California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

November 21, 2003

Item: 10a

Subject: Tentative Resolution No. R8-2003-0131 - An Emergency Conditional Waiver of Statutory Requirements to File a Report of Waste Discharge and Prescribe Waste Discharge Requirements for Management and Disposal of Solid Wastes from the 2003 Wildfire Destruction in the Santa Ana Region

DISCUSSION:

Resolution No. R8-2003-0131 would, if adopted, waive the requirement to file a report of waste discharge and to prescribe amended waste discharge requirements for discharges of solid wastes derived from cleanup of burned areas in the Santa Ana Region. Discharge of such wastes, known collectively as fire debris, would be allowed at the Class III Municipal Solid Waste (MSW) Landfills specifically identified in Tentative Resolution No. R8-2003-0131 and at designated temporary waste staging areas. The waiver expires on June 30, 2004 unless the Regional Board extends it.

The Resolution places conditions upon the following categories of fire debris discharges in the Santa Ana Region:

1) **Discharges of fire debris into lined cells or at staging areas at specific lined MSW landfills.** These landfills may process and permanently dispose of large volumes of qualifying solid wastes, including: spoiled food wastes, animal carcasses, and "mixed wastes," which are comprised of two or more categories of wastes such as nonhazardous wastes, household hazardous wastes, universal wastes, and inert wastes that have been mixed and damaged such that the individual waste components are not practically separable for purposes of waste management. It is expected that the majority of fire debris will be disposed of at lined MSW landfills.

2) **Discharges of fire debris to temporary waste staging areas at unclassified (inert) landfills or other designated areas.** If necessary, these facilities may process large volumes of qualified demolition debris including uncontaminated metal, wood, concrete, and brick as these are removed from the burned areas throughout the Santa Ana Region. Operators of the temporary waste staging areas are required to submit a Notice of Intent to the Regional Board prior to initiating a waste staging operation and a Notice of Termination within 10 working days of completing removal of all wastes.

The waiver provides a streamlined approach to the cleanup effort in the Region, and is necessary to facilitate disposal of mixed waste to lined landfills where it poses the least threat to human health and water quality. This waiver would allow five active MSW landfills in the Santa Ana Region to begin accepting waste immediately, under specific conditions, without having to wait for amended waste discharge requirements, thereby reducing the likelihood of illegal dumping and improper disposal. Under the conditions of the waiver, cleanup of the burned areas will be greatly facilitated.

At least part of the waste from the burned areas of the Region will be comprised of inert wastes that may be suitable for recycling or reuse (e.g., uncontaminated metal, wood, concrete, brick, etc.). Collecting and separating wastes that are suitable for recycling or diversion to other waste handling facilities will help preserve space in lined landfills for the disposal of those wastes that pose a threat to water quality.

PUBLIC NOTICE: Because of the immediate need to address the fire debris disposal issue, this agenda item was added to the November agenda after the agenda announcement was mailed out on October 31, 2003. A Public Notice of this agenda item was posted on the Regional Water Quality Control Board, Santa Ana Region, website on November 12, 2003. Tentative Resolution No. R8-2003-0131 was emailed to all interested parties and posted on the Regional Board's website on November 14, 2003.

RECOMMENDATION:

Staff recommends adoption of Resolution No. R8-2003-0131, as presented.

Comments were solicited (only through email) from the following:

State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
State Water Resources Control Board, Division of Clean Water Programs – Joe Mello
California Integrated Waste Management Board - Glenn Young
Riverside County Waste Management Department - Joe R. McCann
County of San Bernardino Solid Waste Management Division - Peter Wulfman
Waste Management, Incorporated - Damon De Frates
Riverside Co. Environmental Health, LEA – Damian Meins
San Bernardino Co. Environmental Health, LEA - Jacquelyn Adams
Riverside Co. Hazardous Materials - Earl Tuntland
San Bernardino Co. Hazardous Materials - Curtis Brundage
Riverside County Flood Control and Water Conservation District – Coen Cowenberg
San Bernardino County Transportation Flood Control – Varma Naresh
California Department of Forestry – Bill Schultz
State Department of Water Resources – Glendale
California Department of Fish and Game – Long Beach
US Army Corps of Engineers – Allen Curlee

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

RESOLUTION NO. R8-2003-0131

AN EMERGENCY CONDITIONAL TEMPORARY WAIVER OF STATUTORY REQUIREMENTS TO FILE A REPORT OF WASTE DISCHARGE AND TO ADOPT WASTE DISCHARGE REQUIREMENTS FOR MANAGEMENT AND DISPOSAL OF SOLID WASTE FROM THE 2003 WILDFIRE DESTRUCTION IN THE SANTA ANA REGION

1. The devastation caused by the wildfires within this Regional Board's jurisdiction (Region) has resulted in widespread damage to private and public property. The destruction of structures and facilities by the wildfires has created an extraordinary volume of solid waste consisting of or containing pollutants that could affect the quality of waters within the Region. The nature of these waste could include, but is not limited to, burn ash, concrete, wood, green waste, electrical appliances, computer equipment, dead animals, food, cars, chemicals, paint, refrigerators, etc. These wastes are collectively referred to as fire debris.

2. On October 25, 2003, the Governor issued a proclamation identifying San Bernardino County as being in a state of emergency. On October 28, 2003, the Governor issued a proclamation identifying Riverside County as being in a state of emergency. Areas in these counties were impacted by the wildfires.

3. Fire debris derived from the cleanup of burned areas within the Region may be taken to existing regulated Class III lined landfills for treatment, sorting, storage, or disposal, and to temporary staging areas at sites not currently regulated as Class III landfills for treatment, storage, and recycling. These may be inert landfills or other designated areas.

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

5. The following active landfills have been designated to receive fire debris, and are underlain by engineered composite liner systems and leachate collection and removal systems, pursuant to waste discharge requirements implementing State Water Resources Control Board Resolution No. 93-62 and federal Municipal Solid Waste Landfill Criteria in 40 CFR 258:

a. Badlands Landfill (Orders No. 81-124, 91-105, 98-99, R8-2002-0085), Riverside County Waste Management
b. Lamb Canyon Landfill (Orders No. 81-127, 98-99), Riverside County Waste Management
c. Mid-Valley Landfill (Orders No. 81-127, 98-99), San Bernardino County Department of Public Works, Waste Systems Division
d. San Timoteo Landfill (Orders No. 78-151, 98-99), San Bernardino County Department of Public Works, Waste Systems Division
e. El Sobrante Landfill (Order No. 01-053), Waste Management, Inc.

6. Temporary waste staging areas are portions of MSW landfills, inert landfills, or other designated areas where fire debris is temporarily discharged, stored, treated, or sorted for recycling, and where containment features and ancillary features for precipitation and drainage control are present. Temporary waste staging areas are temporary de facto waste management units.

7. The owners/operators of the municipal solid waste landfills identified in Finding 5 of this Resolution may find it necessary to establish temporary waste piles for purposes of waste staging at their facility to facilitate the emergency cleanup and disposal of fire debris.

8. Other agencies and jurisdictions or persons engaged in cleanup of burned areas within the Santa Ana Region may find it necessary to establish temporary staging areas and temporary waste piles for short-term storage and treatment of fire debris from the cleanup of burned areas. These staging areas may not necessarily be located at MSW landfills or inert landfills.

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

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

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

12. Application of the requirements in Statewide General Construction Stormwater Permit, Order No. 99-08-DWQ, pertaining to best management practices that will prevent construction pollutants from contacting storm water and prevent products

of erosion from moving off site into receiving waters is relevant and appropriate for temporary fire debris staging areas.

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

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

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

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

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

BE IT RESOLVED THAT, pursuant to California Water Code (CWC) Section 13269, the Regional Board waives the requirements to submit a report of waste discharge (CWC Sections 13260(a) and (b) and 13264(a)) and establish waste discharge requirements (CWC Section 13263(a)) for the discharge of solid wastes derived from cleanup of burned areas in the Santa Ana Region provided that the conditions set forth below are met. The conditions set forth in this Resolution are applicable to the MSW landfills identified in Finding No. 5, above, and any discharger who establishes a temporary waste management unit to temporarily store and segregate waste from cleanup of burned areas in the Region.

A. Conditions for discharge of fire debris at regulated Class III Municipal Solid Waste Landfills in the Region.

1. Fire debris derived from cleanup of burned areas in the Region shall be discharged **only** to MSW landfills underlain by engineered liners and leachate collection systems that satisfy the requirements of SWRCB Resolution No. 93-62 and Regional Board waste discharge requirements. Fire debris derived from cleanup of burned areas in the Region must also be isolated to the extent practicable, from areas of the landfill that are not lined.

2. Liquid hazardous wastes or "restricted hazardous wastes," as defined by CH&S Code Section 25122.7, derived from cleanup of burned areas in the Region shall not be discharged to any MSW landfill.

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

4. The discharge of fire debris derived from cleanup of burned areas in the Region shall not create or contribute to conditions that violate the discharge prohibitions of the Water Quality Control Plan (Basin Plan) for the Region.

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

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

7. The following categories of fire debris derived from burned areas of the Region may be discharged as alternative daily cover (ADC) to a Class III MSW landfill

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

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

   c) Solid wastes identified by the Local Enforcement Agency (LEA) and approved by Regional Board staff as being suitable for use as ADC.

9. **Required Notification to the Regional Board:** Within 60 days after the expiration date of this Resolution, the owner/operator of the landfills that accepted fire debris from burned areas in the Region pursuant to this Resolution shall submit an amendment to their report of waste discharge

(Joint Technical Document) describing the material change to their discharge pertaining to the temporary acceptance of fire debris derived from cleanup of burned areas in the Region.

B. Conditions for Discharge of Wildfire Wastes to Temporary Waste Staging Areas at regulated Class III MSW Landfills in the Region.

In addition to Conditions 1 through 4 in Section A of this Resolution, any person discharging fire debris from burned areas in the Region to temporary staging areas at a regulated municipal solid waste landfill shall also comply with the following conditions.

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

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

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

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

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

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

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

C. Conditions for Temporary Waste Staging Areas NOT located at a regulated Class III MSW Landfill Identified in Finding No. 5 of this Resolution.

1. The discharge of solid wastes into temporary waste piles located at temporary staging areas shall comply with all the discharge prohibitions identified in Sections A.1 through 4 of this Resolution.

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

3. **Cover**: All temporary waste staging units/piles shall be covered with either a heavy gauge plastic or other material that meets the classification criteria for wastes described in Finding 11 of this Resolution. A material that would be classified as a designated waste cannot be utilized for daily or intermediate cover at a temporary waste staging area. Cover on the temporary waste staging units/piles shall prevent rainwater infiltration and runoff, and control fugitive dust, vectors, odors, blowing litter, and scavenging.

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

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

6. **Precipitation and Drainage Controls:** Temporary waste piles shall be designed, constructed, and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. Surface drainage from outside the temporary waste pile shall be diverted from the location of the temporary waste pile through implementation of BMPs for storm water control and conveyance to the maximum extent practicable.

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

8. **Public Notification Requirement**: The discharger shall post at least one clearly visible sign (in English) listing the following minimum information: a) project name, b) brief project description, and c) operator name and phone number. The discharger shall post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information as 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.

9. **Closure of Temporary Waste Piles:** Wastes discharged to temporary waste staging areas for the purpose of storage and treatment as established under this Resolution, and any materials used to contain the temporary waste, shall be removed for disposal in accordance with applicable federal, state and local requirements prior to the expiration of this waiver. The owner/operator of the temporary waste staging area shall submit a signed/completed Notice of Termination of Temporary Wildfire Waste Staging Operation (Attachment No. 2) to the Executive Officer within 10 working days of completing removal of all wildfire waste and restoring the site to its original condition. All wastes must be removed by the expiration date of this waiver.

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

BE IT FURTHER RESOLVED, Requirements of this Emergency Conditional Temporary Waiver apply only to waste derived from the cleanup of areas burned by the wildfires in Region. All discharges of waste not associated with cleanup of fire debris from burned areas in the Region must comply with discharge prohibitions and discharge

specifications established in waste discharge requirements for the solid waste management units identified in Finding 5 of this Resolution.

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

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

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

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an emergency Resolution adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 21, 2003.

Gerard J. Thibeault
Executive Officer

MAIL CERTIFICATION FORMS TO:

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
3737 Main Street , Suite 500
Riverside, CA 92501
Attention: Land Disposal Section Supervisor

Notice of Intent to Establish Temporary Wildfire Waste Staging Operation
Pursuant to Resolution No. R8-2003-0131: Attachment No. 1

Responsible Party and Facility Location Information

Name of Property Owner/Discharger:			
Mailing Address:			
City:	**County:**	**State:**	**Zip:**
Facility Contact Name:	**Phone:**		
Name of Temporary Waste Staging Facility:			
Facility Address:			
City:	**County:**	**State:**	**Zip:**
Facility Contact Name:	**Phone:**		

Certification 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."

Print Name: _____ **Title:** _____

Signature: _____ **Date:** _____

MAIL CERTIFICATION FORMS TO:

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
3737 Main Street, Suite 500
Riverside, CA 92501
Attention: Land Disposal Section Supervisor

Notice of Termination of Temporary Wildfire Waste Staging Operation
Pursuant to Resolution No. R8-2003-0131: Attachment No. 2

Wildfire Waste Disposal Information

Name of Property Owner/Discharger:			
Mailing Address:			
City:	**County:**	**State:**	**Zip:**
Facility Contact Name:	**Phone:**		
Name of Temporary Waste Staging Facility:			
Facility Address:			
City:	**County:**	**State:**	**Zip:**
Facility Contact Name:	**Phone:**		

Date(s) Waste Pile(s) Disposed:	**Disposal Location(s):**
Example - **November 10, 2003 4 piles equaling approximately 4 tons of fire debris waste**	**Mid Valley Landfill**

Final Disposal and Termination of Operations 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: _____ **Title:** _____

Signature: _____ **Date:** _____

California Regional Water Quality Control Board
Santa Ana Region

Terry Tamminen
Secretary for Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
(909) 782-4130 • Fax (909) 781-6288
http://www.swrcb.ca.gov/rwqcb8

Arnold Schwarzenegger
Governor

December 23, 2003

COPY OF ADOPTED RESOLUTION NO. R8-2003-0131

To Whom It May Concern:

Enclosed is a copy of Resolution No. R8-2003-0131 as adopted by the Regional Board on November 21, 2003. The Resolution waives the requirement to file a report of waste discharge and to receive amended waste discharge requirements for discharges of solid wastes derived from cleanup of burned areas in the Santa Ana Region. The Resolution also addresses the establishment of temporary waste staging areas. This waiver provides a streamlined approach to the cleanup effort in the Region, and is necessary to facilitate disposal of mixed waste to lined landfills where it poses the least threat to human health and water quality.

If you have any questions concerning this Resolution, you may contact me at (909) 782-3295.

Sincerely,

Dixie B. Lass, Chief
Land Disposal Section

Enclosures: Resolution R8-2003-0131 and Staff Report

cc: Joe Mello, SWRCB

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