projects that include mining sand and gravel from waters of the United States, including wetlands, must apply for a 404 Permit from the ACOE. There are water bodies that are considered "*waters of the state*" but not "*waters of the United States*." These waters include nonnavigable, isolated, and intrastate waters that do not have interstate commerce ties. In such cases, the ACOE may determine that a 404 Permit is not required, which means a 401 Certification may not be required.

A Surface Mining Permit, 404 Permit, and/or 401 Certification would effectively regulate discharges from sand and gravel mining operations. However, SMARA does not apply to mining operations where less than 1,000 cubic yards of minerals are extracted for commercial purposes. SMARA also does not apply for small operations conducted by residential land owners. Thus, there is the potential that the discharge of sediment and other wastes from these small sand and gravel mining operations would not be regulated by a Surface Mining Permit, 404 Permit, or 401 Certification. For this reason, waiver conditions regulating the potential discharge from sand and gravel mining operations where less than 1,000 cubic yards of minerals are extracted that do not require a 404 Permit or 401 Certification should be included in the conditional waiver.

[16] California Code of Regulations Title 14 section 3710
[17] California Code of Regulations Title 14 section 3712
[18] California Code of Regulations Title 14 section 3713
[19] Public Resources Code 2772(c)(8)(A)
[20] Public Resources Code 2772(c)(8)(B)
[21] Pursuant to Clean Water Act section 404
[22] Pursuant to Clean Water Act section 401

Under existing Conditional Waiver No. 11, enrollment for a conditional waiver of WDRs and/or the requirement to file RoWDs for sand and gravel mining operations was fulfilled with a 401 Certification. However, there is the potential that a sand and gravel mining operation may not need a 401 Certification. In such cases, a Surface Mining Permit should still be required for operations where 1,000 or more cubic yards of minerals are extracted for commercial purposes. A Surface Mining Permit can still fulfill the enrollment requirements because the permit application requires the applicant to include performance standards for the protection of water quality.

Obtaining the required Surface Mining Permits, 404 Permits, and/or 401 Certifications should be included as waiver conditions that can serve as the method of enrollment for regulation by a conditional waiver. Completed and approved documentation for sand and gravel mining projects can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers.

However, in cases where a sand and gravel mining operation will extract less than 1,000 cubic yards of material and does not require a Surface Mining Permit, 404 Permit, or 401 Certification, a Notice of Intent filed with the San Diego Water Board about the planned mining operation would provide notification of the project, enrollment, and can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate.

Proposed Conditions for Renewing Existing Conditional Waiver No. 11:

The waiver of WDRs and/or the requirement to file RoWDs for discharges from sand and gravel mining operations should be renewed with the following proposed waiver conditions:

1. Sand and gravel mining operations cannot be conducted in flowing streams or other water bodies.
2. For sand and gravel mining operations with a Surface Mining Permit, 404 Permit, and/or 401 Certification, the following conditions apply:
   a) Operators must comply with measures included in the Surface Mining Permit, 404 Permit and 401 Certification to protect surface water and groundwater quality.
   b) 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) At least one copy of any permits, licenses, and certifications must be available on site for inspection.
   d) Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
3. For sand and gravel mining operations that are not required to have a Surface Mining Permit, 404 Permit or 401 Certification, the following conditions apply:

a) File a Notice of Intent with the San Diego Water Board containing information about the operator, location and extent of sand and gravel mining operation, planned period of operation, and measures that will be taken to minimize or eliminate the discharge of any pollutants that might affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the operation may begin.
b) Operators must comply with any federal, state, or local permitting, licensing, or certification requirements and applicable regulations and ordinances.
c) Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
d) 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.

A.3.8 Existing Conditional Waiver No. 12 – Intermittent Swimming Pool Discharges

Discharges of water from swimming pools are typically infrequent and relatively free of waste constituents. Existing Conditional Waiver No. 12 only regulates the discharge of water from swimming pools to land. Under the existing conditional waivers, there is no waiver of WDRs and/or requirement to file RoWDs specific to discharges water from swimming pools to surface waters.

Discharges of water from swimming pools to engineered storm water systems in urbanized areas are subject to the ordinances that the municipalities have adopted to comply with their municipal separate storm sewer system (MS4) WDRs (conforming with NPDES storm water requirements), and may require a pool drainage permit before discharge is allowed. Areas that do not have engineered storm water systems may discharge to land or surface waters for disposal of pool water. Discharges of water from swimming pools to surface waters would be considered a point source, thus subject to NPDES regulations and would require WDRs. However, discharges of water from swimming pools to land would not be subject to NPDES regulations and may be regulated by conditional waivers.

Swimming pool water typically originates from the local municipal water supply, but can have elevated total dissolved solids concentrations due to evaporation and/or addition of chemicals. Swimming pool waters can also contain bacteria if insufficiently chlorinated, or elevated chlorine concentrations if over-chlorinated. Little or no organic waste is expected in swimming pool waters. Dissolved solids, bacteria, and/or chlorine in swimming pool water discharged to land would be adsorbed and/or attenuated as it infiltrates through the soil and would not be expected to degrade the quality of underlying groundwater. Therefore, dissolved metals, bacteria, and/or chlorine in swimming pool water discharged to land or surface water are expected to pose a low threat to surface waters or groundwater.

These types of discharge are typically relatively low in volume and frequency and are not expected to pose a threat to the quality of the waters of the state. However, frequent discharges could potentially degrade the quality of groundwater over time. A

Notice of Intent filed with the San Diego Water Board about these discharges could provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate. Therefore, enrollment should be required for frequent or regular discharges of cooling water.

Proposed Conditions for Renewing Existing Conditional Waiver No. 12:

The waiver of WDRs and/or the requirement to file RoWDs for discharges of water from swimming pools to land should be renewed with the following proposed waiver conditions:

1. Discharges of water from swimming pools to land cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this conditional waiver.
2. Discharges of water from swimming pools to land must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to any waters of the state.
3. Discharges of water from swimming pools to land must not 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.
4. Discharges of water from swimming pools to land must not degrade the quality of waters of the state.
5. Any products added to swimming pool water must be applied in accordance with manufacturer instructions and guidelines and reliably attenuate before infiltrating to underlying groundwater.
6. 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 Notice of Intent containing information about the swimming pool location and volume, planned period of and frequency of discharge.

A.3.9 Existing Conditional Waiver No. 13 – Dredging Project Wastes

Dredging is the scraping or excavation of sediment off the floor of a water body. Reasons for dredging may include, but are not limited to, construction projects where piling or abutments must be placed in a stream channel or other water body, management and maintenance of waterways for navigation and flood control purposes, or harvesting storm-dispersed sands. Dredging projects can result in the discharge of sediment, which can affect the quality of surface water and groundwater. Dredged sediment that is removed may be discharged to land or water. Dredged material that is removed for discharge to land may also include "incidental fallback" discharge of sediment to water.

Existing Conditional Waiver No. 13 regulates discharges from dredging projects, "*where the discharge…does not involve more than 5000 yd^3 of material and where water quality certification pursuant to Clean Water Act Section 401 has been issued*." However, dredging projects can often exceed 5,000 cubic yards, and a 401 Certification

may not be required in every situation. Therefore, existing Conditional Waiver No.13 should be revised to include waiver conditions for dredging projects that may exceed 5,000 cubic yards and/or not required to obtain a 401 Certification.

Projects that include dredging sediment from waters of the United States, including wetlands, must apply for a permit from the ACOE. Obstruction or alteration of navigable waters of the United States is regulated under River and Harbors Act section 10. The discharge of dredged or fill material into waters of the United States is regulated under Clean Water Act section 404. The permit that is issued by the ACOE is known as a 404 Permit. In order for an applicant to receive a 404 Permit, a water quality certification of the project is required from the appropriate Regional Board. The water quality certification is known as a 401 Certification.

A 404 Permit and/or 401 Certification would effectively regulate dredging project waste discharges. However, a dredging project may not always need a 401 Certification. There are water bodies that are considered "*waters of the state*" but not "*waters of the United States*." These waters include nonnavigable, isolated, and intrastate waters that do not have interstate commerce ties. In such cases, the ACOE may determine that a 404 Permit is not required, which means a 401 Certification may not be required.

Under existing Conditional Waiver No. 13, enrollment for a conditional waiver of WDRs and/or the requirement to file RoWDs for dredging project wastes is fulfilled with a 401 Certification. However, because there are potential dredging projects that do not require a 401 Certification, waiver conditions should be revised to regulate the discharge from dredging projects under these situations.

Obtaining the required 404 Permits and/or 401 Certifications should be included as waiver conditions that can serve as the method of enrollment for regulation by a conditional waiver. Completed and approved documentation for dredging projects can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers.

However, in cases where a 404 Permit or 401 Certification is not required, a Notice of Intent filed the San Diego Water Board about the planned dredging project would provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate.

Proposed Conditions for Renewing Existing Conditional Waiver No. 13:

The waiver of WDRs and/or the requirement to file RoWDs for discharges from dredging projects should be renewed with the following proposed waiver conditions:

1. For dredging projects with a 404 Permit and/or 401 Certification, the following conditions apply:

a) Operators must comply with measures included in the 404 Permit and/or 401 Certification to protect surface water and groundwater quality.
b) 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) At least one copy of any permits, licenses, and certifications must be available on site for inspection.
d) Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.

2. For dredging projects that are not required to have a 404 Permit or 401 Certification, the following conditions apply:
   a) File a Notice of Intent with the San Diego Water Board containing information about the operator, location and extent of the dredging project, planned period of operation, and measures that will be taken to minimize or eliminate the discharge of any pollutants that might affect surface water and/or groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the operation may begin.
   b) Operators must comply with any federal, state, or local permitting, licensing, or certification requirements and applicable regulations and ordinances.
   c) Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
   d) 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.

A.3.10 Existing Conditional Waiver No. 14 – Short-term Construction Dewatering Operations

Construction dewatering operations are typically short in duration with relatively low volume, non-storm water discharges. Dewatering operations include discharging extracted groundwater and water collected from cofferdams or diversions. Existing Conditional Waiver No. 14 only regulates the discharge of groundwater from dewatering operations to land. Most discharges from groundwater extraction projects to surface water are subject to NPDES regulations and regulated by WDRs. [23]

The pollutants of concern are suspended solids and turbidity. However, these types of discharge are expected to pose a low threat to groundwater. Suspended solids and turbidity are filtered out by the soil as the water infiltrates through the vadose zone, and the water quality is usually the same or better quality than the shallowest part of the

[23] San Diego Water Board Order No. 2000-90, NPDES No. CAG919001, *General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto;* and,
San Diego Water Board Order No. 2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region Except for San Diego Bay*

underlying groundwater. Suspended solids and turbidity discharged to land are not expected to affect water quality if discharges are short-term and infrequent.

One-time or infrequent discharges during construction dewatering operations are not expected to degrade the quality of groundwater. However, frequent or continuous discharges could potentially degrade water quality over time. A Notice of Intent filed with the San Diego Water Board about these discharges could provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate. Therefore, enrollment should be required for frequent or regular discharges from construction dewatering operations.

For sites where soil or groundwater contamination is known to be present or discovered, operators are obligated to report the finding to the authorized local regulatory agencies. In such cases, discharge of water from these sites would not be eligible for regulation by a conditional waiver and would require proper treatment and/or disposal.

Proposed Conditions for Renewing Existing Conditional Waiver No. 14:

The waiver of WDRs and/or the requirement to file RoWDs for discharges from short-term construction dewatering operations should be renewed with the following proposed waiver conditions:

1. Discharges from construction dewatering operations to land cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this conditional waiver. Any discharges of pumped well water to surface waters must be regulated either by general or individual WDRs or in accordance with the conditions of an applicable conditional waiver.
2. Discharges from construction dewatering operations to land must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to any waters of the state.
3. Discharges from construction dewatering operations to land must not 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; and where the dewatering operation is not for groundwater and/or soil remediation operations.
4. Discharges from construction dewatering operations to land must not degrade the quality of waters of the state.
5. Any products used to condition or treat groundwater that may discharge to land must be applied in accordance with manufacturer instructions and guidelines, and must not degrade the quality of underlying groundwater.
6. Discharges from construction dewatering operations to land must not impact the quality of groundwater in any water wells.
7. Discharges 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 Notice of Intent 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.

8. For construction dewatering operations that discharge an average of 5,000 gallons per day for any continuous 180-day period, the discharger must file a Notice of Intent containing information about the operator, location, planned period and rate of discharge, and measures that will be taken to minimize the discharge of pollutants that might affect groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.

A.3.11 Existing Conditional Waiver Nos. 15 and 24 – Manure Composting and Soil Amendment Operations and Green Waste Composting Facilities

Existing Conditional Waiver Nos. 15 and 24 regulate the discharge of manure and green wastes. Existing Conditional Waiver No. 15 is used to regulate discharges of manure in composting and soil amendment operations. Existing Conditional Waiver No. 24 is used to regulated discharges of green wastes at green waste composting facilities.

Under existing Conditional Waiver No. 15, the conditions for composting and soil amendment operations that use manure include following the State Water Board's *Minimal Guidelines for Protection of Water Quality from Animal Wastes*. The *Minimal Guidelines for Protection of Water Quality from Animal Wastes* were incorporated into California Code of Regulations Title 27 sections 22560 through 22565, which pertain to the statewide minimum standards for discharges of animal waste at CAFOs. Section 22563 requires that (a) the application of manure to disposal fields or crop lands must be at rates which are reasonable for the crop, soil, climate, special local situations, management system, and type of manure; and (b) discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to groundwater. Section 22564 requires that manured areas must be managed to minimize infiltration of water into underlying soils.

Existing Conditional Waiver No. 15 also includes a condition that requires the submittal of an enrollment form directly to the San Diego Water Board. To date, no facility has submitted such a form to the San Diego Water Board. This may be due to lack of knowledge or awareness of the waivers and waiver conditions on the part of facility owners/operators that compost manure or apply manure compost to soils. The sheer number of facilities that could potentially be composting manure or applying compost with manure to soil would be difficult to identify, locate, and enroll. At this time, enrollment should be limited to those facilities that pose the greatest potential threat to water quality.

Under existing Conditional Waiver No. 24, green waste composting facilities are eligible for regulation by a conditional waiver depending on the volume of composting waste. For facilities composting 500 cubic yards or less, facilities are waived of WDRs and

filing of RoWDs. There are no conditions or enrollment required for regulation by a conditional waiver for facilities composting 500 cubic yards or less of green wastes.

For facilities composting more than 500 cubic yards of green wastes, operators must file a RoWD and comply with the conditions of the waiver to be waived of WDRs. The waiver conditions include site design, maintenance and operation conditions. The waiver conditions outline the requirements for protecting surface and groundwater quality from runoff and infiltration from green wastes. Enrollment for these types of facilities is fulfilled when the RoWD is filed with the San Diego Water Board.

Compost is the stable product resulting from the biological decomposition of organic matter under controlled conditions. Composting is differentiated from the natural decomposition of organic matter because it is a process controlled by humans. Compost may be used as a soil amendment or mulch.

A soil amendment is a material, such as organic material or sand, mixed into soil to improve its physical properties. When compost is used as a soil amendment, it improves soil structure by lowering bulk densities, increasing permeability and porosity, and introducing microorganisms which produce "cementing agents" (such as gels, gums, slimes, and other polysaccharides) helpful in binding soil particles together into aggregates. When amended with compost, clayey soils are protected against compaction and sandy soils are more able to retain water and nutrients. A soil amendment must be thoroughly mixed into the soil. If it is merely buried, its effectiveness is reduced, and it will interfere with water and air movement and root growth.

Mulch, in contrast, is left on the soil surface. Mulch does not always consist of composted materials, but typically consists of organic materials (e.g., shredded or chipped bark or branches), which eventually decompose and add humic matter to the soil, enhancing its fertility. Its purpose is to reduce evaporation and runoff, inhibit weed growth, and/or create an attractive appearance. Mulches also moderate soil temperature, helping to warm soils in the spring and cool them in the summer. Mulches may be incorporated into the soil as amendments after they have decomposed to the point that they no longer serve their purpose.

The starting materials for composting are commonly referred to as feedstocks. Feedstocks such as yard trimmings, wood chips, vegetable scraps, paper products, animal carcasses, and manures have all been composted successfully. Mixtures of organic materials may be more or less heterogeneous, but are rendered more physically homogenous through the composting process. Particles are made smaller and the total volume of the original materials is reduced (usually by 30 to 50 percent). Volume reduction is one of the benefits of composting.

Composting activities and operations are subject to California Integrated Waste Management Board (CIWMB) regulations.[24] There are CIWMB regulations specific to

[24] California Code of Regulations Title 14 sections 17850 through 17870

agricultural material composting operations,[25] green material composting operations and facilities,[26] biosolid composting operations at publicly owned treatment works (POTWs),[27] research composting operations,[28] and chipping and grinding operations and facilities.[29]

According to the CIWMB composting operating standards, composting operations must "*ensure that leachate is controlled to prevent contact with the public*."[30] However, there are no operating standards specific to the protection of water quality. Additionally, there are several composting activities that are excluded from CIWMB composting requirements.[31] The discharge of wastes to composting operations can potentially have a direct or indirect impact on the quality of waters of the state if not properly managed.

The CIWMB regulations define "*agricultural material*" as "*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.*" According to the CIWMB regulations, an "*agricultural material composting operation*" is "*an operation that produces compost from green or agricultural additives, and/or amendments*."

The CIWMB regulations define "*green material*" as "*any plant material that is separated at the point of generation, contains no greater than 1.0 percent of physical contaminants by weight, and… 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 processes from commingled collection, wood containing lead-based paint or wood preservative, mixed construction or mixed demolition debris*." According to the CIWMB regulations, a "*green waste composting operation*" or "*facility*" is "*an operation or facility that composts green material, additives, and/or amendments. A green material composting operation or facility may also handle manure and paper products.*"

Existing Conditional Waiver Nos. 15 and 24 regulate the discharge of manure and green wastes as feedstock for composting. However, existing Conditional Waiver Nos. 15 and 24 have differing waiver conditions and treat manure and green waste composting as mutually exclusive composting processes. In reality, manure and green wastes are often composted together. Based on the definitions of agricultural and green material composting operations, manure and green wastes can be, and are typically composted together. Discharges of manure and green wastes used in composting operations should be regulated together rather than separately.

[25] California Code of Regulations Title 14 section 17856
[26] California Code of Regulations Title 14 section 17857.1
[27] California Code of Regulations Title 14 section 17859.1
[28] California Code of Regulations Title 14 section 17862
[29] California Code of Regulations Title 14 section 17862.1
[30] California Code of Regulations Title 14 section 17867(a)(14)
[31] California Code of Regulations Title 14 section 17855(a)(1) through (9)

Additionally, neither existing Conditional Waiver No. 15 nor 24 include waiver conditions specific to the use of compost as a soil amendment. Existing Conditional Waiver No. 15 regulates the discharge of composted manure as a soil amendment, but only refers to manure use as it relates to CAFOs. Compost does not always originate from CAFOs, and may not always be used as a soil amendment, but as a mulch. Soil amendments and mulches are not limited to composted materials.

According to California Code of Regulations Title 14 section 17855(a)(1) through (9) of the CIWMB regulations, the following types of operations or facilities are excluded from needing to obtain a Compostable Materials Handling Facility Permit, or notifying the local enforcement agency (LEA) and/or CIWMB of the composting activities prior to commencing operations:

(1) An activity is excluded if it handles agricultural material derived from an agricultural site, and returns a similar amount of the material produced to that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the composting activity. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually.
(2) Vermicomposting is an excluded activity. The handling of compostable material prior to and after use as a growth medium is not an excluded activity and is subject to the requirements of this chapter. Handling of agricultural material on the site of a vermicomposting activity, for use as a growth medium on that same site, is an excluded activity if it complies with section 17855(a)(1).
(3) Mushroom farming is an excluded activity. The handling of compostable material prior to and after use as a growth medium is not an excluded activity and is subject to the requirements of this chapter. Handling of agricultural material on the site of a mushroom farm, for use as mushroom bedding on that same site, is an excluded activity if it complies with section 17855(a)(1).
(4) Handling of green material, feedstock, additives, amendments, compost, or chipped and ground material is an excluded activity if 500 cubic yards or less is on-site at any one time, the compostable materials are generated on-site and if no more than 1,000 cubic yards of materials are either sold or given away annually. The compostable material may also include up to 10% food material by volume.
(5) The handling of compostable materials is an excluded activity if:
    (A) the activity is located at a facility (i.e., landfill or transfer/processing facility) that has a tiered or full permit;[32] or
    (B) the activity is solely for the temporary storage of biosolids sludge at a POTW; or
    (C) the activity is located at the site of biomass conversion and is for use in biomass conversion;[33] or
    (D) the activity is part of a silvicultural operation or a wood, paper, or wood product manufacturing operation; or

[32] Defined in California Code of Regulations Title 14 section 18101
[33] Defined in Public Resources Code section 40106

(E) the activity is part of an agricultural operation and is used to temporarily store or process agricultural material not used in the production of compost or mulch; or
(F) the activity is part of an operation used to chip and grind materials derived from and applied to lands owned or leased by the owner, parent, or subsidiary of the operation; or
(G) the activity is part of an agricultural operation used to chip and grind agricultural material produced on lands owned or leased by the owner, parent, or subsidiary of the agricultural operation, for use in biomass conversion; or
(H) the activity is part of an animal food manufacturing or rendering operation.
(I) the activity is the storage of yard trimmings at a publicly designated site for the collection of lot clearing necessary for fire protection provided that the public agency designating the site has notified the fire protection agency; or
(J) the materials are handled in such a way to preclude their reaching temperatures at or above 122 degrees Fahrenheit as determined by the LEA.

(6) Non-commercial composting with less than one cubic yard of food material is excluded provided that all compostable material is generated and used on-site.
(7) Storage of bagged products from compostable material is an excluded activity provided that such bags are no greater than 5 cubic yards.
(8) Within-vessel composting process activities with less than 50 cubic yard capacity are excluded.
(9) Beneficial use of compostable materials is an excluded activity. Beneficial use includes, but is not limited to slope stabilization, weed suppression, alternative daily cover, and similar uses, as determined by the LEA.

Many of the excluded activities listed above include agricultural and green materials, which include manure and green wastes. Manure and green wastes can be significant sources of pollutants (e.g., pathogens, nutrients, and sediment) that can adversely affect the quality of waters of the state if not properly managed. Areas where composting activities are performed must be properly protected from precipitation and runoff, which could transport pollutants to surface waters and/or groundwater.

Compost and/or other soil amendments and mulches must be properly applied to soil, as well as in the proper amounts, to prevent transporting the amendments or mulches to surface waters in surface runoff. An analysis of the nutrient and organic matter content of the soil will determine the amount of soil amendments or mulches that should be applied. Properly applied soil amendments or mulches will help to reduce wind and water erosion of the soil, to retain moisture in the soil, and to decrease the impact of precipitation by slowing the runoff of water.

The number of land parcels that could be composting manure and/or green wastes and/or applying amendments and/or mulches to soil is not known. There are many small AFOs (e.g., residential land owners or ranches with one or more horses) or grazing facilities in the Region that may be composting manure at their facilities, or

disposing of fresh manure directly on land as a fertilizer, amendment, and/or mulch. Some CAFOs in the Region, which are regulated by WDRs, give away composted manure for free. Many agricultural land owners may compost manure and/or green wastes on site and use the compost as a soil amendment or mulch for their crops and/or pastures. Residential land owners may also use manure compost as a soil amendment or mulch for their landscaping and gardens.

So, the number of land parcels that could be composting manure and/or green wastes and/or applying amendments and/or mulch to soil is likely to be in the thousands. Current San Diego Water Board resources would not be sufficient to issue WDRs to all these potential facilities in the Region. However, runoff and leachate from composting manure and/or green wastes and/or applying amendments and/or mulches to soils from several parcels can collectively be a significant source of pollutants to waters in the Region.

When operations or facilities properly manage their composting activities and/or properly apply amendments and/or mulches to soil, the potential impacts on water quality can be significantly reduced. Facilities that do not generate or use significant amounts of compost with manure and/or green wastes and implement MMs/BMPs should be eligible for regulation by a conditional waiver without enrollment. However, facilities that violate waiver conditions by not implementing MMs/BMPs and allow the degradation of water quality should be required comply with waiver conditions. Facilities that violate waiver conditions could be required to file a RoWD and be regulated with individual WDRs. Enforcement actions could also be taken against facilities that fail to comply with waiver conditions.

Proposed Conditions for Renewing Existing Conditional Waiver Nos. 15 and 24

The waiver of WDRs and/or the requirement to file RoWDs for discharges associated with composting manure and/or green wastes and/or applying amendments and/or mulches to soil should be renewed with the following proposed waiver conditions:

1. Compost, compost feedstocks, soil amendments, and/or mulches cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Compost, compost feedstocks, soil amendments, and/or mulches must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Operations or facilities that conduct composting and/or apply amendments and/or mulches to soil must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
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. For composting operations or facilities that store 500 cubic yards or less on site at any one time, and the compostable materials are generated on-site and if no more than 1,000 cubic yards of materials are either sold or given away annually, or other

CIWMB-excluded composting activities,[34] the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:

a) Composting operations or facilities must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
b) Compost pile(s) should be should 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 compost.
c) Precipitation and surface drainage should be diverted away from the compost pile(s).
d) A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
e) Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
f) The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
g) Composting operations or facilities must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

6. For composting operations or facilities that store more than 500 cubic yards on site at any one time, or other CIWMB-regulated composting activities, the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:
   a) Composting operation or facility must be sited, designed and operated in accordance with the California Integrated Waste Management Board's (CIWMB) requirements in California Code of Regulations Title 14 sections 17865 through 17870. Records must be available on site for inspection.
   b) Composting operations or facilities must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
   c) Compost pile(s) should be should 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 compost.
   d) Precipitation and surface drainage should be diverted away from the compost pile(s).
   e) A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface water body, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
   f) Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.

[34] California Code of Regulations Title 14 section 17855(a)(1) through (9)

g) The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
h) Containment structures such as embankments, liners or surface impoundments must be maintained in order to ensure proper performance whenever compost feedstocks (e.g., manure and/or green wastes) are discharged.
i) File a Notice of Intent containing information about the facility owner/operator, map of the facility showing the locations of compost pile(s) and nearby surface water bodies and/or water wells, and MMs/BMPs that have been, or are planned to be implemented to prevent discharges of compost that could affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted in order for the composting operation or facility to be regulated by this conditional waiver.

7. For operations or facilities that apply amendments and/or mulches to soil, the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:
   a) Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided to demonstrate that the additive does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
   b) The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
   c) Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
   d) Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.
   e) Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

A.3.12 Existing Conditional Waiver No. 16 – Solid Waste Disposal Facilities Accepting Only Inert Wastes

"*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*."[35] Inert solid wastes do not need containment measures to ensure adequate protection of groundwater quality. However, inert waste must still be disposed of in a manner that is consistent with the Basin Plan. This waiver should apply only to inert solid wastes that are disposed of on land in an appropriate solid waste disposal facility.

As defined in the regulations, inert wastes contain no soluble or decomposable waste constituents.[36] Examples of inert solid waste include, but are not limited to, the following:

- Inert mining wastes, including native geological materials generated during aggregate mining activities at or in the vicinity of the site
- Inert soil, rock and gravel
- Broken cured concrete
- Bricks
- Glass and ceramics not containing lead
- Inert plastics

Such wastes are not expected to pose a threat to groundwater or nuisance if disposal facilities are properly designed and appropriate disposal methods are utilized. Therefore, enrollment should not be required for inert solid waste discharged to land in properly designed and restricted solid waste disposal facilities.

Proposed Conditions for Renewing Existing Conditional Waiver No. 16

The waiver of WDRs and/or the requirement to file RoWDs for discharges associated with solid waste disposal facilities accepting only inert wastes should be renewed with the following proposed waiver conditions:

1. Inert wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Inert wastes must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Inert waste must not contain hazardous waste, or soluble or decomposable constituents to be considered inert waste.
4. Inert waste cannot contain any "free liquids."[37]
5. Owner/operator of disposal facility must comply with local ordinances and regulations and obtain any required permits, certifications, and/or licenses.

[35] California Code of Regulations Title 27 section 20230(a)
[36] California Code of Regulations Title 27 section 20230(a)
[37] "Free liquids" defined by California Code of Regulations Title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure"

6. Owner/operator of disposal facility must secure the disposal site and prevent unauthorized disposal by the public.
7. Inert wastes exclude any wastes determined by the San Diego Water Board to have the potential to degrade the quality of waters of the state, even if classified as inert waste.

A.3.13 Existing Conditional Waiver No. 17 – Stream Channel Alterations

Altering a stream channel is to obstruct, diminish, enhance, destroy, modify, relocate, realign, change, or potentially affect the existing condition or shape of a channel, or to change the path or characteristics of water flow within a natural channel. Stream channel alterations include removal or placement of material or structures within any stream channel within the boundaries of the state. This may include stream channel maintenance activities where vegetation is removed or trimmed. Alternation of a stream channel can result in the discharge of sediment and other pollutants, which can affect the quality of surface water and groundwater.

Existing Conditional Waiver No. 17 regulates discharges from dredging projects, "*where water quality certification pursuant to Clean Water Act Section 401 has been issued*." However, there are some situations where a 401 Certification may not be required. Therefore, existing Conditional Waiver No.17 should be revised to include waiver conditions for stream channel alteration projects that are not required to obtain a 401 Certification.

Projects that may alter a stream channel that is a water of the United States must apply for a permit from the ACOE. Obstruction or alteration of navigable waters of the United States is regulated under River and Harbors Act section 10. The discharge of dredged or fill material into waters of the United States is regulated under Clean Water Act section 404. The permit that is issued by the ACOE is known as a 404 Permit. In order for an applicant to receive a 404 Permit, a water quality certification of the project is required from the appropriate Regional Board, as authorized under Clean Water Act section 401. The certification is known as a 401 Certification.

A 404 Permit and/or 401 Certification would effectively regulate potential discharges resulting from stream channel alteration projects. However, there is the potential that a stream alteration project may not need a 401 Certification. There are water bodies that are considered "*waters of the state*" but not "*waters of the United States*." These waters include nonnavigable, isolated, and intrastate waters that do not have interstate commerce ties. In such cases, the ACOE may determine that a 404 Permit is not required, which means a 401 Certification is not required.

Under existing Conditional Waiver No. 17, enrollment for a conditional waiver of WDRs and/or the requirement to file RoWDs for stream channel alteration projects is fulfilled with a 401 Certification. However, because there are potential stream channel alteration projects that do not require a 401 Certification, waiver conditions should be revised to regulate the discharge from stream channel alteration projects under these situations.

Obtaining the required 404 Permits and/or 401 Certifications should be included as waiver conditions that can serve as the method of enrollment for regulation by a conditional waiver. Completed and approved documentation for stream channel alteration projects can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers.

However, in cases where a 404 Permit or 401 Certification is not required, a Notice of Intent filed with the San Diego Water Board about the planned project would provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate.

Proposed Conditions for Renewing Existing Conditional Waiver No. 17:

The waiver of WDRs and/or the requirement to file RoWDs for discharges from stream channel alteration projects should be renewed with the following proposed waiver conditions:

1. For stream channel alteration projects with a 404 Permit and/or 401 Certification, the following conditions apply:
   a) Operators must comply with measures included in the 404 Permit and/or 401 Certification to protect surface water and groundwater quality.
   b) 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) At least one copy of any permits, licenses, and certifications must be available on site for inspection.
   d) Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
2. For stream channel alteration projects that are not required to have a 404 Permit or 401 Certification, the following conditions apply:
   a) File a Notice of Intent with San Diego Water Board containing information about the operator, location and extent of the stream channel alteration project, planned period of operation, and measures that will be taken to minimize or eliminate the discharge of any pollutants that might affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the operation may begin.
   b) Operators must comply with any federal, state, or local permitting, licensing, or certification requirements and applicable regulations and ordinances.
   c) Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
   d) 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.

A.3.14 Existing Conditional Waiver No. 18 – Agricultural Irrigation Return Water

According to Code of Federal Regulations Title 40 section 122.3(f), "*Return flows from irrigated agriculture*" are not subject to NPDES regulations. Discharges of agriculture irrigation return waters can result in surface runoff to surface waters and infiltration to groundwater. Surface runoff of agricultural irrigation return waters can transport excessive sediment, dissolved solids, nutrients, pesticides, hydrocarbons, and pathogens (i.e., bacteria, viruses, protozoa) to surface waters. Infiltration of agricultural irrigation return waters can also leach dissolved solids (salts), nutrients, pesticides, hydrocarbons, and pathogens to groundwater.

Nonpoint source (NPS) pollution, or polluted runoff, is the leading cause of water quality impairments in California according to the State Water Board's NPS Program Plan. Runoff of irrigation return water from lands utilized for agricultural activities can be a significant source of pollutants to surface waters and/or groundwater if proper MMs/BMPs are not implemented. This conclusion is supported by the fact that several surface water bodies in the northern part of the San Diego Region, where agricultural land uses are most prevalent, are not meeting water quality objectives for several agriculture related pollutants and are on the 303(d) List. Available water quality data collected since 2002 also indicates that groundwater quality underlying areas known to have agricultural operations is showing signs of degradation.

The State Water Board's NPS Program Plan describes a "three-tiered approach" for addressing NPS pollution problems: Tier 1) Self-Determined Implementation of Management Practices; Tier 2) Regulatory Based Encouragement of Management Practices; and Tier 3) Effluent Limitations and Enforcement Actions.

Under existing Conditional Waiver No. 18, discharges of agricultural irrigation return waters are waived of WDRs and/or the requirement to file RoWDs where the only condition is essentially a NPS Program Plan Tier 1 approach of voluntary implementation of MMs/BMPs without any enrollment, monitoring, or reporting requirements. The conditions of existing Conditional Waiver No. 18 provide little or no information or data to identify agricultural NPS pollutant sources, verify implementation of MMs/BMPs, or ability to assess effectiveness of any MMs/BMPs that may be in place. Based on available evidence, the conditions for existing Conditional Waiver No. 18 are not effective in regulating irrigation return waters from agricultural NPSs.

Other Regional Water Boards have adopted waivers to control runoff from "irrigated" agricultural lands with conditions that require enrollment, implementation of MMs/BMPs, monitoring, reporting, and preparation of water quality management plans. These regions have many agriculture operations that are on large 100-acre and greater size parcels that can be easily located, have easily identified owners and/or operators, and operate on a full-time and/or year-round schedule. Thus, the Regional Water Boards from these regions can easily identify owners and/or operators that are not enrolled in their irrigated lands waiver programs.

However, the San Diego Region has several factors that make regulating irrigation return water from agricultural activities very challenging. The San Diego Region has agriculture operations on a wide range of parcel sizes. The number of part-time and full-time agricultural operations in the Region is likely in the thousands. According to the San Diego County Farm Bureau (Farm Bureau), more than half (60 percent or more) of the farms in the San Diego Region are small agriculture operations on parcels with 10-acres or less, with owners and/or operators that do not occupy the parcels or are present only part of the year, and/or operate on a seasonal, part-time, or sporadic schedule. The rest of the farms (40 percent or less) are probably implementing MMs/BMPs and/or affiliated with or getting information or assistance from organizations such as the Farm Bureau, UCCE, NRCS, regional RCDs, or other organizations.

Many of the smaller agriculture operations are very likely unaware of their responsibilities to implement MMs/BMPs, or the consequences of their actions. Educating these small agriculture operations of their responsibilities is necessary to ensure that their practices do not degrade water quality. Reaching out to small agriculture operators will take a significant amount of time due to the anticipated numbers of such operations. However, the collective discharges from small agricultural operations can be a potentially significant source of pollutants to waters in the Region.

The waiver conditions for agricultural irrigation return water should be revised to include conditions that require implementation of MMs/BMPs to control irrigation return water and at least an education requirement for agriculture operators. Other waiver conditions could include preparation of Water Quality Management Plans, monitoring, and/or reporting. However, including too many conditions may create resistance among small agriculture operators at this point in time. These conditions should be considered in future iterations of the conditional waivers if water quality in agricultural areas does not improve. Education and outreach should be the primary focus for the waiver conditions at this time.

Proposed Conditions for Renewing Existing Conditional Waiver No. 18:

The waiver of WDRs and/or the requirement to file RoWDs for discharges of agricultural irrigation return water should be renewed with the following proposed waiver conditions:

1. Agricultural activities must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
2. Agricultural operators must implement MMs/BMPs to minimize or eliminate the discharge of agricultural irrigation return water runoff to surface waters and infiltration to groundwater. Recommended MMs/BMPs are available in the State Water Board's NPS Program Plan and/or available from UCCE, NRCS, and/or regional RCDs. Additional references may be available from other sources.
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.

4. Agriculture operators must receive annual water quality management related training (e.g., implementation of MMs/BMPs, nutrient management, irrigation water management, etc.). Proof of training must be available on site for inspection.
5. Agriculture operators must be in regular contact with the local Farm Bureau, UCCE, NRCS, and/or regional RCD so they can be informed of the latest irrigation water runoff MMs/BMPs and developments with water quality issues. Proof of contact (e.g., newsletter addressed to facility, NRCS conservation plan, UCCE self assessment) must be available on site for inspection.
6. Agriculture operators must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
7. For agriculture operations where no MMs/BMPs have been, or are planned to be, implemented, the operator must file a RoWD with the San Diego Water Board demonstrating that MMs/BMPs are not required to comply with the waiver conditions.

A.3.15 Existing Conditional Waiver No. 19 – Nursery Irrigation Return Water

For the purposes of this discussion, nurseries are defined as facilities that are engaged in the propagation and/or growing of plants (shrubs, trees, vines, etc.) for sale. This does not include retail facilities such as supermarkets or home improvement stores. Discharges of nursery irrigation water can result in surface runoff to surface waters and infiltration to groundwater.

Surface runoff of nursery irrigation return waters can transport excessive sediment, dissolved solids, nutrients, pesticides, hydrocarbons, and pathogens (i.e., bacteria, viruses, protozoa) to surface waters. Nursery irrigation return waters can also leach dissolved solids (salts), nutrients, pesticides, hydrocarbons, and pathogens to groundwater. Infiltration of nursery irrigation return waters can have a significant effect on underlying groundwater.

There are two main types of nurseries: field (in-ground) and container. Container nurseries can be indoor or outdoor. Indoor container nurseries (e.g., greenhouses) may be completely contained with no direct or indirect discharges to waters of the state because of an impermeable floor where all irrigation return water is collected and reused or properly disposed in a sanitary sewer. Indoor and/or completely contained nurseries do not discharge nursery irrigation return water that requires regulation by a conditional waiver or WDRs. However, outdoor container and field nurseries can discharge nursery irrigation return water directly and/or indirectly to land and/or surface waters without proper management.

Under existing Conditional Waiver No. 19, discharges of nursery irrigation return waters are waived of WDRs and/or the requirement to file RoWDs if there is no discharge to waters of the United States and voluntary implementation of MMs/BMPs without any monitoring or reporting requirements. The waiver conditions for nursery irrigation return waters include an enrollment requirement, which is fulfilled by submitting an *Application for License to Sell Nursery Stock* to the California Department of Food and Agriculture (CDFA). Nursery operations can be identified through a directory available from the

CDFA. However, the application form does not require any information pertaining to facility design, MM/BMP implementation, or water quality management.

The conditions of existing Conditional Waiver No. 19 provide no information or data to verify if MMs/BMPs have been implemented by a nursery operation, or ability to assess effectiveness of any MMs/BMPs that may be in place. Since 2002, the San Diego Water Board has received reports that surface runoff discharge has been observed from nurseries, and available water quality data indicates that groundwater underlying areas known to have nurseries is showing signs of degradation. Based on available evidence, the conditions for existing Conditional Waiver No. 19 are not effective in regulating irrigation return waters from nurseries.

The waiver conditions for nursery irrigation return water should be revised to include conditions that require implementation of MMs/BMPs to prevent the discharge of irrigation return water to any waters of the state and properly managing irrigation water use to minimize impacts to groundwater. Education should also be a condition required to be eligible for regulation by a conditional waiver. Other waiver conditions could include preparation of Water Quality Management Plans, monitoring, and/or reporting. However, including too many conditions may create resistance among nursery operators at this point in time. These conditions should be considered in future iterations of the conditional waivers if water quality in areas with nurseries does not improve. Education and outreach should be the primary focus for the waiver conditions at this time.

Proposed Conditions for Renewing Existing Conditional Waiver No. 19:

The waiver of WDRs and/or the requirement to file RoWDs for discharges of nursery irrigation return water should be renewed with the following proposed waiver conditions:

1. Nursery irrigation return water cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Nurseries must minimize discharge of any pollutants that could adversely affect the quality of waters of the state.
3. Nursery operators must implement MMs/BMPs to minimize or eliminate the infiltration of nursery irrigation return water to groundwater. Recommended MMs/BMPs are available in the State Water Board's NPS Program Plan and/or available from UCCE, NRCS, and/or regional RCDs. Additional references may be available from other sources.
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. Nursery operators must receive annual water quality management related training (e.g., implementation of MMs/BMPs, nutrient management, irrigation water management, etc.). Proof of training must be available on site for inspection.
6. Nursery operators must be in regular contact with the local Farm Bureau, UCCE, NRCS, and/or regional RCD so they can be informed of the latest MMs/BMPs and

developments with water quality issues. Proof of contact (e.g., newsletter addressed to facility, NRCS conservation plan, UCCE self assessment) must be available on site for inspection.

7. Nursery operators must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
8. For nursery operations where no MMs/BMPs have been, or are planned to be, implemented, the operator must file a RoWD demonstrating that MMs/BMPs are not required to comply with the waiver conditions.

A.3.16 Existing Conditional Waiver Nos. 20 and 26 – Short-Term Use of Reclaimed/Recycled Wastewater and Permanent Reclaimed/Recycled Water Projects

The water supply in the San Diego Region is largely dependent upon water imported from northern California and the Colorado River. As the population in the Region increases, the need to conserve the existing water supply and/or develop water supply alternatives will become extremely important. California has a strong interest in wastewater reclamation, or water recycling. The San Diego Water Board supports wastewater reclamation and reuse to the maximum extent feasible to help meet the growing water needs of the Region. However, reclaimed/recycled wastewater is still defined as a waste and subject to the requirements of Water Code sections 13260(a)(1), 13263(a), 13264(a) and/or 13269.

The DHS established statewide wastewater recycling criteria for each type of recycled wastewater use to protect public health.[38] The DHS has established wastewater recycling criteria for the following general uses:

- Use of Recycled Water for Irrigation[39]
- Use of Recycled Water for Impoundments[40]
- Use of Recycled Water for Cooling[41]
- Use of Recycled Water for Other Purposes[42]
- Groundwater Recharge[43]

Depending on the planned use of the recycled wastewater, the wastewater must be treated to one of the following minimum standards:

- Undisinfected Secondary Recycled Water[44]

[38] California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10
[39] Specific uses and wastewater treatment standards are provided in California Code of Regulations Title 22 section 60304
[40] Specific uses and wastewater treatment standards are provided in California Code of Regulations Title 22 section 60305
[41] Specific uses and wastewater treatment standards are provided in California Code of Regulations Title 22 section 60306
[42] Specific uses and wastewater treatment standards are provided in California Code of Regulations Title 22 section 60307
[43] California Code of Regulations Title 22 section 60320

- Disinfected Secondary-23 Recycled Water[45]
- Disinfected Secondary-2.2 Recycled Water[46]
- Disinfected Tertiary Recycled Water[47]

Wastewater that is treated to DHS secondary treatment standards will contain more pollutants than wastewater that is treated to DHS tertiary treatment standards. Wastewater treated to DHS secondary treatment standards will likely have higher concentrations of nutrients, suspended and dissolved solids, and/or metals compared to wastewater treated to DHS tertiary treatment standards. DHS wastewater reclamation treatment criteria also require disinfection for most recycled wastewater uses. However, for those uses that do not require disinfection, bacteria may be present in relatively high concentrations.

Therefore, the discharge of recycled wastewater to land can potentially transport and leach bacteria, nutrients, and other pollutants to underlying groundwaters. Recycled wastewater that comes into contact with groundwater can potentially degrade water quality. However, proper planning and application of recycled water to land can minimize or eliminate the potential treat to water quality.

Existing Conditional Waiver No. 20 regulates short-term or temporary discharges of recycled wastewater. Most short-term projects that might discharge recycled wastewater to land only require secondary treatment, with or without disinfection.

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[44] Defined in California Code of Regulations Title 22 section 60301.900 as "oxidized wastewater" or "wastewater in which the organic matter has been stabilized, is nonputrescible, and contains dissolved oxygen."

[45] Defined in California Code of Regulations Title 22 section 60301.225 as wastewater "that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a most probable number (MPN) of 23 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform bacteria does not exceed an MPN of 240 per 100 milliliters in more than one sample in any 30 day period."

[46] Defined in California Code of Regulations Title 22 section 60301.220 as wastewater "that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a MPN of 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period."

[47] Defined in California Code of Regulations Title 22 section 60301.230 as "a filtered and subsequently disinfected wastewater that meets the following criteria: (a) The filtered wastewater has been disinfected by either: (1) A chlorine disinfection process following filtration that provides a CT (the product of total chlorine residual and modal contact time measured at the same point) value of not less than 450 milligram-minutes per liter at all times with a modal contact time of at least 90 minutes, based on peak dry weather design flow; or (2) A disinfection process that, when combined with the filtration process, has been demonstrated to inactivate and/or remove 99.999 percent of the plaque-forming units of F-specific bacteriophage MS2, or polio virus in the wastewater. A virus that is at least as resistant to disinfection as polio virus may be used for purposes of the demonstration; (b)The median concentration of total coliform bacteria measured in the disinfected effluent does not exceed an MPN of 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed and the number of total coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters."

Existing Conditional Waiver No. 20 can be applied to projects with short-term discharges (1 year or less) of recycled wastewater to land that do not require the installation of permanent facilities or structures. Projects that have short-term discharges need to transport recycled wastewater to a site using water trucks and/or in some mobile or temporary tank or container. Examples of short-term projects that may use recycled wastewater include, but are not limited to, dust control, soil compactions, or green belt irrigation.

Depending on the planned use of recycled wastewater, permanent projects might discharge wastewater that is treated to DHS secondary or tertiary treatment standards, with or without disinfection, to land. Existing Conditional Waiver No. 26 can be applied to projects that require the installation of permanent facilities or structures to discharge recycled wastewater to land. Existing Conditional Waiver No. 26 is not intended to be a permanent form of regulation for permanent recycled water projects.

For permanent recycled wastewater projects, WDRs must be adopted by the San Diego Water Board. However, a permanent recycled wastewater project may be completed before the final WDRs are adopted. Until the final WDRs are adopted, the permanent recycled wastewater project cannot discharge recycled wastewater unless a conditional waiver has been granted by the San Diego Water Board. Existing Conditional Waiver No. 26 is used to temporarily regulate permanent recycled wastewater projects until final WDRs can be adopted by the San Diego Water Board.

Proposed Conditions for Renewing Existing Conditional Waiver Nos. 20 and 26:

The waivers of WDRs and/or the requirement to file RoWDs for the discharge of reclaimed/recycled wastewater should be renewed with the following proposed waiver conditions:

1. Recycled wastewater cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Recycled wastewater discharged to land must not degrade the quality of underlying groundwater.
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.
4. No irrigation with disinfected tertiary recycled water shall take place within 50 feet of any domestic water supply well, unless the conditions of California Code of Regulations Title 22 section 60310(a) have been met.
5. No impoundment of disinfected tertiary recycled water shall occur within 100 feet of any domestic water supply well, in accordance with California Code of Regulations Title 22 section 60310(b).
6. No irrigation with, or impoundment of, disinfected secondary-2.2 or disinfected secondary-23 recycled water shall take place within 100 feet of any domestic water supply well, in accordance with California Code of Regulations Title 22 section 60310(c).

7. No irrigation with, or impoundment of, undisinfected secondary recycled water shall take place within 150 feet of any domestic water supply well, in accordance with California Code of Regulations Title 22 section 60310(d).
8. Any recycled water irrigation runoff shall be confined to the recycled water use area, in accordance with California Code of Regulations Title 22 section 60310(e)(1).
9. Spray, mist, or runoff shall not enter dwellings, designated outdoor eating areas, or food handling facilities, in accordance with California Code of Regulations Title 22 section 60310(e)(2).
10. Drinking water fountains shall be protected against contact with recycled water spray, mist, or runoff, in accordance with California Code of Regulations Title 22 section 60310(e)(3).
11. No spray irrigation of any recycled water, other than disinfected tertiary recycled water, shall take place within 100 feet of a residence or a place where public exposure could be similar to that of a park, playground, or school yard, in accordance with California Code of Regulations Title 22 section 60310(f).
12. All use areas where recycled wastewater is used that are accessible to the public shall be posted with warning signs that are visible to the public, in accordance with California Code of Regulations Title 22 section 60310(g)
13. No physical connection shall be made or allowed to exist between any recycled water system and any separate system conveying potable water, in accordance with California Code of Regulations Title 22 section 60310(h).
14. The portions of the recycled water piping system that are in areas subject to access by the general public shall not include any hose bibs; and only quick couplers that differ from those used on the potable water system shall be used on the portions of the recycled water piping system in areas subject to public access, in accordance with California Code of Regulations Title 22 section 60310(i).
15. Uses of recycled water, other than groundwater recharge, are limited to those listed in California Code of Regulations Title 22 Division 4 Chapter 3 Article 3, sections 60303 through 60309, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health.
16. Recycled water cannot be used for groundwater recharge unless sufficient information is provided to demonstrate that it will be protective of water quality and human health.
17. For short-term recycled wastewater projects, the following conditions apply:
    a) Operator must file a Notice of Intent containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to eliminate or minimize the discharge of pollutants that might affect surface water and groundwater quality. The Notice of Intent must include written notification from the local health department and/or DHS that the project will comply with recycled water regulations in California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin. The Notice of Intent is valid for 365 days, or 1 year.
    b) A new Notice of Intent must be submitted to the San Diego Water Board if the short-term project exceeds 1 year. A new Notice of Intent must be received by the San Diego Water Board at least 60 days prior to the expiration of the

previous Notice of Intent. If no new Notice of Intent is received 60 days prior to the expiration of the previous Notice of Intent, the short-term recycled wastewater project must cease operation 365 days, or 1 year, after the beginning of the operation.

18. For permanent recycled water projects, the following conditions apply:
    a) Operator must file a RoWD containing enough information for the San Diego Water Board to determine that the project will comply with applicable recycled wastewater regulations. The RoWD must include written notification from the local health department and/or DHS that the project will comply with recycled water regulations in California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.
    b) The conditional waiver of WDRs for the permanent recycled water project will remain in effect until the San Diego Water Board can adopt permanent WDRs for the project. The San Diego Water Board will adopt WDRs at the earliest possible opportunity, and in accordance with San Diego Water Board priorities.
    c) The operator must submit technical and/or monitoring program reports as directed by the San Diego Water Board, until permanent WDRs are issued.

A.3.17 Existing Conditional Waiver No. 21 – On-site Drilling Mud Discharge

Numerous wells are drilled within the Region on an annual basis. In many cases, drilling mud is used to help control the well drilling process. Drilling mud typically consists of bentonite clay mixed with water or a non-toxic mineral oil. The liquefied soil and rock cuttings from the well borehole, along with the bentonite drilling mud, are commonly contained in a portable tank, but can also be contained in a sump, during drilling. This waiver should only apply to non-toxic and non-hazardous drilling mud mixtures discharged or disposed in a sump.

The fact that the waste drilling mud is non-toxic and non-hazardous does not mean that it is not a potential threat to surface water or groundwater quality. Drilling mud must be properly contained to prevent it from running off to surface waters. Drilling mud consists of high liquid content, which can potentially infiltrate to groundwater. However, the high content of clay and very fine-grained materials in the drilling mud will generally seal the floor and walls of the sump, which will severely reduce or eliminate any leaching potential as the water content evaporates. Containment of drilling muds within the sump during drilling eliminates the threat to surface waters.

As long as drilling muds are properly managed, these types of discharge are not expected impact surface water or groundwater quality. Therefore, enrollment should not be required for drilling muds discharged to properly designed sumps.

Proposed Conditions for Renewing Existing Conditional Waiver No. 21:

The waiver of WDRs and/or the requirement to file RoWDs for the on-site discharge and/or disposal of drilling muds should be renewed with the following proposed waiver conditions:

1. Drilling mud cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Drilling mud must be contained to eliminate the potential for runoff from the site.
3. Drilling mud cannot be from borings advanced for a soil or groundwater contamination investigation.
4. Drilling mud sump design must ensure no overflow of drilling muds during drilling and at least 2 feet of freeboard.
5. The floor of the sump must be at least 5 feet above the highest known historical groundwater level.
6. The walls of the sump must be at least 100 feet away from any surface water body or municipal water well.
7. Drilling mud cannot contain any toxic or hazardous constituents.
8. Drilling mud must be removed and disposed of at an appropriate disposal facility prior to restoring the containment area or sump to pre-sump conditions.
9. Drilling mud discharged in a sump must not degrade the quality of underlying groundwater.
10. Drilling mud sump must be filled in and restored to pre-sump conditions.

A.3.18 Existing Conditional Waiver No. 22 – Timber Harvesting

Timber harvesting projects can result in erosion and the discharge of sediment, pesticides, and other pollutants. These pollutants can be transported to surface waters and groundwater by surface runoff, which can degrade the quality of the waters of the state.

According to Code of Federal Regulations Title 40 section 122.3(e), "*An introduction of pollutants from nonpoint source… silvicultural activities, including storm water runoff from… forest lands*" are not subject to NPDES regulations. This does not include runoff discharges from silvicultural point sources.[48]

Existing Conditional Waiver No. 22 regulates discharges from timber harvesting projects, "*where harvesting occurs on National Forest System lands managed by the United States Forest Service in accordance with the document entitled* Water Quality Management for National Forest System Lands in California.

The harvesting of timber of national lands in California is regulated by the National Forest Management Act of 1976, administered by the USFS. In 1981, the USFS and State Board entered into a MAA. The MAA designates the USFS as the WQMA for timber operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) on National Forest System (NFS) lands.

In accordance with the MAA between the USFS and State Water Board, the Regional Water Boards have agreed to waive the issuance of WDRs and the requirement to file

[48] Defined in Code of Federal Regulations Title 40 section 122.27

RoWDs for USFS timber operations that may result in nonpoint source discharges, provided that the USFS designs and implements its projects in accordance with the MMs/BMPs certified by the State Water Board and U.S. Environmental Protection Agency (USEPA). Both the State Water Board and the USEPA certified the USFS's document entitled *Water Quality Management Plan for National Forest System Lands in California* as MMs/BMPs to be used during timber operations on NFS lands. Timber operations on NFS lands must prepare environmental and decision documents pursuant to the National Environmental Policy Act (NEPA). Thus, existing Conditional Waiver No. 22 defers the regulation of discharges for timber harvesting projects on NFS lands to the USFS, subject to the requirements of the USFS's *Water Quality Management Plan for National Forest System Lands in California*.

However, the conditions of existing Conditional Waiver No. 22 only apply to timber harvesting projects on NFS land and do not include conditions for the regulation of timber harvesting activities on private and state lands in California. The waiver conditions of existing Conditional Waiver No. 22 should be revised to include the minimum requirements expected of owners/operators of private and state forest lands to minimize or eliminate the discharge of pollutants that may adversely affect the waters of the states.

The harvesting of timber on private and state lands in California is regulated by the Z'Berg-Nejedly Forest Practices Act of 1973[49] and California Forest Practice Rules (FPRs)[50] administered by the BOF and CDF. In 1988, the BOF and the State Water Board entered into a MAA in which the BOF and the CDF were jointly designated as the WQMAs for timber operations on state and private lands.

The State Water Board conditionally certified the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*, which include those FPRs selected as and the process by which those rules are administered. Timber operations on nonfederal lands must submit a Notice of Exemption, Notice of Emergency, Timber Harvest Plan (THP), or Non-industrial Timber Management Plan (NTMP) to the CDF for approval in accordance with the certified plan. The CDF is supposed to circulate THPs and NTMPs to the Regional Water Boards for comment on potential water quality impacts.

The MMA between the BOF/CDF and State Water Board required a formal review of the FPRs and administering processes no later than 6 years from the date of certification. To date, the review has not occurred and the USEPA has not certified the FPRs and administering processes as MMs/BMPs for timber operations on non-federal lands. Since the certification by the State Water Board in 1988, several deficiencies in the FPRs have been raised by the State and Regional Water Boards, USEPA, California Department of Fish and Game (DFG) and environmental advocate groups. The deficiencies are primarily associated with monitoring, inspection, and enforcement of management practices for the protection of water quality and endangered species.

[49] Public Resources Code section 4511 et seq.
[50] California Code of Regulations Title 14 section 895 et seq.

Under existing Conditional Waiver No. 22, enrollment for a conditional waiver of WDRs and/or the requirement to file RoWDs for timber harvesting is not required. However, existing Conditional Waiver No. 22 only includes conditions for timber harvesting on lands managed by the USFS and does not provide conditions for timber harvesting on nonfederal lands. While there are no timber harvesting activities currently being reported to the San Diego Water Board in the Region, there are federal, state and privately-owned forest lands in the Region that are available for timber harvesting or may require timber harvesting activities for fire protection purposes. Therefore, the waiver conditions for timber harvesting activities should be revised to include conditions for activities on nonfederal lands, and a process for verification of enrollment with the CDF and compliance with applicable USFS or BOF/CDF water quality management plans.

Obtaining the appropriate approvals from the USFS or BOF/CDF should be included as a waiver condition that can serve as the method of enrollment for regulation by a conditional waiver. Completed and approved documentation (environmental and decision documents, Notices of Exemption, Notices of Emergency, THPs, and/or NTMPs) for timber harvesting projects obtained from the USFS or BOF/CDF can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers.

Proposed Conditions for Renewing Existing Conditional Waiver No. 22:

The waiver of WDRs and/or the requirement to file RoWDs for timber harvesting projects should be renewed with the following proposed waiver conditions:

1. Timber harvesting projects must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
2. Timber harvesting projects must comply with any federal, state, or local permitting, licensing, or certifications 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.
4. For timber harvesting activities on NFS lands, the following conditions apply:
   a) The State Water Board and USEPA must continue to certify the *Water Quality Management Plan for National Forest System Lands in California*.
   b) The USFS must maintain: (a) a water quality program consistent with the Basin Plan, and (b) a program to monitor the implementation and effectiveness of MMs/BMPs.
   c) 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 the proposed MMs/BMPs and additional control measures that will be implemented to protect water quality.
   d) The USFS must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

5. For timber harvesting activities on nonfederal lands, the following conditions apply:
   a) The State Water Board must continue to certify the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*.
   b) Timber harvest activities within 150 feet of existing structures (i.e., "FireSafe" treatments) that are conducted pursuant to a Notice of Exemption approved by the 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.
   c) For timber harvesting activities 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, and the owner/operator must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
   d) For timber harvesting activities with a THP or NTMP approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board, and the owner/operator must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

A.3.19 Existing Conditional Waiver No. 23 – Temporary Discharge of Specified Contaminated Soils

Each year there are numerous soil and groundwater investigations performed in the San Diego Region. In most cases, a soil and/or groundwater investigation generates solid wastes (primarily soil) impacted by petroleum hydrocarbons, heavy metals and/or other contaminants, which must be temporarily stockpiled and stored on a site prior to disposal at an appropriate waste disposal facility. The waste piles can be a source of pollutants, such as sediment, hydrocarbons, heavy metals, and/or other toxic substances, which can degrade the quality of surface water and/or groundwater.

Under existing Conditional Waiver No. 23, temporary waste piles are waived of WDRs and/or the requirement to file RoWDs when the discharger submits a completed initial certification report, properly contains, inspects, and maintains the waste pile, properly retains and disposes any return and ponded waters that come in contact with the waste pile, and clean closes and returns the site to its original state. Enrollment for regulation by a conditional waiver is fulfilled with the initial certification report, and termination of enrollment is fulfilled when the discharger submits a final disposal certification form. The initial certification report can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver for the temporary discharge of specified contaminated soils.

Existing Conditional Waiver No. 23 includes General Conditions for all temporary waste piles, and Special Conditions for soils contaminated by petroleum hydrocarbons or dredged spoils contaminated with heavy metals. However, there are no Special Conditions for other types of contaminated soils or dredge spoils. The General or Special Conditions should be revised to include other types of contaminated soils and dredged spoils.

Proposed Conditions for Renewing Existing Conditional Waiver No. 23:

The waiver of WDRs and/or the requirement to file RoWDs for the temporary discharge of specified contaminated soils should be renewed with the following proposed waiver conditions:

1. For any soils temporarily stored in waste piles, the following General Conditions apply:
   a) Waste soil discharged to temporary waste piles cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
   b) The discharger must comply with local ordinances and regulations and obtain any required permits, certifications, and/or licenses.
   c) The discharger must submit a signed/completed certification report within 30 days of the initial discharge of any waste piles to be regulated by this waiver. The property owner must approve and acknowledge the placement of the waste at the site.
   c) The discharger must submit a signed/completed final disposal certification report within 10 working days of completing removal of all waste and restoring the site to its original condition.
   d) Unless otherwise specified in the applicable Special Conditions, no temporary waste piles may remain on a site for longer than 6 months or 180 days.
   e) The discharge of waste must not (a) cause the occurrence of coliform or pathogenic organisms in waters pumped from the basin; (b) cause the occurrence of objectionable tastes and odors in water pumped from basin; (c) cause waters pumped from the basin to foam; (d) cause the presence of toxic materials in waters pumped from the basin; (e) cause the pH of waters pumped from the basin to fall below 6.0 or rise above 9.0; (f) cause pollution, contamination or nuisance or adversely affect the quality of groundwater or surface waters of the hydrologic subareas established in the Basin Plan; and/or, (g) cause a violation of any discharge prohibitions in the Basin Plan for the San Diego Region.
   f) 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.
   g) 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 runon and runoff from contacting wastes and to prevent erosion and transport of wastes by surface runoff.
   h) Temporary waste piles must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from any surface water of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
   i) Temporary waste piles must be protected against 100-year peak stream flows as defined by the County flood control agency.
   j) Temporary waste piles must be 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 other nuisances.
   k) Temporary waste piles must be underlain by either plastic sheeting (not less than 10 mils thick, unless otherwise specified under the applicable Special Conditions)

or a liner of low permeability that will prevent leachate from infiltrating to groundwater.

l) Wastes discharged to waste piles, together with any containment materials used at the temporary waste pile, and any underlying geologic materials contaminated by the discharge, shall be removed within 180 days, unless otherwise specified under the applicable Special Conditions. Subsequently, the discharger must remove all wastes, treatment facilities, 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.

m) 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.

2. For soils contaminated with petroleum hydrocarbons temporarily stored in waste piles, the following Special Conditions apply:
   a) Temporary waste piles contaminated by petroleum hydrocarbons regulated by this waiver shall be limited to a maximum time period of 3 months or 90 days on a site.
   b) Soils and associated solid waste contaminated by 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).
   c) Temporary waste piles must be covered by plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances.
   d) 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.
   e) In addition to the General and Special Conditions stated herein, temporary waste piles must conform to applicable provisions in the state's Local Oversight Program (LOP) for Orange, Riverside, or San Diego Counties.
   f) The site must be restored to its original state within 30 days after removal of the temporary waste pile from the site.
3. For dredged spoils contaminated with heavy metals temporarily stored in waste piles, the following Special Conditions apply:
   a) Temporary waste piles contaminated by heavy metals regulated by this waiver shall be limited to a maximum time period of 9 months or 270 days on a site.
   b) Temporary waste piles must be covered by either a plastic sheeting to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances. Alternative control methods may be utilized if sufficient information is provided to demonstrate that the proposed alternative is protective of water quality and human health.
   c) Temporary waste piles must be underlain by plastic sheeting (not less than 20 mils thick) or a liner of lower permeability that can prevent leachate from infiltrating to groundwater. Sufficient information must be provided to the San

Diego Water Board demonstrating that the liner and containment facility has been designed to contain all solid wastes and fluids.

d) 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.
e) The site must be restored to its original state within 60 days after removal of the temporary waste pile from the site.

A.3.20 Existing Conditional Waiver No. 25 – Incidental Discharges within a Response Area During a Spill Response

Oil and/or oily water may be discharged during an emergency oil spill response, which can degrade the water quality of marine waters. However, the incidental discharge of oil and/or oily water is unavoidable during an emergency response, and the issuance of WDRs would significantly impede an oil spill cleanup. Therefore, in the interest of expediting the cleanup of an oil spill in marine waters, a conditional waiver for this type of discharge would be in the public interest. Existing Conditional Waiver No. 25 regulates incidental discharges within a response area during an oil spill response.

In 1993 the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act was amended to require that the Administrator of the Office of Spill Prevention and Response (OSPR) and the Executive Director of the State Water Board enter into a memorandum of understanding (MOU), which addresses all permits and other requirements pertaining to the incidental discharge of wastewater during oil spill response activities. An MOU was subsequently signed in 1995.

The MOU addresses discharges of oily water which occur during oil spill response activities within or proximate to an oil spill in marine waters. The MOU finds that these discharges are exempt from NPDES regulations. The MOU also provides that the State Water Board will recommend that the coastal Regional Water Boards waive the issuance of WDRs for these types of discharge. A waiver for this type of discharge would be in the public interest, as provided in Water Code section 13269, because the issuances of WDRs under the circumstances could significantly impede oil spill cleanup.

The MOU defines "*incidental discharge*" 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*."

A conditional waiver of WDRs and/or the requirement to file RoWDs for incidental discharges within a response area for an oil spill in marine waters is in the public interest, because it expedites the oil spill cleanup process. Therefore, enrollment should not be required in order to facilitate the oil spill response and cleanup process.

Proposed Conditions for Renewing Existing Conditional Waiver No. 25:

The waiver of WDRs and/or the requirement to file RoWDs for incidental discharges within a response area during an oil spill response should be renewed with the following proposed waiver conditions:

1. 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
2. Incidental discharges 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.
3. Oil spill response must be in marine waters.[51]

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

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Appendix B

Review of
New Types of Discharge
to be Regulated by the
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B Review of New Types of Discharge to be Regulated by the Proposed Conditional Waivers

In addition to the types of discharge regulated by the existing conditional waivers, several new types of discharge have been identified that are not currently regulated in the Region, but could be regulated by conditional waivers. These new types of discharge include the following:

1. "Low threat" discharges to land
2. Discharges from on-site graywater systems
3. Discharges from grazing lands
4. Fire suppression and fuels management activities
5. Discharge/disposal/reuse of soils characterized as inert from known contaminated sites
6. Concrete grinding residues
7. Temporary waste piles and surface impoundments for disaster-related wastes
8. Temporary waste piles and emergency landfills for mass mortality wastes
9. Fireworks

The new types of discharge proposed for regulation by conditional waivers are reviewed and discussed below in the following subsections. Proposed waiver conditions required for these new types of discharge to be regulated by conditional waivers are also provided in the following subsections.

B.1 Review of the New Types of Discharge Proposed for Regulation by Conditional Waivers

B.1.1 "Low Threat" Discharges to Land

There are several types of discharge consisting of potable, natural, and/or relatively low contaminant sources of waters that may be discharged to land which are not specifically regulated with WDRs or conditional waivers. "Low threat" discharges include liquid wastes containing pollutant concentrations that will not impact the quality of waters of the state under ambient conditions. Examples of these types of discharge include, but are not limited to, the following:

- Groundwater pumped from drinking water wells
- Groundwater pumped from foundation drains, crawl space pumps, and footing drains
- Discharges from flushing water lines
- Discharges from washing vehicles, pavement, buildings, etc.
- Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water
- Infiltration from structural infiltration-based BMPs
- Other discharges of water to land, determined to be "low threat" by the San Diego Water Board

Discharges from these “low threat” sources to land are typically infrequent, consist of low volumes, and/or do not contain significant concentrations of pollutants that can degrade the quality of underlying groundwater. In some cases, water that ponds on the surface could evaporate and concentrate dissolved solids or other pollutants. However, these pollutants would likely attenuate before infiltrating and/or leaching to groundwater. These types of discharge are expected to pose a low threat to groundwater quality.

Infrequent discharges of water from “low threat” sources are not expected to degrade the quality of groundwater. However, frequent discharges from specific types “low threat” discharges could potentially degrade water quality over time. A Notice of Intent filed with the San Diego Water Board about these discharges could provide notification of the project, enrollment, and sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the waiver, or determine if regulation by individual WDRs is appropriate. Therefore, enrollment should be required for frequent or regular discharges from water wells.

This conditional waiver should apply only to “low threat” discharges to land that do not contain pollutants at concentrations that will degrade underlying groundwater quality.

Proposed Waiver Conditions for “Low Threat” Discharges to Land:

WDRs and/or the requirement to file RoWDs for “low threat” discharges to land should be waived under the following proposed conditions:

1. “Low threat” discharges to land cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this waiver. Any “low threat” discharges to surface waters must be regulated either by general or individual WDRs or in accordance with the conditions of an applicable conditional waiver.
2. “Low threat” discharges to land must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to groundwater.
3. “Low threat” discharges to land must not 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.
4. “Low threat” discharges to land must not degrade the quality of underlying groundwater.
5. 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.
6. For discharges from washing vehicles, pavement, buildings, etc., discharges of wash water and similar intermittent discharges to land must not exceed an average of 1,200 gallons per day for any continuous 30-day period.
7. For discharges from structural BMPs that utilize infiltration, the following conditions apply:

a) **Either**, the installation of structural BMP that utilizes infiltration must comply with the design criteria of the municipality regulated by MS4 WDRs (conforming to NPDES storm water regulations);
b) **or**, for any discharge that exceeds 1,200 gallons per day for any continuous 365-day period, the discharger must file a Notice of Intent containing documentation demonstrating that the quality of the proposed discharge from infiltration would not cause the groundwater at the disposal site to exceed water quality objectives.

B.1.2 Discharges from On-site Graywater Systems

Graywater is wash water originating from showers, bathtubs, clothes washing machines, and hand washing sinks that are not used for disposal of chemicals or chemical-biological ingredients. Graywater excludes toilet wastes, known as "black water," and is free of high concentrations of organic wastes such as those derived from garbage disposals and dishwashers. Graywater is generally subject to very little treatment or no treatment at all.

The Water Code defines "*graywater*" as "*untreated wastewater which has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and which does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs but does not include wastewater from kitchen sinks or dishwashers*."[1]

Effluent discharged from a graywater system is intended for use on-site from the building or structure that discharges it. On-site graywater systems are attached to plumbing systems for the distribution and use of graywater. Graywater use is typically limited to subsurface application through drip and mini-leachfield irrigation systems. Effluent that is discharged from graywater systems may be used for irrigation purposes, but the discharge of effluent from a graywater system is primarily an alternative method of disposal.

According to the Water Code, the California Department of Water Resources (DWR) was given the task of developing and adopting the regulations for the installation of graywater systems.[2] The Graywater Standards, developed by the DWR and adopted by the California Building Standards Commission, pertaining to the construction, installation, or alteration of graywater systems, can be found in the California Plumbing Code (CPC).[3]

However, the discharge of effluent from a graywater system to the subsurface on land, which can pose a potential threat to water quality and is therefore defined as a waste, is regulated by the State and Regional Water Boards. Graywater systems can discharge

[1] As defined in Water Code section 14876
[2] Pursuant to Water Code section 14877.1
[3] California Code of Regulations Title 24 (also known as the California Building Standards Administrative Code) Part 5 (also known as the California Plumbing Code) Appendix G

effluent that has potentially come in contact with human fecal matter (e.g., soiled diapers washed in clothes washing machines), nitrogen compounds (e.g., urine from children and adults in bathtubs and showers), phosphorus (e.g., laundry detergents used in clothes washing machines), or other chemicals (e.g., cleaning chemicals washed down bathroom washbasins). Therefore, graywater systems can potentially transport and leach bacteria, nutrients, and other pollutants to underlying groundwaters, or to surface waters if graywater surfaces and runs off the property. Graywater that comes into contact with groundwater or surface water can degrade water quality. However, proper design, installation and maintenance of a graywater system can eliminate the potential treat to water quality.

According to the CPC Graywater Standards, "*It shall be unlawful for any person to construct, install or alter, or cause to be constructed, installed or altered any graywater system in a building or on premises without first obtaining a permit to do such work from the Administrative Authority.*"[4] Therefore, the installation of a graywater system is subject to approval by the Administrative Authority, or authorized local authorities. The authorized local authorities are typically the county or city building or planning departments. However, because of the fact that the discharge from a graywater system could potentially surface or pond and runoff to surface waters, or degrade underlying groundwater quality, or create a risk to public health, the authorized local authorities could also include the county or city storm water, environmental, health, or public health departments. Approval for the installation of a graywater system should be obtained from all applicable authorized local authorities.

The Water Code states that a graywater system may be installed if the authorized local authorities having jurisdiction over the installation determines that the system complies with the CPC Graywater Standards.[5] The CPC Graywater Standards recommend that any or all of the following information should be submitted to the authorized local authority for approval prior to installation of a graywater system:[6]

(a) Plot plan drawn to scale completely dimensioned, showing lot lines and structures, direction and approximate slope of surface, location of all present or proposed retaining walls, drainage channels, water supply lines, wells, paved areas and structures on the plot, number of bedrooms and plumbing fixtures in each structure, location of private sewage disposal system and 100 percent expansion area or building sewer connecting to public sewer, and location of the proposed graywater system.
(b) Details of construction necessary to ensure compliance with the requirements of the CPC Graywater Standards together with full description of the complete installation including installation methods, construction and materials as required by the authorized local authority.
(c) A log of soil formations and groundwater level as determined by test holes dug in close proximity to any proposed irrigation area, together with a statement of water

[4] California Code of Regulations Title 24 Part 5 Appendix G section G3.
[5] Water Code section 14877.2
[6] California Code of Regulations Title 24 Part 5 Appendix G section G4.

absorption characteristics of the soil at the proposed site as determined by approved percolation tests. In lieu of percolation tests, the authorized local authority may allow the use of Table G-2, an infiltration rate designated by the authorized local authority, or an infiltration rate determined by a test approved by the authorized local authority.

(d) A characterization of the graywater for commercial, industrial, or institutional systems, based on existing records or testing.

A city or county may adopt, by ordinance, standards that prohibit the use of graywater, or standards that are more restrictive than those in the CPC Graywater Standards, after a public hearing.[7] Therefore, authorized local authorities may have requirements in addition to the minimum requirements found in the CPC Graywater Standards.

The discharge of effluent from a graywater system is subject to regulation by the State and Regional Water Boards in order to protect the waters of the state. Under the existing conditional waivers, there is no waiver of WDRs and/or requirement to file RoWDs specific to discharges from graywater systems. If a conditional waiver is not developed, adopted, and issued for discharges from graywater systems, owners/operators of these systems must file a RoWD with the San Diego Water Board to determine if regulation by an individual waiver of WDRs or individual WDRs is appropriate.

Graywater systems are not expected to pose a significant threat to water quality if properly designed, installed, maintained and operated. Obtaining the appropriate permits from authorized local agencies for graywater systems can be a waiver condition that serves as the method of enrollment for regulation by a conditional waiver. Completed and approved permit applications and inspection reports for graywater systems that can be obtained from the authorized local agencies can provide sufficient information and data to the San Diego Water Board to determine compliance with conditions of a conditional waiver for discharges from graywater systems.

This conditional waiver should only apply to properly designed and installed graywater systems, approved and granted the appropriate permits by the authorized local agencies, discharging effluent from an on-site graywater system to land.

Proposed Waiver Conditions for Discharges from On-site Graywater Systems:

WDRs and/or the requirement to file RoWDs for discharges from on-site graywater disposal systems should be waived under the following proposed conditions:

1. Effluent from a graywater system cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Effluent from a graywater system must be discharged to the subsurface and cannot surface or pond.

[7] Water Code section 14877.3

3. Effluent from a graywater system must not degrade the quality of underlying groundwater.
4. Effluent from a graywater system must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
5. Effluent from a graywater system must be discharged at least 5 feet above highest known historical groundwater level.
6. Effluent from a graywater system must be discharged at least 100 feet away from any surface water body.
7. Effluent from a graywater system must not impact the quality of groundwater in any water wells.
8. The graywater system must be designed and installed, at a minimum, according to the CPC Graywater Standards. If the county, city, and/or other authorized local authorities have additional requirements, the graywater system must be designed and installed to comply with those requirements.
9. Graywater systems cannot be constructed and effluent from a graywater system cannot be discharged in areas where groundwater water quality objectives have been exceeded.
10. The graywater system owner/operator must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies. Copies of any approvals, permits, certifications, and/or licenses must be available on site for inspection.
11. The graywater system owner/operator must maintain and operate the system in accordance with the design approved by the authorized local agencies.
12. 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.
13. Graywater systems that do not comply with CPC Graywater Standards and/or did not properly obtain the appropriate permits from the authorized local agencies must be brought into conformance with CPC Graywater Standards and/or obtain the appropriate permits to continue operation. If the owner/operator of a graywater system that does not conform with CPC Graywater Standards and/or does not have the appropriate permits chooses not to comply with this condition, the owner/operator must file a RoWD to the San Diego Water Board for regulation by individual WDRs or an individual waiver, or cease the use of the graywater system and permanently remove it from operation.

B.1.3 Discharges from Grazing Lands

Animals that graze remove vegetation and may cause erosion, which can result in increased and excessive amounts of sediment in surface water runoff. Animals that are allowed to graze along or within stream banks may reduce bank stability, cause increased flow velocity and channel erosion, and remove riparian habitat and wildlife. Grazing animals also produce wastes (e.g., manure, urine), which can be a significant source of sediment, nutrients, and pathogens (i.e., bacteria, viruses, protozoa) in surface water runoff and infiltration, or if discharged directly into a stream. Therefore, discharges grazing lands due to animal activities and wastes can potentially be a significant source of pollutants that can degrade the quality of waters of the state.

However, proper management of animal wastes and activities can significantly reduce the impact of animals on water quality.

A guidance document prepared by several public and private entities in Orange and San Diego Counties entitled *Equestrian-Related Water Quality Best Management Practices* outlines the measures that can be taken by horse owners to reduce the impact of horses on water quality. Many of the same MMs/BMPs can be used by grazing facilities to protect water quality. Types of MMs/BMPs recommended in the document include:

- Runoff Management
- Erosion Control
- Bacteria/Nutrient Transportation Prevention
- General Housekeeping
- Protection of Waterbodies

Additionally, MMs/BMPs specifically for the management of range and pasture lands used for grazing are also available from the NRCS in the *Field Office Technical Guide*.

Grazing facilities that properly manage their facilities and animals can prevent the discharge of pollutants that may adversely impact the quality of waters of the state. Grazing facilities that implement MMs/BMPs should be eligible for regulation by a conditional waiver without enrollment. Grazing facilities that violate waiver conditions by not implementing MMs/BMPs and allow the degradation of water quality should be required to comply with waiver conditions or be required to file a RoWD and be regulated with WDRs. Enforcement actions could also be taken against facilities that fail to comply with waiver conditions.

This conditional waiver should only apply to discharges to land resulting from animal wastes and activities that may cause erosion on lands used for grazing.

Proposed Waiver Conditions for Discharges from Grazing Lands:

WDRs and/or the requirement to file RoWDs for the discharges from grazing lands should be waived with the following proposed waiver conditions:

1. Grazing operations must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
2. Grazing facilities must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality 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, or the *Field Office Technical Guide* available from the NRCS. Additional references may be available from other sources.

3. Grazing facilities must manage grazing fields to allow lands to revegetate and minimize topsoil erosion.
4. Grazing facilities must prevent direct contact of animals with surface water bodies. Animals should not be allowed adjacent to or within stream banks. Grazing operations should maintain a buffer zone or riparian filter strip (at least 100 feet is recommended) between the animal and any surface waters of the state. The buffer zone must adequately minimize the discharge of pollutants from grazing lands. There should be no direct exposure of a surface water body to an animal. Above-ground watering troughs or basins and fencing should be installed to eliminate direct exposure of animals to surface water bodies.
5. Grazing facilities must prevent the direct or indirect discharge of animal wastes (i.e., manure, urine) to surface waters of the state.
6. Grazing facilities must properly manage the wastes (i.e., manure, urine, soiled bedding) generated by the animals at the facility in accordance with the following guidelines:
   a) Animal wastes should be collected and disposed of regularly (at least once every two weeks).
   b) 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 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 should be disposed of immediately.
   c) Areas adjacent to temporary storage area for animal wastes should be graded to prevent surface water and runoff from reaching the storage area.
   d) Temporary storage area should be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to groundwater.
   e) Temporary storage area should 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.
   f) A buffer zone of at least 100 feet should 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.
   g) If animal wastes are composted on site, composting activities must comply with the conditions applicable to composting operations for regulation by a conditional waiver.
   h) 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 applicable to soil amendment or mulch operations for regulation by a conditional waiver.
7. 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.
8. Grazing facilities must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

B.1.4 Fire Suppression and Fuels Management Activities

Fire suppression and fuels management activities are projects typically related to timber operations. Dead vegetation, brush, and/or trees should be cleared from around structures, fields and forests to reduce the fuel available for wildfires that may occur during fire season (typically June to November). Fire suppression and fuels management activities can result in erosion and the discharge of sediment, pesticides, and other pollutants. These pollutants can be transported to surface waters and groundwater by surface runoff, which can degrade the quality of the waters of the state.

As discussed under existing Conditional Waiver No. 22 (see Appendix A, section A.3.18), the USFS and BOF/CDF have been designated the Water Quality Management Agencies (WQMAs) for timber operations on NFS and private/state lands, respectively. Therefore, fire suppression and fuels management activities would be regulated by the certified Water Quality Management Plans of the appropriate WQMA.

Obtaining the appropriate approvals from the USFS or BOF/CDF should be included as a waiver condition that can serve as the method of enrollment for regulation by a conditional waiver. Completed and approved documentation (environmental and decision documents, Notices of Exemption, Notices of Emergency, THPs, and/or NTMPs) for fire suppression and fuels management activities that can be obtained from the USFS or BOF/CDF can provide sufficient information and data to the San Diego Water Board to determine compliance with the conditions of the conditional waivers.

This conditional waiver should only apply to discharges that are a result of fire suppression and fuels management activities that are performed in accordance with the certified Water Quality Management Plan of the USFS or BOF/CDF.

Proposed Waiver Conditions for Fire Suppression and Fuels Management Activities:

WDRs and/or the requirement to file RoWDs for discharges during fire suppression and fuels management activities should be waived under the following proposed waiver conditions:

- Fire suppression and fuels management activities must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
- Fire suppression and fuels management activities must comply with any federal, state, or local permitting, licensing, or certification requirements and applicable regulations and ordinances.
- 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.
- For fire suppression and fuels management activities on NFS lands, the following conditions should apply:
  a) The State Water Board and USEPA must continue to certify the *Water Quality Management Plan for National Forest System Lands in California*.

b) The USFS must maintain: (a) a water quality program consistent with the Basin Plan, and (b) a program to monitor the implementation and effectiveness of MMs/BMPs.
c) The USFS must perform fire suppression and fuels management activities in accordance with MMs/BMPs in any approved water quality and/or timber harvest plans.
d) The USFS must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

- For fire suppression and fuels management activities on nonfederal lands, the following conditions should apply:
  a) The State Water Board must continue to certify the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*.
  b) Fire suppression and fuels management activities within 150 feet of existing structures (i.e., "FireSafe" treatments) that are conducted pursuant to a Notice of Exemption approved by the 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.
  c) For fire suppression and fuels management activities 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, and the owner/operator must submit technical and/or monitoring program reports when directed by the San Diego Water Board.
  d) For fire suppression and fuels management activities subject to a THP or NTMP approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board, and the owner/operator must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

B.1.5 Discharge/Disposal/Reuse of Soils Characterized as Inert from Known Contaminated Sites

There are many sites in the San Diego Region that are known or discovered to have unauthorized releases of pollutants that have contaminated the soil and/or groundwater. Often, the sites will undergo remediation or corrective actions to remove contaminated soils and restore the site for use by future owners or tenants.

In most situations, the contaminants are limited to a spatially (laterally and vertically) limited area of the site. Typically these areas are over-excavated to ensure complete removal of the contaminated soils. However, over-excavation of an area often means that soil that is not impacted by the release has also been removed.

The soil that has been excavated from a site during remediation is typically stockpiled on the site until the soil can be characterized. Based on the history of a site, soil samples are submitted to a certified environmental analytical laboratory for analysis. The analytical results can be used to determine if the soil is characterized as a hazardous,[8] designated,[9] non-hazardous,[10] or inert[11] waste.

[8] Defined in California Code of Regulations Title 23 section 2521 and Title 22 section 66261.3

The soil that has been impacted by the unauthorized release must be properly characterized and transported to an appropriate permitted disposal facility. Waste soil that is characterized as hazardous waste must be disposed of at a Class I landfill. Designated and non-hazardous wastes are typically disposed of at Class II or III landfills. Inert wastes and some non-hazardous wastes can be disposed of at an unclassified landfill. However, the regulations for the disposal of solid wastes allow for the recycling and reuse of non-hazardous, or inert wastes.[12]

As discussed above, soil that is not impacted by a release is often excavated in order to ensure complete removal of contaminated soil from a site. There has been interest expressed to the San Diego Water Board by some public agencies and private firms for the ability to recycle and reuse soil from sites undergoing remediation or corrective action as fill material at other sites. Of particular interest is the reuse of waste soils that can be characterized as inert.

According to California Code of Regulations 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." The primary difference between non-hazardous and inert waste is that inert waste does not contain decomposable or degradable materials. The interested persons would like to recycle and reuse waste soils that have been characterized as inert in a fully unrestricted manner. Another alternative would be to recycle and reuse the soil according to a set of placement and use conditions. Reusing waste soils in this manner benefits the people of the state and is in the public interest by reducing the volume of soil disposed of in public landfills.

However, in order for soil to be reused at another site and be protective of water quality, a waste-, site-, and use-specific analysis would be required. The discharge of waste soils for reuse can potentially impact surface water and/or groundwater quality. Inert waste soils that are exported for use at another site could affect surface water quality if runoff is allowed to transport sediment to any surface water bodies. Waste soils characterized as inert would not contain soluble pollutants at levels of concern to groundwater quality.

A discharger of waste soils must determine if pollutant or contaminant levels in waste soil are protective of water quality. Inert waste soils cannot contain hazardous or designated levels of pollutants or contaminants. The Central Valley Regional Water Quality Control Board (Central Valley Water Board) developed a methodology for waste classification and cleanup level determination, known as the Designated Level

[9] Defined in California Code of Regulations Title 27 section 20210 and Water Code section 13173
[10] Defined in California Code of Regulations Title 27 section 20220
[11] Defined in California Code of Regulations Title 27 section 20230
[12] California Code of Regulations Title 27 section 20090(h)

Methodology,[13] which is used to identify the boundary between designated wastes and non-hazardous or inert wastes, which is the non-hazardous or inert waste target concentration. The inert waste target concentration is determined as follows:

$$\text{Inert Waste Target} = \text{Water Quality Goal} \times \text{Environmental Attenuation Factor} \times \text{Leachability Factor}$$

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.

Pollutant or contaminant concentrations below the inert waste target would be considered protective of groundwater quality. The inert waste target may be protective of surface water quality from contaminants in the waste soil as well, but the primary concern would be sediment from the waste soil, which could not be discharged directly or indirectly to surface waters.

Additionally, exporting and reusing inert waste soil from a known contaminated site can have potentially adverse effects on human or ecological receptors from any pollutants or contaminants that may be present in the soil. Therefore, pollutants or contaminant levels in the inert waste soil must not only be protective of water quality, but also human and ecological health.

The California Environmental Protection Agency's (CalEPA) Office of Environmental Health Hazard Assessment (OEHHA) developed screening levels to identify concentrations of hazardous chemicals in soil that the CalEPA considers to be below thresholds of concern for risks to human health.[14] These screening levels are known as the California Human Health Screening Levels (CHHSLs). The CHHSLs identify screening levels that are considered protective of human health for different land uses. There are CHHSLs for residential land uses, and industrial/commercial land uses.

For ecological receptors, the CalEPA has not developed soil screening levels. However, the Oak Ridge National Laboratory (ORNL) developed toxicological benchmarks for ecological receptors in soil. These benchmarks were used to develop ecological preliminary remediation goals (e-PRGs).[15] The e-PRGs developed by ORNL correspond to minimal and acceptable levels of effects on general ecological endpoints. The ORNL e-PRGs can serve as screening levels that may be considered protective of ecological receptors.

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[13] Regional Water Quality Control Board, Central Valley Region. 1989. *The Designated Level Methodology for Waste Classification and Cleanup Level Determination – Staff Report.*

[14] California Environmental Protection Agency. 2005. *Use of California Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties.* http://www.calepa.ca.gov/Brownfields/documents/2005/CHHSLsGuide.pdf

[15] Efroymson, R.A., G.W. Suter II, B.E. Sample, and D.S. Jones. 1997. *Preliminary Remediation Goals for Ecological Endpoints*. Oak Ridge National Laboratory, Oak Ridge, TN. 50 pp. ES/ER/TM-162/R2.

In some cases, natural background concentrations of some pollutants or contaminants (i.e., heavy metals) may exceed soil screening levels (CHHSLs and/or e-PRGs). The dischargers cannot be expected to reduce naturally occurring concentrations of pollutants or contaminants to less than background levels. However, background levels can vary significantly from one location to another within the San Diego Region as well as throughout the state. The Kearney Foundation of Soil Science at the University of California prepared a document in 1996 (Kearny Report) on background concentrations of elements in California soils.[16] The study collected samples from 50 locations throughout California and provided a statistical analysis of the results. Included in the results were minimum, maximum, and arithmetic mean concentrations of 46 different inorganic elements.

With the inert waste targets, human and ecological health soil screening levels, and background levels, soil screening levels may be developed to allow waste soils to be acceptable for full unrestricted reuse. Reuse of inert waste soil can include activities such as restoration of ecological habitats, development of a children's playground or school, or development of commercial or industrial facilities.

Full unrestricted use would mean that the inert waste soil could be used for any purpose, as long as sediment from the inert waste soil is not transported directly or indirectly to surface waters. However, the San Diego Water Board can only authorize the full unrestricted reuse of waste soil characterized as inert within the boundaries of the San Diego Region. Reuse of waste soil characterized as inert outside the boundaries of the San Diego Region would require a conditional waiver or WDRs from the Regional Water Board regulating the area, or the State Water Board would have to issue a statewide conditional waiver or WDRs authorizing the reuse of waste soils characterized as inert.

Soil screening levels for full unrestricted reuse of inert waste soil within the San Diego Region can be developed for first tier screening criteria, or Tier 1 Soil Screening Levels. Waste soil that can be characterized with pollutant or contaminant concentrations that are protective of water quality, residential human health, and ecological health, but not less than background could be reused without restriction.

However, many potential uses of inert waste soil include only commercial or industrial anthropogenic development purposes. For such uses, soil screening levels must only be protective of water quality and commercial or industrial human receptors, but not ecological receptors, and do have to be less than background. Soil screening levels for reuse of inert waste soil only for commercial or industrial anthropogenic development purposes can be developed as second tier screening criteria, or Tier 2 Soil Screening Levels.

[16] Kearney Foundation of Soil Science Division of Agriculture and Natural Resources, University of California. 1996. *Background Concentrations of Trace and Major Elements in California Soil – Special Report*

Because background concentrations can vary significantly (i.e., up to two orders of magnitude), a representative background value must be selected. For full unrestricted reuse of inert waste soils, the arithmetic mean background concentration from the Kearny Report is representative of background soil concentrations throughout California. However, background concentrations in areas that have been impacted by anthropogenic activities typically have higher background concentrations. Therefore, for reuse of inert waste soils for anthropogenic development purposes, a higher background concentration could be considered representative. A value of one-half of the maximum background concentration from the Kearny Report could be considered representative of background soil concentrations in anthropogenic developed areas.

Based on the above discussion, the following tables summarizes the proposed Tier 1 and Tier 2 Soil Screening Levels:

Tier 1 Soil Screening Levels

Pollutant	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] (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**
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* (Efroymson, 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.

Tier 2 Soil Screening Levels

Pollutant	Inert Waste Target[a] (mg/kg)	Industrial CHHSL[b] (mg/kg)	Background[d] Max (mg/kg)	Background[d] ½ Max (mg/kg)	TTLC[e] (mg/kg)	Tier 2 SSL[f] (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	63,000	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**
Chromium, Hexavalent	50	37	NA	NA	500	**37**
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).

c. Taken from Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymson, 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. Total Threshold Limit Concentration. Concentrations above the TTLC would be classified as hazardous waste.

f. 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.

If a waste soil from a known contaminated site is characterized as inert in accordance with the criteria and soil screening levels above, reuse of the inert waste soil at the source site or another site should not create or threaten to create a condition of pollution or nuisance, provided no sediment from the inert waste material is transported to any surface water bodies. Therefore, this waiver should only apply to the discharge/reuse of inert waste soils on land, where sediment is not allowed to be transported off a site to any surface water of the state.

Proposed Waiver Conditions for Discharge/Reuse of Soils Characterized as Inert from Contaminated Sites:

WDRs and/or the requirement to file RoWDs for the discharge and/or reuse of soils characterized as inert from contaminated sites should be waived under the following proposed waiver conditions:

1. 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).
2. Inert waste soils from known contaminated sites cannot contain significant quantities of decomposable waste.
3. Inert waste soils from known contaminated sites cannot contain any "free liquids."[17]
4. Inert waste soils that are discharged/disposed/reused at any site cannot have any hydrocarbon, chlorinated solvent, or other contaminant-based odor.
5. 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.
6. 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.
7. This conditional 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.
8. Prior to exporting soil characterized as inert from a known contaminated site, the owner/operator of the export site must file a Notice of Intent with the San Diego Water Board. The Notice of Intent must be filed no less than 3 days prior to the beginning of export shipments. The Notice of Intent must include information about the site owner/operator, 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.
9. 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 waste soils generated during remediation or corrective action must be stockpiled on the site in accordance with the waiver conditions for the temporary discharge of specified contaminated soil, 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:

[17] "Free liquids" defined by California Code of Regulations Title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure"

i) 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 smells impacted, must be treated as impacted soil and cannot be characterized as inert.
ii) 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 is samples required to characterize the soil is as follows: [18]

Volume of Soil	Number of Samples
0 to <500 cy	4 samples per 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

cy = cubic yards

d) Samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents:
i) Total concentrations of those Title 22 metals identified as contaminants of concern for the export site. For sites identified with burn ash (i.e., a site where solid waste has been burned at low temperature and the residual burn ash pits and burn ash layers are present in soil), the site shall be investigated and the burn ash will be characterized for disposal purposes according to the protocol established by the lead regulatory agency (e.g., Department of Toxic Substances Control, California Integrated Waste Management Board, or others) to identify contaminants of concern at the site. The soil outside of the area of impact of the burn ash shall 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.
ii) Total recoverable petroleum hydrocarbons (by EPA Method 8015[19] – full range if export site includes oil or fuel spill or release investigation or remediation).
iii) Polychlorinated biphenyls (if export site includes PCB spill or release investigation or remediation).
iv) Volatile and semi-volatile organic compounds (if export site includes organic solvent spill or release investigation or remediation).
v) Pesticides (if export site includes a known agricultural area, pesticide spill or release investigation).
vi) Other constituents (if the contaminated portion of the export site is found to contain other pollutants or contaminants).

e) *If analytical results indicate detectable concentrations of constituents other than Title 22 metals, waste soil cannot be characterized as inert*.

[18] Department of Toxic Substances Control, Information Advisory Clean Imported Fill Material, October 2001 http://www.dtsc.ca.gov/Schools/upload/SMP_FS_Cleanfill-Schools.pdf
[19] Or latest version USEPA SW846 method.

10. For Tier 1 inert waste soils (full unrestricted reuse within the San Diego Region), the following conditions apply:
    a) Soil cannot contain any contaminants other than Title 22 metals.
    b) For those Title 22 metals that have been identified as contaminants of concern for the export site, samples shall be analyzed by an SW846 method using the reporting limits set forth in the Table provided in Attachment 1. From these data, the 90% upper confidence level (UCL) shall be determined. Prior to calculating the 90% UCL, one must determine whether the sample set is normally, lognormally or non-normally distributed. If lognormally distributed, one must determine the 90% UCL on the lognormal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90% 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% UCL, and handling of non-detected values.[20]

Tier 1 Soil Screening Levels

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] (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**
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).

[20] 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 Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymson, 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.

c) 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:
   i) Generator name and contact information.
   ii) Export site location, owner name and contact information.
   iii) Map of the export site showing the location of the excavation, borings, stockpiles, and/or samples collected.
   iv) Approximate volume of inert waste soil exported from the site.
   v) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
   vi) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, maximum reported concentrations of Title 22 metals for the contaminants of concern, number of samples exceeding Tier 1 Soil Screening Levels, and name of certified environmental analytical laboratory that performed the analysis.
   vii) The export site owner, principal executive officer, or authorized representative, and a California registered 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*."

11. 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 cannot contain any contaminants other than Title 22 metals.
   b) Samples shall be analyzed by an SW846 method using the reporting limits set forth in the Table provided in Attachment 1. From these data, the 90% upper confidence level (UCL) shall be determined. Prior to calculating the 90% UCL, one must determine whether the sample set is normally, lognormally or non-normally distributed. If lognormally distributed, one must determine the 90% UCL on the lognormal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90% UCL on the median (50^{th} 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% UCL, and handling of non-detected values.[21]

Tier 2 Soil Screening Levels

Pollutant	Inert Waste Target[a] (mg/kg)	Industrial CHHSL[b] (mg/kg)	Background[d] Max (mg/kg)	Background[d] ½ Max (mg/kg)	TTLC[e] (mg/kg)	Tier 2 SSL[f] (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	63,000	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**
Chromium, Hexavalent	50	37	NA	NA	500	**37**
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).

c. Taken from Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymson, 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. Total Threshold Limit Concentration. Concentrations above the TTLC would be classified as hazardous waste .

f. 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.

c) 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:
   i) Generator name and contact information.
   ii) Export site location, owner name and contact information.
   iii) Approximate volume of inert waste soil exported from the site.

[21] 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.

iv) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
v) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, maximum reported concentrations of Title 22 metals for the contaminants of concern, number of samples exceeding Tier 2 Soil Screening Levels, and name analytical laboratory performing analysis.
vi) 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.
vii) 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.
viii) The export site owner, principal executive officer, or authorized representative, and a California registered 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*."

d) Tier 2 inert waste soil reused at commercial or industrial development sites must comply with the following conditions:
i) Tier 2 inert waste soil may only be reused on commercial or industrial sites. Tier 2 inert waste soil may not be reused at residential, school, or park sites.
ii) Tier 2 inert waste soil must be placed at least 5 feet above the highest historically known level of groundwater. The soil that separates the inert waste soil from groundwater must have a significant clay content (greater than 5% clay material) or an in-situ permeability of less than 10^{-5} cm/sec.
iii) Tier 2 inert waste must be placed at least 100 feet from the nearest surface water body.
iv) Tier 2 inert waste must be protected against 100-year peak stream flows as defined by the County flood control agency.
v) Tier 2 inert waste must be 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 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 revising/discharging the final load of inert waste soils at the import site.

B.1.6 Concrete Grinding Residues

Grinding or grooving is generally performed to improve the riding quality and/or friction or new or existing cement concrete or asphalt concrete pavement. Existing pavements

are ground or grooved as a rehabilitation strategy. New pavements are ground or grooved to meet smoothness or friction requirements. Typically, concrete grinding activities include the use of water to cool the grinding blades and surfaces. The water mixes with the concrete particles and may create a high pH, or alkaline, slurry. The slurry can be collected to allow the solids to settle out, and water decanted for reuse in grinding/grooving. The resulting concrete grinding residue must be stored and disposed.

If the concrete grinding residues are discharged to land for storage, proper management measures must be taken to prevent the degradation of surface water or groundwater quality. Concrete grinding residues must be properly contained to prevent it from running off to surface waters. Concrete grinding residues consist of high liquid content, which can potentially infiltrate to groundwater. However, the very fine-grained materials in the residue would likely seal the disposal area surface, which will severely reduce or eliminate any leaching potential as the water content evaporates. Containment of the concrete grinding residues would eliminate the threat to surface waters.

As long as concrete grinding residues are properly managed, these types of discharge are not expected impact surface water or groundwater quality. Therefore, enrollment should not be required for concrete grinding residues.

This conditional waiver should apply only to concrete grinding residues discharged/disposed to land that are properly managed.

Proposed Waiver Conditions for Concrete Grinding Residues:

WDRs and/or the requirement to file RoWDs for the discharge and/or disposal of concrete grinding residues to land should be waived under the following proposed waiver conditions:

1. Concrete grinding residues cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Concrete grinding residues must be contained to eliminate the potential for runoff from the site.
3. If concrete grinding residues are discharged to land, disposal area must be designed to be fully contained and ensure no overflow during discharge with at least 2 feet of freeboard.
4. The floor of the containment area must be at least 5 feet above the highest known historical groundwater level.
5. The walls of the containment area must be at least 100 feet away from any surface water body.
6. Concrete grinding residues cannot contain any toxic or hazardous constituents.
7. Concrete grinding residues discharged to land must not degrade the quality of underlying groundwater.

8. Concrete grinding residues must be removed and disposed of at an appropriate disposal facility prior to restoring the containment area or sump to pre-sump conditions.
9. The discharge/disposal containment area must be filled in and restored to pre-discharge/disposal conditions.

B.1.7 Temporary Waste Piles and Surface Impoundments for Disaster-Related Wastes

When a disaster (i.e., flood, fire, or earthquake) occurs, significant amounts of debris, which can include solid and/or liquid wastes, will require cleanup and disposal. Disaster-related waste streams from the cleanup after regional disasters can include "mixed emergency wastes." Mixed emergency wastes are solid wastes 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 and have been mixed so that the individual waste components are not practically separable for purposes of waste management.

Solid and/or liquid wastes derived from the cleanup of debris associated with disaster-related impacts are likely to be taken to existing regulated (i.e., permitted) waste management units (e.g., waste transfer stations) and waste disposal facilities (e.g., landfills) for treatment (including sorting, etc), storage, and/or disposal. There is a combination of privately owned and publicly owned active regulated waste management units and waste disposal facilities currently accepting discharges of non-hazardous municipal solid waste (MSW) within the San Diego Region. If there are significant amounts of disaster-related wastes, agencies and jurisdictions, or persons, engaged in cleanup activities within the San Diego Region may also find it necessary to establish temporary staging areas at these regulated waste management units and solid waste disposal facilities to facilitate effective emergency containment, cleanup, and disposal of disaster-related wastes.

Temporary staging areas may consist of temporary waste piles and/or surface impoundments. Temporary waste piles and temporary surface impoundments are sites/facilities, or a portion of an existing regulated waste management facility, at which liquid or solid wastes are temporarily discharged, stored, and treated (sorting of recyclables), and where containment features and ancillary features for precipitation and drainage control are present. Temporary waste piles and temporary surface impoundments are temporary de facto waste management units.

Depending on the amount and/or locations of disaster-related wastes that must be managed, it may not always be possible to locate temporary staging areas at regulated waste management units or solid waste disposal facilities. Emergency conditions may temporarily disrupt the normal procedures for transport, treatment and disposal of wastes requiring dischargers to improvise temporary engineered alternatives to prescriptive standards for waste management and containment. Staging areas may need to be established temporarily until the disaster-related wastes can be transferred to a regulated facility. In emergency situations, the San Diego Water Board may allow

engineered alternatives to construction and prescriptive standards set forth in California Code of Regulations Title 27.[22]

California Code of Regulations Title 27 section includes the following exemptions for the disposal of solid wastes:

- Cleanup actions for solid wastes, taken at the direction of public agencies to cleanup and abate conditions of pollution or nuisance, resulting from unintentional or unauthorized releases of waste or pollutant to the environment.[23] Wastes, pollutants, or contaminated materials removed from the immediate place of release must be discharged/disposed according to applicable solid waste disposal requirements.[24]
- Recycling or other use of materials salvaged from waste, or produced by waste treatment, such as scrap metal, compost, and recycled chemicals.[25] Residual wastes from recycling or treatment operations must be discharged/disposed according to the applicable solid waste disposal requirements.[26]
- Waste treatment in fully enclosed facilities, such as tanks, or in concrete-lined facilities of limited areal extent, such as oil-water separators.[27]

Under the provisions of Water Code section 13269(c), waiving the issuance of WDRs for the expeditious management and eventual disposal of solid wastes resulting from the cleanup of disaster-impacted areas in the San Diego Region is not against the public interest, provided that certain conditions are met. Additionally, waiving regulation for the temporary staging of disaster-related wastes would enable San Diego Water Board staff resources to be used more effectively during the state of emergency. Therefore, the public interest is served if short term discharges of disaster-related wastes into temporary waste piles and/or surface impoundments 1) comply with specific conditions, 2) are effectively regulated by other public agencies, and/or 3) do not result in violation of Basin Plan.

This conditional waiver should apply only to the temporary discharge of disaster-related wastes to land until the waste can be properly and permanently disposed at a regulated disposal facility.

[22] California Code of Regulations Title 27 section 20080(b)
[23] California Code of Regulations Title 27 section 20090(d)
[24] State Water Board promulgated sections of California Code of Regulations Title 27 Article 2 Subchapter 2 Chapter 13 Subdivision 1 for nonhazardous wastes, and California Code of Regulations Title 23 Article 2 Chapter 15 for hazardous wastes.
[25] California Code of Regulations Title 27 section 20090(h)
[26] State Water Board promulgated sections of California Code of Regulations Title 27 Article 2 Subchapter 2 Chapter 13 Subdivision 1 for nonhazardous wastes, and California Code of Regulations Title 23 Article 2 Chapter 15 for hazardous wastes.
[27] California Code of Regulations Title 27 section 20090(i)

Proposed Waiver Conditions for Temporary Waste Piles and Surface Impoundments for Disaster-Related Wastes:

WDRs and/or the requirement to file RoWDs for discharges of disaster-related wastes to temporary waste piles and surface impoundments should be waived under the following proposed waiver conditions:

1. This conditional waiver does not become active and available until 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, and applies only to disaster-related waste streams from disaster-impacted areas.
2. This conditional waiver is only in effect temporarily and shall 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 regulated by this waiver, or
   c) Six (6) months have elapsed since the Governor issued a declaration of the state of emergency for any portion of the San Diego Region.
3. For all temporary waste piles and surface impoundments used to manage disaster-related waste, the following conditions apply:
   a) Disaster-related wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
   b) Disaster-related waste management operations must not be performed in a manner that creates, or contributes to a condition of pollution or nuisance.
   c) Disaster-related waste management operations must not be performed in a manner that creates, or contributes to, conditions; which violate the waste discharge prohibitions promulgated in the Basin Plan.
   d) Disaster-related wastes must not be managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit regulated by this waiver.[28]
   e) Disaster-related wastes must not be 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 results in the mixture being classified as a restricted waste.[29]
   f) Liquid hazardous wastes or "restricted hazardous wastes"[30] cannot be discharged to MSW landfills, temporary waste piles, or temporary surface impoundments.
   g) Temporary waste piles must be covered to adequately prevent rainwater infiltration and runoff, and control fugitive dust, vectors, odors, blowing litter and

[28] Pursuant to California Code of Regulations Title 27 section 20200(b)(1)
[29] Pursuant to California Code of Regulations Title 27 section 20200(b)(2)
[30] Defined in California Health and Safety Code section 25122.7

scavenging. The cover must not consist of or contain material classified as a designated waste.[31]

h) Inert wastes[32] that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).

i) 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); and

iii) As allowed by valid WDRs issued by the San Diego Water Board for other categories of waste management units.

4. For the discharge of disaster-related solid wastes for disposal at regulated waste disposal facilities in the San Diego Region, the following conditions should apply:

a) Solid waste (not otherwise suitable for recycling or reuse) derived from cleanup of 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) Solid 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 solid waste streams in accordance with the applicable regulatory requirements.[33]

f) The regulated waste disposal facility owner/operator is responsible for properly identifying disaster-related solid waste streams[34] and identifying wastes that may be suitable for use as alternative daily cover (ADC). Solid waste that may be used as ADC at a regulated disposal facility are as follows:

[31] Defined in California Code of Regulations Title 27 section 20210
[32] Defined in California Code of Regulations Title 27 section 20230
[33] Requirements are provided in California Code of Regulations Title 27, Title 23, Chapter 15, and/or Title 22 Division 4.5.
[34] Pursuant to California Code of Regulations Title 27 section 20200(c)

i) Solid wastes that are classified as inert wastes.
ii) Solid wastes that meet the criteria for ADC as prescribed in California Code of Regulations 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; so long as the waste could be accepted at a Class III MSW landfill without special permission from the San Diego Water Board.

g) Within 60 days after the expiration of this waiver (see above) 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 (Joint Technical Document) 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.

5. For the discharge of disaster-related solid wastes to temporary waste piles located at regulated waste management or disposal facilities in the San Diego Region, the following conditions should apply:
   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 Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator of the regulated waste management or disposal facility property, facility address and contact information, description of temporary waste management unit, 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/runon 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 MMs/BMPs to the maximum extent practicable 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 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) Solid wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily regulated by this 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 above), or as required by the San Diego Water Board. Alternatively, the facility owner/operator must file an amended RoWD (Joint Technical Document) and obtain amended WDRs from the San Diego Water Board for any waste piles that will continue to exist past the expiration date of this waiver.

f) Owners/operators of regulated waste management or disposal facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator of the regulated facility property, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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. For the discharge of disaster-related solid wastes to temporary waste piles NOT located at regulated waste management or disposal facilities in the San Diego Region, the following conditions should apply:

a) Any agency, jurisdiction or person proposing to establish a temporary waste pile not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the temporary waste pile facility is located, facility address and contact information, description of temporary waste management unit, 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 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 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 of washout due of floods with a 100-year return period.
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 below).
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 to the maximum extent practicable 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.
d) 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.

e) Solid wastes discharged to temporary waste piles not at regulated waste management or disposal facilities temporarily regulated by this 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 above), or as required by the San Diego Water Board.

f) Owners/operators of temporary waste piles not on regulated facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary waste pile facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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.*"

7. For the discharge of disaster-related solid wastes to temporary surface impoundments NOT located at regulated waste management or disposal facilities in the San Diego Region, the following conditions should apply:

   a) Any agency, jurisdiction or person proposing to establish a temporary surface impoundment not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the temporary surface impoundment facility is located, facility address and contact information, description of temporary waste management unit, 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 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 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 of washout due of floods with a 100-year return period.

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 to the maximum extent practicable 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 temporarily regulated by this waiver 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, or daily as necessary, until all free liquid is removed from the surface impoundment as part of closure.[35] 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 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 temporarily regulated by this waiver, 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 expiration of this waiver (see above), or as required by the San Diego Water Board.
h) Owners/operators of temporary surface impoundments not on regulated facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary surface impoundment facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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.*"

[35] Pursuant to California Code of Regulations Title 27 section 21400(a)

B.1.8 Temporary Waste Piles and Emergency Landfills for Mass Mortality Wastes

On January 27, 2003, the State Water Board updated its interim guidance concerning the management of mass mortality wastes associated with the impacts from Exotic Newcastle Disease (END). The document issued by the State Board contains guidance for managing high-moisture content wastes streams associated with mass mortality of animals and disaster-related wastes. Disposal of large volumes of wastes (e.g., animal carcasses, animal fecal wastes, *etc.*) associated with mass mortality (*e.g.,* natural disaster, agricultural disease, *etc.*) may cause wastes to exceed moisture holding capacity at MSW landfills. Mass mortality wastes are characterized as non-hazardous solid wastes.[36]

When a disaster (i.e., flood, fire, earthquake, or animal epidemic) occurs, significant numbers of animal carcasses and related wastes may require cleanup and disposal. Disaster-related mass mortality waste streams from the cleanup after regional disasters can include "mixed emergency wastes." Mixed emergency wastes are solid wastes 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 and have been mixed so that the individual waste components are not practically separable for purposes of waste management.

Wastes streams resulting from the cleanup of disaster-related mass mortality wastes are likely to be taken to existing regulated (i.e., permitted) waste management units (e.g., waste transfer stations) and waste disposal facilities (e.g., landfills) for treatment (including sorting, etc), storage, and/or disposal. There is a combination of privately owned and publicly owned active regulated waste management units and waste disposal facilities currently accepting discharges of non-hazardous MSW within the San Diego Region. If there are significant amounts of disaster-related mass mortality wastes, agencies and jurisdictions, or persons, engaged in cleanup activities within the San Diego Region may also find it necessary to establish temporary staging areas at these regulated waste management units and solid waste disposal facilities to facilitate effective emergency containment, cleanup, and disposal of disaster-related wastes.

Temporary staging areas will likely consist of temporary waste piles. Temporary waste piles are sites/facilities, or a portion of an existing regulated waste management facility, at which solid wastes are temporarily discharged, stored, and treated, and where containment features and ancillary features for precipitation and drainage control are present. Temporary waste piles are temporary de facto waste management units.

[36] California Code of Regulations Title 27 section 20220(a) defines *"nonhazardous solid waste"* as including *"… manure, vegetable or animal solid and semi-solid wastes, and other discarded waste (whether of solid or semi-solid consistency); provided that such wastes do not contain wastes which must be managed as hazardous wastes, which contain soluble pollutants in concentrations which exceed applicable water quality objectives, or could cause degradation of waters of the state (i.e., designated waste)."*

Depending on the amount and/or locations of disaster-related mass mortality wastes that must be managed, locating temporary staging areas at regulated waste management units or solid waste disposal facilities may not always be possible. Emergency conditions may temporarily disrupt the normal procedures for transport, treatment and disposal of wastes requiring dischargers to improvise temporary engineered alternatives to prescriptive standards for waste management and containment. Staging areas may need to be established temporarily until the disaster-related wastes can be transferred to a regulated facility.

In order to prevent the creation of a condition of pollution or nuisance, and the spread of disease associated with mass mortality wastes, agencies and jurisdictions, or persons, engaged in cleanup of disaster-impacted areas within the San Diego Region may find that establishing emergency waste management units (emergency landfills) that are not located at a regulated facility is necessary. Emergency landfills are also sites/facilities at which solid wastes are discharged, stored, and treated, and where containment features and ancillary features for precipitation and drainage control are present, but were not previously permitted. Emergency landfills are waste management units for the permanent disposal of disaster-related mass mortality waste streams

In emergency situations, the San Diego Water Board may allow engineered alternatives to construction and prescriptive standards set forth in California Code of Regulations Title 27.[37]

California Code of Regulations Title 27 section includes the following exemptions for the disposal of solid wastes:

- Cleanup actions for solid wastes, taken at the direction of public agencies to cleanup and abate conditions of pollution or nuisance, resulting from unintentional or unauthorized releases of waste or pollutant to the environment.[38] Wastes, pollutants, or contaminated materials removed from the immediate place of release must be discharged/disposed according to applicable solid waste disposal requirements.[39]
- Waste treatment in fully enclosed facilities, such as tanks, or in concrete-lined facilities of limited areal extent, such as oil-water separators.[40]

Under the provisions of Water Code section 13269(c), waiving the issuance of WDRs for the expeditious management and eventual disposal of solid wastes resulting from the cleanup of disaster-impacted areas in the San Diego Region is not against the public interest, provided that certain conditions are met. Additionally, waiving regulation for the temporary staging of mass mortality disaster-related wastes would enable San

[37] California Code of Regulations Title 27 section 20080(b)
[38] California Code of Regulations Title 27 section 20090(d)
[39] State Water Board promulgated sections of California Code of Regulations Title 27 Article 2 Subchapter 2 Chapter 13 Subdivision 1 for nonhazardous wastes, and California Code of Regulations Title 23 Article 2 Chapter 15 for hazardous wastes.
[40] California Code of Regulations Title 27 section 20090(i)

Diego Water Board staff resources to be used more effectively during the state of emergency. Therefore, the public interest is served if short term discharges of mass mortality disaster-related wastes into temporary waste piles and/or permanent disposal in emergency landfills comply with specific conditions, are effectively regulated by other public agencies, and/or do not result in violation of Basin Plan.

This conditional waiver should apply only to the discharge of disaster-related mass mortality wastes to temporary waste piles until the waste can be properly and permanently disposed at a regulated disposal facility, or discharge and permanent disposal in properly designed emergency landfills.

Proposed Waiver Conditions for Temporary Waste Piles and Emergency Landfills for Mass Mortality Wastes:

WDRs and/or the requirement to file RoWDs for discharges of mass mortality wastes temporary waste piles and emergency landfills should be waived under the following proposed waiver conditions:

1. This conditional waiver does not become active and available until 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, and applies only to disaster-related waste streams from disaster-impacted areas.
2. This conditional 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 regulated by this waiver, or
   c) Six (6) months have elapsed since the Governor issued a declaration of the state of emergency for any portion of the San Diego Region.
3. For all temporary waste piles and emergency landfills used to manage disaster-related mass mortality waste, the following conditions should apply:
   a) Disaster-related mass mortality wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
   b) Disaster-related mass mortality waste management operations must not be performed in a manner that creates, or contributes to a condition of pollution or nuisance.
   c) Disaster-related mass mortality waste management operations must not be performed in a manner that creates, or contributes to conditions; which violate the waste discharge prohibitions promulgated in the Basin Plan.
   d) Disaster-related mass mortality wastes must not be managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit regulated by this waiver.[41]

[41] Pursuant to California Code of Regulations Title 27 section 20200(b)(1)

e) Disaster-related wastes must not be 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 results in the mixture being classified as a restricted waste.[42]
f) Liquid hazardous wastes or "restricted hazardous wastes"[43] cannot be discharged to MSW landfills, temporary waste piles, or emergency landfills.
g) 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.[44]
h) Inert wastes[45] that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).
i) 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) 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); and
    ii) As allowed by valid WDRs issued by the San Diego Water Board for other categories of waste management units or
    iii) Emergency landfills established in accordance with the conditions of this waiver.

4. For the discharge of disaster-related mass mortality wastes for disposal at regulated waste disposal facilities in the San Diego Region, the following conditions should apply:
    a) Solid waste (not otherwise suitable for recycling or reuse) derived from cleanup of 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) Solid 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.

[42] Pursuant to California Code of Regulations Title 27 section 20200(b)(2)
[43] Defined in California Health and Safety Code section 25122.7
[44] Defined in California Code of Regulations Title 27 section 20210
[45] Defined in California Code of Regulations Title 27 section 20230

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) 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 such a large an additional moisture content associated with a mass mortality waste load, the owner/operator responsible for the landfill 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) Owner/operator must limit the thickness of the high-moisture waste stream (*e.g.,* animal carcasses, animal related wastes, *etc.*) to no more than 2 feet.
    iii) Owner/operator must 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.*).
f) Within 60 days after the expiration of this waiver (see above) 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 (Joint Technical Document) 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.

5. For the discharge of disaster-related mass mortality wastes to temporary waste piles located at regulated waste management or disposal facilities in the San Diego Region, the following conditions should apply:
    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 Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related mass mortality wastes. The Notice of Intent must contain the name and contact information of the owner/operator of the regulated waste management or disposal facility property, facility address and contact information, description of temporary waste management unit, 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 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 engineering 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 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.
   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.

c) Owners/operators of regulated waste management or disposal facilities must prevent surface runoff/runon from contacting mass mortality wastes derived from cleanup of disaster-impacted areas in the San Diego Region and must prevent erosion and transport of soils containing disaster-related mass mortality wastes or waste constituents by surface runoff from all temporary waste piles. The facility owner/operator must implement MMs/BMPs to the maximum extent practicable for storm water conveyance and control.

d) All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.

e) 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.

f) Mass mortality wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary waste piles, must be removed from the site.

g) Owners/operators of regulated waste management or disposal facilities must submit Notice of Termination to the San Diego Water Board within 10 working days of completing removal of all disaster-related mass mortality wastes and restoring the site to its original condition. The Notice of Termination must contain the name and contact information of the owner/operator ff the regulated facility property, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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. For the discharge and disposal of disaster-related mass mortality wastes to emergency landfills NOT located at regulated waste management or disposal facilities in the San Diego Region, the following conditions should apply:
   a) Any agency, jurisdiction or person proposing to establish an emergency landfill not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the emergency landfill facility is located, facility address and contact information, description of emergency waste management unit, 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 level of groundwater, and more than 500 feet from any surface water of the state.
      ii) Emergency landfills must be protected from inundation of washout due of floods with a 100-year return period.
      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 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.*) reduce the moisture content 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 good drainage that does not impair the integrity of the emergency landfill.
xii) 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 by erosion by installing and maintaining MMs/BMPs, including:
   i) Installation of runon 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.*), the type(s) of waste buried at the site (*e.g.,* types of carcasses, egg wastes, manure, *etc.*), and d) 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 Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary waste pile facility was located, facility address and contact information, description of waste

that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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 provide Geographical Information System (GIS) data as 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 (*e.g.,* 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.

B.1.9 Discharges of Wastes Related to Fireworks Displays

Fireworks displays are a common feature of many community events and celebrations in the San Diego Region such as at annual Fourth of July celebrations and other special events. Other fireworks displays are more frequent such as at sporting events and amusement parks. Fireworks displays generate and discharge wastes to the environment that have the potential to adversely affect waters of the state.

A fireworks device typically consists of black powder and a combination of chemicals that emit prescribed colors when ignited, encased in a shell constructed from paper and

plastic.[46] Some of the chemicals commonly used in fireworks are potassium chlorate, potassium perchlorate, potassium nitrate, sodium benzoate, sodium oxalate, ammonium perchlorate, strontium nitrate, strontium carbonate, sulfur, charcoal, copper oxide, polyvinyl chloride, iron, titanium, shellac, dextrine, phenolic resin, and aluminum.[47] While actual fireworks device compositions are usually proprietary, typical fireworks devices may contain 38 to 64 percent by weight chlorate and perchlorate compounds.[48] Perchlorate and nitrates are pollutants of concern in drinking water, while nitrates and metals may have biostimulatory and toxicological effects, respectively, in aquatic habitats.

Fireworks displays may include a combination of aerial shells that are launched to altitudes of 200 to 1,000 ft, low-level devices that reach heights up to 200 feet, and ground level set displays of flares, sparklers and strobes.[49] During a fireworks display, fireworks-related wastes are released to the environment in the form of particulates and fine solids suspended in the atmosphere that settle out, unexploded residues, launched but unexploded devices ("duds"), and fireworks casing and shell debris containing chemical residues.[50] The amount of fireworks-related wastes that reach surface waters and ground surfaces and the extent of the area impacted are generally unknown and depend on the form of the waste (e.g., particulate or debris) and are determined for the most part by prevailing wind conditions.[51] The area of deposition of fireworks-related wastes from a display has been estimated to extend from between 300 feet to 0.5 miles from the launch point.[52]

The potential impacts of fireworks displays on surface waters and groundwaters have been investigated through a number of studies:

- Water quality monitoring in Lake Tahoe conducted for the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) after a Fourth of July fireworks display in 2001 detected perchlorate levels that were elevated compared to background levels, and possibly also elevated nitrate levels, after the display. However perchlorate levels were non-detectable 12 hours after the display.[53]
- A study conducted at Disney World in Florida to assess the impacts of over 2,000 fireworks displays over 10 years on a small man-made lake concluded that concentrations of nitrogen and fireworks-related metals increased in the water

[46] Federal Register, Vol. 71, No. 83, May 1, 2006, pages 25544-25558
[47] Ibid
[48] McLain, JH, "Pyrotechinics," Franklin Institute Press, Philadelphia, 1980; and Lancaster, R, "Fireworks Principles and Practice," Chemical Publishing Co., New York, 1972; and manufacturer's information originally cited in Lahontan Regional Water Quality Control Board , "Fact Sheet, Questions and Answers about Water Sampling Conducted at Lake Tahoe on the Fourth of July," June 3, 2002.
[49] Federal Register, Vol. 71, No. 83, May 1, 2006, pages 25544-25558
[50] Ibid
[51] Ibid
[52] Ibid
[53] Lahontan Regional Water Quality Control Board, "Fact Sheet, Questions and Answers about Water Sampling Conducted at Lake Tahoe on the Fourth of July," June 3, 2002.

column and the sediment of the lake, however, the observed levels had not resulted in eutrophication of the lake.[54]

- The Massachusetts Department of Environmental Protection (MADEP) conducted a study in 2004 to investigate the impacts of an annual fireworks display at the University of Massachusetts Dartmouth campus. The MADEP concluded that 10 years of annual fireworks displays have resulted in perchlorate contamination in soil and groundwater within the study area at levels that would potentially pose a drinking water concern.[55]

These studies suggest that annual or infrequent fireworks displays present a low threat to groundwater quality. However, there may be potential water quality impacts that are cumulative for shallow groundwaters used as drinking water sources with recurring fireworks displays. Available information does not indicate that fireworks displays must be prohibited to protect waters of the state. However, fireworks that are discharged directly over and into surface waters would be subject to NPDES regulations, therefore cannot be regulated with a conditional waiver.

Fireworks displays, if improperly conducted, are also potential fire hazards which may also impact waters of the state indirectly if the fireworks display results in a brush fire or structure fire. Potential impacts from fires include the discharge of burned material to surface waters and groundwaters, runoff of fire-fighting water and chemicals, and soil erosion from de-vegetated areas.

Organizers of fireworks displays are required to obtain permits from various public agencies prior to conducting fireworks displays. Organizers are typically required to obtain permits from the appropriate fire departments to address fire hazards. Organizers typically must also obtain a special event permit from municipal governments or a department of municipal government. These municipal special event permits address several issues such as traffic, public safety, noise, and increasingly storm water runoff impacts. For fireworks displays near drinking water reservoirs, municipal departments and special districts that own or operate drinking water reservoirs also usually require their own permit, or provide input to the issuance of municipal special event permits, to address water quality impacts to the reservoirs. Fireworks displays in areas within the jurisdiction of the U.S. Coast Guard must also be covered under a federally-mandated marine event permit. While the primary purpose of a marine event permit is to ensure public safety in navigable waters, the U.S. Coast Guard also considers environmental impacts through the National Environmental Protection Act (NEPA) process required for the issuance of a federal permit.

The permitting process and permits issued by the agencies mentioned previously can provide preliminary information and data to the San Diego Water Board to determine compliance with conditions of a waiver for discharges of fireworks-related wastes.

[54] DeBusk, TA et al, "Environmental Effects of Fireworks on Bodies of Water," 1st International Symposium on Fireworks, Canada, May 13-15, 1992
[55] Massachusetts Department of Environmental Protection, "Evaluation of Perchlorate Contamination at a Fireworks Display, Dartmouth, Massachusetts," August 2005 (Draft Report).

Obtaining the proper permits from appropriate public agencies can be a waiver condition that serves as the method of enrollment for regulation by a conditional waiver.

The conditional waiver should only apply to fireworks displays that have obtained the proper permits from the appropriate public agencies that require permits for fireworks events, and are not discharge directly over and into surface waters.

Proposed Waiver Conditions for Discharges of Wastes Related to Fireworks: Displays

WDRs and/or the requirement to file RoWDs for discharges of waste related to firework displays should be waived with the following proposed waiver conditions:

1. Fireworks can not be discharged directly over and/or into surface waters of the state (including ephemeral streams and vernal pools) for regulation by this waiver.
2. Fireworks displays must be conducted at least 0.5 miles from the nearest surface waters of the state for regulation by this waiver, unless sufficient information is provided to demonstrate that a proposed distance is protective of surface water quality.
3. 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.[56] If the organizer will have more than one fireworks display within a 48-hour period, the organizer must file a Notice of Intent 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 the discharge of pollutants that might affect surface water and groundwater quality. Sufficient information must be submitted before the discharge may begin.
4. All fireworks-related debris must be cleaned up from land surface areas.
5. 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 Health Services' Drinking Water Source Assessment Protection Program.
6. 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 California Department of Health Services' Drinking Water Source Assessment Protection 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.
7. The fireworks display must be permitted by all relevant public agencies that require permits for fireworks displays, including fire departments, municipal governments, law enforcement, water supply agencies, and the U.S. Coast Guard. Copies of any permits must be available on site for inspection.

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

Appendix C

Tentative Resolution No. R9-2007-0104 and Basin Plan Amendment

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TENTATIVE

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

RESOLUTION NO. R9-2007-0104

AMENDMENT TOTHE
WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO BASIN (9) TO INCORPORATE THE REVISED CONDITIONAL WAIVERSOF WASTE DISCHARGE REQUIREMENTS FOR SPECIFIC TYPES OF DISCHARGE WITHIN THE SAN DIEGO REGION

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

1. Section 13260(a)(1) of the Water Code requires that any person (including any city, county, district, or other entity) discharging, or proposing to discharge, wastes within the San Diego Region that could affect the quality of waters of the state, other than into a community sewer system, must file a report of waste discharge (RoWD) with the San Diego Water Board.

2. Section 13050 of the Water Code defines waters of the state as any surface or groundwater, including saline waters, within the boundaries of the state

3. Section 13263(a) of the Water Code requires that the San Diego Water Board prescribe discharge requirements for any existing or proposed waste discharges within its area of jurisdiction, except discharges into a community sewer system, even if no RoWD has been filed.

4. Section 13269 of the Water Code gives the San Diego Water Board the authority to conditionally waive the provisions of sections 13260(a)(1) and/or 13263(a) for a specific discharge or specific type of discharge where such a waiver is consistent with the Basin Plan and in the public interest and the following conditions are met: 1) the waiver is conditional, 2) waiver conditions include performance of individual, group, or watershed-based monitoring, except for discharges that the State Water Resources Control Board (State Water Board) or a Regional Waiver Quality Control Board (Regional Water Board) determines not to pose a significant threat to water quality, 3) compliance with waiver conditions by the discharger, and 4) a public hearing is held.

5. Section 13269 of the Water Code does not give the San Diego Water Board the authority to issue conditional waivers of waste discharge requirements for discharges subject to federal regulation under Chapter 5.5, commencing with section 13370, Division 7 of the Water Code, implementing the federal Clean Water Act and the Federal National Pollutant Discharge Elimination System (NPDES) regulations.

6. A conditional waiver for a specific discharge or specific type of discharge may be terminated at any time by the State Water Board or San Diego Water Board. A conditional waiver is not a method of regulation that is required to be used by the San Diego Water Board. Even if a discharger complies with all the conditions of a conditional waiver, the San Diego Water Board may still choose to regulate any specific discharge with waste discharge requirements instead of a conditional waiver.

7. Nevertheless, there are several types or categories of discharge that the San Diego Water Board would prefer to regulate with conditional waivers. Conditional waivers allow the San Diego Water Board to regulate discharges with fewer resource requirements, which allows the San Diego Water Board to focus on discharges that have a higher potential threat to water quality in the Region. Dischargers also benefit from fewer resource requirements when regulated by a conditional waiver. Therefore, regulating discharges with conditional waivers, whenever possible, is in the best interest of the San Diego Water Board, the dischargers, and the public

8. The 26 existing conditional waivers renewed by Resolution No. R9-2002-186 became effective January 1, 2003 and will expire December 31, 2007, unless renewed again.

9. When the existing 26 waivers were originally adopted in either 1983, 1993, and/or 1995, the San Diego Water Board acted as lead agency for the projects under the California Environmental Quality Act (CEQA) [Public Resources Code section 21000 et seq.] and adopted Negative Declarations concurrently with the resolutions adopting those conditional waivers. Because the proposed conditions in this Basin Plan amendment for the 26 existing waivers do not differ significantly from the current waiver conditions, the CEQA does not require additional environmental analysis of these waivers in order to renew them with this Resolution.

10. The San Diego Water Board, in compliance with Water Code section 13269, reviewed the waiver conditions for the specific types of discharge eligible for regulation by the existing conditional waivers and determined that the waiver conditions should be revised to improve the protection of water quality in the San Diego Region. The existing conditional waivers and proposed revisions to the waiver conditions are reviewed and discussed is Appendix A of the Technical Report entitled *Basin Plan Amendment to Renew and Issue Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region*.

11. The San Diego Water Board also reviewed other specific types of discharge in the San Diego Region that could be regulated with conditional waivers. Nine (9) additional specific types of discharge were identified that could be regulated by conditional waivers, which include the following:

    a) "Low threat" discharges to land.
    b) Discharges from on-site graywater systems.
    c) Discharges from grazing lands.
    d) Fire suppression and fuels management activities.

e) Discharge/reuse of soils characterized as inert from known contaminated sites.
f) Concrete grinding residues.
g) Temporary waste piles and surface impoundments for disaster-related wastes.
h) Temporary waste piles and emergency landfills for mass mortality wastes.
i) Discharges of wastes related to fireworks displays.

These types of discharge and proposed waiver conditions are reviewed and discussed in Appendix B of the Technical Report entitled *Basin Plan Amendment to Renew and Issue Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region*.

12. In order to simplify the use of the conditional waivers and waiver conditions, the types of discharge with similar discharge properties, locations, and/or waiver conditions were grouped according to discharge classifications, as shown in Table D-1 in Attachment A. General waiver conditions were developed for all specific types of discharge within a discharge classification. Specific waiver conditions were developed for specific types of discharge within a discharge classification, as applicable.

13. The conditional waivers in the Basin Plan should be amended and issued in accordance with the revisions proposed in section 7 of the Technical Report in order to allow the San Diego Water Board to continue regulating certain specific types of discharge with conditional waivers, and require dischargers to comply with waiver conditions that will improve the protection of water quality in the San Diego Region.

14. Because the conditional waivers are part of the Basin Plan, renewing and issuing the conditional waivers with the proposed revisions require a Basin Plan amendment.

15. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the California Regional Water Quality Control Boards' basin planning process as a "certified regulatory program" that adequately satisfies the CEQA (Public Resources Code, section 21000 et seq.) requirements for preparing environmental documents [California Code of Regulations Title 14 15251(g) and Title 23 section 3782]. As such, the documents supporting the San Diego Water Board's proposed basin planning action contain the required environmental documentation, including an environmental checklist, under the CEQA and serve as "substitute documents" [California Code of Regulations Title 23 section3777]. The substitute documents for this project include the environmental checklist, the detailed Technical Report, the Resolution and Basin Plan amendment, and responses to comments submitted during the public participation phase in the development of this resolution.

16. Because the San Diego Water Board already approved and adopted Negative Declarations for the specific types of discharge adopted by Resolution No. R9-2002-0186, the scope of the environmental analysis required to satisfy CEQA for this Basin Plan amendment was limited to the 9 specific types of discharge added to the revised conditional waivers.

17. The San Diego Water Board circulated a draft Technical Report and environmental checklist and analysis describing the proposed activity to interested individuals and public agencies for review and comment.

18. The accompanying CEQA substitute documents satisfy the requirements of substitute documents for a Tier 1 environmental review under CEQA, pursuant to Public Resources Code section 21159 and California Code of Regulations Title 14 section 15187. Project level impacts will need to be considered in any subsequent environmental analysis performed by other entities implementing projects to comply with waiver conditions pursuant to Public Resources Code section 21159.2.

19. The Basin Plan amendment and conditional waivers are consistent with State Water Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality Waters in California*), the State's "Antidegradation Policy," Likewise, the Basin Plan amendment and conditional waivers are consistent with the federal Antidegradation Policy [Code of Federal Regulations Title 40 section 131.12]. The San Diego Water Board must maintain high quality waters of the state unless it is demonstrated that any degradation will be consistent with the maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality worse that that described in the San Diego Water Board's policies. The conditional waivers in the Basin Plan amendment include conditions that require dischargers to minimize or eliminate discharges of pollutants that can have adverse impacts on the water quality that supports beneficial uses of waters of the state. Conditional waivers for discharges can be terminated if waiver conditions are not met.

20. The San Diego Water Board has notified all known interested persons and the public of its intent to consider adoption of the proposed Basin Plan amendment in accordance with Water Code section 13244. Interested persons and the public have had reasonable opportunity to participate in review of the proposed Basin Plan amendment. Efforts to solicit public review and comment have included a public workshop and CEQA scoping meeting held on April 5, 12007; a public review and comment period of 30-days preceding the public hearing; and a public hearing held on August 8, 2007.

21. The San Diego Water Board has considered all comments pertaining to this Basin Plan amendment submitted to the San Diego Water Board in writing, or by oral presentations at the public hearing held on August 8 2007. Detailed responses to relevant comments have been incorporated into a Response to Comments document (Appendix ___ to the Technical Report).

22. The San Diego Water Board has considered the costs of implementing the proposed Basin Plan amendment and finds the proposed amendment will not result in any additional economic burden for dischargers.

23. Considering the record as a whole, the proposed Basin Plan amendment will involve no potential for adverse effect, either individually or cumulatively, on wildlife.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The San Diego Water Board hereby adopts the 'Amendment to the *Water Quality Control Plan for the San Diego Basin (9)* to Incorporate the Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region' as set forth in Attachment A to this Resolution.

2. The San Diego Water Board hereby approves the Technical Report entitled *Basin Plan Amendment to Renew and Issue Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region*, dated [Insert date].

3. The substitute environmental documents prepared pursuant to Public Resources Code section 21080.5 are hereby certified, and the Executive Officer is directed to file a Notice of Decision with the Resources Agency after State Water Resources Control Board (State Water Board) and Office of Administrative Law approval of the Basin Plan amendment, in accordance with Public Resources Code section 21080.5(d)(2)(E) and California Code of Regulations Title 23 section 3781.

4. The Executive Officer is authorized to sign a Certificate of Fee Exemption for a no adverse impact finding and shall submit this Certificate in *lieu* of payment of the California Department of Fish and Game (DFG) filing fee.

5. The Executive Officer is directed to submit copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of the Water Code section 13245.

6. If, during its approval process for this amendment, the San Diego Water Board, State Water Board, or Office of Administrative Law determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the San Diego Water Board of any such changes.

I, John H. Robertus, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the California Regional Water Quality Control Board, San Diego Region, on [Insert date].

_____

JOHN H. ROBERTUS
Executive Officer

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Attachment A to Resolution No. R9-2007-0104

Amendments to
Chapter 4 and Appendix D of the Basin Plan

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ATTACHMENT A
TO RESOLUTION NO. R9-2007-0104

AMENDMENT TO THE *WATER QUALITY CONTROLPLAN FOR THE SAN DIEGO BASIN (9)* TO INCORPORATE THE REVISED CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR SPECIFIC TYPES OF DISCHARGE WITHIN THE SAN DIEGO REGION

This Basin Plan amendment incorporates and authorizes the revised conditional waivers of waste discharge requirements for specific types of discharge within the San Diego Region. Chapter 4, Table 4-4, the Table of Contents for the Appendices, and Appendix D of the Basin Plan are amended as follows with revisions shown in ~~red strikeout~~ text for deletions, and blue underlined text for additions:

CHAPTER 4 – IMPLEMENTATION

CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS ~~*WAIVER POLICY*~~

The Regional Board may waive issuance of waste discharge requirements and/or the requirement to file reports of waste discharge for a specific discharge or specific types of discharge pursuant to ~~California~~ Water Code Section 13269 if such waiver is determined ~~not~~ to be ~~against~~ consistent with the Basin Plan and in the public interest.

The waiver of adoption of waste discharge requirements is not applicable to discharges subject to federal NPDES ~~permit~~ regulations. The federal Clean Water Act does not provide for a waiver of the need to obtain an NPDES permit for point source discharges of pollutants to surface waters.

Amendments to ~~California~~ Water Code Section 13269, effective January 1, 2003 provided that waivers may not exceed five years duration and must be conditional. Under these amendments the regional boards were required to:

- Renew waivers every five years;
- Review the terms, conditions and effectiveness of each ~~type of~~ waiver ~~included in their waiver policies~~ at a public hearing;
- Determine if general or individual waste discharge requirements should be issued for ongoing discharges where waivers have been terminated; and,
- Require compliance with waiver conditions.

~~The~~A waiver of waste discharge requirements is conditional and may be terminated at any time by the Regional Board for any specific discharge or any specific type of discharge. A conditional waiver is not a method of regulation that is required to be used by the Regional Board. Even if a discharger complies with all the conditions of a conditional waiver, the Regional Board may still choose to regulate any specific discharge with waste discharge requirements instead of a conditional waiver.

The Regional Board has determined that a waiver of adoption of waste discharge requirements for a specific type of discharge would not be against the public interest under one or more of the following circumstances:

- The type of discharge is effectively regulated by other public agencies; or
- The type of discharge does not adversely affect the quality of the

beneficial uses of the waters of the state; or

- The type of discharge is not readily amenable to regulation through adoption of waste discharge requirements but warrants Regional Board oversight to insure compliance with mandated conditions.

On ~~September 11, 2002~~Month Day, 2007, the Regional Board conditionally waived adoption of waste discharge requirements for certain specific types of discharges described in Table 4-4. ~~This~~These conditional waivers took effect on January 1, ~~2003~~2008 and expire~~s~~ on January 1, ~~2008~~20122013~~, except for discharges for which Table 4-4 specifies an earlier expiration date~~.

The following general conditions apply to all discharge~~s~~ types described in Table 4-4:

- The discharge shall not create a nuisance or pollution as defined in the ~~California~~ Water Code; and
- The discharge shall not cause a violation of any appliciable water quality standard for the receiving waters adopted by the Regional Board, or the State Water Resources Control Board, as required by the Clean Water Act; and
- The discharge of any substance in concentrations toxic to animal or plant life is prohibited.

In addition, the discharges must satisfy the specific conditions described in Table 4-4 and Appendix D.

~~The discharges in Table 4-4 have been assigned to either Category 1 or Category 2, for purpose of Regional Board oversight for determination of compliance with waiver conditions. Discharges covered by Category 1 waivers pose a greater potential threat to water quality than those in Category 2.~~

~~For Category 1 waivers, waste discharge requirements for a specific discharge shall be considered waived only after enrollment in accord with procedures established by the Regional Board. For most of the discharges in Category 1, programs administered by the Regional Board or other public agencies will provide the information necessary to satisfy the enrollment requirements. No additional enrollment procedures will be necessary for these discharges.~~

~~An enrollment process has been established for the remaining discharges. Dischargers may contact the Regional Board office to determine if enrollment is necessary for a specific discharge. The Regional Board will determine compliance with Category 1 waiver conditions using a program that includes on-site inspections and/or review of the records of other public agencies that regulate these discharges.~~

~~For Category 2 waivers, enrollment is not necessary. The Regional Board will assess compliance with Category 2 waiver conditions by means of surveys or other indirect methods.~~

Table 4-4 Types of Discharge Eligible for Regulation by Conditional Waivers of Waste Discharge Requirements

Conditional Waiver No.	Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification	Conditions
1	Discharges from on-site disposal systems	a) Conventional septic tank/subsurface disposal systems for residential units b) Conventional septic tank/subsurface disposal systems for commercial/industrial establishments c) Alternative individual sewerage systems d) Conventional septic tank/subsurface disposal systems for campgrounds e) On-site graywater disposal systems	See Appendix D
2	"Low threat" discharges to land	a) Construction and test pumping of water wells b) Air conditioner condensate c) Swimming pool discharges d) Short-term construction dewatering operations e) "Low Threat" discharges to land and/or groundwater including the following: -Groundwater pumped from drinking water wells -Groundwater from foundation drains, crawl space pumps, and footing drains -Discharges from flushing water lines -Discharges from washing vehicles, pavement, buildings, etc. -Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water -Infiltration from structural infiltration-based BMPs -Other waste discharges to land, determined to be "low threat" by the San Diego Water Board	See Appendix D
3	Discharges from animal operations	a) Medium (300-999 animal units) animal feeding operations b) Small (less than 300 animal units) animal feeding operations c) Storm water runoff d) Manure composting/soil amendment operations e) Discharges from grazing lands	See Appendix D

Table 4-4 Types of Discharge Eligible for Regulation by Conditional Waivers of Waste Discharge Requirements

Conditional Waiver No.	Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification	Conditions
4	Discharges from agricultural and nursery operations	a) Plant crop residues b) Storm water runoff c) Soil amendment operations d) Agricultural irrigation return water e) Nursery irrigation return water f) Green waste composting facilities	See Appendix D
5	Discharges from silvicultural operations	a) Storm water runoff b) Timber harvesting c) Green waste composting facilities d) Fire suppression and fuels management	See Appendix D
6	Discharges of dredged or fill materials nearby or within surface waters	a) Sand and gravel mining operations b) Dredging project wastes c) Stream channel alternations	See Appendix D
7	Discharges of recycled water to land	a) Short-term use of reclaimed (recycled) wastewater b) Permanent reclaimed (recycled) water projects	See Appendix D
8	Discharges/disposal of solid wastes to land	a) Plant crop residues b) Manure composting and soil amendment operations c) Solid waste disposal facilities accepting only inert wastes d) Temporary discharge of specified contaminated soils e) Green waste composting facilities f) Discharge/reuse of soils characterized as inert from contaminated sites	See Appendix D
9	Discharges/disposal of slurries to land	a) On-site drilling mud discharge b) Concrete grinding residues	See Appendix D

Table 4-4 Types of Discharge Eligible for Regulation by Conditional Waivers of Waste Discharge Requirements

Conditional Waiver No.	Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification	Conditions
10	Discharges of emergency/ disaster-related wastes	a) Incidental discharges within a response area during a spill response b) Temporary waste piles and surface impoundments for disaster-related wastes c) Temporary waste piles and emergency landfills for mass mortality wastes	See Appendix D
11	Aerially discharged wastes	a) Discharges of wastes related to fireworks displays b) Other wastes discharged aerially that may adversely affect the quality of the groundwaters of the state, but determined to be "low threat" by the San Diego Water Board	See Appendix D

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ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

TYPE OF WASTE DISCHARGE	SPECIFIC CONDITION(S)	WAIVER CATEGORY	REFERENCES, REMARKS, ETC.
1. Conventional septic tank/subsurface disposal systems for residential units.	Subject to the conditions set forth in the *Basin Plan, Chapter 4, (Implementation)* section entitled *Guidelines for New Community and Individual Sewerage Facilities*, and where systems are not constructed within areas designated as Zone A as defined by the California Department of Health Services' *Drinking Water Source Assessment and Protection Program.* This waiver applies until six months after the State Water Resources Control Board adopts statewide criteria for on-site disposal systems pursuant to AB 885.	1	*Basin Plan, Chapter 4 (Implementation)* section entitled *Guidelines for New Community and Individual Sewerage Facilities, Drinking Water Source Assessment and Protection Program,* California Department of Health Services (DHS). AB 885 requires that the State Water Resources Control Board develop statewide criteria for on-site disposal systems by January 1, 2004.
2. Conventional septic tank/subsurface disposal systems for commercial/industrial establishments.	Subject to the conditions set forth in the *Basin Plan, Chapter 4, (Implementation)* section entitled *Guidelines for New Community and Individual Sewerage Facilities*, and where systems are not constructed within areas designated as Zone A as defined by the California Department of Health Services' *Drinking Water Source Assessment and Protection Program.* This waiver applies until six months after the State Water Resources Control Board adopts statewide criteria for on-site disposal systems pursuant to AB 885.	1	*Basin Plan, Chapter 4 (Implementation)* section entitled *Guidelines for New Community and Individual Sewerage Facilities, Drinking Water Source Assessment and Protection Program,* California Department of Health Services (DHS). AB 885 requires that the State Water Resources Control Board develop statewide criteria for on-site disposal systems by January 1, 2004.

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

TYPE OF WASTE DISCHARGE	SPECIFIC CONDITION(S)	WAIVER CATEGORY	REFERENCES, REMARKS, ETC.
3. Alternative individual sewerage systems.	Subject to the conditions set forth in the *Basin Plan, Chapter 4, (Implementation)* section entitled *Guidelines for New Community and Individual Sewerage Facilities*, and where systems are not constructed within areas designated as Zone A as defined by the California Department of Health Services' *Drinking Water Source Assessment and Protection Program.* This waiver applies until six months after the State Water Resources Control Board adopts statewide criteria for on-site disposal systems pursuant to AB 885.	1	*Basin Plan, Chapter 4 (Implementation)* section entitled *Guidelines for New Community and Individual Sewerage Facilities, Drinking Water Source Assessment and Protection Program,* California Department of Health Services (DHS). AB 885 requires that the State Water Resources Control Board develop statewide criteria for on-site disposal systems by January 1, 2004.
4. Conventional septic tank/subsurface disposal systems for campgrounds.	Where no facilities are provided which would enable recreational vehicles to connect with the campground sewerage system, and where systems are not constructed within areas designated as Zone A as defined by the California Department of Health Services' Drinking Water Source Assessment and Protection Program.	1	*Basin Plan, Chapter 4 (Implementation) section entitled Guidelines for New Community and Individual Sewerage Facilities, Drinking Water Source Assessment and Protection Program, California Department of Health Services (DHS).*
5. Construction and test pumping of water wells.	Where the well water pumped is uncontaminated; and where the well was not constructed for and is not to be used in ground water cleanup operations.	2	
6. Air conditioner condensate.		2	

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

TYPE OF WASTE DISCHARGE	SPECIFIC CONDITION(S)	WAIVER CATEGORY	REFERENCES, REMARKS, ETC.
7. Animal feeding operations for the following species in the numbers indicated: goats, swine, sheep, horses, buffalo and poultry. Slaughter and feeder cattle (300 to 1000 animals) Swine (750 to 2500 animals) Horses (150 to 500 animals) Sheep or lambs (3000 to 10,000 animals) Turkeys (16,500 to 55,000 animals) Laying hens or broilers (9000 to 30,000 animals) Ducks (1500 to 5000 animals) Mixed species (cumulative total of 300 to 1000 animal units, as defined in 40 CFR 122, Appendix B)	Where the animal feeding operation is not a "concentrated animal feeding operation" under U.S. EPA regulations pertaining to the National Pollutant Discharge Elimination System. the facility is operated and maintained in conformance with the regulations cited in Sections 22562 through 22565, Division 2, Title 27 of the California Code of Regulations, and where wastes are not discharged to water courses, except where rainfall exceeds the capacity of a facility that is in conformance with these regulations.	1	*United States Environmental Protection Agency Consolidated Permit Regulations, 40 CFR 122.54 and United States Environmental Protection Agency Guide Manual on NPDES Regulations for Concentrated Animal Feeding Operations.*

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

~~TYPE OF WASTE DISCHARGE~~	~~SPECIFIC CONDITION(S)~~	~~WAIVER CATEGORY~~	~~REFERENCES, REMARKS, ETC.~~
~~8. Animal feeding operations for the following species in the numbers indicated:~~ ~~Slaughter and feeder cattle (less than 300)~~ ~~Swine (less than 750 animals)~~ ~~Horses (less than 150 animals)~~ ~~Sheep or lambs (less than 3000 animals)~~ ~~Turkeys (less than 16,500 animals)~~ ~~Laying hens or broilers (less than 9000 animals)~~ ~~Ducks (less than 1500 animals)~~ ~~Goats (any number)~~ ~~Buffalo (any number)~~ ~~Mixed species (cumulative total of less than 300 animal units, as defined in 40 CFR 122, Appendix B)~~	~~Where the facility is operated and maintained in conformance with the regulations cited in Sections 22562 through 22565, Division 2, Title 27 of the California Code of Regulations, and where wastes are not discharged to water courses, except where rainfall exceeds the capacity of a facility that is in conformance with these regulations.~~	~~2~~	~~United States Environmental Protection Agency Consolidated Permit Regulations, 40 CFR 122.54 and United States Environmental Protection Agency *Guide Manual on NPDES Regulations for Concentrated Animal Feeding Operations*.~~

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TYPE OF WASTE DISCHARGE	SPECIFIC CONDITION(S)	WAIVER CATEGORY	REFERENCES, REMARKS, ETC.
9. Plant crop residues.	Where such residues are plowed into fields (as opposed to being disposed of en masse, e.g. in a pit).	2	For the purposes of this document, "plant crop residues" shall be defined as waste plant crops and nonmarketable portions of plants.
10. Storm water runoff.	Where no NPDES permit is required, and where appropriate best management practices, such as those recommended by US EPA's Risk Reduction Engineering Laboratory, are implemented to minimize the discharge of contaminants in runoff infiltrating to ground water aquifers.	2	United States Environmental Protection Agency *Project Summary, Potential Groundwater Contamination from Intentional and Nonintentional Stormwater Infiltration*
11. Sand and gravel mining operations.	Where operations are not conducted in flowing streams; and where water quality certification pursuant to Federal Clean Water Act Section 401 has been issued.	1	This waiver does not apply to wash water or other discharges from sand and gravel processing operations.
12. Intermittent swimming pool discharges.	Where pool filter backwash is not discharged.	2	
13. Dredging project wastes.	Where the dredging project does not involve more than 5000 yd^3 of material and where water quality certification pursuant to Federal Clean Water Act Section 401 has been issued.	1	
14. Short-term construction dewatering operations.	Where there is no discharge to surface waters.	2	
15. Manure composting and soil amendment operations.	Where State Water Resources Control Board *Minimal Guidelines for Protection of Water Quality from Animal Wastes* are followed.	1	Adopted by the State Water Resources Control Board on March 1, 1973.

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TYPE OF WASTE DISCHARGE	SPECIFIC CONDITION(S)	WAIVER CATEGORY	REFERENCES, REMARKS, ETC.
16. Solid waste disposal facilities accepting only inert wastes.	Where State Water Resources Control Board regulations, requirements and guidelines for disposal of such wastes are satisfied; and where Fish and Game Code Section 5650 is not violated.	1	The applicable document as of the date of adoption of the Resolution is *Discharges of Waste to Land* (CCR Title 23, Division 3, Chapter 15).
17. Stream channel alterations.	Where water quality certification pursuant to Federal Clean Water Act Section 401 has been issued.	1	
18. Agricultural irrigation return water.	Where management measures and best management practices have been implemented as described in the Plan for California's Nonpoint Source Pollution Control Program	2	For the purposes of this document, "agriculture" shall be defined as the production of fiber and/or food (including food for animal consumption, e.g., alfalfa).
19. Nursery irrigation return water.	Where there is no discharge to waters of the U.S., and where best management practices have been implemented as described in the Plan for California's Nonpoint Source Pollution Control Program	1	For the purposes of this document, a "nursery" shall be defined as a facility engaged in growing plants (shrubs, trees, vines, etc.) for sale.
20. Short-term use of reclaimed wastewater.	See Appendix D.	1	

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~~TYPE OF WASTE DISCHARGE~~	~~SPECIFIC CONDITION(S)~~	~~WAIVER CATEGORY~~	~~REFERENCES, REMARKS, ETC.~~
~~21. On-site drilling mud discharge.~~	~~Where discharge is to a sump with a minimum freeboard of two feet; and~~ ~~Where sump is not to be used for ultimate disposal of drilling mud (unless discharger demonstrates that material is nontoxic and does not contain dissolved or soluble salts in quantities which could adversely affect basin groundwater quality); and~~ ~~Where sump site is restored to predrilling state within 60 days of completion or abandonment of well.~~	~~2~~	
~~22. Timber harvesting.~~	~~Where harvesting occurs on National Forest System lands managed by the United States Forest Service in accordance with the practices and procedures set forth in the document entitled *Water Quality Management for National Forest System Lands in California.*~~	~~2~~	~~Management Agency Agreement between State Water Resources Control Board and the United States Forest Service (United States Department of Agriculture).~~
~~23. Temporary discharge of specified contaminated soils.~~	~~See Appendix D.~~	~~1~~	

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~~TYPE OF WASTE DISCHARGE~~	~~SPECIFIC CONDITION(S)~~	~~WAIVER CATEGORY~~	~~REFERENCES, REMARKS, ETC.~~
~~24. Green waste composting facilities.~~	~~See Appendix D.~~	~~2~~	
~~25. Incidental discharges within a response area during a spill response.~~	~~The discharge must meet the definition of "*incidental discharge*" as this, and related terms are defined in the *Memorandum of Understanding Between the Department of Fish and Game's Office of Oil Spill Prevention and Response and the State Water Resources Control Board Relating to Discharges Associated with Response Activities Conducted Pursuant to Ch. 7.4, Division 1 of the Government Code.*~~	~~2~~	
~~26. Permanent reclaimed water projects.~~	~~See Appendix D.~~	~~1~~	

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APPENDICES

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APPENDIX D
WAIVER CONDITIONS FOR
CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS
OF ITEMS IN TABLE 4-4

There are 35 specific types of discharge that are eligible for regulation by a conditional waiver of waste discharge requirements. If there are 35 conditional waivers developed, a discharger may be required to identify several conditional waivers that may be applicable to their operation. However, in examining the specific types of discharge that are eligible for regulation by conditional waivers, several of the discharge types are similar and/or related in terms of discharge setting, discharge source, and/or waiver conditions.

Instead of developing conditional waivers for each specific type of discharge, an integrated approach has been employed to simplify the conditional waivers. Types of discharge that are similar in nature or originate from a common setting or operation were grouped together into a "discharge classification."

For example, discharge types that could be classified as similar are discharges that typically require a 401 Certification. A type of discharge that typically requires a 401 Certification is one where dredged and/or fill material may be discharged to land and/or surface waters. These types of discharge include sand and gravel mining operations, dredging project wastes, and stream channel alterations. All of these types of discharge have similar waiver conditions.

Another example is that there are several types of discharge that could be classified as discharges from agricultural and/or nursery operations. Discharges of plant crop residues, storm water runoff from agricultural lands, manure compost applied to soil as mulch and/or soil amendment, agricultural return water or nursery irrigation return water, and green waste for composting can all occur on the same site. Many of the proposed waiver conditions are similar, and many, if not all, of these types of discharge are found on nursery or agricultural operations.

Therefore, according to the examples above, many of types of discharge proposed for regulation by conditional waivers can be grouped into discharge classifications. General Waiver Conditions were developed that would be applicable to all discharge types within a discharge classification, and Specific Waiver Conditions were developed for individual types of discharge if additional or discharge-specific conditions are necessary.

The following table lists the discharge classifications and associated conditional waiver identification number, and groups the specific types of discharge according to those discharge classifications.

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Table D-1 Conditional Waivers and Discharge Classifications

Conditional Waiver No.	Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification
1	Discharges from on-site disposal systems	a) Conventional septic tank/subsurface disposal systems for residential units b) Conventional septic tank/subsurface disposal systems for commercial/industrial establishments c) Alternative individual sewerage systems d) Conventional septic tank/subsurface disposal systems for campgrounds e) On-site graywater disposal systems
2	"Low threat" discharges to land	a) Construction and test pumping of water wells b) Air conditioner condensate c) Swimming pool discharges d) Short-term construction dewatering operations e) "Low Threat" discharges to land and/or groundwater including the following: -Groundwater pumped from drinking water wells -Groundwater from foundation drains, crawl space pumps, and footing drains -Discharges from flushing water lines -Discharges from washing vehicles, pavement, buildings, etc. -Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water -Infiltration from structural infiltration-based BMPs -Other waste discharges to land, determined to be "low threat" by the San Diego Water Board
3	Discharges from animal operations	a) Medium (300-999 animal units) animal feeding operations **b)** Small (less than 300 animal units) animal feeding operations **c)** Storm water runoff d) Manure composting/soil amendment operations e) Discharges from grazing lands
4	Discharges from agricultural and nursery operations	a) Plant crop residues b) Storm water runoff c) Soil amendment operations d) Agricultural irrigation return water e) Nursery irrigation return water f) Green waste composting facilities
5	Discharges from silvicultural operations	a) Storm water runoff b) Timber harvesting c) Green waste composting facilities d) Fire suppression and fuels management
6	Discharges of dredged or fill materials nearby or within surface waters	a) Sand and gravel mining operations b) Dredging project wastes c) Stream channel alternations
7	Discharges of recycled water to land	a) Short-term use of reclaimed (recycled) wastewater b) Permanent reclaimed (recycled) water projects
8	Discharges/disposal of solid wastes to land	a) Plant crop residues b) Manure composting and soil amendment operations c) Solid waste disposal facilities accepting only inert wastes d) Temporary discharge of specified contaminated soils e) Green waste composting facilities f) Discharge/reuse of soils characterized as inert from contaminated sites
9	Discharges/disposal of slurries to land	a) On-site drilling mud discharge b) Concrete grinding residues

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Table D-1 Conditional Waivers and Discharge Classifications (Cont'd)

Conditional Waiver No.	Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification
10	Discharges of emergency/ disaster-related wastes	a) Incidental discharges within a response area during a spill response b) Temporary waste piles and surface impoundments for disaster-related wastes c) Temporary waste piles and emergency landfills for mass mortality wastes
11	Aerially discharged wastes	a) Discharges of wastes related to fireworks displays **b)** Other wastes discharged aerially that may adversely affect the quality of the groundwaters of the state, but determined to be "low threat" by the San Diego Water Board

In order for the conditional waivers to be consistent with the Basin Plan, all the specific types of discharge that are waived of waste discharge requirements and/or the requirement to file reports of waste discharge must comply with the following conditions:

- The discharge shall not create a nuisance[1] or pollution[2] as defined in the Water Code;
- The discharge shall not cause a violation of any applicable water quality standard for receiving waters adopted by the San Diego Regional Water Quality Control Board, or the State Water Resources Control Board, as required by the Clean Water Act; and
- The discharge of any substance in concentrations toxic to animal or plant life is prohibited.

In addition to the conditions above, General Waiver Conditions were developed that are applicable to all specific types of discharge within a discharge classification. Specific Waiver Conditions were developed that are applicable to specific types of discharge within a discharge classification, when specific conditions were determined to be necessary. The General and Specific Waiver Conditions for Conditional Waiver Nos. 1 through 11 are given in the following pages.

[1] "Nuisance" is defined by Water Code section 13050(m) as anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and (3) Occurs during, or as a result of, the treatment or disposal of wastes.

[2] "Pollution" is defined by Water Code section 13050(l)(1) as an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects waters for beneficial uses or facilities which serve these beneficial uses. Pollution may include contamination.

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CONDITIONAL WAIVER NO. 1 – DISCHARGES FROM ON-SITE DISPOSAL SYSTEMS

Conditional Waiver No. 1 regulates the discharges of effluent from on-site disposal systems. Discharges of effluent from on-site disposal systems that can be regulated by Conditional Waiver No. 1 includes domestic wastewater (sewage) and graywater, but not industrial wastewater, which is discharged to the subsurface located within the property that generated the waste stream.

Conditional Waiver No. 1 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Conventional septic tank/subsurface disposal systems for residential units
- Conventional septic tank/subsurface disposal systems for commercial/industrial establishments
- Alternative individual sewerage systems
- Conventional septic tank/subsurface disposal systems for campgrounds
- On-site graywater disposal systems

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 1 include the following:

1.I.A. General Waiver Conditions for On-site Wastewater Systems

1.II.A. Specific Waiver Conditions for On-site Septic and Sewerage Systems
1.II.B. Specific Waiver Conditions for On-site Graywater Systems

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 1 are as follows:

1.I.A. General Waiver Conditions for On-site Wastewater Systems

1. Effluent from on-site disposal systems cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Effluent from on-site disposal systems must be discharged to the subsurface and cannot surface or pond.
3. Effluent from on-site disposal systems must not degrade the quality underlying groundwater.
4. Effluent from on-site disposal systems must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
5. Effluent from on-site disposal systems must be discharged at least 5 feet above highest known historical groundwater level.
6. Effluent from on-site disposal systems must by discharged at least 100 feet away from any surface water body.
7. Effluent from on-site disposal systems must not impact the quality of groundwater in any water wells.
8. On-site disposal systems must be designed and operated in accordance with applicable regulatory requirements and/or standards as provided in the Specific Conditions.

9. The owner/operator of an on-site disposal system must comply with local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies. Copies of any approvals, permits, certifications, and/or licenses must be available on site for inspection.
10. The owner/operator of an on-site disposal system must maintain and operate the system in accordance with the design approved by the authorized local agencies.
11. 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.

1.II.A. Specific Waiver Conditions for On-site Septic and Sewerage Systems

1. For existing on-site septic or sewerage systems, the following conditions apply:
   a) Existing on-site septic or sewerage systems serving campgrounds must not allow connections from recreational vehicles.
   b) Owners/operators of existing on-site septic or sewerage systems that cause a condition of contamination, pollution, or nuisance must cease the use of the system and repair or replace it with a compliant system, or permanently remove the system from operation.
   c) After adoption of State Water Board OWTS regulations, any existing on-site septic or sewerage systems that is replaced, requires major repair, pools or discharges to the surface of the ground, or has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of waters of the state must be brought into compliance with new OWTS regulations. Owners/operators of on-site septic or sewerage systems that cannot bring their system into compliance must cease the use of the system and replace it with a complaint system, or permanently remove the system from operation.
2. For new on-site septic or sewerage systems, the following conditions apply:
   a) New on-site septic or sewerage systems installed at campgrounds must not allow connections from recreational vehicles.
   b) New on-site septic or sewerage systems must comply with the conditions set forth in section entitled Guidelines for New Community and Individual Sewerage Facilities in Chapter 4 (Implementation) of the Basin Plan.
   c) New on-site septic or sewerage systems cannot be constructed and effluent from new on-site septic or sewerage systems cannot be discharged in areas where groundwater water quality objectives have been exceeded.
   d) New on-site septic or sewerage systems must not be constructed within areas designated as Zone A, as defined by the California Department of Health Service's Drinking Water Source Assessment and Protection Program.
   e) Six (6) months after adoption of State Water Board OWTS regulations, applications received by the authorized local authority for the construction of new on-site septic or sewerage systems must be in compliance with new OWTS regulations for design and installation.

1.II.B. Specific Waiver Conditions for On-site Graywater Systems

1. The on-site graywater system must be designed and installed, at a minimum, according to the CPC Graywater Standards. If the city, county, and/or other

authorized local authorities have additional requirements, the graywater system must be designed and installed to comply with those requirements.

2. On-site graywater systems cannot be constructed and effluent from on-site graywater systems cannot be discharged in areas where groundwater water quality objectives have been exceeded.

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CONDITIONAL WAIVER NO. 2 – "LOW THREAT" DISCHARGES TO LAND

Conditional Waiver No. 2 regulates the "low threat" discharges to land, which can percolate to groundwater. "Low threat" discharges that can be regulated by Conditional Waiver No. 2 includes liquid wastes containing pollutant concentrations that will not impact the quality of waters of the state under ambient conditions.

Conditional Waiver No. 2 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Construction and test pumping of water wells
- Air conditioner condensate
- Swimming pool discharges
- Short-term construction dewatering operations
- "Low Threat" discharges to land and/or groundwater, which may including the following:
  - -Groundwater pumped from drinking water wells
  - -Groundwater from foundation drains, crawl space pumps, and footing drains
  - -Discharges from flushing water lines
  - -Discharges from washing vehicles, pavement, buildings, etc.
  - -Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water
  - -Infiltration from structural infiltration-based BMPs
  - -Other discharges of water to land, determined to be "low threat" by the San Diego Water Board

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 2 include the following:

2.I.A. General Waiver Conditions for "Low Threat" Discharges of Water to Land

2.II.A. Specific Waiver Conditions for Cooling Water Discharges
2.II.B. Specific Waiver Conditions for Swimming Pool Discharges
2.II.C. Specific Waiver Conditions for Pumping of Groundwater from Wells
2.II.D. Specific Waiver Conditions for Dewatering Operations
2.II.E. Specific Waiver Conditions for Discharges from Washing Vehicles, Pavement, Buildings, etc.
2.II.F. Specific Waiver Conditions for Discharges from Irrigated Lawns and Landscaping Using Groundwater or Municipal Supply Water
2.II.G. Specific Waiver Conditions for Discharges from Structural BMPs that Require Infiltration

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 2 are as follows:

2.I.A. General Waiver Conditions for "Low Threat" Discharges of Water to Land

1. "Low threat" discharges cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools) for regulation by this waiver.
2. "Low threat" discharges must not cause the migration of contaminants such as chlorinated solvents, hydrocarbons, or other toxic or hazardous substances to groundwater.
3. "Low threat" discharges must not 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.
4. 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.
5. "Low threat" discharges to land must not degrade the quality of underlying groundwater.
6. "Low threat" discharges to land must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
7. "Low threat" discharges to land must not impact the quality of groundwater in any water wells.
8. 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.

2.II.A. Specific Waiver Conditions for Cooling Water Discharges

1. Discharges must not contain contact cooling water.
2. Discharges of 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 Notice of Intent containing information about the operator, location, and planned period of and average daily volume of discharge.

2.II.B. Specific Waiver Conditions for Swimming Pool Discharges

1. 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 Notice of Intent containing information about the swimming pool location and volume, planned period of and frequency of discharge.

2.II.C. Specific Waiver Conditions for Pumping of Groundwater from Wells

1. 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 Notice of Intent 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.
2. 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 Notice of Intent containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to minimize 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.

3. Groundwater cannot originate from an area that contains any contaminated soil or groundwater.

2.II.D. Specific Waiver Conditions for Dewatering Operations

1. 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 Notice of Intent 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..
2. For dewatering operations that discharge an average of 5,000 gallons per day for any continuous 180-day period, the discharger must file a Notice of Intent containing information about the operator, location, planned period and rate of discharge, and measures that will be taken to minimize the discharge of pollutants that might affect groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.

2.II.E. Specific Waiver Conditions for Discharges from Washing Vehicles, Pavement, Buildings, etc.

1. 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.

2.II.F. Specific Waiver Conditions for Discharges from Irrigated Lawns and Landscaping Using Groundwater or Municipal Supply Water

1. 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.

2.II.G. Specific Waiver Conditions for Discharges from Structural BMPs that Require Infiltration.

1. Installation of structural BMP that utilizes infiltration must comply with the design criteria of the municipality regulated by MS4 WDRs (NPDES storm water permit), **or**, for any discharge that exceeds an average of 1,200 gallons per day for any continuous 365-day period, the discharger must file a Notice of Intent 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.

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CONDITIONAL WAIVER NO. 3 – DISCHARGES FROM ANIMAL OPERATIONS

Conditional Waiver No. 3 regulates the discharges from animal operations, which can percolate to groundwater or runoff to surface waters. Discharges from animal operations that can be regulated by Conditional Waiver No. 3 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.

Conditional Waiver No. 3 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Small animal feeding operations (less than 300 animal units, where 1 animal unit is equivalent to one cow or 1,000 animal pounds)
- Medium animal feeding operations (300 to 999 animal units)
- Storm water runoff
- Manure composting
- Applying manure to soil as an amendment or mulch
- Discharges from grazing lands

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 3 include the following:

3.I.A. General Facility Design and Management Waiver Conditions
3.I.B. General Manure Management Waiver Conditions
3.I.C. General Waiver Conditions for Composting Manure from Animal Operations
3.I.D. General Waiver Conditions for Application of Manure from Animal Operations as a Fertilizer, Amendment, or Mulch to Soil
3.I.E. General Inspection and Reporting Waiver Conditions

3.II.A. Specific Waiver Conditions for Small Animal Feeding Operations
3.II.B. Specific Waiver Conditions for Medium Animal Feeding Operations
3.II.C. Specific Waiver Conditions for Grazing Operations

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 3 are as follows:

3.I.A General Facility Design and Management Waiver Conditions

1. Animal operations must comply with any local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
2. Animal operations must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality 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 NRCS, or other sources.
3. Animal operations must prevent direct contact of animals with 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 (at least 100 feet is recommended) between the animals and any surface waters of the state. The buffer zone must adequately minimize the discharge of pollutants from animal operations. There should be no direct exposure of a surface water body to an animal. Above-ground watering troughs or basins and fencing should be installed to eliminate direct exposure of animals to surface water bodies.

3.I.B. General Manure Management Waiver Conditions

1. Animal operations must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to any surface waters of the state.
2. 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 guidelines:
   a) Animal wastes should be collected and disposed of regularly (at least once every two weeks).
   b) 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 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 should be disposed of immediately.
   c) Area adjacent to temporary storage area for animal wastes should be graded to prevent surface water and runoff from reaching the storage area.
   d) Temporary storage area should be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to groundwater.
   e) Temporary storage area should 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.
   f) A buffer zone of at least 100 feet should 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.
   g) If animal wastes are composted on site, composting activities must comply with the conditions in 3.I.C.
   h) 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 in 3.I.D.

3.I.C. General Waiver Conditions for Composting Manure from Animal Operations

1. Compost and compost feedstocks cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Compost pile(s) must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Compost pile(s) should 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 compost.
4. Precipitation and surface drainage should be diverted away from compost pile(s).

5. A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
6. Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
7. The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

3.I.D. General Waiver Conditions for Application of Manure from Animal Operations as a Fertilizer, Amendment, or Mulch to Soil

1. If fresh and/or uncomposted manure is applied as a fertilizer, amendment, or mulch to soil, manure must be applied to the same property where the manure was generated.
2. A buffer zone of at least 100 feet should be maintained between the fresh and/or uncomposted 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.
3. The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
4. Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
5. Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.
6. Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

3.I.E. General Inspection and Reporting Waiver Conditions

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.
2. Animal operations must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

3.II.A. Specific Waiver Conditions for Small Animal Feeding Operations

1. 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.

2. Small AFOs must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to surface waters of the state.
3. Small AFOs must be operated and maintained in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565.

3.II.B. Specific Waiver Conditions for Medium Animal Feeding Operations

1. 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.
2. Medium AFOs must prevent the direct or indirect discharge of animal wastes (manure, urine, soiled bedding) to surface waters of the state.
3. Medium AFOs must be operated and maintained in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565.
4. Medium AFO facility owners or operators must file a Notice of Intent 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.

   Sufficient information demonstrating compliance with general and specific waiver conditions must be submitted in order for the medium AFO facility to be regulated by this waiver.

3.II.C. Specific Waiver Conditions for Grazing Operations

1. Grazing operations must prevent the direct or indirect discharge of animal wastes (i.e., manure, urine) to any surface waters of the state.
2. Grazing operations must manage grazing fields to allow lands to revegetate and minimize topsoil erosion.
3. Owners of pasture and range lands used for grazing, must minimize any discharge that could adversely affect the quality of waters of the state

List of References

The following list of references provides additional information that is available regarding appropriate MMs/BMPs for minimizing pollutants in runoff and other discharges from animal operations.

1. Equestrian-Related Waste Quality Best Management Practices, County of San Diego Department of Agriculture, Weights and Measures
   http://www.sdcounty.ca.gov/awm/docs/equestrian_bmp.pdf
2. Electronic Field Office Technical Guide (eFOTG), United States Department of Agriculture, Natural Resources Conservation Service
   http://www.nrcs.usda.gov/technical/efotg/
3. Agricultural Management Measures, State Water Resources Control Board
   http://www.swrcb.ca.gov/nps/docs/guidance/agricmms.pdf
4. California Nonpoint Source Encyclopedia, State Water Resource Control Board
   http://www.swrcb.ca.gov/nps/docs/encyclopedia/agriculture.pdf

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CONDITIONAL WAIVER NO. 4 – DISCHARGES FROM AGRICULTURAL AND NURSERY OPERATIONS

Conditional Waiver No. 4 regulates the discharges from agricultural and nursery operations, which can percolate to groundwater or runoff to surface waters. Discharges from agricultural and nursery operations that can be regulated by Conditional Waiver No. 4 include discharges resulting from irrigation return flows, and storm water runoff which can also transport pollutants from agricultural and nursery operations to surface waters and groundwater..

Conditional Waiver No. 4 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Plant crop residues
- Storm water runoff
- Green waste composting
- Applying amendments or mulches to soil
- Agricultural irrigation return water
- Nursery irrigation return water

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 4 include the following:

4.I.A. General Facility Design and Management Waiver Conditions
4.I.B. General Enrollment and Education Waiver Conditions
4.I.C. General Waiver Conditions for Composting Green Wastes from Agricultural and Nursery Operations
4.I.D. General Waiver Conditions for Application of Compost as a Fertilizer, Amendment, or Mulch to Soil
4.I.E. General Waiver Conditions for Application of Products Used in Agricultural and Nursery Operations
4.I.F. General Inspection and Reporting Requirements

4.II.A. Specific Waiver Conditions for Agricultural Operations
4.II.B. Specific Waiver Conditions for Nursery Operations

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 4 are as follows:

4.I.A. General Facility Design and Management Waiver Conditions

1. Agricultural and nursery operations must comply with any local ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses.
2. Agricultural and nursery operations must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality of waters of the state. Recommended MMs/BMPs are available in the State Water Board's NPS Program Plan and/or available from UCCE, NRCS, and/or regional RCDs.

4.I.B. General Enrollment and Education Waiver Conditions

1. Agricultural and nursery operators must perform a self assessment to identify the pollutants present on the site and assess the potential for runoff and/or infiltration to degrade the quality of the waters of the state. Annual self assessments must be available on site for inspection. If an agricultural or nursery operator does not have proof available during an inspection, the operator must submit proof to the inspecting agency and the San Diego Water Board within 45 days from the date of inspection. Self assessment questionnaires are available from the UCCE.
2. Agricultural and nursery operators must complete at least 2 hours of water quality management related training annually. Training may include formal classroom training or meetings with a training component. Proof of training must be available on site for inspection. Agricultural and nursery operators who do not have proof available during an inspection must submit proof to the inspecting agency and the San Diego Water Board within 45 days from the date of inspection.
3. Agricultural and nursery operators must be in regular contact with the local Farm Bureau, UCCE, NRCS, and/or regional RCDs so they can be informed of the latest MMs/BMPs and developments with water quality issues. Proof of contact (e.g., newsletter addressed to facility, NRCS conservation plan, UCCE self assessment) must be available on site for inspection. Agricultural and nursery operators who do not have proof available during an inspection must submit proof to the inspecting agency and the San Diego Water Board within 45 days from the date of inspection.
4. Agricultural and nursery operations must implement MMs/BMPs to minimize the discharge of pollutants that may adversely impact the quality of waters of the state. Recommended MMs/BMPs are available in the State Water Board's NPS Program Plan and/or available from UCCE, NRCS, and/or regional RCDs.
5. Agricultural and nursery operators shall maintain records pertaining to the water quality management efforts for the operation. The records shall include the following information:
   a) Site map showing locations of MMs/BMPs and nearby surface water bodies and/or water wells
   b) List of hazardous materials kept on the property
   c) Location and amount of waste materials (e.g., green wastes, trash) generated and composted and/or reused on site, or disposed of off site
   d) Pesticide use reports and records
   e) Fertilizer, soil amendment, and mulch use records
   f) Irrigation management records (i.e., water use, irrigation system, irrigation schedule, etc.)
   g) Equipment maintenance records
   h) List of MMs/BMPs implemented to minimize and/or eliminate runoff to surface waters and/or infiltration to groundwater
   i) Owner, operator, and employee education and training records
   j) Inspection reports
   k) Self assessments
   l) Contacts with Farm Bureau, UCCE, NRCS, regional RCDs, and/or other organizations
   m) Copies of any permits, licenses, and certifications required for the operation
   n) Water quality monitoring data (if any)

Recommended water quality record keeping documentation is available from the UCCE. Water quality management records must be available on site for inspection.

6. **No later than June 30, ~~2011~~2012**, agricultural and nursery operations must form or join a monitoring group/coalition. The function of the monitoring group/coalition is to perform water quality monitoring and report the results to the San Diego Water Board. The monitoring group/coalition will also report on the implementation and effectiveness of MMs/BMPs on behalf of its members. Agricultural and nursery operations that have implemented MMs/BMPs and joined a monitoring group/coalition will be designated as ”preferred” conditional waiver participants. “”Preferred” conditional waiver participants will be given special status during Phase II of the conditional waivers. For “preferred” conditional waiver participants, waiver conditions may include reduced monitoring and/or reporting requirements, annual fee (payable to the State Water Board) reductions, and/or other incentives.
7. **No later than December 31, ~~2011~~2012**, monitoring groups and/or coalitions must file a Notice of Intent with the San Diego Water Board containing the following information to be granted “preferred” conditional waiver participant status:
   a) Identify the representative(s) authorized to sign reports submitted on behalf of the group/coalition.
   b) An electronic list of landowners and/or operators participating in the group/coalition including: (a) assessor parcel number(s), (b) parcel size, (c) parcel owner or operator name, (d) types of crops grown on each parcel, (e) number of irrigated acres, and (f) parcel owner or operator mailing address.
   c) A detailed map of the area included within the group/coalition, preferably in GIS format, identifying individual parcels and/or districts that are participating in the group/coalition.
   d) A detailed description of irrigation, storm water runoff, nutrient, pesticide, erosion control, composting, and other site-specific MMs/BMPs that have been implemented by each participant in the group/coalition, which must be provided as a written description, on a map, and/or using pictures.
8. **By December 31, ~~2011~~2012**, owners/operators of agricultural and nursery operations that do not file a Notice of Intent as part of a monitoring group and/or coalition must file a Notice of Intent as an individual person containing the following information:
   a) Information about the agricultural or nursery operation including: (a) assessor parcel number(s), (b) parcel size, (c) parcel owner and operator name(s), (d) types of crops grown on each parcel, (e) number of irrigated acres, and (f) parcel owner and operator mailing address(es).
   b) A detailed map of the operation, preferably in GIS format, with locations of operation boundaries, nearby surface waters and water wells.
   c) A detailed description of irrigation, storm water runoff, nutrient, pesticide, erosion control, composting, and other site-specific MMs/BMPs that have been implemented by the operation, which must be provided as a written description, on a map, and/or using pictures.

   Sufficient information must be submitted in order for the discharger to be eligible for regulation by this conditional waiver. Individual persons filing a Notice of Intent will be granted “common” conditional waiver participant status.

4.I.C. General Waiver Conditions for Composting Green Wastes from Agricultural and Nursery Operations

1. Compost and compost feedstocks cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Plant crop residues may be composted as green waste.
3. Compost pile(s) must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
4. Compost pile(s) should 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 compost.
5. Precipitation and surface drainage must be diverted away from compost pile(s).
6. A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
7. Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
8. The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

4.I.D. General Waiver Conditions for Application of Compost as a Fertilizer, Amendment, or Mulch to Soil

1. Amendments or mulches cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Plant crop residues may be utilized as soil amendment or mulch.
3. Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
4. The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
5. Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
6. Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.

7. Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

4.I.E. General Waiver Conditions for Application of Products Used in Agricultural and Nursery Operations

1. Products used in agricultural or nursery operations cannot be applied directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. The application of any products used in agricultural or nursery operations that contain pollutants that may be transported in surface runoff to surface waters or may infiltrate to groundwater must be applied in accordance with manufacturer instructions and guidelines, and must not have an adverse effect on the quality of any waters of the state.
3. Excessive amounts of any products used in agricultural or nursery operations spilled to land must be contained and properly disposed.
4. Any products used in agricultural or nursery operations applied to land must not impact the quality of groundwater in any water wells.

4.I.F. General Inspection and Reporting Waiver Conditions

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.
2. Owners/operators must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

4.II.A. Specific Waiver Conditions for Agricultural Operations

1. Agricultural activities must minimize or eliminate the discharge of any pollutants that could adversely affect the quality of any waters of the state.
2. Agricultural operators cannot alter surface waters of the state on or off the property, unless the proposed alteration has received a 401 Certification or waiver from the San Diego Water Board.

4.II.B. Specific Waiver Conditions for Nursery Operations

1. Nursery irrigation return water cannot be discharged directly or indirectly to any surface waters of the United States.
2. Nursery operations must minimize discharge of any pollutants that could adversely affect the quality of any waters of the state.
3. Nursery operators cannot alter surface waters of the state on or off the property, unless the proposed alteration has received a 401 Certification or waiver from the San Diego Water Board.

List of References

The following list of references provides additional information that is available regarding appropriate MMs/BMPs for minimizing pollutants in runoff and other discharges from agricultural and nursery operations.

1. Industrial Storm Water Program, State Water Resources Control Board http://www.swrcb.ca.gov/stormwtr/industrial.html
2. Construction Storm Water Permit, State Water Resources Control Board http://www.swrcb.ca.gov/stormwtr/gen_const.html
3. Agricultural Management Measures, State Water Resources Control Board http://www.swrcb.ca.gov/nps/docs/guidance/agricmms.pdf
4. California Nonpoint Source Encyclopedia, State Water Resource Control Board http://www.swrcb.ca.gov/nps/docs/encyclopedia/agriculture.pdf
5. Developing a Management Plan for Irrigation Runoff, Dept. of Horticultural Sciences, Texas A&M University http://aggie-horticulture.tamu.edu/greenhouse/nursery/environ/wmplan1.html
6. Management Options for Nonpoint Source Pollution for Greenhouse and Container Crops, UC Cooperative Extension, San Diego http://commserv.ucdavis.edu/CESanDiego/Stormwater/index.htm
7. BMPs Nurseries And Greenhouses, County of Orange http://www.ocwatershed.com/StormWater/documents_bmp_existing_development.asp#ind
8. Electronic Field Office Technical Guide (eFOTG), Natural Resources Conservation Service http://www.nrcs.usda.gov/technical/efotg/
9. Grower Resources (including self assessment questionnaires and water quality record keeping notebook), San Diego County University of California Cooperative Extension http://cesandiego.ucdavis.edu/Clean%5FWater/Grower_Resources.htm

CONDITIONAL WAIVER NO. 5 – DISCHARGES FROM SILVICULTURAL OPERATIONS

Conditional Waiver No. 5 regulates the discharges that originate from forest lands, which can percolate to groundwater or runoff to surface waters. Discharges from forest lands that can be regulated by Conditional Waiver No. 5 includes discharges resulting from timber operations, and storm water runoff which can also transport pollutants from managed forest lands and timber operations to surface waters and groundwater..

Conditional Waiver No. 5 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Storm water runoff
- Green waste composting
- Timber harvesting projects
- Fire suppression and fuels management activities (

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 5 include the following:

5.I.A. General Waiver Conditions for Silvicultural Operations
5.I.B. General Waiver Conditions for Composting Green Wastes During/From Silvicultural Operations

5.II.A. Specific Waiver Conditions for Timber Operations on Federal Lands
5.II.B. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 5 are as follows:

5.I.A. General Waiver Conditions for Silvicultural Operations

1. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must minimize the discharge of any pollutants that could adversely affect the quality 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.

5.I.B. General Waiver Conditions for Composting Green Wastes During/From Silvicultural Operations

1. Compost and compost feedstocks cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Compost pile(s) must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Compost pile(s) should 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 compost.
4. Precipitation and surface drainage should be diverted away from compost pile(s).
5. A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
6. Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
7. The following wastes cannot be added to compost pile(s), unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.

5.II.A. Specific Waiver Conditions for Timber Operations on Federal Lands

1. The State Water Board and USEPA must continue to certify the *Water Quality Management Plan for National Forest System Lands in California*.
2. The USFS must maintain: (a) a water quality program consistent with the Basin Plan, and (b) a program to monitor the implementation and effectiveness of MMs/BMPs.
3. 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 the proposed MMs/BMPs and additional control measures that will be implemented to protect water quality.
4. The USFS must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

5.II.B. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

1. The State Water Board must continue to certify the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*.
2. Timber operations within 150 feet of existing structures (i.e., “FireSafe” treatments) that are conducted pursuant to a Notice of Exemption approved by the 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.
3. 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, and the owner/operator must submit technical and/or monitoring program reports to the San Diego Water Board when directed by the San Diego Water Board.

4. For timber operations with a THP or NTMP approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board, and the owner/operator must submit technical and/or monitoring program reports to the San Diego Water Board when directed by the San Diego Water Board.
5. Owners/operators of non-federal forest lands must submit technical and/or monitoring program reports when directed by the San Diego Water Board.

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CONDITIONAL WAIVER NO. 6 – DISCHARGES OF DREDGED OR FILL MATERIALS NEARBY OR WITHIN SURFACE WATERS

Conditional Waiver No. 6 regulates discharges of dredged or fill materials nearby or within surface waters that may be subject to Clean Water Act section 401 water quality certification requirements. Conditional Waiver No. 6 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges from sand and gravel mining operations
- Discharges from dredging projects
- Discharges from stream channel alteration projects
- Other projects subject to Clean Water Act section 401 water quality certification requirements

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 6 include the following:

6.I.A. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters Required to Obtain a Surface Mining Permit, 404 Permit, and/or 401 Certification

6.I.B. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters NOT Required to Obtain a Surface Mining Permit, 404 Permit, and/or 401 Certification

6.II.A. Specific Waiver Conditions for Sand and Gravel Mining Operations

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 6 are as follows:

6.I.A. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters Required to Obtain a Surface Mining Permit, 404 Permit, and/or 401 Certification

1. Operators must comply with measures included in the Surface Mining Permit, 404 Permit, and/or 401 Certification to protect surface water and groundwater quality.
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. At least one copy of any permits, licenses, and certifications must be available for on site inspection.
4. Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.

6.I.B. General Waiver Conditions for Projects that Discharge Dredged or Fill Material Nearby or Within Surface Waters NOT Required to Obtain a Surface Mining Permit, 404 Permit, and/or 401 Certification

1. File a Notice of Intent with San Diego Water Board containing information about the operator, location and extent of the project, planned period of operation, and measures that will be taken to minimize or eliminate the discharge of any pollutants that might affect surface and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted before the operation may begin.
2. Operators must comply with any federal, state, or local permitting, licensing, or certification requirements and applicable regulations and ordinances.
3. Operators must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
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.

6.II.A. Specific Waiver Conditions for Sand and Gravel Mining Operations

1. Sand and gravel mining operations cannot be conducted in flowing streams or other water bodies.

CONDITIONAL WAIVER NO. 7 – DISCHARGES OF RECYCLED WATER TO LAND

Conditional Waiver No. 7 regulates discharges of recycled wastewater. Conditional Waiver No. 7 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges from short-term recycled wastewater projects (
- Discharges from permanent recycled wastewater projects

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 7 include the following:

7.I.A. General Waiver Conditions for Recycled Wastewater Projects

7.II.A. Specific Waiver Conditions for Short-term Recycled Water Projects
7.II.B. Specific Waiver Conditions for Permanent Recycled Water Projects

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 7 are as follows:

7.I.A. General Waiver Conditions for Recycled Wastewater Projects

1. Recycled wastewater cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Recycled wastewater discharged to land must not degrade the quality of underlying groundwater.
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.
4. The use of recycled wastewater must comply with the requirements of California Code of Regulations Title 22 section 60310(a) through (j), unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health.
5. Recycled wastewater cannot be used for groundwater recharge unless sufficient information is provided to demonstrate that it will be protective of water quality and human health.

7.II.A. Specific Waiver Conditions for Short-term Recycled Water Projects

1. Operator must file a Notice of Intent containing information about the operator, location, planned period of and frequency of discharge, and measures that will be taken to eliminate or minimize the discharge of pollutants that might affect surface water and groundwater quality. The Notice of Intent must include written notification from the local health department and/or DHS that the project will comply with recycled water regulations in California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10.
2. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin. The Notice of Intent is valid for 365 days, or 1 year.

3. A new Notice of Intent must be filed with the San Diego Water Board if the short-term project exceeds 1 year. A new Notice of Intent must be received by the San Diego Water Board at least 60 days prior to the expiration of the previous Notice of Intent. If no new Notice of Intent is received 60 days prior to the expiration of the previous Notice of Intent, the short-term recycled wastewater project must cease operation 365 days, or 1 year, after the beginning of the operation.

7.II.B. Specific Waiver Conditions for Permanent Recycled Water Projects

1. Operator must file a RoWD containing enough information for the San Diego Water Board to determine that the project will comply with applicable recycled wastewater regulations. The RoWD must include written notification from the local health department and/or DHS that the project will comply with recycled water regulations in California Code of Regulations Title 22, Division 4, Chapter 3, Articles 1 through 10.
2. Sufficient information demonstrating compliance with waiver conditions must be submitted before the discharge may begin.
3. The conditional waiver of WDRs for the permanent recycled water project will remain in effect until the San Diego Water Board can adopt permanent WDRs for the project. The San Diego Water Board will adopt WDRs at the earliest possible opportunity, and in accordance with San Diego Water Board priorities.
4. The operator must submit technical and/or monitoring program reports as directed by the San Diego Water Board, until permanent WDRs are issued.

CONDITIONAL WAIVER NO. 8 – DISCHARGES/DISPOSAL OF SOLID WASTES TO LAND

Conditional Waiver No. 8 regulates discharges of solid wastes to land. Conditional Waiver No. 8 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges of plant crop residues to land
- Discharges of manure and/or green wastes to compost operations
- Discharges of amendments and/or mulches to soil
- Discharges/disposal of inert wastes to solid waste disposal facilities on accepting inert wastes
- Discharges of contaminated soils to temporary waste piles
- Discharges/disposal/reuse of soils characterized as inert from known contaminated sites

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 8 include the following:

8.I.A. General Waiver Conditions for Discharges of Solid Wastes to Land

8.II.A. Specific Waiver Conditions for Plant Crop Residues
8.II.B. Specific Waiver Conditions for Composting Operations
8.II.C. Specific Waiver Conditions for Application of Amendments and Mulches to Soil
8.II.D. Specific Waiver Conditions for the Temporary Discharge of Contaminated Soil
8.II.E. Specific Waiver Conditions for Solid Waste Disposal Facilities Only Accepting Inert Wastes
8.II.F. Specific Waiver Conditions for the Discharge/Reuse of Inert Soils and Materials from Contaminated Sites

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 8 are as follows:

8.I.A. General Waiver Conditions for Discharges of Solid Wastes to Land

1. Solid wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Operations or facilities that discharge solid wastes must comply with local ordinances and regulations and obtain any required permits, certifications, and/or licenses.
3. Solid wastes must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
4. The discharger must minimize the discharge of any pollutants that could adversely affect the quality of waters of the state.
5. 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

8.II.A. Specific Waiver Conditions for Plant Crop Residues

1. Plant crop residues must be managed to prevent transport of pollutants to waters of the state. This waiver does not apply to composting or burning of plant crop residues.

2. Application of any products (e.g., fertilizers, pesticides) to plants or soil must be used in accordance with manufacturer's guidelines and must not have an adverse effect on the quality of any waters of the state.
3. Concentrations of pesticides and/or herbicides or any other pollutants associated with the plant crop residues must not degrade the quality of underlying groundwater.
4. Implement MMs/BMPs around areas with plant crop residues to minimize or eliminate runoff and leachate to surface waters and groundwater.

8.II.B. Specific Waiver Conditions for Composting Operations

1. For composting operations or facilities that store 500 cubic yards or less on site at any one time, and the compostable materials are generated on-site and if no more than 1,000 cubic yards of materials are either sold or given away annually, or other CIWMB excluded composting activities,[3], the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:
   a) Compost pile(s) should 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 compost.
   b) Precipitation and surface drainage should be diverted away from compost pile(s).
   c) A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
   d) Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
   e) The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
   f) Submit technical and/or monitoring program reports when directed by the San Diego Water Board.
2. For composting operations or facilities that store more than 500 cubic yards on site at any one time, or other CIWMB-regulated composting activities, the following conditions apply to minimize or eliminate the discharge of pollutants to waters of the state:
   a) Composting operation or facility must be sited, designed and operated in accordance with the California Integrated Waste Management Board's (CIWMB) requirements in California Code of Regulations Title 14 sections 17865 through 17870. Records must be available on site for inspection.
   b) Compost pile(s) should 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 compost.
   c) Precipitation and surface drainage should be diverted away from compost pile(s).

[3] California Code of Regulations Title 14 section 17855(a)(1) through (9)

d) A buffer zone of at least 100 feet should be maintained between the compost pile(s) and any surface waters of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
e) Leachate from compost pile(s) should not impact the quality of groundwater in any water wells.
f) The following wastes cannot be added to compost pile(s) unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
g) Containment structures such as embankments, liners or surface impoundments must be maintained in order to ensure proper performance whenever compost feedstocks (e.g., manure and/or green wastes) are discharged.
h) File a Notice of Intent containing information about the facility owner/operator, map of the facility showing the locations of compost pile(s) and nearby surface water bodies and/or water wells, and MMs/BMPs that will be taken to prevent discharges of compost that could affect surface water and groundwater quality. Sufficient information demonstrating compliance with waiver conditions must be submitted in order for the facility to be regulated by this conditional waiver.

8.II.C. Specific Waiver Conditions for Application of Amendments and Mulches to Soil

1. Amendments or mulches cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes determined by the San Diego Water Board to pose a potential threat to water quality.
3. The amount of soil amendment or mulch materials that can be applied to soil 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 be calculated to take into account storm events during the rainy season (October-May). Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.
4. Apply amendment or mulch materials to soil at calculated site-specific rates appropriate to the season (i.e., dry vs. rainy).
5. Implement MMs/BMPs in areas with soil amendment or mulch materials to minimize runoff and leachate to surface waters and groundwater.
6. Submit technical and/or monitoring program reports when directed by the San Diego Water Board.

8.II.D. Specific Waiver Conditions for the Temporary Discharge of Contaminated Soils

1. For ***any soils*** temporarily stored in waste piles, the following conditions apply:
   a) The discharger must submit a signed/completed Section A of the Temporary Waste Pile Certification form within 30 days of the initial discharge of any waste piles to be regulated by this waiver. The property owner must approve and acknowledge the placement of the waste at the site.
   b) The discharger must submit a signed/completed Section B of the Temporary Waste Pile Certification form within 10 working days of completing removal of all waste and restoring the site to its original condition.
   c) Unless otherwise specified in the applicable conditions, no temporary waste piles may remain on a site for longer than 6 months or 180 days.
   d) The temporary discharge of waste must not (a) cause the occurrence of coliform or pathogenic organisms in waters pumped from the basin; (b) cause the occurrence of objectionable tastes and odors in water pumped from basin; (c) cause waters pumped from the basin to foam; (d) cause the presence of toxic materials in waters pumped from the basin; (e) cause the pH of waters pumped from the basin to fall below 6.0 or rise above 9.0; (f) cause pollution, contamination or nuisance or adversely affect the quality of groundwater or surface waters of the hydrologic subareas established in the Basin Plan; and/or, (g) cause a violation of any discharge prohibitions in the Basin Plan for the San Diego Region.
   e) 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.
   f) 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 runon and runoff from contacting wastes and to prevent erosion and transport of wastes by surface runoff.
   g) Temporary waste piles must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from any surface water of the state, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality.
   h) Temporary waste piles must be protected against 100-year peak stream flows as defined by the County flood control agency.
   i) Temporary waste piles must be 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 other nuisances.
   j) Temporary waste piles must be 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.
   k) Solid wastes discharged to temporary waste piles, together with any containment materials used at the temporary waste pile, and any underlying geologic materials contaminated by the discharge, shall be removed within 180 days, unless otherwise specified under the applicable Special Conditions. Subsequently, the discharger must remove all wastes, treatment facilities, 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.

l) 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.

2. For ***soils contaminated with petroleum hydrocarbons*** temporarily stored in waste piles, the following conditions apply:
   a) Temporary waste piles contaminated by petroleum hydrocarbons regulated by this waiver shall be limited to a maximum time period of 3 months or 90 days on a site.
   b) Soils and associated solid waste contaminated by 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).
   c) Temporary waste piles must be covered by plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances.
   d) 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.
   e) In addition to the conditions stated herein, temporary waste piles must conform to applicable provisions in the state's LOP for Orange, Riverside, or San Diego Counties.
   f) The site must be restored to its original state within 30 days after removal of the temporary waste pile from the site.
3. For ***dredged spoils contaminated with heavy metals*** temporarily stored in waste piles, the following conditions apply:
   a) Temporary waste piles contaminated by heavy metals regulated by this waiver shall be limited to a maximum time period of 9 months or 270 days on a site.
   b) Temporary waste piles must be covered by either a plastic sheeting to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances. Alternative control method s may be utilized if sufficient information is provided to demonstrate that the proposed alternative is protective of water quality and human health.
   c) 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 to the San Diego Water Board demonstrating that the liner and containment facility has been designed to contain all solid wastes and fluids.
   d) 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.
   e) The site must be restored to its original state within 60 days after removal of the temporary waste pile from the site.

8.II.E. Specific Waiver Conditions for Solid Waste Disposal Facilities Accepting Only Inert Wastes[4]

1. Inert solid waste must not contain hazardous waste, or soluble or decomposable constituents to be considered inert waste.
2. Inert waste cannot contain any "free liquids."[5]
3. Owner/operator of disposal facility must secure the disposal site and prevent unauthorized disposal by the public.
4. Inert wastes exclude any wastes determined by the San Diego Water Board to have the potential to degrade the quality of waters of the state, even if classified as inert waste.

8.II.F. Specific Waiver Conditions for the Discharge/Reuse of Inert Soils and Materials from Contaminated Sites

1. 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 waste.
   c) Inert waste soils from known contaminated sites cannot contain any "free liquids."[6]
   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 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 conditional 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 Notice of Intent with the San Diego Water Board. The Notice of Intent must be filed no less than 3 days prior to the beginning of export shipments. The Notice of Intent must include information about the site owner/operator, 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,

[4] According to California Code of Regulations 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."

[5] "Free liquids" defined by California Code of Regulations Title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure"

[6] "Free liquids" defined by California Code of Regulations Title 27 section 20164 as "liquid which readily separates from the solid portions of waste under ambient temperature and pressure"

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.

i) 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:

i) All waste soils generated during remediation or corrective action must be stockpiled on the site in accordance with the waiver conditions for the temporary discharge of specified contaminated soil. Or, waste soils may be sampled and characterized in-situ prior to transport and disposal or reuse off site

ii) Waste soil must be segregated into 2 categories:

(A) 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 smells impacted, must be treated as impacted soil and cannot be characterized as inert.

(B) 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.

iii) Samples must be collected from the waste soil suspected to be inert for laboratory analysis. The minimum number is samples required to characterize the soil is as follows:

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[7]

cy = cubic yards

iv) Samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents:

(A) Total concentrations of those Title 22 metals identified as contaminants of concern for the export site. For sites identified with burn ash (i.e., a site where solid waste has been burned at low temperature and the residual burn ash pits and burn ash layers are present in soil), the site shall be investigated and the burn ash will be characterized for disposal purposes according to the protocol established by the lead regulatory agency (e.g., Department of Toxic Substances Control, California Integrated Waste Management Board, or others) to identify contaminants of concern at the site. The soil outside of the area of impact of the burn ash shall be tested

[7] Volumes greater than 10,000 cubic yards may rely on fewer samples than 1 per each additional 1,000 cubic yards 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 precise estimate of the true mean concentration of a chemical contaminant of a waste.

for the total concentration of those metals identified as contaminants of concern based on the findings of the burn ash investigation technical study.

(B) Total petroleum hydrocarbons (by EPA Method 8015 – full scan if export site includes oil or fuel spill or release investigation or remediation)

(C) Polychlorinated biphenyls (if export site includes PCB spill or release investigation or remediation)

(D) Volatile and semi-volatile organic compounds (if export site includes organic solvent spill or release investigation or remediation)

(E) Pesticides (if export site includes a known agricultural area, or pesticide spill or release investigation)

(F) Other constituents (if contaminated portion of the export site is found to contain other pollutants or contaminants)

j) *If analytical results indicate detectable concentrations of constituents other than Title 22 metals, waste soil cannot be characterized as inert*.

2. 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 contaminants other than Title 22 metals.

b) For those Title 22 metals that have been identified as contaminants of concern for the export Site, samples shall be analyzed by an SW846 method using the reporting limits set forth in the Table provided in Attachment 1. From these data, the 90% upper confidence level (UCL) shall be determined. Prior to calculating the 90% UCL, one must determine whether the sample set is normally, lognormally or non-normally distributed. If lognormally distributed, one must determine the 90% UCL on the lognormal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90% 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% UCL, and handling of non-detected values.[8]

[8] 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.

Tier 1 Soil Screening Levels

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] (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**
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*** (Efroymson, 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.

c) 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:
   i) Generator name and contact information
   ii) Export site location, owner name and contact information
   iii) Map of the export site showing the location of the excavation, borings, stockpiles, and/or samples collected
   iv) Approximate volume of inert waste soil exported from the site
   v) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.
   vi) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, maximum reported concentrations of Title 22 metals for the contaminants of concern, number of samples exceeding Tier 1 Soil Screening Levels, and name of certified environmental analytical laboratory that performed the analysis
   vii) The export site owner, principal executive officer, or authorized representative, and a California registered 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*."

3. 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 cannot contain any contaminants other than Title 22 metals.
   b) Samples shall be analyzed by an SW846 method using the reporting limits set forth in the Table provided in Attachment 1. From these data, the 90% upper confidence level (UCL) shall be determined. Prior to calculating the 90% UCL, one must determine whether the sample set is normally, lognormally or non-normally distributed. If lognormally distributed, one must determine the 90% UCL on the lognormal mean. If non-normally distributed, but sufficiently symmetrical, calculate the 90% 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% UCL, and handling of non-detected values.[9]

[9] 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.

Tier 2 Soil Screening Levels

Pollutant	Inert Waste Target[a] (mg/kg)	Industrial CHHSL[b] (mg/kg)	Background[d] Max (mg/kg)	Background[d] ½ Max (mg/kg)	TTLC[e] (mg/kg)	Tier 2 SSL[f] (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	63,000	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**
Chromium, Hexavalent	50	37	NA	NA	500	**37**
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).

c. Taken from Oak Ridge National Laboratory's *Preliminary Remediation Goals for Ecological Endpoints* (Efroymson, 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. Total Threshold Limit Concentration. Concentrations above the TTLC would be classified as hazardous waste.

f. 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.

c) 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:

i) Generator name and contact information

ii) Export site location, owner name and contact information

iii) Approximate volume of inert waste soil exported from the site

iv) Description of BMPs implemented to prevent discharge of waste soil off the export site during excavation and transport.

v) Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, maximum reported concentrations of Title 22 metals for the contaminants of concern, number of samples exceeding Tier 2 Soil Screening Levels, and name analytical laboratory performing analysis

vi) 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.

vii) 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.

viii) The export site owner, principal executive officer, or authorized representative, and a California registered 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*."

d) Tier 2 inert waste soil reused at commercial or industrial development sites must comply with the following conditions:

i) 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.

ii) Tier 2 inert waste soil must be placed at least 5 feet above the highest historically known level of groundwater. The soil that separates the inert waste soil from groundwater shall have a significant clay content (greater than 5% clay material) or an in-situ permeability of less than 10^{-5} cm/sec.

iii) Tier 2 inert waste shall be placed at least 100 feet from the nearest surface water body.

iv) Tier 2 inert waste shall be protected against 100-year peak stream flows as defined by the County flood control agency.

v) Tier 2 inert waste shall be 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 shall have a permeability of no more than 10^{-5} cm/sec. Placement of a cover on the inert waste soils shall be completed with 30 days of discharging the final load of inert waste soils at the import site.

CONDITIONAL WAIVER NO. 9 – DISCHARGES/DISPOSAL OF SLURRIES TO LAND

Conditional Waiver No. 9 regulates the discharges of slurries to land. A slurry typically consists of water and some material to form a liquid mixture. Conditional Waiver No. 9 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges/disposal of drilling muds to land
- Discharges/disposal of concrete grinding residues to land

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 9 include the following:

9.I.A. General Waiver Conditions for Slurries Discharged to Land

9.II.A. Specific Waiver Conditions for Discharge of Drilling Muds

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 9 are as follows:

9.I.A General Waiver Conditions for Slurries Discharged to Land

1. Slurries cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
2. Slurries must be contained to eliminate the potential for runoff from the site.
3. If slurries are discharged to land, the containment area or sump must be designed to be fully contained and ensure no overflow during discharge with at least 2 feet of freeboard.
4. The floor of the containment area or sump must be at least 5 feet above the highest known historical groundwater level.
5. The walls of the containment area or sump must be at least 100 feet away from any surface water body or municipal water well.
6. Slurries cannot contain any toxic or hazardous constituents.
7. Slurries discharged/disposed to land must not degrade the quality of underlying groundwater.
8. Slurries must be removed and disposed of at an appropriate disposal facility prior to restoring the containment area or sump to pre-sump conditions.
9. The containment area or sump must be filled in and restored to pre-sump conditions.

9.II.A. Specific Waiver Conditions for Discharge of Drilling Muds

1. Drilling mud cannot be from borings advanced for a soil or groundwater contamination investigation.

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CONDITIONAL WAIVER NO. 10 – DISCHARGES OF EMERGENCY/DISASTER RELATED WASTES

Conditional Waiver No. 10 regulates the discharges of wastes resulting from an emergency or disaster. Conditional Waiver No. 10 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters
- Discharges of disaster-related wastes to temporary waste piles and surface impoundments
- Discharges of mass mortality wastes temporary waste piles and emergency landfills
- Other discharges of emergency/disaster related wastes

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 10 include the following:

10.I.A. General Waiver Conditions for Discharges of Emergency/Disaster-Related Wastes

10.II.A. Specific Waiver Conditions for Incidental Discharges During an Oil Spill Response
10.II.B. Specific Waiver Conditions for Emergency/Disaster Related *Solid and Mass Mortality Wastes* Disposed at Regulated Waste Disposal Facilities
10.II.C. Specific Waiver Conditions for Emergency/Disaster Related *Solid and Mass Mortality Wastes* Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities
10.II.D. Specific Waiver Conditions for Emergency/Disaster Related *Solid Wastes* Discharged to Temporary Waste Piles *NOT* Located at Regulated Waste Disposal Facilities
10.II.E. Specific Waiver Conditions for Emergency/Disaster Related *Solid Wastes* Discharged to Temporary Surface Impoundments *NOT* Located at Regulated Waste Disposal Facilities
10.II.F. Specific Waiver Conditions for Emergency/Disaster-Related *Mass Mortality Wastes* Discharged to Emergency Landfills *NOT* Located at Regulated Waste Disposal Facilities

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 10 are as follows:

10.I.A. General Waiver Conditions for Discharges of Emergency/Disaster-Related Wastes

1. This conditional waiver does not become active and available until one of the following occurs:
   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, and applies only to disaster-related waste streams from disaster-impacted areas; 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 section 13269(c)(1) and (2).

2. This conditional waiver is only in effect temporarily and shall 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 regulated by this 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 the oil spill incident occurred, or emergency activities began, unless otherwise directed by the San Diego Water Board.
3. Emergency/disaster-related waste management and cleanup activities must minimize the discharge of any pollutants that could adversely affect the quality of the waters of the state.
4. For all temporary waste piles and surface impoundments used to manage emergency/disaster-related waste, the following conditions apply:
   a) Emergency/disaster-related wastes cannot be discharged directly or indirectly to any surface waters of the state (including ephemeral streams and vernal pools).
   b) Emergency/disaster -related waste management operations shall not be performed in a manner that creates, or contributes to a condition of pollution or nuisance.
   c) Emergency/disaster -related waste management operations shall not be performed in a manner that creates, or contributes to conditions which violate the waste discharge prohibitions promulgated in the Basin Plan.
   d) Emergency/disaster -related wastes shall not be managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit regulated by this waiver.[10]
   e) Emergency/disaster -related wastes shall not be 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 results in the mixture being classified as a restricted waste.[11]
   f) Liquid hazardous wastes or "restricted hazardous wastes"[12] cannot be discharged to MSW landfills, temporary waste piles, or temporary surface impoundments.
   g) 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 shall not consist of or contain material classified as a designated waste.[13]

[10] Pursuant to California Code of Regulations Title 27 section 20200(b)(1)
[11] Pursuant to California Code of Regulations Title 27 section 20200(b)(2)
[12] Defined in California Health and Safety Code section 25122.7
[13] Defined in California Code of Regulations Title 27 section 20210

h) Inert wastes[14] that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).

i) Waste streams must only originate from disaster-impacted areas of the San Diego Region. These waste streams shall 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); or

iii) Emergency landfills established in accordance with the conditions of this waiver; and

iv) As allowed by valid WDRs issued by the San Diego Water Board for other categories of waste management units.

10.II.A. Specific Waiver Conditions for Incidental Discharges During an Oil Spill Response

1. Incidental discharges[15] 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.
2. Oil spill response must be in marine waters.[16]

10.II.B. Specific Waiver Conditions for Emergency/Disaster-Related Solid and Mass Mortality Wastes Disposed at Regulated Waste Disposal Facilities

1. Solid 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 shall 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*.
2. Solid 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.
3. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of disaster-impacted areas in the San Diego Region shall be discharged for disposal in compliance with conditions of this waiver and covered expeditiously.
4. Inert wastes contained in mixed emergency wastes derived from cleanup of disaster-impacted areas in the San Diego Region, shall be separated and recycled when appropriate and practicable.

[14] Defined in California Code of Regulations Title 27 section 20230

[15] "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."

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

5. The discharger is responsible for accurately classifying disaster-related solid waste streams in accordance with the applicable regulatory requirements.[17]
6. The regulated waste disposal facility owner/operator is responsible for properly identifying disaster-related solid waste streams[18] and identifying wastes that may be suitable for use as ADC. Solid waste that may be used as ADC at a regulated disposal facility are as follows:
7. Solid wastes that are classified as inert wastes.
8. Solid wastes that meet the criteria for ADC as prescribed in California Code of Regulations Title 27 sections 20690 to 20705, and.
9. Other solid wastes identified by the Local Enforcement Agency (LEA) as being suitable for use as ADC; so long as the waste could be accepted at a Class III MSW landfill without special permission from the San Diego Water Board.
10. 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 such a large an 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::
    a) 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.
    b) Owner/operator must limit the thickness of the high-moisture waste stream (e.g., animal carcasses, animal related wastes, etc.) to no more than 2 feet.
    c) Owner/operator must 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.
    d) 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.).
11. Within 60 days after the expiration of this waiver (see above) 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 (Joint Technical Document) 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.

10.II.C. Specific Waiver Conditions for Emergency/Disaster-Related Solid and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities

1. 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 Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator of the regulated waste management or

[17] Requirements are provided in California Code of Regulations Title 27, Title 23,, Chapter 15, and/or Title 22 Division 4.5.
[18] Pursuant to California Code of Regulations Title 27 section 20200(c)

disposal facility property, facility address and contact information, description of temporary waste management unit, 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*."

2. Owners/operators of regulated waste management or disposal facilities must prevent surface runoff/runon from contacting wastes derived from cleanup of disaster-impacted areas in the San Diego Region and shall 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 MMs/BMPs for storm water conveyance and control.
3. All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.
4. 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.
5. Owners/operators of regulated waste management or disposal facilities must manage temporary waste piles for disaster related mass mortality wastes as follows:
   a) Temporary waste piles of mass mortality wastes can only be located in areas underlain by a composite liner system (or approved engineering alternative) and a significant thickness of other types of solid wastes.
   b) 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).
   c) Owner/operator must ensure that all temporary waste piles containing mass mortality wastes are discharged into 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.
   d) Owner/operator must ensure that all mass mortality wastes are covered with soil or other waste immediately after it is discharged into the landfill.
   e) 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.
6. Solid and mass mortality wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary waste piles, shall be removed from the site. The site shall be restored to its original state no later than the 60 days after expiration of this waiver (see above), or as required by the San Diego Water Board. Alternatively, the facility owner/operator must file an amended RoWD (Joint Technical Document) and obtain amended WDRs from the San Diego

Water Board for any waste piles that will continue to exist past the expiration date of this waiver.

7. Owners/operators of regulated waste management or disposal facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator ff the regulated facility property, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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*."

10.II.D. Specific Waiver Conditions for Emergency/Disaster-Related Solid Wastes Discharged to Temporary Waste Piles NOT Located at Regulated Waste Disposal Facilities

1. Any agency, jurisdiction or person proposing to establish a temporary waste pile not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the temporary waste pile facility is located, facility address and contact information, description of temporary waste management unit, 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."*
2. Owners/operators of temporary waste piles 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:
   a) The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.
   b) Temporary waste piles must be protected from inundation of washout due of floods with a 100-year return period.
   c) Temporary waste piles cannot be located on a known Holocene fault.
   d) Temporary waste piles cannot be located in areas of potential rapid geologic change (*e.g.,* landslides, debris flows, flashflood areas, *etc.*).
   e) 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.

f) 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.

g) Temporary waste management operations that include wastes with a liquid content exceeding its moisture-holding capacity and/or containing free liquids, shall comply with requirements for temporary surface impoundments (see below).

h) 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 shall be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.

3. 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.
4. 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) shall be maintained as required to keep them legible and shall remain in place while temporary waste piles remain on site.
5. Solid wastes discharged to temporary waste piles not at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary waste piles, shall be removed from the site. The site shall be restored to its original state no later than the 60 days after expiration of this waiver (see above), or as required by the San Diego Water Board.
6. Owners/operators of temporary waste piles not on regulated facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary waste pile facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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."

10.II.E. Specific Waiver Conditions for Emergency/Disaster-Related Solid Wastes Discharged to Temporary Surface Impoundments NOT Located at Regulated Waste Disposal Facilities

1. Any agency, jurisdiction or person proposing to establish a temporary surface impoundment not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the temporary surface impoundment facility is located, facility address and contact information, description of temporary waste management unit, 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."*
2. 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:
   a) The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known level of groundwater, and more than 100 feet from, and at an elevation that is higher than, any surface water of the state.
   b) Temporary surface impoundments must be protected from inundation of washout due of floods with a 100-year return period.
   c) Temporary surface impoundments cannot be located on a known Holocene fault.
   d) Temporary surface impoundments cannot be located in areas of potential rapid geologic change (*e.g.,* landslides, debris flows, flashflood areas, *etc.*).
   e) 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.
   f) 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.
   g) 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.

h) Direct pipeline discharges of liquid can occur only into temporary surface impoundments with automatic or manually operated fail-safe systems to prevent overfilling.

i) Temporary surface impoundments must be designed and constructed to prevent scouring of containment structures at points of liquid discharge into the impoundments.

j) 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 shall be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.

3. 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.
4. Owners/operators of temporary surface impoundments not on regulated facilities temporarily regulated by this waiver must ensure that only disaster related waste streams are discharged into temporary surface impoundments.
5. All visible portions of synthetic liner systems in temporary surface impoundments must be inspected weekly, or daily as necessary, until all free liquid is removed from the surface impoundment as part of closure.[19] 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 shall be made of the bottom of the liner prior to refilling the impoundment.
6. 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) shall be maintained as required to keep them legible and shall remain in place while temporary surface impoundments remain on site.
7. Solid wastes discharged to temporary surface impoundments not at regulated waste management or disposal facilities temporarily regulated by this waiver, together with any materials used to contain the temporary surface impoundments, shall be removed from the site. The site shall be restored to its original state no later than the 60 days after expiration of this waiver (see above), or as required by the San Diego Water Board.
8. Owners/operators of temporary surface impoundments not on regulated facilities must submit a Notice of Termination 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 Notice of Termination must contain the name and

[19] Pursuant to California Code of Regulations Title 27 section 21400(a)

contact information of the owner/operator the property where the temporary surface impoundment facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste disposal location, 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*."

10.II.F. Specific Waiver Conditions for Emergency/Disaster-Related Mass Mortality Wastes Discharged to Emergency Landfills NOT Located at Regulated Waste Disposal Facilities

1. Any agency, jurisdiction or person proposing to establish an emergency landfill not located at a regulated facility must submit a Notice of Intent to the San Diego Water Board within 30 days of the initial discharge of any disaster-related wastes. The Notice of Intent must contain the name and contact information of the owner/operator the property where the emergency landfill facility is located, facility address and contact information, description of emergency waste management unit, 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.*"
2. 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:
   a) The bottom of an emergency landfill must be placed at least 10 feet above the highest historically known level of groundwater, and more than 500 feet from any surface water of the state.
   b) Emergency landfills must be protected from inundation of washout due of floods with a 100-year return period.
   c) Emergency landfills cannot be located on a known Holocene fault.
   d) Emergency landfills cannot be located in areas of potential rapid geologic change (*e.g.,* landslides, debris flows, flashflood areas, *etc.*).
   e) Emergency landfills cannot be located in areas underlain by 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).
   f) 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.*).
   g) The thickness of each layer of mass mortality wastes must be limited to less than 2 feet.

h) Lime (or another liquid abatement material) must be added to each layer to help reduce the generation of liquid by the mass mortality wastes.
i) 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.
j) 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
k) 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 shall 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 good drainage that does not impair the integrity of the emergency landfill.
l) Owner/operator should also evaluate, implement, and document other effective waste isolation (and waste moisture reducing methods) in conjunction with the procedures identified above

3. 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 by erosion by installing and maintaining MMs/BMPs, including:
   a) Installation of runon control features on the upgradient side of the emergency landfill to divert offsite storm water from the emergency landfill.
   b) Installation of an effective runoff collection and conveyance ditch.
   c) Grading and maintenance of the final cover to eliminate ponding of water over the emergency landfill.
   d) Installation and maintenance of erosion control measures on the cover of the emergency landfill (*e.g.,* install straw mulch and/or a vegetative cover).
   e) Installation of a deer fence around the perimeter of the emergency landfill to discourage access by digging of carnivores.
4. 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.), the type(s) of waste buried at the site (e.g., types of carcasses, egg wastes, manure, etc.), and d) 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) shall be maintained as required to keep them legible and shall remain in place while the emergency landfill remains on site.
5. Owners/operators of emergency landfills not on regulated facilities must submit Notice of Termination 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 Notice of Termination must contain the name and contact information of the owner/operator the property where the temporary waste pile facility was located, facility address and contact information, description of waste that was temporarily stored/staged in the temporary waste management unit, the final waste

disposal location, 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. 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 shall include the following information:
   a) A short description of the emergency conditions that made the emergency landfill necessary.
   b) The identity, physical address, mailing address and telephone number of the current land owner.
   c) 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.
   d) 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 provide Geographical Information System (GIS) data as available.
   e) A simple cross section of the emergency landfill and a description of the construction (depth, thickness of layers and final cover).
   f) An estimate of the amount of wastes (*e.g.,* in pounds or tons) discharged into the emergency landfill.
   g) A description of measures taken to ensure that wastes and waste constituents do not migrate outside the emergency landfill.
   h) Any other site-specific or discharger related information requested by the San Diego Water Board.

CONDITIONAL WAIVER NO. 11 – AERIALLY DISCHARGED WASTES

Conditional Waiver No. 11 regulates the discharges of wastes that have been discharged aerially. Conditional Waiver No. 11 can be utilized by the San Diego Water Board to regulate the following types of discharge:

- Discharges of wastes related to fireworks displays
- Other wastes discharged aerially that may adversely affect the quality of the waters of the state, but determined to be "low threat" by the San Diego Water Board

Waiver conditions applicable to the types of discharge that can be regulated by Conditional Waiver No. 11 include the following:

11.I.A. General Waiver Conditions for Aerially Discharged Wastes

11.II.A. Specific Waiver Conditions for Discharges of Waste Related to Fireworks Displays

The waiver conditions that dischargers must comply with in order to be eligible for regulation by Conditional Waiver No. 11 are as follows:

11.I.A. General Waiver Conditions for Aerially Discharged Wastes

1. Aerially discharged wastes cannot be discharged directly over and/or into surface waters of the state (including ephemeral streams and vernal pools) for regulation by this waiver.
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 ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.

11.II.A. Specific Waiver Conditions for Discharges of Waste Related to Fireworks Displays

1. Fireworks displays must be conducted at least 0.5 miles from the nearest surface waters of the state for regulation by this waiver, unless sufficient information is provided to demonstrate that a proposed distance is protective of surface water quality.
2. 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.[20] If the organizer will have more than one fireworks display within a 48-hour period, the organizer must file a Notice of Intent 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 the

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

discharge of pollutants that might affect surface water and groundwater quality. Sufficient information must be submitted before the discharge may begin.

3. All fireworks-related debris must be cleaned up from land surface areas.
4. 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 Health Services' Drinking Water Source Assessment Protection Program.
5. 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 California Department of Health Services' Drinking Water Source Assessment Protection 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.
6. The fireworks display must be permitted by all relevant public agencies that require permits for fireworks displays, including fire departments, municipal governments, law enforcement, water supply agencies, and the U.S. Coast Guard. Copies of any permits must be available on site for inspection.
7. 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

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

NOTICE OF INTENT

TO COMPLY WITH
CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS
FOR SPECIFIC TYPES OF DISCHARGE WITHIN
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. CONDITONAL WAIVER FOR NOTICE OF INTENT

Mark (☒) the conditional waiver proposed to regulate the discharge:

- ☐ Conditional Waiver 1 - Discharges from on-site disposal systems
- ☐ Conditional Waiver 2 - “Low threat” discharges to land
- ☐ Conditional Waiver 3 - Discharges from animal operations
- ☐ Conditional Waiver 4 - Discharges from agricultural and nursery operations
- ☐ Conditional Waiver 5 - Discharges from silvicultural operations
- ☐ Conditional Waiver 6 - Discharges of dredged or fill materials nearby or within surface waters
- ☐ Conditional Waiver 7 - Discharges of recycled water to land
- ☐ Conditional Waiver 8 - Discharges/disposal of solid wastes to land
- ☐ Conditional Waiver 9 - Discharges/disposal of slurries to land
- ☐ Conditional Waiver 10 - Discharges of emergency/ disaster-related wastes
- ☐ Conditional Waiver 11 - Aerially discharged 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 AND 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 conditional 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

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

TEMPORARY WASTE PILE CERTIFICATION
[SECTION A]

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: (check all that apply)	☐ Gasoline	☐ Diesel	☐ Other Petroleum Hydrocarbons
	☐ Other Impacted Dredged Spoils	☐ Other: _____	

Contaminant Concentrations *(Used additional pages as needed)*:

Mean	Mean+80%CI	Mean	Mean+80%CI	Mean	Mean+80%CI	Mean	Mean+80%CI
Mean	Mean+80%CI	Mean	Mean+80%CI	Mean	Mean+80%CI	Mean	Mean+80%CI
Mean	Mean+80%CI	Mean	Mean+80%CI	Mean	Mean+80%CI	Mean	Mean+80%CI

Waste Pile Quantity (yd^3):

Description of Containment Method:

III. TEMPORARY WASTE PILE SITE 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 sections II and that I have reviewed any associated reports. By signing this form I acknowledge that the Generator of this waste has certified that all 8.II.D waiver conditions 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 8.II.D waiver conditions have been met.

Generator Signature _____ Date _____

Print Name _____ Title _____

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

TEMPORARY WASTE PILE CERTIFICATION
[SECTION B]
and
NOTICE OF TERMINATION

I. FINAL WASTE DISPOSAL INFORMATION

Final Disposition of Waste:	☐ Off-site/Landfill Disposal	☐ On-site Reuse/Disposal	
	☐ Off-site Reuse/Disposal	☐ 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)			

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

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

INERT WASTE CERTIFICATION

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)
☐ 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 Section A form as required under 8.II.D waiver conditions.
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:			
☐ Mark the box (☒) to confirm that no samples collected to characterize waste soil as inert contained detectable concentrations of constituents other than Title 22 metals, as required by waiver condition 8.II.F.1.j.			

Title 22 Metals Contaminant of Concern	EPA Approved Analytical Method	Maximum Detected Concentration (mg/kg)	90% UCL Concentration (mg/kg)	Number of Samples Exceeding Tier 1 SSL	Number of Samples Exceeding Tier 2 SSL

Use additional pages if there are additional contaminants of concern. Attach copy of laboratory analytical report if required.

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 V.

☐ **Tier 1** (Complete section X)
Management of Tier 1 inert waste soils must comply with waiver conditions 8.II.F.1 and 8.II.F.2.

☐ **Tier 2** (Complete sections VII through X)
Management of Tier 2 inert waste soils must comply with waiver conditions 8.II.F.1 and 8.II.F.3.

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:	
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.			

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 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 waiver conditions 8.II.F.3.

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 _____

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

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ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

~~APPENDIX D~~

~~CONDITION(S) FOR CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS OF ITEMS IN TABLE 4-4~~

~~*CONDITIONS FOR ITEM 21. SHORT-TERM USE OF RECLAIMED WATER:*~~

~~1. Short-term water reclamation projects are projects that last one year or less. Short-term projects can include temporary use of reclaimed water for dust control, soil compaction, green belt irrigation, or any other temporary reuse project authorized by the Executive Officer, for which no permanent physical reclaimed water facilities or structures are installed; and~~

~~2. The reclaimed water producer must submit a written request for a waiver to the Regional Board. This request must include written notification from the local health department or the State Department of Health Services that the proposed project complies with all local and State health requirements for reclaimed water use and Title 22, Division 4, Chapter 3, Reclamation Criteria, Articles 1 - 10. This written notification shall also specify any monitoring required to demonstrate compliance with Title 22, Division 4, Chapter 3, Articles 2, 3, 4, 5, and 5.1. A new written request for a waiver must be submitted to the Regional Board if the temporary project exceeds one year. New written requests must be received 60 days prior to expiration of the one year project. If no new request is received the short-term project must cease immediately.~~

~~*CONDITIONS FOR ITEM 19. TEMPORARY DISCHARGE OF SPECIFIED CONTAMINATED SOILS:*~~

~~a. *General Conditions for All Temporary Waste Piles*~~

~~(1) ***Required Notification of the Regional Board:*** *The discharger shall send the Regional Board a signed/completed certification report (Section A: Temporary Waste Pile Waiver Certification Form),* ***within 30 days*** *of the initial discharge of any waste piles established under this waiver. The discharger shall send the Regional Board a signed/completed certification report (Section B: Temporary Waste Pile Waiver Certification Form)* ***within 10 working days*** *of completing removal of all waste and restoring the site to its original condition.*~~

~~(2) This waiver specifically does not apply to hazardous waste, as defined in Section 66261.3, Division 4.5, Title 22 of the California Code of Regulations, or as amended.~~

~~(3) ***Prohibitions:*** *The discharge of waste shall not:*~~

~~*a. Cause the occurrence of coliform or pathogenic organisms in waters pumped from the basin;*~~

b. Cause the occurrence of objectionable tastes and odors in water pumped from basin;

c. Cause waters pumped from the basin to foam;

d. Cause the presence of toxic materials in waters pumped from the basin;

e. Cause the pH of waters pumped from the basin to fall below 6.0 or rise above 9.0;

f. Cause pollution, contamination or nuisance or adversely affect beneficial uses of ground or surface waters of the hydrologic subareas established in the Basin Plan.

g. Cause a violation of any discharge prohibitions in the Basin Plan for the San Diego Region.

(4) **Site Conditions:** All parcels of land/property containing a temporary discharge of solid wastes, temporary waste piles as identified in the specific conditions of this waiver, shall meet the following minimum general site conditions:

a. Runon/Runoff Protection: Surface drainage shall be diverted from the temporary waste piles. For all waste piles, the dischargers shall implement effective Best Management Practices (BMPs) to prevent surface water runon and runoff from contacting wastes and to prevent erosion and transport of wastes by surface runoff.

b. Groundwater Protection: All waste piles shall be placed at least five feet above the highest anticipated level of groundwater.

c. Surface Water Protection: All waste piles established under this waiver shall be located not less than 100 feet from any surface water identified in the Basin Plan.

d. Flood Plain Protection: All waste piles shall be protected against 100-year peak stream flows as defined by the County flood control agency.

(5) **Inspection and Maintenance:** Wastes discharged to waste piles established under this waiver, together with any containment materials used at the temporary waste pile, and any underlying geologic materials contaminated by the discharge, shall be removed within the maximum time period allowed under the applicable Special Conditions. Subsequently the site shall be restored to its original state within 30 days following the removal of all treatment facilities, related equipment, etc. and shall be disposed of or stored in accordance with applicable regulations.

(6) ***Clean Closure Required:*** Wastes discharged to waste piles established under this waiver, together with any containment materials used at the temporary waste pile, and any underlying geologic materials contaminated by the discharge, shall be removed within the

maximum time period allowed under the applicable special conditions. Subsequently, the discharger shall remove all wastes, treatment facilities, related equipment, and dispose of those items in accordance with applicable regulations. The site shall be restored to its original state within maximum time period allowed under the applicable special conditions.

(7) ***Management of Return or Ponded Water:*** If return water or ponded water contained within the treatment or storage area of the temporary waste pile will be disposed of at a location other than to a sanitary sewer system, then the discharger shall submit written notification to the Executive Officer prior to initiating the discharge and either: 1) obtain waste discharge requirements; 2) obtain a waiver of waste discharge requirements or 3) obtain a written determination from the Regional Board Executive Officer that the disposal of the return water or ponded water is not subject to regulation by the Regional Board.

(8) **Property Owner Acknowledgment:** By written correspondence to the Regional Board Executive Officer, the property owner shall approve the placement of the waste (temporary waste piles) at the site.

(9) **Public Notification Requirement:** The discharger shall post at least one clearly visible, sign (in english) 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. The discharger shall 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) shall be maintained as required to keep them legible and remain in place while temporary waste piles remain on site.

(10) All sampling and analytical procedures, including documentation of waste characterization, shall be in accordance with the indicated methods described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, SW-846, U.S. Environmental Protection Agency (current edition). Reported concentrations levels shall be mean average, with an 80% upper confidence interval, and the total range within each constituent.

(11) **Obligation to Comply:** This waiver from waste discharge requirements (WDRs) does not relieve dischargers of the obligation to comply with any other applicable local, state and federal requirements.

(12) **Relation of this Conditional Waiver to Other Authority of the RWQCB:** This action waiving the issuance of WDRs is conditional, may be terminated for any type of discharge at any time, does not permit an illegal discharge, and does not preclude the Regional Board from administering enforcement remedies pursuant to Section 13304 of the California Water Code. Where the staff of this Regional Board considers the adoption of WDRs for a specific discharge of a type identified herein to be in the public interest, staff will draft tentative waste discharge requirements for consideration by the Regional Board.

b. *Special Conditions Applicable to Waste Piles for Treatment or Storage of Soils Contaminated with Petroleum Hydrocarbons*

(1) Temporary waste piles established under this waiver shall be limited to a maximum time period of four months or 90 days.

(2) All solid wastes discharged into temporary waste piles established under the waiver shall be derived from only one source (e.g., unauthorized release site).

(3) **Cover:** All waste piles shall be overlain by plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances.

(4)All waste piles shall be underlain by either plastic sheeting (not less than 10 mils thick) or a liner of low permeability approved by the Regional Board Executive Officer.

(5) In addition to the general and specific conditions stated herein, waste piles shall conform to applicable provisions in the state's Local Oversight Program (LOP) for Orange, Riverside, or San Diego Counties.

(6) ***Site Closure:*** *Any waste pile established under these Special Conditions for Petroleum Contaminated Soils, together with any containment materials used for the temporary waste pile and underlying geologic materials contaminated by the discharge, shall be removed and the site shall be restored to its original state within* ***30 days****.*

c. *Special Conditions Applicable to Waste Piles for Treatment or Storage of Dredge Spoils Contaminated with Heavy Metals*

(1) All temporary waste piles established under this waiver shall be limited to a maximum time period of nine months or 210 days.

(2) **Cover:** All waste piles shall be overlain by either a plastic sheeting to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances. Alternative control methods shall be subject to approval by the Regional Board Executive Officer.

(3) **Liner:** All waste piles shall be underlain by plastic sheeting (not less than 20 mils thick) or a liner of lower permeability approved by the Regional Board Executive Officer. The liner and containment facility shall be designed to contain all solid wastes and fluids, and shall be subject to approval by the Regional Board Executive Officer.

(4) **Containment Structures:** Materials used in containment structures shall 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.

(5) **Site Closure:** Any waste pile established under these Special Conditions for Dredge Spoils, together with any containment materials used for the temporary waste pile

and underlying geologic materials contaminated by the discharge, shall be removed and the site shall be restored to its original state within **60 days**.

CONDITIONS FOR ITEM 20. COMPOSTING AND PROCESSING, MULCHING, OR GRINDING FACILITIES

A. APPLICABILITY

1. *Types of Facilities*

a. *Facilities composting Green Waste, Agricultural Waste, Food Processing Waste or Paper Waste*

b. *Facilities processing, mulching or grinding Green Waste, or Agricultural Waste*

2. *Size of Facilities*

a. *Composting and Processing, Mulching, or Grinding Operations Less than Five Hundred (500) Cubic Yards*

The submittal of a report of waste discharge and the issuance of waste discharge requirements are waived for discharges from the following:

(1) Green waste, food processing waste, agricultural waste, or paper waste composting operations that do not exceed five hundred (500) cubic yards at any given time;

(2) Green waste or agricultural waste processing, mulching or grinding operations that do not exceed a total volume of five hundred (500) cubic yards at any given time.

b. *Composting and Processing, Mulching, or Grinding Operations Greater than Five Hundred (500) Cubic Yards*

For dischargers who comply with the following *Reporting, Site, Operational, and General Conditions*, the issuance of waste discharge requirements are waived for discharges resulting from the following:

(1) The storage and treatment by composting of greater than five hundred (500) cubic yards at any given time of green waste, food processing waste, agricultural waste, or paper waste, and any additives as approved by the RWQCB; or

(2) The storage and treatment by processing, mulching, or grinding of greater than five hundred (500) cubic yards of green waste, or agricultural waste.

B. REPORTING CONDITIONS

1. *Report of Waste Discharge*

The discharger shall file a report of waste discharge that includes a technical report containing a requirement-by-requirement analysis based on acceptable engineering standards and best management practices, of how the process and physical designs of the facility will ensure compliance with the conditions listed herein. The discharger shall submit a fee pursuant to CCR Title 23, Section 2200 for a Threat to Water Quality and Complexity Rating 3-C, Chapter 15.

2. *General Industrial Storm Water Permit*

The discharger shall file either a Notice of Intent to comply with the requirements set forth in State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000001 for the discharge of storm water or submit documentation that the NPDES storm water permit requirements are not applicable to the discharger's facility.

3. *Changes in Operation*

The discharger shall notify the RWQCB of:

a. any significant change in the nature and quantity of waste composted or processed, area of operation, or season of operation; or

b. termination of operation.

C. SITE CONDITIONS

1. *Control and Management*

All areas upon which green waste, food processing waste, agricultural waste, or paper waste and any feedstock
additives are discharged for composting or processing, mulching, grinding, storing and treating shall be designed,
constructed and maintained to prevent the degradation of waters of the state. Such facility operations shall be
equivalent to the water quality protection achieved through the implementation of the following measures:

a. *Precipitation*

All precipitation and surface drainage from outside the compost, process, treatment or storage areas including that collected from roofed areas, and runoff from tributary areas resulting from a 25-year, 24-hour storm shall be diverted away from the such areas.

b. *Runoff*

The discharger shall develop and implement a plan to reduce or eliminate the discharge of pollutants into
surface waters including storm water. The plan shall describe measures taken to prevent contaminated process water and reduce or eliminate contaminated storm water from being discharged from the site.

c. *Water Quality Protection*

All compost, process and storage areas shall be sited where soil characteristics, distance from waste to ground water, and other factors will ensure no impairment of beneficial uses of surface waters or ground waters beneath or adjacent to the facility.

d. *Stream Flow*
The facilities shall be protected from inundation or washout by overflow from any stream channel during a
25-year peak stream flow.

e. *Surface Maintenance*
If the equipment operating near or on compost, process, storage, or treatment areas produces subsidence, cracking, or otherwise compromises any surface, the discharger shall repair any damaged areas immediately .

D. OPERATIONAL CONDITIONS

1. Additives
Dischargers who use additives as defined in this document shall report to the RWQCB's Executive Officer for his approval the type, and quantity of the additive. The use of additives shall comply with the *CONDITIONS* listed in this document.

2. Discharge Specifications
The discharge of green waste, food processing waste, agricultural waste, or paper waste for storage and treatment by composting or processing, grinding, or mulching shall not cause or threaten to cause a condition of contamination, pollution or nuisance.

3. Maintenance
Containment structures such as embankments, liners or surface impoundments shall be maintained in order to ensure proper performance whenever wastes are discharged.

4. Wet Weather Preparations
Prior to the rainy season, the discharger shall conduct a survey of the operation to ensure that the site has been graded and prepared to prevent erosion and to prevent ponding of waste water at any location not designed and operated to retain water.

5. Inspections
The discharger shall inspect compost, process, storage and treatment areas for emergence of leachate, ponding, or surface failures such as cracking or subsidence; such inspections shall be frequent enough to ensure compliance with the Conditions of this waiver. If visible leachate, ponding, cracking, or subsidence of surfaces is observed, the discharger shall immediately take necessary measures to maintain the performance standards described in *SITE CONDITIONS C.*

E. GENERAL CONDITIONS

1. Prohibitions
The inclusion of the following wastes for treatment by composting or processing under the conditions of this

waiver are prohibited:
a. municipal solid waste;
b. sludges (including sewage sludge, water treatment sludge, and industrial sludge);
c. septage;
d. liquid wastes, unless specifically approved by the Regional Board;
e. animal waste, except manure when used as an additive;
f. oil and grease; and
g. hazardous, designated, and any other wastes determined by the Regional Board to pose a potential threat to water quality.

2. Entry and Inspection

The discharger shall allow the RWQCB, or an authorized representative upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the discharger's premises where a conditionally waived facility or activity is located or conducted, or where records must be kept under the conditions of this waiver;
b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this waiver;
c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this waiver; and
d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this waiver or as otherwise authorized by the California Water Code, any substances or parameters at any location.

DEFINITION OF TERMS IN CONDITIONS FOR ITEM 20

GREEN WASTE: Material that consists of or contains waste from plants, including leaves, clippings, cuttings,
trimmings of grass, weeds, shrubbery, bushes, or trees, residential or community garden wastes, and untreated
wood wastes.

FOOD PROCESSING WASTE: Material that consists of or contains only pre-processed and post-processed
waste derived from plants, or foods processed or produced at restaurants, hospitals and food distributors.

AGRICULTURAL WASTE: Material that consists of the plant waste coming directly from an agricultural
commodity, and is the product of farms and ranches and by-products processed from these products, as defined in Division 21, Part 2, Chapter 1 Section 58619 of the Food and Agriculture Code.
Agricultural waste includes agricultural, floricultural, silvicultural, vermicultural or viticultural products.

PAPER WASTE: Material that consists of nonhazardous paper and paper by-products.

ATTACHMENT A TO RESOLUTION NO. R9-2007-0104

ADDITIVE: Material that consists of waste or products which are approved by the RWQCB's Executive Officer
for mixture with feedstock or treated waste to adjust the moisture level, the carbon to nitrogen ratio, or the
porosity of the wastes to create a condition favorable to the processing, or to improve the end-product.
Additives may include manures, fertilizers, and chemical amendments.

DISCHARGER: Any person who discharges waste which could affect the quality of waters of the state, and
includes any person who owns a waste management unit or who is responsible for the operation of a waste
management unit pursuant to Title 23, California Code of Regulations, Section 2601.

CONDITIONS FOR ITEM 22. PERMANENT RECLAIMED WATER PROJECTS:

1. The discharger shall submit a report of waste discharge pursuant to Section 13260 or 13522.5 of the California Water Code. This report shall contain sufficient technical information from which the Regional Board can determine if the proposed discharge complies with all applicable reclamation regulations; and

2. The proposed discharge of reclaimed water must be in compliance with the California Code of Regulations, Title 22, Division 4, Chapter 3, Articles 1 - 10; and

3. The proposed discharge of reclaimed water must be in compliance with the Water Quality Control Plan, San Diego Basin (9); and

4. The report of waste discharge must contain a letter from the local health department of the State Department of Health Services stating that the proposed project complies with all State and local Health requirements for the use of reclaimed water. This letter shall also specify any monitoring required to demonstrate compliance with Title 22, Division 4, Chapter 3, Reclamation Criteria, Articles 2, 3, 4, 5 and 5.1; and

5. Temporary waiver's of waste discharge requirements remain in effect for a project until the Regional Board is able to adopt permanent requirements. The Regional Board will adopt requirements, as appropriate, at the earliest possible opportunity, and in accordance with Regional Board priorities.

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Appendix D

Environmental Analysis and Checklist

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Appendix D
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D Environmental Analysis and Checklist

D.1 California Environmental Quality Act Requirements

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) must comply with the California Environmental Quality Act (CEQA) when amending the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan) as proposed in this project to renew and issue the conditional waivers of waste discharge requirements for specific types of discharge within the San Diego Region. Under the CEQA, the San Diego Water Board is the Lead Agency for evaluating the environmental impacts of the reasonably foreseeable methods of compliance with the proposed conditional waivers.

The conditional waivers are set to expire at the end of 2007, and because the conditional waivers are part of the Basin Plan, renewing and issuing conditional waivers require a Basin Plan amendment. The adoption of a Basin Plan amendment is an activity subject to CEQA requirements because Basin Plan amendments constitute rules or regulations requiring the installation of pollution control equipment, establishing a performance standard, or establishing a treatment requirement.[1] In order to be eligible for regulation by a conditional waiver, a discharger must comply with the conditions set forth in the conditional waiver. The waiver conditions may be considered a performance standard.[2] Sections D.1.1 and D.1.2 below describe in detail the statutory requirements and scope of this environmental analysis required by the CEQA for Basin Plan amendments.

D.1.1 Exemption from Requirement to Prepare Standard CEQA Documents

The CEQA authorizes the Secretary of the Resources Agency to certify state regulatory programs, designed to meet the goals of the CEQA, as exempt from its requirements to prepare an Environmental Impact Report (EIR), Negative Declaration, or Initial Study. The State Water Resources Control Board's (State Water Board) and the San Diego Water Board's Basin Plan amendment process is a certified regulatory program and is therefore exempt from the CEQA's requirements to prepare such documents. [3]

The State Water Board's CEQA implementation regulations[4] describe the environmental documents required for Basin Plan amendment actions. These documents consist of a written report that includes a description of the proposed activity, alternatives to the proposed activity to reduce or eliminate potentially significant environmental impacts, and identification of mitigation measures to minimize any significant adverse impacts. For this project, these documents are the Technical Report entitled *Basin Plan*

[1] California Code of Regulations Title 14 section 15187(a)
[2] The term "performance standard" is defined in the rulemaking provisions of the Administrative Procedure Act [Government Code sections 11340-11359]. A "performance standard" is a regulation that describes an objective with the criteria stated for achieving the objective [Government Code section 11342(d)].
[3] California Code of Regulations Title 14 section 15251(g) and Public Resources Code section 21080.5
[4] California Code of Regulations Title 23 section 3720 et seq. "Implementation of the Environmental Quality Act of 1970"

Amendment for the Renewal and Issuance of Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge Within the San Diego Region (Technical Report), an initial draft of the Basin Plan amendment (Appendix C) and an environmental checklist (section D.4 below). These components fulfill the requirements of the CEQA for preparation of environmental documents for this Basin Plan amendment.[5]

D.1.2 Scope of Environmental Analysis

There are 26 types of discharge that are conditionally waived of waste discharge requirements and/or requirement to file reports of waste discharge by the existing conditional waivers in the Basin Plan. Conditional waivers for all 26 types of discharge are proposed for renewal in this Basin Plan amendment. Of the 26 existing conditional waivers, 23 were first adopted by the San Diego Water Board in 1983,[6] and 3 were first adopted in 1993.[7] These types of discharge include the following:

1. Conventional septic tank/subsurface disposal systems for residential units.
2. Conventional septic tank/subsurface disposal systems for commercial/industrial establishments.
3. Alternative individual sewerage systems.
4. Conventional septic tank/subsurface disposal systems for campgrounds.
5. Construction and test pumping of water wells.
6. Air conditioner condensate.
7. Animal feeding operations (300 to 999 animal units).
8. Animal feeding operations (less than 300 animal units).
9. Plant crop residues.
10. Storm water runoff (not otherwise subject to NPDES regulations).
11. Sand and gravel mining operations.
12. Intermittent swimming pool discharges.
13. Dredging project wastes.
14. Short-term construction dewatering operations.
15. Manure composting and soil amendment operations.
16. Solid waste disposal facilities accepting only inert wastes.
17. Stream channel alterations.
18. Agricultural irrigation return water.
19. Nursery irrigation return water.
20. Short-term use of reclaimed wastewater.
21. On-site drilling mud discharge.
22. Timber harvesting.
23. Temporary discharge of specified contaminated soils.

[5] California Code of Regulations Title 23 section 3777
[6] Resolution No. 83-21, *A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Certain Specific Types of Discharges,* adopted in July 1983
[7] Addenda Nos. 1, 2, and 3 to Resolution No. 83-21, *A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Temporary Discharge of Specified Contaminated Soils, Disposal/Reuse Options for Specified Soils, Green Waste Composting Facilities*, adopted in November 1993

24. Green waste composting facilities.
25. Incidental discharges within a response area during a spill response.
26. Permanent reclaimed water projects.

The San Diego Water Board performed Initial Studies and adopted Negative Declarations for these 26 existing conditional waivers when they adopted Resolution No. 83-21 and Addenda 1, 2, and 3 to Resolution No. 83-21.[8] In September 1994, the Basin Plan was amended to incorporate the conditional waivers into section 4 (Implementation) of the Basin Plan. When the existing conditional waivers in the Basin Plan were renewed by adopting Resolution No. R9-2002-186, the CEQA requirements were again fulfilled by preparing the environmental documents for a Basin Plan amendment action. Therefore, the CEQA requirements have been fulfilled for the 26 types of discharge regulated by the existing conditional waivers.

The proposed waiver conditions that are applicable to the 26 types of discharge regulated by the existing conditional waivers do not differ significantly from the existing waiver conditions. However, there are 9 new types of discharge proposed for regulation by conditional waivers. Because the potential environmental impacts from the 26 existing conditional waivers have been adequately analyzed when first adopted in 1983 and 1993, and again when renewed in 2002, the scope of the environmental analysis for this project was limited to the 9 new types of discharge that have been proposed for regulation by the proposed conditional waivers, which include the following:

1. “Low threat” discharges to land.
2. Discharges from on-site graywater systems.
3. Discharges from grazing lands.
4. Fire suppression and fuels management activities.
5. Discharge/reuse of soils characterized as inert from known contaminated sites.
6. Concrete grinding residues.
7. Temporary waste piles and surface impoundments for disaster-related wastes.
8. Temporary waste piles and emergency landfills for mass mortality wastes.
9. Discharges of wastes related to fireworks displays.

Discharges of emergency/disaster-related wastes could potentially have significant adverse environmental impacts. However, emergency projects are exempt from the requirements of CEQA.[9]

The CEQA has specific provisions that establish the scope of the environmental analysis required for the adoption of this Basin Plan amendment. The CEQA limits the scope to an environmental analysis of the reasonably foreseeable methods of compliance with the conditions of a conditional waiver. The State Water Board CEQA

[8] Resolution 83-21 *A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Certain Specific Types of Discharges* and 93-103, *A Resolution Adopting a Negative Declaration for Addenda Nos. 1, 2 and 3 to Resolution 83-21*
[9] California Code of Regulations Title 14 section 15269

Implementation Regulations for Certified Regulatory Programs[10] require the environmental analysis to include at least the following:

1. A brief description of the proposed activity. In this case, the proposed activity is to renew and issue the conditional waivers of waste discharge requirements in the Basin Plan, which requires a Basin Plan amendment. The Basin Plan amendment is described in section D.2 of this appendix.

2. Reasonable alternatives to the proposed activity (discussed in section D.8).

3. Mitigation measures to minimize any significant adverse environmental impacts of the proposed activity (discussed in section D.5).

Additionally, the CEQA[11] and CEQA Guidelines[12] require the following components, some of which are repetitive from the list above:

1. An analysis of the reasonably foreseeable environmental impacts of the methods of compliance. These methods may be employed to comply with the waiver conditions of the proposed conditional waivers of the Basin Plan amendment. Reasonably foreseeable methods of compliance are described in section D.3. Sections D.4 and D.5 identify the environmental impacts associated with the methods of compliance.

2. An analysis of the reasonably foreseeable feasible mitigation measures relating to those impacts. This discussion is also in section D.5.

3. An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, which would avoid or eliminate the identified impacts. This discussion is in section D.5.1.

Additionally, the CEQA Guidelines require the environmental analysis take into account a reasonable range of:[13]

1. Environmental factors (section D.5)
2. Economic factors (section D.7)
3. Technical factors (section D.6)
4. Population (section D.6)
5. Geographic areas (section D.6)
6. Specific sites (section D.6)

A “reasonable range” does not require an examination of every site, but a reasonably representative sample of them. The statute specifically states that the agency shall not

[10] California Code of Regulations Title 23 section 3777
[11] Public Resources Code section 21159 (a)
[12] California Code of Regulations Title 14 section 15187(c)
[13] California Code of Regulations Title 14 section 15187(d),Public Resources Code section 21159 (c)

conduct a "project level analysis."[14] Rather, a project level analysis must be performed by the dischargers to be eligible for regulation by a conditional waiver.[15] Notably, the San Diego Water Board is prohibited from specifying the manner of compliance with its regulations,[16] and accordingly, the actual environmental impacts will necessarily depend upon the compliance strategy selected by the dischargers. In preparing this environmental analysis, the San Diego Water Board has considered the pertinent requirements of state law,[17] and intends this analysis to serve as a tier 1 environmental review.

Any potential environmental impacts associated with complying with the conditions of a conditional waiver depend upon the specific methods selected by the dischargers to comply with waiver conditions at a project level. There could be adverse environmental impacts from specific methods if not properly implemented, or if inappropriate methods are selected. We assumed that the reasonably foreseeable methods of compliance selected by a discharger will be the most cost effective with the least potential impacts on the environment.

The substitute CEQA documents identify broad mitigation approaches that could be considered at the project level. Consistent with the CEQA, the substitute documents do not engage in speculation or conjecture, but rather consider the reasonably foreseeable environmental impacts of the reasonably foreseeable methods of compliance, the reasonably foreseeable mitigation measures, and the reasonably foreseeable alternative means of compliance, which would avoid, eliminate, or reduce the identified impacts.

D.2 Description of the Proposed Activity

The Basin Plan designates beneficial uses of water bodies, establishes water quality objectives for the protection of these beneficial uses, and outlines a plan of implementation for maintaining and enhancing water quality. The conditional waivers are included in the plan of implementation within the Basin Plan. The existing conditional waivers are set to expire at the end of 2007, and because the conditional waivers are part of the Basin Plan, renewing and issuing conditional waivers require a Basin Plan amendment. The proposed Basin Plan amendment would revise the conditional waivers. The revisions to the conditional waivers include the following:

- Renewing the existing conditional waivers, adopted by Resolution No. R9-2002-186 and reviewed in Appendix A, for specific types of discharge in the San Diego Region;
- Issuing conditional waivers for several new specific types of discharge, discussed in Appendix B, for the San Diego Region;

[14] Public Resources Code section 21159(d)
[15] Public Resources Code section 21159.2
[16] Water Code section 13360
[17] Public Resources Code section 21159 and 14 CCR section 15187

- Reorganizing the conditional waivers by grouping the specific types of discharge into discharge classifications, as outlined in section 6 of the Technical Report;
- Providing general waiver conditions applicable to all specific types of discharge within a discharge classification, as given in section 7 of the Technical Report; and,
- Providing specific waiver conditions for each specific type of discharge within a discharge classification, if applicable, as given in section 7 of the Technical Report.

The proposed conditional waivers could be used as a method to regulate specific types of discharge within the San Diego Region. The proposed conditional waivers would be valid for a period of 5 years after adoption by the San Diego Water Board and approval by the State Water Board, and the Office of Administrative Law. Once adopted, a conditional waiver can be terminated for a specific type of discharge or specific discharge if the discharge is no longer in the public interest or does not comply with the water quality standards in the Basin Plan, or as deemed necessary by the San Diego Water Board.

D.2.1 Surrounding Land Uses and Setting

The San Diego Region forms the southwest corner of California and occupies approximately 3,900 square miles. The western boundary of the Region consists of the Pacific Ocean coastline. The northern boundary of the Region is formed by the hydrologic divide starting near Laguna Beach and extending inland through El Toro and easterly along the ridge of the Elsinore Mountains into the Cleveland National Forest. The eastern boundary of the Region is formed by the Laguna Mountains and other lesser known mountains located in the Cleveland National Forest. The southern boundary of the Region is formed by the United States-Mexico international border.

The San Diego Region encompasses most of San Diego County, parts of southwestern Riverside County, and southwestern Orange County. The Region is divided into a coastal plain area, a central mountain-valley area, and an eastern mountain-valley area. It consists of eleven hydrologic units that ultimately drain to the Pacific Ocean. The climate in the Region is generally mild with annual temperatures averaging around 65°F near the coastal areas. Average annual rainfall ranges from 9 to 11 inches along the coast to more than 30 inches in the eastern mountains. There are two distinct seasons in the Region. Summer dry weather occurs from late April to mid-October. During this period almost no rain falls. The winter season (mid-October through early April) consists of generally dry weather interspersed by occasional rain storms. Eighty-five to ninety percent of the annual rainfall occurs during the winter season.

The land use of the San Diego Region is highly variable. The coastline areas are highly concentrated with urban and residential land uses, and the inland areas primarily consist of open space. Most of the Region is occupied by open space or recreational land use, followed by low-density residential and agriculture/livestock land uses. Other major land uses are commercial/institutional, high-density residential, industrial/transportation, military, transitional, and water.

D.3 Analysis of Reasonably Foreseeable Methods of Compliance

This section identifies a range of reasonably foreseeable method(s) of compliance with the Basin Plan amendment. While the environmental analysis will be limited to the 9 new types of discharge listed above, the reasonably foreseeable methods of compliance that may be implemented by the discharges will be similar to those that are used for the 26 types of discharge regulated by the existing conditional waivers. The most reasonably foreseeable methods that a discharger may utilize to comply with a waiver condition include management measures (MMs) and structural and non-structural best management practices (BMPs). Typical MMs/BMPs that may be selected by dischargers to comply with waiver conditions are divided into non-structural and structural controls, and are described below.

Non-structural Controls

Non-structural controls typically are aimed at controlling sources of a pollutant and generally do not involve new construction. Because the types of discharge to be regulated by the proposed conditional waivers are not expected to pose a significant threat to the environment, non-structural controls are expected to be the first methods to be utilized by the dischargers. No potentially significant impacts on the environment were identified for these controls.

Proper Waste Management: Properly manage where and how wastes are discharged to minimize or eliminate the potential for erosion and pollutants to impact waters of the state. Proper waste management can include, but is not limited to, moving and/or discharging wastes to areas with adequate distance from surface waters and groundwater, ensuring the waste discharge area will minimize or eliminate the discharge of runoff to waters of the state, or ensure waste is not exposed to surface runoff that can transport pollutants (via overland flow or infiltration) to waters of the state. Proper waste management also includes complying with local ordinances and regulations and obtaining any required approvals, permits, certifications, and/or licenses from authorized local agencies.

Facility Inspection and Maintenance: Conduct regular inspections of facilities to identify potential sources of pollutants and locations where discharged wastes may potentially impact waters of the state. Routine inspection and maintenance is an efficient way to prevent potential nuisance situations (e.g., odors, mosquitoes, weeds, etc.), to minimize or eliminate the potential for erosion and pollutants to impact waters of the state, and to reduce the need for repair maintenance.

Facility Management Plans: For facilities that use any products (e.g., fertilizers, pesticides, etc.) or discharge any wastes on site, adopt a facility management plan to ensure that products and wastes are stored, used, and disposed of in ways that minimize exposure to storm water or surface runoff that can transport pollutants to waters of the state. Products and some wastes (e.g., compost, plant crop residues), when used properly, may also reduce surface runoff and runoff velocity, which can reduce or eliminate erosion and discharges of pollutants to waters of the state.

Design, Sizing and Location of Facilities: Properly design, size, and site facilities to minimize or eliminate the potential for pollutants to impact surface waters or groundwater.

Education: Dischargers should become educated about the conditional waivers and waiver conditions, potential sources of pollutants at their facility, and methods that may be implemented to comply with waiver conditions. When dischargers become educated about pollutants and their potential impacts, they can implement measures to reduce or eliminate the potential for pollutants to reach and impact waters of the state.

Structural Controls

Structural controls may be utilized to divert, store, and/or treat discharges of waste. Structural controls can involve activities that can potentially impact the environment. However, because the types of discharge to be regulated by the proposed conditional waivers are not expected to pose a significant threat to the environment, the reasonably foreseeable structural controls that may be implemented by the dischargers are not expected to have significant construction or operations requirements. The reasonably foreseeable structural controls are expected to have less than significant and/or short-term impacts on the environment.

Buffer Strips and Vegetated Swales: Construct and/or maintain vegetative buffer strips around and within a facility to slow surface runoff velocity, filter pollutants, and increase surface runoff infiltration.

Infiltration Trenches: Construct and maintain infiltration trenches designed to capture and naturally filter surface runoff.

Diversion and Containment Systems: Install diversion and containment systems to capture surface runoff and/or prevent discharge of pollutants. Surface runoff may be diverted and contained for reuse on site, or it may be diverted to wastewater collection plants for treatment. Diversion and containment systems consist of berms, roofs, liners, or enclosures to drain surface runoff away from discharged wastes, capture runoff from discharged wastes, and/or contain and isolate discharged wastes.

Animal Exclusion: Construct fencing, hedgerows, and livestock trails and walkways to exclude animals from streams and riparian areas to prevent direct deposition of animal wastes into surface waters and erosion of stream channels. Alternative water supplies and shade may need to be provided if animals are excluded from streams and riparian areas.

D.4 Environmental Checklist

POTENTIAL IMPACT	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT WITH MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
1. Earth. Will the proposal result in:				
a. Unstable earth conditions or in changes in geologic substructures?	☐	☐	☒	☐
b. Disruptions, displacements, compaction or overcoming of the soil?	☐	☐	☒	☐
c. Change in topography or ground surface relief features?	☐	☐	☐	☒
d. The destruction, covering or modification of any unique geologic or physical features?	☐	☐	☐	☒
e. Any increase in wind or water erosion of soils either on or off the site?	☐	☐	☒	☐
f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	☐	☐	☐	☒
g. Exposure of people or property to geologic hazards, such as earthquakes, landslides, mudslides, ground failure, or similar hazards?	☐	☐	☐	☒
2. Air. Will the proposal result in:				
a. Substantial air emissions or deterioration of ambient air quality?	☐	☐	☐	☒
b. The creation of objectionable odors?	☐	☐	☒	☐
c. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?	☐	☐	☐	☒
3. Water. Will the proposal result in:				
a. Changes in currents, or the course of direction or water movements, in either marine or fresh waters?	☐	☐	☒	☐
b. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?	☐	☐	☒	☐
c. Alterations to the course of flow of flood waters?	☐	☐	☐	☒

POTENTIAL IMPACT	POTENTIAL SIGNIFICANT IMPACT	LESS THAN SIGNIFICANT IMPACT WITH MITIGATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
3. Water. Will the proposal result in (Cont'd):				
d. Change in the amount of surface water in any water body?	☐	☐	☒	☐
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?	☐	☐	☒	☐
f. Alteration of the direction or rate of flow of groundwaters?	☐	☐	☐	☒
g. Change in the quantity or quality of groundwaters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	☐	☐	☒	☐
h. Substantial reduction in the amount of water otherwise available for public water supplies?	☐	☐	☐	☒
i. Exposure of people or property to water related hazards such as flooding or tidal waves?	☐	☐	☐	☒
4. Plant Life. Will the proposal result in:				
a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, microflora and aquatic plants)?	☐	☐	☒	☐
b. Reduction of the numbers of any unique, rare or endangered species of plants?	☐	☐	☒	☐
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	☐	☐	☒	☐
d. Reduction in acreage of any agricultural crop?	☐	☐	☒	☐
5. Animal Life. Will the proposal result in:				
a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?	☐	☐	☒	☐

POTENTIAL IMPACT	POTENTIAL SIGNIFICANT IMPACT	LESS THAN SIGNIFICANT IMPACT WITH MITIGATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
5. Animal Life. Will the proposal result in (Cont'd):				
b. Reduction of the numbers of any unique, rare or endangered species of animals?	☐	☐	☒	☐
c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?	☐	☐	☒	☐
d. Deterioration to existing fish or wildlife habitat?	☐	☐	☒	☐
6. Noise. Will the proposal result in:				
a. Increases in existing noise levels?	☐	☐	☒	☐
b. Exposure of people to severe noise levels?	☐	☐	☐	☒
7. Light and Glare. Will the proposal:				
a. Produce new light or glare?	☐	☐	☐	☒
8. Land Use. Will the proposal result in:				
a. Substantial alteration of the present or planned land use of an area?	☐	☐	☐	☒
9. Natural Resources. Will the proposal result in:				
a. Increase in the rate of use of any natural resources?	☐	☐	☐	☒
b. Substantial depletion of any nonrenewable natural resource?	☐	☐	☐	☒
10. Risk of Upset. Will the proposal involve:				
a. A risk of an explosion or the release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	☐	☐	☐	☒
11. Population. Will the proposal:				
a. Alter the location, distribution, density, or growth rate of the human population of an area?	☐	☐	☐	☒
12. Housing. Will the proposal:				
a. Affect existing housing, or create a demand for additional housing?	☐	☐	☐	☒

POTENTIAL IMPACT	POTENTIAL SIGNIFICANT IMPACT	LESS THAN SIGNIFICANT IMPACT WITH MITIGATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
13. Transportation/Circulation. Will the proposal result in:				
a. Generation of substantial additional vehicular movement?	☐	☐	☐	☒
b. Effects on existing parking facilities, or demand for new parking?	☐	☐	☐	☒
c. Substantial impact upon existing transportation systems?	☐	☐	☐	☒
d. Alterations to present patterns of circulation or movement of people and/or goods?	☐	☐	☐	☒
e. Alterations to waterborne, rail or air traffic?	☐	☐	☐	☒
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	☐	☐	☐	☒
14. Public Service. Will the proposal have an effect upon, or result in a need for new or altered governmental services in an of the following areas:				
a. Fire protection?	☐	☐	☐	☒
b. Police protection?	☐	☐	☐	☒
c. Schools?	☐	☐	☐	☒
d. Parks or other recreational facilities?	☐	☐	☐	☒
e. Maintenance of public facilities, including roads?	☐	☐	☐	☒
f. Other governmental services?	☐	☐	☐	☒
15. Energy. Will the proposal result in:				
a. Use of substantial amounts of fuel or energy?	☐	☐	☐	☒
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?	☐	☐	☐	☒
16. Utilities and Service Systems. Will the proposal result in a need for new systems, or substantial alterations to the following utilities:				
a. Power or natural gas?	☐	☐	☐	☒
b. Communications systems?	☐	☐	☐	☒
c. Water?	☐	☐	☐	☒
d. Sewer or septic tanks?	☐	☐	☐	☒
e. Storm water drainage?	☐	☐	☐	☒

POTENTIAL IMPACT	POTENTIAL SIGNIFICANT IMPACT	LESS THAN SIGNIFICANT IMPACT WITH MITIGATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
16. Utilities and Service Systems. Will the proposal result in a need for new systems, or substantial alterations to the following utilities (Cont'd):				
f. Solid waste and disposal?	☐	☐	☐	☒
17. Human Health. Will the proposal result in:				
a. Creation of any health hazard or potential health hazard (excluding mental health)?	☐	☐	☒	☐
b. Exposure of people to potential health hazards?	☐	☐	☒	☐
18. Aesthetics. Will the proposal result in:				
a. The obstruction of any scenic vista or view open to the public?	☐	☐	☐	☒
b. The creation of an aesthetically offensive site open to public view?	☐	☐	☐	☒
19. Recreation. Will the proposal result in:				
a. Impact upon the quality or quantity of existing recreational opportunities?	☐	☐	☐	☒
20. Archeological/Historical. Will the proposal:				
a. Result in the alteration of a significant archeological or historical site structure, object or building?	☐	☐	☐	☒
21. Mandatory Findings of Significance				
Potential to degrade: Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐

POTENTIAL IMPACT	POTENTIAL SIGNIFICANT IMPACT	LESS THAN SIGNIFICANT IMPACT WITH MITIGATION	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
21. Mandatory Findings of Significance				
Short-term: Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time, while long-term impacts will endure well into the future.)	☐	☐	☐	☒
Cumulative: Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)	☐	☐	☒	☐
Substantial adverse: Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

D.5 Discussion of Possible Environmental Impacts of Reasonably Foreseeable Compliance Methods and Mitigation Measures

The environmental analysis must include an analysis of the reasonably foreseeable environmental impacts of the methods of compliance and the reasonably foreseeable feasible mitigation measures relating to those impacts. This section, consisting of answers to the questions in the checklist, discusses compliance methods and mitigation measures as they pertain to the checklist.

In formulating these answers, the impacts of implementing the non-structural and structural controls listed in section D.3 were evaluated. At this time, the exact type, size, and location of non-structural and/or structural controls that might be implemented to comply with the proposed waiver conditions is unknown. This analysis considers a range of non-structural and/or structural controls that might be used, but is by no means an exhaustive list of available controls. When non-structural and/or structural controls are selected for implementation, a project-level and site-specific CEQA analysis must be performed by the responsible agency.

Potential reasonably foreseeable impacts were evaluated with respect to earth, air, water, plant life, animal life, noise, light, land use, natural resources, risk of upset, population, housing, transportation, public services, energy, utilities and services systems, human health, aesthetics, recreation, and archeological/historical concerns. Additionally, mandatory findings of significance regarding short-term, long-term, cumulative and substantial impacts were evaluated. The evaluation considered whether the implementation and/or construction of the non-structural and/or structural controls would cause a substantial, adverse change in any of the physical conditions within the area affected by the control. In addition, the evaluation considered environmental effects in proportion to their severity and probability of occurrence. Based on this review, we concluded that the any potential impacts to the environment are less than significant.

A significant effect on the environment is defined in regulation as "*a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. A social or economic change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant*."[18]

A significant effect on the environment is defined in statute as "*a substantial, or potentially substantial, adverse change in the environment*"[19] where "*Environment*" is defined as "*the physical conditions which exist within the area which will be affected by a proposed project, including air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance*."[20]

In this analysis, the level of significance was based on baseline conditions (i.e., current conditions). Short-term impacts associated with the implementation and/or construction of non-structural and/or structural controls were considered less than significant because the impacts due to construction activities are temporary and similar to typical capital improvement projects and maintenance activities currently performed by municipalities. The long-term impacts associated with implementation and/or construction of non-structural and/or structural controls were considered potentially significant, but only if they could have an adverse, or potentially adverse, impact on the environment.

Social or economic changes related to a physical change of the environment were also considered in determining whether there would be a significant effect on the environment. However, adverse social and economic impacts alone are not significant effects on the environment.

[18] 14 CCR section 15382
[19] Public Resources Code section 21068
[20] Public Resources Code section 21060.5

1. Earth. a. Will the proposal result in unstable earth conditions or in changes in geologic substructure?

Answer: Less than significant

Discussion: Reasonably foreseeable non-structural controls would not create unstable earth conditions or changes in geologic substructure because none of these controls include earth moving activities.

For structural controls, infiltration of surface runoff could potentially result in unstable earth conditions if loose or compressible soils are present, or if such structural controls were to be located where infiltrated runoff flowing as groundwater could destabilize existing slopes. However, if infiltration type structural controls are implemented, they would likely be built on a small enough scale to avoid these types of impacts. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in significant unstable earth conditions or in changes in geologic substructure.

1. Earth. b. Will the proposal result in disruptions, displacements, compaction or overcoming of the soil?

Answer: Less than significant

Discussion: Reasonably foreseeable non-structural controls would not result in disruptions, displacements, compaction or overcoming of the soil because none of these controls include earth moving activities.

Depending on the structural controls selected, the proposal may result in minor surface soil excavation or grading during construction of structural controls resulting in increased disturbance of the soil. However, the use of standard construction techniques, along with proper siting, will minimize the potential impact on the environment to less than significant. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in significant disruptions, displacements, compaction or overcoming of the soil.

1. Earth. c. Will the proposal result in change in topography or ground surface relief features?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls are not expected to be on a scale large enough to affect topography or ground relief features.

1. Earth d. Will the proposal result in the destruction, covering or modification of any unique geologic or physical features?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls are not expected to be on a scale large enough that would result in the destruction, covering or modification of any unique geologic or physical features.

1. Earth. e. Will the proposal result in any increase in wind or water erosion of soils, either on or off the site?

Answer: Less than significant

Discussion: Reasonably foreseeable non-structural controls would not result in increase in wind or water erosion of soils, either on or off site because none of the non-structural controls would result in increased surface runoff discharge, or in exposing soils to erosion by wind and water.

Depending on the structural controls selected, the proposal may result in minor soil excavation during construction of structural controls. However, construction related erosion impacts will cease with the cessation of construction. Wind or water erosion of soils may occur as a potential short-term impact. Typical established MMs/BMPs should be used during implementation to minimize offsite sediment runoff or deposition. Construction sites are required to retain sediment on site, both under general construction storm water WDRs and through the construction program of the applicable MS4 WDRs; both of which are already designed to minimize or eliminate erosion impacts on receiving water. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in significant erosion of soils, either on or off the site.

1. Earth. f. Will the proposal result in changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls are not expected to be on a scale large enough that would result in changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake.

1. Earth. g. Will the proposal result in exposure of people or property to geologic hazards, such as earthquakes, landslides, mudslides, ground failure, or similar hazards?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls are not expected to be on a scale large enough that would result in exposure of people or property to geologic hazards because none of these controls would result in earth moving activities.

2. Air. a. Will the proposal result in substantial air emissions or deterioration of ambient air quality?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls are not expected to be on a scale large enough that would result in substantial air emissions or deterioration of ambient air quality.

2. Air. b. Will the proposal result in creation of objectionable odors?

Answer: Less than significant

Discussion: Non-structural controls could result in the creation of objectionable odors if animal wastes and/or compost is stored at a facility. However, proper storage, use and management of such wastes would minimize or eliminate such odors. In rural areas, the number of persons that may be affected and consider it a

nuisance would likely be very low. In urban areas, storage and use of such wastes are expected to be on small scales, which would have a less than significant effect on the environment.

Construction and installation of structural controls may result in objectionable odors in the short-term due to exhaust from construction equipment and vehicles, but no more so than during typical construction activities currently performed. Structural controls may be a source of objectionable odors if structural control designs allow for water stagnation or collection of water with sulfur-containing compounds. Storm water runoff is not likely to contain sulfur-containing compounds, but stagnant water could create objectionable odors. However, reasonably foreseeable structural controls are not expected to be on a scale large enough that would result in the significant creation of objectionable odors.

2. Air. c. Will the proposal result in alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally.

3. Water. a. Will the proposal result in changes in currents, or the course of direction or water movements, in either marine or fresh waters?

Answer: Less than significant

Discussion: Most non-structural controls will not cause changes in currents, or the course of direction or water movements, in either marine or fresh waters because most of these controls would not introduce any physical effects that could impact these characteristics. Reduction or elimination of dry weather flows caused by implementation of non-structural controls could have a physical impact due to a reduction in sediment and refuse discharge. However, any reduction of dry weather flows would bring the creeks and streams to a more natural, pre-development condition with respect to currents, which is beneficial to the environment.

Structural controls may change the currents in the watersheds by diverting flow away from the creek and stream channels. The roughness coefficient may be reduced as sediment is kept out of the channels, which could increase the flow rate in the channels but would not change the direction of flow. Overland flow may change depending on the structural controls installed such as infiltration trenches. If surface runoff flow is reduced, or is diverted and not returned to the creeks, these

changes would reduce the potential for erosion, which is beneficial to the environment. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in significant changes in currents, or the course of direction or water movements, in either marine or fresh waters.

3. Water. b. Will the proposal result in changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?

Answer: Less than significant

Discussion: Non-structural controls would not result in changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff because none of these controls would introduce any physical effects that could impact these characteristics.

Depending on the structural controls selected, absorption rates, drainage patterns, and surface water runoff may change. Grading and excavation during construction and installation of structural controls could result in alterations in absorption rates, drainage patterns, and surface water runoff. Several types of structural controls for both urban and rural areas collect and/or inhibit surface runoff flow, which would likely alter drainage patterns, and also decrease the rate and amount of surface runoff. For example, structural controls such as buffer strips would change drainage patterns by increasing absorption rates, which would reduce the amount of surface runoff to creeks. If surface runoff is diverted to wastewater treatment facilities, thereby reducing the overall flow, the erosion and scour that would normally be caused in the streams by surface runoff would be reduced. The amount of flow within the stream channel may change; however, the channelized drainage pattern would remain essentially unchanged. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in significant changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff.

3. Water. c. Will the proposal result in alterations to the course of flow of flood waters?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in alterations to the course of flow of flood waters because none of the controls would introduce any physical effects that could impact these characteristics.

3. Water. d. Will the proposal result in change in the amount of surface water in any water body?

Answer: Less than significant

Discussion: Implementation of non-structural controls could result in a reduction in the amount of dry weather surface water in the watersheds. Because the reduction of nuisance flows would return the watersheds to a more natural, predevelopment condition, this impact is considered less than significant.

Depending on the structural controls selected, surface runoff may be retained and/or diverted for groundwater infiltration and/or reused. Water that is retained or diverted would not flow into creek and stream channels. Because the surface water runoff to the creeks would be reduced, the adverse effects of channel scour and erosion of the creeks would also be reduced. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant change in the amount of surface water in any water body.

3. Water. e. Will the proposal result in discharge to surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?

Answer: Less than significant

Discussion: Non-structural and/or structural controls would not result in any additional discharge to surface waters. Depending on the structural controls selected, the current amount of surface runoff discharged to surface waters may actually be reduced if diverted for groundwater infiltration, reuse, or to wastewater treatment facilities.

A reduction of dry weather discharges (i.e., a cessation or reduction in nuisance flows) would result in a reduction of overall water in the creek and stream channels during the dry season. This would result in a water temperature increase, and a decrease of dissolved oxygen in dry weather pools. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant discharge to surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity.

3. Water. f. Will the proposal result in alteration of the direction or rate of flow of groundwaters?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in alteration of the direction or rate of flow of groundwaters.

3. Water. g. Change in the quantity or quality of groundwaters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

Answer: Less than significant

Discussion: Non-structural and/or structural controls that promote or utilize infiltration of surface runoff may increase the quantity and/or degrade the quality of groundwaters. The increase in quantity is unlikely to have any adverse effects since, under pre-development conditions, infiltration rates of storm water runoff to groundwater were most likely much higher than they are today due to the absence of hardscapes. Additionally, non-structural and/or structural controls are not expected to degrade groundwater because the types of discharge that would be regulated by the proposed conditional waivers, if discharged in accordance with waiver conditions, would not pose a threat to the quality or beneficial uses of waters of the state.

3. Water. h. Will the proposal result in substantial reduction in the amount of water otherwise available for public water supplies?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in substantial reduction in the amount of water otherwise available for public water supplies.

3. Water. i. Will the proposal result in exposure of people or property to water related hazards such as flooding or tidal waves?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in exposure of people or property to water related hazards such as flooding or tidal waves.

4. Plant Life. a. Will the proposal result in change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, microflora and aquatic plants)?

Answer: Less than significant

Discussion: Implementing non-structural controls will not directly result in change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, microflora and aquatic plants) because most of these controls would not introduce any physical effects that could impact these characteristics. However, the reduction or elimination of nuisance flows could result in a change in the diversity of species, or number of any species of plants, especially in the dry weather season. No adverse impacts are expected because the elimination of nuisance flows would return the dry weather flows in creek and stream channels to a more natural, pre-development condition. This in turn would facilitate the return of the plant community of creek or stream channel to a more natural, pre-development condition and could impede the propagation of water-loving non-native and invasive plant species. Impeding the propagation of invasive species is not an adverse impact.

The installation of structural controls such as vegetated swales or buffer strips could increase the diversity or number of plant species, which is beneficial to the environment by increasing available habitat. However, during storm events, structural controls could also divert, reduce, and/or eliminate surface water runoff discharge, which may reduce the number and/or diversity of plant species within the streams, by modifying the hydrology of the creeks. However, surface runoff rates were most likely much lower than they are today due to the absence of hardscapes, and structural controls such as vegetated swales and buffer strips would likely restore creek and stream channels closer to more natural, pre-development conditions. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant change in the diversity of species, or number of any species of plants.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect plant life by allowing the use of soils with elevated concentrations of metals. However, the waiver itself does not induce or approve a project where soils are going to be excavated, removed or reused. A project, and any associated excavation and removal of soil for a project, may only occur after the project itself undergoes any necessary CEQA analysis or obtains any other necessary permits (e.g., clearing and grading permits or permits under the Federal Clean Water Act) to the extent required.

Additionally, while the proposed waiver allows the reuse of certain soils, the placement of the soil may similarly only occur in association with another project that also has undergone the CEQA process (if necessary) and received any other necessary permits (e.g., grading permits, Army Corps permits, etc.). Also, it is the expectation that both projects (the site excavating the soil and the site receiving the soil) will follow all regulations requiring the implementation of Best Management Practices to avoid storm water runoff.

Tier I of the waiver proposes to allow the reuse of soil that contains metals at concentration levels below ecological screening levels or equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create ecological concerns or create soil conditions significantly different from naturally occurring conditions that exist today. Tier II of the waiver proposes to allow the reuse of soil at levels in some cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. Given these protective measures, this waiver will have a less than significant impact on plant life or species.

4. Plant life. b. Will the proposal result in reduction of the numbers of any unique, rare or endangered species of plants?

Answer: Less than significant

Discussion: Implementing non-structural controls will not directly result in a reduction of the numbers of any unique, rare, or endangered species of plants because these controls will not affect the habitat of any unique, rare, or endangered species of plants because the controls would not introduce any physical effects that could impact these characteristics.

Depending on the type of discharge and/or structural controls selected, direct or indirect impacts to special-status plant species may occur during and after the waste discharge and/or construction of structural controls. However, when the specific projects are developed and sites identified, a focused protocol plant survey and/or a

search of the California Natural Diversity Database should be performed to confirm that any potentially sensitive or special status plant species in the site area are properly identified and protected as necessary. If sensitive plant species occur on the project site, mitigation is required in accordance with the Endangered Species Act. Mitigation measures should be developed in consultation with the California Department of Fish and Game (CDFG) and the United States Fish and Wildlife Service (USFWS). Therefore, if a discharger chooses to implement structural controls, they can and should avoid affecting habitat that is vital for the survival of any unique, rare, or endangered plant species. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant reduction of any unique, rare or endangered species of plants.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect plant life by allowing the use of soils with elevated concentrations of metals. However, the waiver itself does not induce or approve a project where soils are going to be excavated, removed or reused. Tier I of this waiver proposes to allow the reuse of soil that contains metals at concentration levels equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create soil conditions significantly different from naturally occurring conditions. Tier II of the waiver proposes to allow the reuse of soil at levels in some cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. For this reason, any soil reused under this waiver should not create any impact resulting in the reduction of the numbers of any unique, rare or endangered species of plants.

4. Plant life. c. Will the proposal result in introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?

Answer: Less than significant

Discussion: Implementing non-structural controls will not result in introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species because most of the controls would not introduce any physical effects that could impact these characteristics. However, the reduction or elimination of nuisance flows could result in the introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species especially in the dry weather season. However, no adverse impacts are expected as discussed in the answer to question 4.a.

For structural controls that may include the use of plants, such as vegetated swales or buffer strips, new species of plants may possibly be introduced into the area.

However, in cases where plants or landscaping is incorporated into the specific project design, the possibility of disruption of resident native species could be avoided or minimized by using only plants native to the area. The use of exotic invasive species or other plants listed in the Exotic Pest Plant of Greatest Ecological Concern in California (1999, California Invasive Plant Council, as amended) should be prohibited. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect plant life by allowing the use of soils with elevated concentrations of metals. Tier I of this waiver proposes to allow the reuse of soil that contains metals at concentrations equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create soil conditions significantly different from naturally occurring conditions that exist today. Tier II of the waiver proposes to allow the reuse of soil at levels in cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. For this reason, any soil reused under this waiver should not create any impact resulting in the introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species.

To the extent that soil is moved from one location to another under this waver, this waiver alone does not induce or approve projects involving the excavation or import of soil. Such projects, and any associated excavation, removal, or import of soil for a project, may only occur after the project itself undergoes any necessary CEQA analysis or obtains any other necessary permits (e.g., clearing and grading permits or permits under the Federal Clean Water Act) to the extent required. Therefore, the relocation of the soil itself will be evaluated under a separate CEQA evaluation when required.

4. Plant life. d. Will the proposal result in reduction in acreage of any agricultural crop?

Answer: Less than significant

Discussion: Implementing non-structural controls are not expected to result in a reduction in acreage of agricultural crops because establishing such controls does not necessitate area acquisition.

Implementing structural controls could result in a minor reduction in acreage of agricultural crops. Dischargers should check the California Department of Conservation, Division of Land Resources Protection, Farmland Mapping and

Monitoring Program, to see if there is Prime Farmland, Farmland of Statewide Importance, Unique Farmland or Farmland of Local Importance in the proposed project areas. Dischargers should avoid placing structural controls in areas that could affect the integrity of special status areas, and instead place them in areas that will have a minimal effect on crop production. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant reduction in acreage of agricultural crops.

5. Animal Life. a. Will the proposal result in change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?

Answer: Less than significant

Discussion: Implementing non-structural controls will not directly result in change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna) because the controls would not introduce any physical effects that could impact these characteristics. However, the reduction or elimination of nuisance flows could result in change in the diversity of species, or numbers of any species of animals, due to a reduction of dry weather flows that could eliminate instream habitats dependant on those flows. However, this would return dry weather flows in the watersheds to a more natural, pre-development condition as discussed in the answer to question 4.a. Animal species that thrived in the creeks in the absence of nuisance flows should not be adversely impacted by habitat changes if the flows are eliminated. Impeding the propagation of invasive species is not an adverse impact.

The installation of structural controls such as vegetated swales or buffer strips could increase the diversity or number of animal species, which is beneficial by creating habitat for those species. Structural controls could also divert, or reduce storm water runoff discharge, which could decrease the number and/or diversity of animal species within the stream channels by eliminating habitat dependant on those flows. However, native communities of animals can thrive under lower streamflow conditions than what currently exist. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in change in a significantly adverse change in diversity of species, or numbers of any species of animals.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect animal receptors by allowing the use of soils with elevated concentrations of metals. However, the waiver itself does not induce or approve a project where soils are going to be excavated or removed. A project, and any associated excavation and removal of soil for a project, may only occur after the

project itself undergoes any necessary CEQA analysis or obtains any other necessary permits (e.g., clearing and grading permits or permits under the Federal Clean Water Act) to the extent required.

Additionally, while the proposed waiver allows the reuse of certain soils, the placement of the soil may similarly only occur in association with another project that also has undergone the CEQA process (if necessary) and received any obtained any other necessary permits (i.e., grading permits, etc.). Also, it is the expectation that both projects (the site excavating the soil and the site receiving the soil) will follow all regulations requiring the implementation of Best Management Practices to avoid storm water runoff.

Tier I of the waiver proposes to allow the reuse of soil that contains metals at concentrations equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create soil conditions significantly different from naturally occurring conditions that exist today. Tier II of the waiver proposes to allow the reuse of soil at levels in cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. Given these protective measures, this waiver has a less than significant impact on animal life or species.

5. Animal Life. b. Will the proposal result in reduction of the numbers of any unique, rare or endangered species of animals?

Answer: Less than significant

Discussion: Implementing non-structural controls will not result in a reduction of the numbers of unique, rare or endangered species of animals because these controls will not cause a reduction in habitat for unique, rare, or endangered animals. However, a reduction or elimination of nuisance flows could eliminate riparian habitat dependant on those flows. However, reasonably foreseeable non-structural controls are not expected to be of the size or scale to result in reduction of the numbers of any unique, rare or endangered species of animals.

Depending on the type of discharge and/or structural controls selected, direct or indirect impacts to special-status animal species may occur during and after the waste discharge and/or construction of structural controls. However, when the specific projects are developed and sites identified, a focused protocol animal survey and/or a search of the California Natural Diversity Database should be performed to confirm that any potentially sensitive or special status animal species in the site area are properly identified and protected as necessary. If sensitive animal species occur on the project site, mitigation is required in accordance with the Endangered Species Act. Mitigation measures should be developed in consultation with the CDFG and

the USFWS. Therefore, if a discharger chooses to implement structural controls, they can and should avoid affecting habitat that is vital for the survival of any unique, rare, or endangered animal species. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant reduction of any unique, rare or endangered species of animals.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect animal receptors by allowing the use of soils with elevated concentrations of metals. Tier I of this waiver proposes to allow the reuse of soil that contains metals at concentrations equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create soil conditions significantly different from naturally occurring conditions that exist today. Tier II of the waiver proposes to allow the reuse of soil at levels in some cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. For this reason, any soil reused under this waiver should not create any impact resulting in the reduction of the numbers of any unique, rare or endangered species of animal.

5. Animal Life. c. Will the proposal result in introduction of new species of animals into an area, or in a barrier to the migration or movement of animals?

Answer: Less than significant

Discussion: Implementing non-structural controls will not result in introduction of new species of animals into an area, or in a barrier to the migration or movement of animals because the controls would not introduce any physical effects that could impact these characteristics. However, the reduction or elimination of nuisance flows could result in a barrier to the migration or movement of animals especially in the dry weather season by eliminating habitat dependant on those flows. However, this would cause dry weather flows to return to a more natural, pre-development condition, as discussed in the answer to question 4a. Animal species that thrived in the creek and stream channels in the absence of nuisance flows should not be adversely impacted by habitat changes if the flows are eliminated. Impeding the propagation of invasive species is not an adverse impact.

Implementing structural controls would not foreseeably introduce new species. Construction of reasonably foreseeable structural controls likely would not restrict wildlife movement because the sizes of structural controls are generally too small to obstruct a corridor. For terrestrial animals, corridors would be maintained regardless of stream flow since reduced flows would not provide physical barriers for these animals. In the event that any structural controls built, such as animal exclusions,

that may impede some wildlife migration, fence gaps large enough to allow migrating wildlife to pass through could be included in the design. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant introduction of new species of animals into an area, or in a barrier to the migration or movement of animals.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect animal receptors by allowing the use of soils with elevated concentrations of metals. Tier I of this waiver proposes to allow the reuse of soil that contains metals at concentrations equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create soil conditions significantly different from naturally occurring conditions that exist today. Tier II of the waiver proposes to allow the reuse of soil at levels in cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. For this reason, any soil reused under this waiver should not create any impact resulting in the introduction of new species of animals into an area, or result in a barrier to the normal replenishment of existing species.

To the extent that soil is moved from one location to another under this waver, this waiver alone does not induce or approve projects involving the excavation or import of soil. Such projects, and any associated excavation, removal, or import of soil for a project, may only occur after the project itself undergoes any necessary CEQA analysis or obtains any other necessary permits (e.g., clearing and grading permits or permits under the Federal Clean Water Act) to the extent required. Therefore, the relocation of the soil itself will be evaluated under a separate CEQA evaluation when required.

5. Animal Life. d. Will the proposal result in deterioration to existing fish or wildlife habitat?

Answer: Less than significant

Discussion: Implementing non-structural controls will not directly result in deterioration to existing fish or wildlife habitat as discussed in the answers to questions 4 and 5.

Depending on the structural controls selected, direct or indirect impacts to existing fish or wildlife habitat may occur. In urbanized areas, the installation of structural controls would not likely result in the deterioration of existing fish and or wildlife habitat in the immediate area of a project. Nonetheless, potential effects on fish or

wildlife habitat can be minimized or eliminated by reducing the size of structural controls and limiting the encroachment and/or removal of animal habitat.

Structural controls could also divert, reduce, and/or eliminate surface runoff discharge, which could potentially change the fish and wildlife habitat within the stream channels by changing the flow regime of the creek and stream channels. Native communities of animals can thrive under lower streamflow conditions than what currently exists. The return to more natural, pre-development flow regimes in the creek and stream channels could be beneficial to restoring native habitats in the creeks. Projects that may implement structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in a significant deterioration to existing fish or wildlife habitat.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially affect animal receptors by allowing the use of soils with elevated concentrations of metals. However, Tier I of this waiver proposes to allow the reuse of soil that contains metals at concentrations equal to or less than concentrations that occur naturally in the soil in San Diego County. Therefore, any soil that is reused under this waiver will not create soil conditions significantly different from naturally occurring conditions that exist today. Tier II of the waiver proposes to allow the reuse of soil at levels in cases above ecological screening levels or higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. For this reason, any soil reused under this waiver should not create any impact resulting in the deterioration to existing fish or wildlife habitat.

To the extent that soil is moved from one location to another under this waver, this waiver alone does not induce or approve projects involving the excavation or import of soil. Such projects, and any associated excavation, removal, or import of soil for a project, may only occur after the project itself undergoes any necessary CEQA analysis or obtains any other necessary permits (e.g., clearing and grading permits or permits under the Federal Clean Water Act) to the extent required. Therefore, the relocation of the soil itself will be evaluated under a separate CEQA evaluation when required.

6. Noise. a. Will the proposal result in increases in existing noise levels?

Answer: Less than significant

Discussion: Non-structural controls would not result in changes in existing noise levels because none of these controls would introduce any physical effects that could impact these characteristics.

The construction and installation of structural controls would result in temporary increases in existing noise levels, but this would be short term and only exist until construction is completed. Therefore, this noise impact is less than significant.

6. Noise. b. Will the proposal result in exposure of people to severe noise levels?

Answer: No impact

Discussion: **:** Reasonably foreseeable non-structural and/or structural controls would not result in exposure of people to severe noise levels because the controls would not introduce any physical effects that could impact these characteristics.

7. Light and Glare. Will the proposal produce new light or glare?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not produce new light or glare because the controls would not introduce any physical effects that could impact these characteristics.

8. Land Use. Will the proposal result in substantial alteration of the present or planned land use of an area?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in substantial alteration of the present or planned land use of an area.

9. Natural Resources. a. Will the proposal result in increase in the rate of use of any natural resources?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in an increase in the rate of use of any natural resources.

9. Natural Resources. b. Will the proposal result in substantial depletion of any non-renewable natural resource?

Answer: No impact

Discussion Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale to result in a substantial depletion of any non-renewable natural resource.

10. Risk of Upset. Will the proposal involve a risk of an explosion or the release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and structural controls will not involve a risk of an explosion or the release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions. The reasonably foreseeable non-structural and structural BMPs included in this evaluation would not be subject to explosion or the release of hazardous substances in the event of an accident because these types of substances would not be present.

11. Population. Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would alter the location, distribution, density, or growth rate of the human population of an area.

12. Housing. Will the proposal affect existing housing, or create a demand for additional housing?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would affect existing housing, or create a demand for additional housing.

13. Transportation/Circulation. a. Will the proposal result in generation of substantial additional vehicular movement?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in generation of substantial additional vehicular movement.

13. Transportation/Circulation. b. Effects on existing parking facilities, or demand for new parking?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would have an effect on existing parking facilities, or demand for new parking.

13. Transportation/Circulation. c. Will the proposal result in substantial impacts upon existing transportation systems?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in substantial impacts upon existing transportation systems.

13. Transportation/Circulation. d. Will the proposal result in alterations to present patterns of circulation or movement of people and/or goods?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in alterations to present patterns of circulation or movement of people and/or goods.

13. Transportation/Circulation. e. Will the proposal result in alterations to waterborne, rail or air traffic?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in alterations to waterborne, rail or air traffic.

13. Transportation/Circulation. f. Will the proposal result in increase in traffic hazards to motor vehicles, bicyclists or pedestrians?

Answer: Less than significant

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in increase in traffic hazards to motor vehicles, bicyclists or pedestrians.

14. Public Service. a. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: Fire protection?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or altered fire protection services.

14. Public Service. b. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: Police protection?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or altered police protection services.

14. Public Service. c. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: Schools?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or altered school services.

14. Public Service. d. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: Parks or other recreational facilities?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or altered parks or other recreational facilities.

14. Public Service. e. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: maintenance of public facilities, including roads?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or altered maintenance of public facilities, including roads.

14. Public Service. f. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: other government services?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for other new or altered governmental services. However, one of the new types of discharge proposed for regulation by a conditional waiver, discharges from on-site graywater systems, could require additional government services to oversee the permitting, construction and installation, and maintenance of graywater systems. Oversight for the permitting, construction and installation, and maintenance of graywater systems can be performed by the government services that currently oversee the septic and sewerage systems, which is typically at the county level. The conditions of the waiver allow for city governments to choose to regulate septic or graywater systems should they choose to do so, which could create additional government services. If a septic or graywater system is found to have a significant adverse impact on the environment by the San Diego Water Board, the discharger would no longer be eligible for regulation by a conditional waiver.

15. Energy. a. Will the proposal result in use of substantial amounts of fuel or energy?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result the use of substantial amounts of fuel or energy.

15. Energy. b. Will the proposal result in a substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result a substantial increase in demand upon existing sources of energy, or require the development of new sources of energy.

16. Utilities and Service Systems. a. Will the proposal result in a need for new systems, or substantial alterations to the following utilities: power or natural gas?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or substantial alterations to power or gas utilities.

16. Utilities and Service Systems. b. Will the proposal result in a need for new systems, or substantial alterations to the following utilities: communications systems?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or substantial alterations to communications systems.

16. Utilities and Service Systems. c. Will the proposal result in a need for new systems, or substantial alterations to the following utilities: water?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or substantial alterations to water utilities.

16. Utilities and Service Systems. d. Will the proposal result in a need for new systems, or substantial alterations to the following utilities: Sewer or septic tanks?

Answer: Less than significant

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or substantial alterations to sewer or septic tanks systems. However, new septic and sewerage systems are conditionally waived of waste discharge requirements and the requirement to file a report of waste discharge by the existing conditional waivers. The proposed conditional waivers will continue to waive waste discharge requirements and the requirement to file a report of waste discharge. Additionally,

one of the new types of discharge proposed for regulation by a conditional waiver, discharges from on-site graywater systems, could result in the installation of new graywater systems. If the dischargers comply with the proposed waiver conditions, the discharge from the septic or graywater systems will have a less than significant effect on the environment. Septic or graywater systems that are found to have a significant adverse effect on the environment would no longer be eligible for regulation by a conditional waiver.

16. Utilities and Service Systems. e. Will the proposal result in a need for new systems, or substantial alterations to the following utilities: storm water drainage?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or substantial alterations to storm water drainage systems.

16. Utilities and Service Systems. f. Will the proposal result in a need for new systems, or substantial alterations to the following utilities: solid waste and disposal?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in a need for new or substantial alterations to solid waste and disposal systems.

17. Human Health. a. Will the proposal result in creation of, and exposure of people to, any health hazard or potential health hazard (excluding mental health)?

Answer: Less than significant

Discussion: Reasonably foreseeable and properly implemented non-structural and/or structural controls would not be of a size or scale that would result in creation of, and exposure of people to, any health hazard or potential health hazard (excluding mental health).

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially discharge soils with contaminants or pollutants that could have an adverse impact on the quality or beneficial uses of the waters of the state. However, Tier I of this waiver allows the reuse of soil that contains metals at concentrations

equal to or less than concentrations that occur naturally in the soil in San Diego County, and reuse of such soil will not create soil conditions significantly different from naturally occurring conditions that exist today. If the concentration level of the metals at naturally occurring levels was higher than a level deemed safe for human health, that is, higher than United States Environmental Protection Agency and the California Environmental Protection Agencies risk-based screening levels, then the Tier I level set forth by this waiver generally was set at a level within the range of background estimates (typically the mean of background estimates). However, since these levels are the same as those occurring naturally, these levels do not change any soil conditions from generally existing conditions, are not above a baseline threshold of significance, and therefore do not result in a new health hazard or potential health hazard. Some Tier I levels were set at concentrations greater than background estimates, but equal to or below human health risk based screening levels.

Tier II of the waiver proposes to allow the reuse of soil at levels higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. Under these protective measures, there should be no pathway for exposure to humans. For this reason, any soil reused under this waiver should not create any health hazard or potential health hazard for humans.

Furthermore, this waiver applies to the reuse of soil remaining after the completion of a site remediation performed under the oversight of an appropriate regulatory agency. To the extent any metals are contaminants of concern, such contaminants will be considered and addressed pursuant to the regulatory process.

17. Human Health. b. Will the proposal result in exposure of people to potential health hazards?

Answer: Less than significant

Discussion: Reasonably foreseeable and properly implemented non-structural and/or structural controls would not be of a size or scale that would result in exposure of people to potential health hazards.

One of the new types of discharge proposed for regulation by a conditional waiver, discharge/reuse of soils characterized as inert from known contaminated sites, could potentially result in exposure of people to potential health hazards by allowing the use of soils with elevated concentrations of metals. However, Tier I of this waiver allows the reuse of soil that contains metals at concentrations equal to or less than concentrations that occur naturally in the soil in San Diego County, and reuse of such soil will not create soil conditions significantly different from naturally occurring conditions that exist today. If the concentration level of the metals at naturally

occurring levels was higher than a level deemed safe for human health, that is, higher than United States Environmental Protection Agency and the California Environmental Protection Agencies risk-based screening levels, then the Tier I level set forth by this waiver generally was set at a level within the range of background estimates (typically the mean of background estimates). However, since these levels are the same as those occurring naturally, these levels do not change any soil conditions from generally existing conditions, are not above a baseline threshold of significance, and therefore do not result in a new health hazard or potential health hazard. Some Tier I levels were set at concentrations greater than background estimates, but equal to or below human health risk based screening levels.

Tier II of the waiver proposes to allow the reuse of soil at levels higher than naturally occurring levels, but soil reused under Tier II may only be used in commercial or industrial areas, will be placed at least 2 feet below a protective cover, 5 feet above groundwater, and 100 feet away from surface water. Under these protective measures, there should be no pathway for exposure to humans. For this reason, any soil reused under this waiver should not create any health hazard or potential health hazard for humans.

Furthermore, this waiver applies to the reuse of soil remaining after the completion of a site remediation performed under the oversight of an appropriate regulatory agency. To the extent any metals are contaminants of concern, such contaminants will be considered and addressed pursuant to the regulatory process.

18. Aesthetics. a. Will the proposal result in the obstruction of any scenic vista or view open to the public?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in the obstruction of any scenic vista or view open to the public.

18. Aesthetics. b. Will the proposal result in the creation of an aesthetically offensive site open to public view?

Answer: No impact

Discussion: Reasonably foreseeable and properly implemented non-structural and/or structural controls would not be of the size or scale that would result in the creation of an aesthetically offensive site open to public view.

19. Recreation a. Will the proposal result in impact on the quality or quantity of existing recreational opportunities?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in an impact on the quality or quantity of existing recreational opportunities.

20. Archeological/Historical a. Will the proposal result in the alteration of a significant archeological or historical site, structure, object or building?

Answer: No impact

Discussion: Reasonably foreseeable non-structural and/or structural controls would not be of the size or scale that would result in the alteration of a significant archeological or historical site, structure, object or building.

21. Mandatory Findings of Significance - Potential to degrade: Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Answer: Less than significant

Discussion: As discussed above in Questions 4 and 5, plant and animal species could potentially be adversely affected due to the reduction or elimination of nuisance flows, especially in the dry weather season. However, projects that may implement non-structural and/or structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in significant changes that could have an adverse effect on native plant and animal species.

21. Mandatory Findings of Significance - Short-term: Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time, while long-term impacts will endure well into the future.)

Answer: No impact

Discussion: There are no short-term beneficial effects on the environment from the implementation of non-structural and/or structural controls that would be at the expense of long-term beneficial effects on the environment. The implementation of non-structural and/or structural controls to comply with the proposed waiver conditions will result in improved water quality in the waters of the Region and will have significant beneficial impacts to the environment over the long term.

21. Mandatory Findings of Significance - Cumulative: Does the project have impacts which are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Answer: Less than significant

Discussion: Cumulative impacts, defined in section 15355 of the CEQA Guidelines, refer to two or more individual effects, that when considered together, are considerable or that increase other environmental impacts. Cumulative impact assessment must consider not only the potential impacts associated with implementing projects to comply with Basin Plan amendment, but also the impacts from other Basin Plan amendment, municipal, and private projects, which have occurred in the past, are presently occurring, and may occur in the future, during the period of implementation.

Cumulative impacts associated with complying with this Basin Plan amendment and other water quality control programs are expected to be less than significant because effective non-structural controls, that are not expected to have any adverse impacts, will most likely be an initial strategy for complying with the proposed waiver conditions.

The dischargers may opt to use structural controls to minimize or eliminate erosion and the transport of pollutants to the waters of the state, which would increase the likelihood of potential impacts to the environment that are cumulatively considerable. Present and future specific projects and other construction activities may result in short-term cumulative impacts. The construction of structural controls, along with

other construction and maintenance projects, could have short-term cumulative effects. However, these effects are not cumulatively considerable in the long-term because the effects will cease with the completion of construction.

If the dischargers comply with the waiver conditions, any potential impacts on the environment will be less than significant. Dischargers do not comply with waiver conditions would not be eligible for regulation by a conditional waiver. Additionally, projects that may implement non-structural and/or structural controls to comply with waiver conditions are not expected to be of the size or scale that could result in any significant impacts on the environment, even when considered cumulatively.

21. Mandatory Findings of Significance - Substantial adverse: Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Answer: Less than significant

Discussion: Reasonably foreseeable and properly implemented non-structural and/or structural controls would not be of a size or scale that would cause substantial adverse effects on human beings, either directly or indirectly.

However, there is the possibility that the new types of discharge proposed for regulation by a conditional waiver could potentially discharge wastes with contaminants or pollutants that could expose people to potential health hazards. However, if the dischargers comply with the waiver conditions for these new types of waste discharge, the potential impact on the environment and human health will be less than significant. Dischargers do not comply with waiver conditions would not be eligible for regulation by a conditional waiver.

D.5.1 Alternative Means of Compliance

The CEQA requires an analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, which would avoid or eliminate the identified impacts.[21] The dischargers can use the non-structural and/or structural controls described in section D.3, to comply with waiver conditions in the Basin Plan amendment. However, the non-structural and structural controls provided in section D.3 are by no means a complete and exhaustive list. The controls described in section D.3 simply provide a reasonable range of reasonably foreseeable method of compliance that may be used by the dischargers to comply with the waiver conditions of the Basin Plan amendment.

The potential means of compliance with the proposed conditional waivers of the Basin Plan amendment may consist of any combination of non-structural and structural controls that the dischargers might select to use. Because there are many additional

[21] California Code of Regulations Title 14 section 15187(c)(3)

controls that may be implemented, and innumerable ways to combine non-structural and/or structural controls, there are also innumerable alternative means on compliance. Therefore, all of the possible alternative means of compliance cannot be discussed here. However, because most of the adverse environmental effects are associated with the construction and installation of structural controls, in order for dischargers to avoid or eliminate potential impacts to the environment, compliance alternatives should minimize the use of structural controls, maximize the use of non-structural controls, and site, size, and design any structural controls that may be used in ways to minimize or eliminate any potential environmental effects.

D.6 Reasonably Foreseeable Methods of Compliance at Specific Sites

The San Diego Water Board analyzed various reasonably foreseeable methods of compliance at specific sites within the San Diego Region. Because this project is large in scope (the entire San Diego Region), the specific sites analysis was focused on reviewing potential compliance methods within various land uses. Land uses in this analysis include: animal operations (e.g., dairies/intensive livestock/horse ranches), transitional (construction areas), agriculture, residential, parks/recreation (e.g., state or national forests), commercial/institutional, industrial/transportation. These land uses represent a range of population densities and geographical settings found in the San Diego Region where this Basin Plan amendment may be applicable.

The following discussion involves a programmatic level review of specific site compliance methods, or combination of compliance methods that have been or may be implemented. The dischargers are in no way limited to using the controls included here to comply with waiver conditions, and may choose not to implement these particular controls.

In general, the San Diego Water Board anticipates a potential strategy to be the use of non-structural controls as a first step in complying with waiver conditions, followed by installation of structural controls, if necessary.

D.6.1 Potential Controls for Animal Operations

Animal operations (e.g., horse ranches, grazing pastures) in the San Diego Region are usually found in rural areas with lower population densities than the urbanized areas. However, small horse ranches and individual horse corrals are sometimes found within urbanized areas with higher population densities.[22]

The types of discharge that may be regulated with conditional waivers for animal operations can likely use primarily non-structural controls to comply with waiver conditions to be eligible for regulation by conditional waivers. An example of non-structural controls includes ensuring that animal holding pens, paddocks, and corrals are properly sized and sited in areas that do not drain to surface waters. Other examples include properly managing animal wastes (i.e., stored in a manner that

[22] The U.S. Census Bureau's 2000 data reported the City of San Diego to have a population density of 3,771 people per square mile.

prevents leaching pollutants into runoff and prevents runoff from reaching waterways during a rain event), and properly managing animal movements and activities (i.e., prevent animals from eroding topsoil by rotating grazing areas, and/or prevent animals from entering creek and stream channels).

However, for management of animals and animal wastes, structural controls may be required. Examples of structural controls include the installation of roof gutters to divert rain water away from manure and/or prevent erosion, or installation of vegetative strips, that absorb and filter runoff and minimize or prevent surface runoff and pollutants from reaching waters of the state. Another example includes the construction of animal exclusion devices, such as fences or other physical barriers, to keep animals out of the creeks, as shown in Figures D-1 and D-2. Figure D-1 depicts a galvanized fence that is useful for keeping dairy cows from the Konyn Dairy in Escondido, California, (background) out of the creek bed (foreground). However, this control would be more effective if set back farther from the creek bank and with a vegetative strip between the fence and the creek bank. Figure D-2 shows a similar fencing device that is useful for keeping horses confined and away from surface waters. No adverse environmental effects are expected as a result of implementing these types of structural controls.

Figure D-1. Animal Exclusion Device at Konyn Dairy, Valley Center Road, San Dieguito Watershed.

Figure D-2. Animal Exclusion Device at Happy Trails Horse Ranch, Black Mountain Road, Penasquitos Watershed.

D.6.2 Potential Controls for Construction Sites

Construction activities typically take place in various settings and existing land uses. In San Diego County, construction activities result in new residential units both in urban and suburban environments, as well as industrial and commercial sites, such as business parks and shopping malls. Population densities in the areas of construction vary greatly with the specific projects.

Many types of discharge that may be regulated with conditional waivers in construction sites can use non-structural controls to comply with waiver conditions to be eligible for regulation by conditional waivers. An example of a non-structural control is properly managing any wastes generated at a construction site (e.g., construction debris, excavated soil) and placing it in areas with adequate distance from nearby water bodies. Additionally, the discharger should perform regular inspections and maintain the facilities to prevent the discharge or wastes and pollutants that could be transported to waters of the state.

However, construction sites often require some structural controls to control sediment and other wastes that are generated during construction activities. An example of structural controls includes a diversion and containment system using fiber rolls, as shown in Figure D-3. Other structural controls that are appropriate to use at construction sites include the use of sandbags, such as the ones shown in Figure D-4. Other examples include compost blankets, netting, silt fences, or filter berms. Such devices prevent pollutants, such as sediment, from reaching storm water drainage pathways and surface waters by allowing the water and contaminants to infiltrate into the surrounding soil.

Figure D-3. Use of Netting and Fiber Rolls at San Elijo Hills Construction Site, Northstar Way, Carlsbad Watershed.

Figure D- 4. Use of Sandbags upstream of Moonlight State Beach, Encinitas Blvd., Carlsbad Watershed.

D.6.3 Potential Controls for Agricultural Areas

Agricultural operations (e.g., farms, nurseries) in the San Diego Region are usually found in rural areas with lower population densities than the urbanized areas.

The types of discharge that may be regulated with conditional waivers in agricultural land use areas likely can use primarily non-structural controls to comply with waiver conditions to be eligible for regulation by conditional waivers. An example of non-

structural controls includes having a facility management plan that outlines the proper use of any products and/or waste products (i.e., storage and application rates of fertilizers, pesticides, etc.), proper management of any wastes (i.e., storage, composting and/or disposal of plant crop residues), proper management and use of soil amendments (i.e., storage and application rates of composts or mulches that may include green wastes and/or manure), and proper irrigation practices (e.g., irrigation schedule, low flow irrigation system) to minimize or eliminate the discharge of pollutants to waters of the state. Education of employees about the elements in the management plant will also help in the implementation of such non-structural controls.

In some cases, structural controls may be required. An example of a structural control is installing diversion or containment systems using sandbags (see Figure D-5) to prevent runoff containing pollutants from agricultural fields, such as the strawberry fields located in Carlsbad, California, (background) from reaching the storm drains that protect flooding of the adjacent roadways (foreground). Another example includes the use of vegetated swales or buffer strips between crops and any nearby surface waters.

Figure D-5. Use of Sandbags near Strawberry Fields, Cannon Rd. near Interstate 5, Carlsbad Watershed.

D.6.4 Potential Controls for Residential Areas

Residential areas in the San Diego Region tend to have the highest population densities as compared to other land use categories. Most of the residential areas are in urbanized areas.

For discharges that may be regulated with conditional waivers in residential land use areas, like the area shown in Figure D-6, utilizing non-structural controls, such as education about proper waste management and design, siting and location of facilities, may be appropriate.

In some cases, structural controls may be required. Structural controls may include the installation of diversion systems using sand bags, which could be placed around a storm sewer inlet, such as the one shown in Figure D-6. Residential areas are often constructed with vegetated swales or buffer strips (e.g., lawns and landscaping) which can reduce the velocity of runoff, increase infiltration, and prevent pollutants from entering storm water drainage pathways or surface water, as shown in Figure D-7.

Figure D-6. Residential Area, D Street, Carlsbad Watershed

Figure D-7. Vegetative Strip in Residential Area, San Elijo Hills, Carlsbad Watershed

D.6.5 Potential Controls for Park and Recreational Areas

Park and recreational areas (e.g., state or national forest parks) typically do not have housing or industrial units, thus population densities in these areas are low. State and national forest parks are primarily located in rural areas, but there are parks and recreational areas located in urbanized areas as well.

The types of discharge that may be regulated with conditional waivers in park and recreational land use areas can likely use primarily non-structural controls to comply with waiver conditions to be eligible for regulation by conditional waivers. Examples of non-structural controls for state and national forest parks include proper management of wastes generated during timber operations (which can include fuels management and fire suppression activities). Timber operations typically require a water quality management plan. Education of land owners about the elements in the management plan will also help in the implementation of such non-structural controls.

Many park and recreation areas are used by animals, which can be a significant source of pollution if not properly managed. Another example of non-structural controls includes education of animal owners. Animal owners should be educated about proper management of their animal's wastes. For example, like the dog park shown in Figure D-8, a sign has been posted to encourage responsible actions by dog owners. Signs could also be posted so owners of larger pets, such as horses, are educated about how to properly manage their animals and animal wastes.

Figure D-8. Plastic Bag Dispenser at Mayflower Dog Park, Valley Center Road, San Dieguito Watershed.

In some cases, structural controls may be required. Park and recreation areas can also be used to treat pollutants like a vegetated swale or buffer strip. These types of areas can provide wildlife habitat, are visually pleasing, and are successful at reducing or

removing a number of pollutants from surface runoff before reaching creek and stream channels.

D.6.6 Potential Controls for Commercial/Institutional Areas

Population densities in commercial and institutional areas vary on an hourly basis but are relatively high in these areas, compared to other land uses. Commercial and institutional areas are located primarily in urbanized areas.

The types of discharge that may be regulated with conditional waivers in commercial and institutional land use areas likely can use primarily non-structural controls to comply with waiver conditions to be eligible for regulation by conditional waivers. Commercial businesses and keepers of school grounds should properly manage wastes and use cleaning practices that contain wastes instead of allowing them to enter conveyance systems. For example, debris and other waste should be swept up and disposed of properly, and trash receptacles should be available and properly maintained. Properly designing and siting facilities can also minimize or eliminate the potential for discharges of wastes to waters of the state.

Commercial and institutional land use areas are often constructed with vegetated swales or buffer strips which can reduce the velocity of runoff, increase infiltration, and prevent pollutants from entering storm water drainage pathways or surface water. If additional structural controls are requires, diversion or containment systems could be installed around storm sewer inlets, or between the facilities and nearby surface waters to minimize or eliminate the discharge of pollutants to waters of the state.

D.6.7 Potential Controls for Industrial and Transportation Areas

Population densities in industrial and transportation areas vary depending on time of day and also day of week, but are relatively high in these areas, compared to other land uses. Industrial and transportation areas are located primarily in urbanized areas.

Many types of discharge that may be regulated with conditional waivers in industrial and transportation land use areas can use non-structural controls to comply with waiver conditions to be eligible for regulation by conditional waivers. An example of a non-structural control is properly managing any wastes generated at a site (e.g., trash, industrial debris) and placing it in areas with adequate distance from nearby water bodies. Additionally, the discharger should perform regular inspections and maintain the facilities to prevent the discharge or wastes and pollutants that could be transported to waters of the state.

However, industrial and transportation areas often require some structural controls to control sediment and other wastes that are generated. Industrial and transportation land use areas are often constructed with vegetated swales or buffer strips (i.e., lawns and landscaping) which can reduce the velocity of runoff, increase infiltration, and prevent pollutants from entering storm water drainage pathways or surface water. Additionally, pervious surfaces near transportation areas often have steep slopes. To prevent erosion and the transport of sediment and other pollutants to storm water

drainage pathways and surface waters, diversion and containment systems using fiber rolls, netting, and compost blankets may be installed.

D.7 Economic Factors

This section presents the San Diego Water Board's economic analysis of the most reasonably foreseeable methods of compliance that a discharger may use to comply with waiver conditions in order to be eligible for regulation by a conditional waiver in the Basin Plan.

D.7.1 Legal Requirement for Economic Analysis

The CEQA has specific provisions governing the San Diego Water Board's adoption of regulations such as the regulatory provisions of Basin Plans that establish "performance standards" or treatment requirements.[23] These provisions require that the San Diego Water Board perform an environmental analysis of the reasonably foreseeable methods of compliance prior to the adoption of the Basin Plan amendment. The San Diego Water Board must consider the economic costs of the methods of compliance in this analysis.[24] The proposed Basin Plan amendment does not include new water quality objectives but dischargers must comply with existing objectives to protect beneficial uses. The San Diego Water Board is therefore not required to consider the factors in Water Code section 13241.

The most reasonably foreseeable methods of compliance that dischargers may use to comply with waiver conditions to be eligible for regulation by a conditional waiver in this Basin Plan amendment is for dischargers to implement non-structural and/or structural controls to minimize or eliminate the discharge of pollutants to waters of the state.

D.7.2 Project Implementation Costs

The specific controls to be implemented will be chosen by the dischargers. All costs are preliminary estimates because particular elements of a control, such as type, size, and location, would need to be developed to provide a basis for more accurate cost estimations. Identifying the specific controls that dischargers will choose to implement is speculative at this time and the controls presented in this section serve only to demonstrate potential costs. Therefore, this section discloses typical costs of the reasonably foreseeable controls discussed in section D.3.

D.7.3 Cost Estimates of Reasonably Foreseeable Controls

Approximate costs associated with reasonably foreseeable non-structural and structural controls that might be implemented in order to comply with the proposed waiver conditions in the Basin Plan amendment. The controls are divided into non-structural and structural classes. Cost estimates for structural controls cited from "*Stormwater Best Management Practice Handbook – New Development and Redevelopment. January 2003*" are for new construction costs only (CASQA, 2003). Annual

[23] Public Resources Code sections 21159 and 21159.4
[24] See Public Resources Code section 21159(c)

maintenance costs estimates are based on a percentage of the construction cost estimate (USEPA, 1999).

Non-Structural Controls

Most non-structural controls are not expected to increase the cost of a project. Costs associated with non structural controls such as proper waste management, facility inspection and maintenance, and design, sizing and location of facilities should be included in project implementation and facility operations.

For non-structural controls such as facility management plans, a discharger may prepare such a document on their own, or employ the services of a consultant. Estimated costs for preparing facility management plans may range from nothing, if prepared by the discharger without any outside services, to several thousand dollars, depending on the size of the facility.

For non-structural controls such as education, information is available from numerous sources that are free to the public. Dischargers may also choose to attend workshops or classes to learn more about proper management of wastes. Estimated costs for education may range from nothing, if a discharger uses publicly available educational materials, to a few hundred dollars, depending on the types and number of workshops or classes attended.

Structural Controls

Buffer Strips and Vegetated Swales: Buffer strips and vegetated swales are designed to treat sheet flow from adjacent surfaces (CASQA, 2003). The costs associated with buffer strips vary and are dependent of the costs associated with establishing the vegetation. Cost estimates range from $13,000 to $30,000 per acre. Additional costs could include the purchase of land for the buffer strip (CASQA, 2003). Maintenance of the buffer strip consists mainly of irrigation, mowing, weeding, and litter removal. Costs are estimated to be $350/acre/year (CASQA, 2003). Caltrans reported actual construction costs of a buffer strip for Carlsbad Maintenance Station to be $81,000 with average annual maintenance cost of $1,900 (Caltrans, 2004).

Infiltration Trench: Infiltration systems are designed to capture a volume of storm water runoff, retain it, and infiltrate that volume into the ground (USEPA, 1999). An infiltration trench is estimated to cost $45,000 for a 5-acre commercial site (USEPA. 1999). An infiltration trench constructed at the Carlsbad Maintenance Station for a 0.7-hectare watershed area cost $180,000 with an average annual maintenance cost of $723 (Caltrans, 2004).

Diversion and Containment Systems: Simple diversion and containment systems may be constructed using fiber rolls, sandbags, or silt fences to divert and/or contain surface runoff to prevent pollutants from reaching waters of the state. Fiber rolls cost $20-$30 per 25 feet, pre-filled sandbags cost $1.50-$2.00 per bag, and silt fences cost $3.50-$9.10 per lineal foot (CASQA, 2003).

Animal Exclusion: Animal exclusion typically consists of constructing fencing to exclude animals from streams and riparian areas to prevent direct deposition of animal wastes into surface waters and erosion of stream channels. According to the University of Nebraska Cooperative Extension Livestock Fencing Costs and Information (1996), the cost for a woven wire fence is approximately $1.51 per foot, and the cost for a barbed wire fence is approximately $1.22 per foot, including fence materials and labor.

D.7.4 Costs for Agricultural Sources of Nonpoint Pollution

Porter Cologne Water Quality Control Act, Article 3, section 13141, California Water Plan, states that "prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan."

The existing conditional waivers already require agricultural facilities to implement MMs/BMPs in order to be regulated by a conditional waiver. The proposed waiver conditions do not change these requirements, but include more explicit information and requirements. Therefore, there will be no additional costs to agricultural and animal facility owners and operators to comply with the proposed waiver conditions in this Basin Plan amendment if they are in compliance with existing waiver conditions.

D.7.5 Potential Sources of Funding

If owners and operators of agricultural and animal facilities require additional structural controls, the most prevalent source of funding for agricultural controls is the funding associated with the Farm Bill Environmental Quality Incentives Program (EQIP). These funds can be obtained through the USDA Natural Resources Conservation Service (NRCS) Office. For the San Diego Region, the local NRCS Field Office is located at 332 S. Juniper St., Suite 110, Escondido, CA 92025. Upon review and approval of a project, the NRCS will authorize payment for up to 50 percent of the estimated costs for purchasing and installing agricultural MPs.

Other sources of funding are administered by the State Water Board, which receives funding, through the USEPA, for Federal CWA section 319(h) and section 205(j) programs, and from the State of California Proposition 13 program.

D.8 Reasonable Alternatives to the Proposed Activity

The environmental analysis must include an analysis of reasonable alternatives to the proposed activity.[25] The proposed activity is to renew and issue the conditional waivers of waste discharge requirements in the Basin Plan, which requires a Basin Plan amendment. The proposed Basin Plan amendment would revise the conditional waivers. The revisions to the conditional waivers include the following:

[25] 23 CCR section 3777

- Renewing the existing conditional waivers, adopted by Resolution No. R9-2002-186 and reviewed in Appendix A, for specific types of discharge in the San Diego Region;
- Issuing conditional waivers for several new specific types of discharge for the San Diego Region, discussed in Appendix B;
- Reorganizing the conditional waivers by grouping the specific types of discharge into discharge classifications, as outlined in section 6 of the Technical Report;
- Providing general waiver conditions applicable to all specific types of discharge within a discharge classification, as given in section 7 of the Technical Report; and,
- Providing specific waiver conditions for each specific type of discharge within a discharge classification, if applicable, as given in section 7 of the Technical Report.

The purpose of this analysis is to determine if there is an alternative that would feasibly attain the basic objective of the rule or regulation (the proposed activity), but would lessen, avoid, or eliminate any identified impacts. The alternatives analyzed include the following:

- No Action (i.e., allow the existing conditional waivers to expire),
- Re-adopt the Existing Conditional Waivers without Revisions,
- Adopt General Waste Discharge Requirements for Specific Types of Discharge.

The alternatives are discussed in the subsections below.

D.8.1 No Action

Under this alternative, no action would be taken to renew the existing conditional waivers in the Basin Plan. This would cause all the existing waivers to expire beginning January 1, 2008.

If this alternative were to occur, all discharges that were regulated by a conditional waiver would no longer be waived of the need for WDRs and/or filing RoWDs. Therefore, dischargers would be required to file RoWDs for any discharge no longer regulated by a conditional waiver, and issued an individual waiver or individual WDRs for each discharge. This would also be the case for any of the new types of discharge that were proposed for regulation by conditional waivers.

Unless the San Diego Water Board were to issue general WDRs for these types of discharge, which would require an annual fee as well as annual monitoring and/or reporting requirements, no conditions would be in place to regulate these types of discharge. Under this alternative, significant San Diego Water Board resources would likely have to be diverted from discharges that have a higher threat to water quality to process the documentation required to regulate discharges that are typically considered a lower threat to water quality. If the San Diego Water Board diverts resources away from discharges that have a higher threat to water quality, water quality in the Region would likely degrade.

D.8.2 Re-adopt the Existing Conditional Waivers without Revisions

Under this alternative, the existing conditional waivers in the Basin Plan would be renewed and adopted without revising the waiver conditions. The existing conditional waivers and waiver conditions would be effective for another 5 years. No additional types of discharge would be regulated by conditional waivers and waiver conditions.

If this alternative were to occur, several deficiencies in the waiver conditions that were identified would continue to exist. In many cases, the existing waiver conditions do not provide the San Diego Water Board, or the public, the information or data necessary to identify discharges regulated by conditional waivers occurring within the Region, the ability to verify compliance with waiver conditions, or the ability to assess the effectiveness of the waiver conditions. Available evidence and water quality monitoring data collected within the Region since 2002 indicates that the several types of discharge that are regulated by the existing conditional waivers may not be complying with existing waiver conditions, or that existing waiver conditions are not effective enough to minimize or eliminate the discharge of pollutants for the protection of water quality and beneficial uses.

New types of discharge that have been identified for regulation by conditional waivers also could not be regulated by waivers. Therefore, these new types of discharge identified in the Region would be required to file RoWDs and issued an individual waiver or individual WDRs for each discharge. Unless the San Diego Water Board were to issue general WDRs for these new types of discharge, which would require an annual fee as well as annual monitoring and/or reporting requirements, no conditions would be in place to regulate these types of discharge. San Diego Water Board resources may have to be diverted from discharges that have a higher threat to water quality to investigate and/or process the documentation required to regulate discharges that may be considered a lower threat to water quality. If the San Diego Water Board diverts resources away from discharges that have a higher threat to water quality, water quality in the Region would likely degrade.

Additionally, the existing waiver conditions, as written, are difficult for members of the public and/or the San Diego Water Board to determine if the discharges regulated by the existing conditional waivers may be a threat to the quality or beneficial uses of the waters in the Region. Therefore, renewing the existing conditional waivers and waiver conditions without any revisions would continue to make it difficult for the San Diego Water Board to identify discharges that may be a potential or significant threat to water quality or beneficial uses of the water in the Region.

This alternative would continue the status quo. Since available evidence indicates that existing waiver conditions may not be effective enough to minimize or eliminate the discharge of pollutants for the protection of water quality, water quality in the Region may degrade.

D.8.3 Adopt General Waste Discharge Requirements for Specific Types of Discharge

Under this alternative, the existing conditional waivers in the Basin Plan would be allowed to expire and the San Diego Water Board would develop and adopt general WDRs for the specific types of discharge regulated by the existing conditional waivers, and the new types of discharge proposed for regulation by conditional waivers.

If this alternative were to occur, the specific types of discharge in the proposed Basin Plan amendment would have to enroll for regulation by general WDRs. Enrollment for regulation by general WDRs would require an annual fee as well as annual monitoring and/or reporting requirements. The potential effects and/or benefits to the environment would likely be the similar because the conditions required for discharge would likely be similar.

However, under this alternative significant San Diego Water Board resources and time would be required to develop and adopt general WDRs to regulate the specific types of discharge discussed above. Resources and time would be also required by the dischargers to enroll for regulation by general WDRs. Additionally, significant San Diego Water Board resources would likely have to be diverted from discharges that have a higher threat to water quality to process the documentation required to regulate discharges that are typically considered a lower threat to water quality. If the San Diego Water Board diverts resources away from discharges that have a higher threat to water quality, water quality in the Region would likely degrade.

D.8.4 Preferred Alternative

Because none of the alternatives analyzed above would attain the basic objective of the rule or regulation (the proposed activity), but would lessen, avoid, or eliminate any identified impacts, the preferred alternative is the proposed activity, which is to revise the waiver conditions of the existing conditional waivers and issue waivers and waiver conditions to regulate several new types of discharge. The revised waiver conditions for the existing conditional waivers provide more explicit requirements that can be used to determine compliance. In addition, issuing conditional waivers for several new types of discharge that have been identified also allow the San Diego Water Board to begin regulating several types of discharge that have gone unregulated in the past.

A type of discharge that is considered “low threat” can be regulated with little oversight until the public or the San Diego Water Board identifies it as a potential or significant threat. At that time, the waiver conditions for that type of discharge can be revised to provide more information and/or oversight, or the conditional waiver can be terminated.

For dischargers identified by the public or the San Diego Water Board that do not comply with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies if the discharger would like to continue being regulated under a conditional waiver. If dischargers violate waiver conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take enforcement actions.

Also, if a conditional waiver and its waiver conditions do not appear to be effective in regulating a type of discharge and protecting water quality, the San Diego Water Board may terminate the conditional waiver for a specific type of discharge or specific discharge at any time. If the San Diego Water Board decides to terminate a conditional waiver, individual conditional waivers or WDRs can be issued on a case-by-case basis, or general WDRs can be issued for the Region.

The proposed activity is also preferred because this alternative provides the San Diego Water Board the most options to regulate waste discharges. The proposed activity provides members of the public and/or San Diego Water Board more guidance to identify dischargers that are not providing adequate protection for the quality and beneficial uses of the waters of the state. Finally, the proposed activity will also allow the San Diego Water Board to efficiently utilize its limited resources by focusing on the discharges with the highest threat to the quality and beneficial uses of the waters in the Region. Therefore, water quality in the Region will likely improve and beneficial uses of the waters of the state in the Region will be supported.

D.9 CEQA Determination

On the basis of the initial environmental review checklist and analysis, and Technical Report for this Basin Plan amendment, which collectively provide the required information:

- ☒ I find the proposed Basin Plan amendment could not have a significant effect on the environment.
- ☐ I find that the proposed Basin Plan amendment could have a significant adverse effect on the environment, but that those impacts could be mitigated to less than significant.
- ☐ I find the proposed Basin Plan amendment may have a significant effect on the environment. There are no feasible alternatives and/or feasible mitigation measures available which would substantially lessen any significant adverse impacts. See the attached written report for a discussion of this determination.

John H. Robertus
Executive Officer

Date