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**Date:** 7/31/2007 3:29:19 PM  
**Subject:** Comments on the Amendment to the Water Quality Control Plan for the San Diego Regional Water Quality Control Board

Wayne: The Technical Work Group has prepared the attached letter containing comments on the amendment to the Water Quality Control Plan for the San Diego Region (9) to Incorporate the Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region.

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July 31, 2007

**Submitted Via Electronic Mail**

Mr. Wayne Chiu  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

[wchiu@waterboards.ca.gov](mailto:wchiu@waterboards.ca.gov)

RE: Comments on the Amendment to the Water Quality Control Plan for the San Diego Region (9) to Incorporate the Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region

Dear Mr. Chiu,

The Site Assessment and Mitigation (SA/M) Technical Work Group for the Specific Waiver Conditions for the Discharge/Reuse of Inert Soils and Materials from Contaminated Sites submits the following written comments on the proposed Specific Waiver Conditions for the Discharge/Reuse of Inert Soils and Materials from Contaminated Soils (which will be referred to hereinafter as the "Waiver").

1. The Waiver is designed to allow the off-site export and reuse of inert soils from known contaminated sites. This Waiver is not designed to establish clean up levels for soil remaining on-site. However, the Technical Work Group is concerned that this issue is not clarified in either the Waiver itself or Appendix B providing background information about the Waiver.

The Technical Work Group proposes that a footnote "f" be added below Table I, and a footnote "g" be added below Table II of the Waiver, which states, "These values are not intended to provide clean up levels for soil remaining on-site. Such values should be established based on the contaminants of concern, the site use, and in conjunction with the regulatory agency providing oversight for the remediation effort." We recommend that these footnotes also be added beneath the tables in Appendix B.

2. Section 1.a) of the Waiver states that for all waste soils characterized as inert (Tier 1 or Tier 2), the following conditions apply: 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). (See Waiver, p. 61; Appendix B-16.)

The Technical Work Group believes that this restriction applies to all soil exported from a site and imported to another site, whether or not the export site was a site that contained

some contamination. Given that this restriction, as well as others not included in the Waiver, applies regardless of the contamination, we believe it should be removed and that it is best for all restrictions that apply to soil generally remain the responsibility of the individual placing the soil.

3. Section 1.i) iv)(B) states that samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents: Total petroleum hydrocarbons (by EPA Method 8015) (full range if export site includes oil or fuel spill or release investigation or remediation.) (See Waiver, p. 63; see also Appendix B-17.)

The Technical Work Group recommends that this language be changed to the following: Total petroleum hydrocarbons (by EPA Method 8015) (full range if export site includes oil or fuel as a contaminant of concern.) Additionally, on Appendix page B-17, please remove the word "recoverable" from this sentence.

4. Section 1.i) iv)(C) states that samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents: Polychlorinated biphenyls (if export site includes PCB spill or release investigation or remediation). (See Waiver, p. 63; see also Appendix B-17.)

The Technical Work Group recommends that this language be changed to the following: Polychlorinated biphenyls (if export site includes PCB as a contaminant of concern).

5. Section 1.i) iv)(D) states that that samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents: Volatile and semi-volatile organic compounds (if export site includes organic solvent spill or release investigation or remediation). (See Waiver, p. 63; see also Appendix B-17.)

The Technical Work Group recommends that this language be changed to the following: Volatile and semi-volatile organic compounds (if export site includes volatile and semi-volatile organic compounds as a contaminant of concern).

6. Section 1.i) iv)(E) states that samples must be analyzed by a state-certified analytical laboratory using EPA approved analytical methods for the following constituents: Pesticides (if export site includes a known agricultural area, or pesticide spill or release investigation). (See Waiver, p. 63; see also Appendix B-17.)

The Technical Work Group recommends that this language be changed to the following: Pesticides (if export site includes a known agricultural area or pesticides are a contaminant of concern).

7. The last sentence of footnote 28 on page 63 of the Waiver reads, "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.”

The Technical Work Group recommends that the phrase “a sufficiently precise estimate” be changed to “a sufficiently representative estimate.” Precision refers to how closely individual measurements agree with each other. In general, the more precision, the greater the number of significant figures. Accuracy refers to how closely a measured value agrees with the correct value. Accuracy is significant in this instance. Additionally, these data will be used to determine the 90% UCL, not just the mean.

8. Section 2.c) of the Waiver states, “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. (See Waiver, p. 65; Appendix B-19.)

The Technical Work Group recommends that this language be changed to read as, “An Inert Waste Certification must be filed with the San Diego Water Board by the owner/operator of the export site within 30 days following completion of export activities.” For soils reused under Tier I of the Waiver, which provides for unrestricted reuse of the inert waste soil within the terms of the Waiver, it is unlikely that the owner/operator will know where and when the soil is finally placed.

9. Sections 2.c) vi) and 3.c) v) of the Waiver state that “The Inert Waste Certification must include the following information: 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 I Soil Screening Levels, and name of certified environmental analytical laboratory that performed the analysis. (See Waiver, p. 65, 67; Appendix B-19, B-21.)

The Technical Work Group recommends that this language be changed to read as follows: Laboratory analytical data, including number of samples collected, EPA approved analytical methods used, the 90% UCL of the data for the contaminants of concern, and name of certified environmental analytical laboratory that performed the analysis.

10. The first paragraph of Appendix page B-14 states, in part, that “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.”

The Technical Work Group recommends that this language be changed to read as follows: However, for reuse of inert waste soils for commercial/industrial development purposes, a higher background concentration could be considered representative. Hence, a

value of one half of the maximum background concentration from the Kearny Report is used in the Tier 2 table.

Thank you very much for your assistance on this matter.

Respectfully submitted,

The Site Assessment and Mitigation (SA/M) Technical  
Work Group for the Specific Waiver Conditions for the  
Discharge/Reuse of Inert Soils and Materials from  
Contaminated Sites