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8 **STATE WATER RESOURCES CONTROL BOARD**  
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10 In the Matter of Malaga County Water )  
11 District, Wastewater Treatment Facility )  
(WWTF) )  
12 Order R5-2014-0145 Reissuing )  
13 Malaga WDR (NPDES Permit No. )  
CA0084239) Cease and Desist Order )  
14 R5 2014-0146 )  
15 \_\_\_\_\_ )

Hearing Date: December 4, 2014

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20 **PETITION FOR REVIEW; PRELIMINARY POINTS AND**  
**AUTHORITIES IN SUPPORT OF PETITION [WATER CODE §13320]**  
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1 Pursuant to Water Code §13320 and 23 CCR 2050, Petitioner, Malaga County  
2 Water District, a County Water District organized and existing pursuant to Water Code  
3 §30000, et seq. ("District" or "Malaga"), hereby petitions the State Water Resources  
4 Control Board ("State Board") for review of Order No. R5-2014-0145 of the California  
5 Regional Water Quality Control Board, Central Valley Region ("CVRB") renewing the  
6 District's Waste Discharge Requirements ("WDR") NPDES Permit No. CA0084239 (the  
7 "Permit" or "WDR") and Cease and Desist Order No. R5-2014-0146 ("CDO").<sup>1</sup> A copy of  
8 the Permit, Order No. R5-2014-0145 is attached hereto and incorporated by this reference  
9 herein as Exhibit A. A copy of the CDO, Order R5-2014-0146 is attached hereto and  
10 incorporated by this reference herein as Exhibit B. A copy of this Petition has been sent  
11 to the CVRB. The issues and a summary of the bases for the Petition follow. Petitioner  
12 reserves the right to file a more detailed Memorandum of Points and Authorities in Support  
13 of the Petition and/or amend this Petition when the full Administrative Record is available.<sup>2</sup>

14 1. Name and address of Petitioner.

15 Petitioner is the Malaga County Water District, a county water district organized and  
16 existing under Water Code §30000,<sup>3</sup> Petitioner maintains its office at 3580 S. Frank Street,  
17 Fresno, California, 93725. Malaga is represented by its counsel, who's name and  
18 address are as follows:

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21 <sup>1</sup> The two Orders, the Permit and the CDO, which are described herein, appeared as a single item  
22 on the CVRB December 4, 2014, meeting agenda (Item 10). Both the Permit and the CDO were  
23 distributed for comment by and considered and voted on by the CVRB with the Order and CDO  
24 containing blanks including blank permit numbers, order numbers, adoption dates and effective dates.  
The District received copies of the Permit and CDO on or about December 17, 2014, with the blanks  
filled in, presumably, by the CVRB Executive Director, after adoption by the CVRB.

25 <sup>2</sup> The State Board's regulations require submission of a statement of points and authorities in support of a  
26 petition for review (23 CCR §2050(a)(7).), and this document is intended to serve as a preliminary memorandum of  
points and authorities as required by this section. It is not possible to prepare a complete statement and  
memorandum in the absence of a complete administrative record which is not available.

27 <sup>3</sup> All statutory references are to the Water Code unless otherwise indicated. The CCR, unless  
28 otherwise indicated, refers to Title 23 of the California Code of Regulations.

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8 All notices or other written determination or responses are required to be served on  
9 Malaga's legal counsel.

10 2. Specific Action of the Regional Board the State Board is Requested to  
11 Review.

12 The Regional Boards adoption and all proceedings of the Regional Board leading  
13 to the adoption of waste discharge requirements, Order No. R5-2014-0145 and Cease and  
14 Desist Order No. R5-2014-0146.<sup>4</sup>

15 3. Date of Regional Board Action.

16 The CVRB conducted the Public Hearing on and adopted the WDR and CDO on  
17 December 4, 2014. (See, fn. 4). Official copies of the WDR and CDO were mailed to  
18 Malaga on or about December 16, 2014.

19 4. Statement of Reasons the Regional Board's Action was Inappropriate and  
20 Improper.

21 The Order is inappropriate and improper for any and/or each of the following  
22 reasons:

- 23 A. The process and hearing afforded Malaga before the Regional Board  
24 violated Malaga's Constitutional rights to due process and statutory  
25 protections and procedures afforded by the California Water Code,  
26 the California Government Code and the Regional Board's

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27 <sup>4</sup> The WDR and CDO were distributed, considered, and adopted by the Regional Board with the  
28 Order numbers, effective dates, expiration dates, and other information left blank. This information was,  
apparently, added to the documents after adoption by the Regional Board. Without examination of the  
Administrative Record, it is impossible to tell whether or not the blank information including, the Order  
Numbers, effective dates, expiration dates, and other dates, were considered or approved by the Regional  
Board.

1 regulations.

2 B. The finding(s) in the WDR and CDO (hereinafter also referred to  
3 individually and collectively as "Orders") are not supported by any  
4 evidence or substantial evidence and to the extent that there is in fact  
5 any admissible evidence, that evidence is merely conclusory  
6 statements of unidentified staff members presented in the form of  
7 staff reports , staff comments, reply(ies) to comments or findings in  
8 the Orders or attached to the Orders which are not supported by  
9 admissible evidence and/or any evidence.

10 C. The findings in the Orders are not supported by any evidence or  
11 substantial evidence and are premised solely on hearsay and the  
12 testimony of an individual or individuals who had no personal  
13 knowledge concerning any purported findings, which directly  
14 contradicts undisputed written evidence submitted that establish the  
15 falsity of the findings made by the CVRB.

16 D. The findings in the Orders are not supported by any evidence or  
17 substantial evidence in that the CVRB failed and/or refused to admit  
18 and/or consider evidence submitted by the District.

19 E. The Orders, particularly provision VI(C)(2)(b) of the Permit, violates  
20 the California Constitution, California Water Code, and/or California  
21 Code of Regulations, in that said provision is an impermissible  
22 delegation of CVRB authority.

23 5. Manner in Which Petitioner is Aggrieved.

24 Malaga is aggrieved because the Orders and specifically WDR IV(A)(1)(b) limits  
25 discharge into its percolation ponds (Discharge Point 002) to 0.49 million gallons per day  
26 ("mgd") which is below the level which is necessary for the District to operate its  
27 Wastewater Treatment Facility ("WWTF"). The Orders create a situation where in order  
28 to avoid a violation of the Order by Malaga, the District must either exceed the 0.49 mgd

1 limit or violate other provisions of the Orders by discharging into the central canal when the  
2 central canal does not have water running in it. The only other alternative, which is not an  
3 alternative at all, would be to stop or reduce inflow into the WWTF which could result in a  
4 sanitary sewer overflow and an immediate threat to the health and safety of the public.

5 6. Action Requested of the State Board.

6 The State Board is requested to set aside, vacate and/or modify the Orders to  
7 restore the District's discharge limits at Discharge Point 002 to 0.85mgd and/or direct the  
8 CVRB to conduct a new hearing on the matter that conforms with the requirement to  
9 provide Malaga its due process rights including, but not limited to, allowing Malaga to cross  
10 examine witnesses, present evidence, object to evidence and that the CVRB make findings  
11 based on evidence or substantial evidence.

12 7. Statement of Points and Authorities.

13 A. Introduction.

14 The Malaga County Water District collects and treats wastewater from within  
15 its boundary pursuant to a national pollution discharge elimination system (NPDES) permit  
16 issued by the CVRB in the form of an Order setting forth the waste discharge requirements  
17 of the District's Wastewater Treatment Facility. (§§13377 and 13378.) The treated  
18 wastewater is then either discharged into the District's percolation ponds (point 002) or,  
19 when necessary, discharged into the central canal (point 001) which is owned and  
20 operated by Fresno Irrigation District. The WDR is issued pursuant to Article 4 beginning  
21 with §12260, et seq., of the Water Code; Article 4 beginning with §13370, et seq., of the  
22 Water Code and the U.S. Clean Water Act ("Act"). On March 14, 2008, the CVRB issued  
23 a WDR Order RS-2008-0033 (NPDES No. CA0084329) to the District which superseded  
24 the prior WDR No. 99-100 (the "2008 Permit"). Each of these permits appears to be in a  
25 standard format used by the CVRB which typically involve minor changes from permit to  
26 permit. The 2008 Permit expired on March 14, 2013, and, pursuant to the requirement of  
27 that permit, the District submitted a "Report of Discharge" which serves as an application  
28 for the re-issuance of waste discharge requirements on or before September 14, 2012.

1           On August 14, 2014, some eighteen (18) months after the expiration of the  
2 District's 2008 Permit, the District received a "preliminary" Draft Waste Discharge  
3 Requirements (NPDES No. CA0084239) and Preliminary Draft Cease and Desist Order,  
4 Malaga County Water District, Wastewater Treatment Facility, Fresno California. Included  
5 with this correspondence was a "Preliminary" Draft Permit and a Preliminary Draft Cease  
6 and Desist Order for the Malaga County Water District. The stated intent of providing the  
7 District with the preliminary draft orders was to allow the District time to review the Orders  
8 for any factual errors, however, the District was only given until September 15, 2014, to  
9 review the documents and their attachments. The District responded to these "Preliminary  
10 Draft Orders" on or before September 15, 2014, and specifically pointed out that the  
11 proposed reduction in the District's discharge limit into its percolation ponds from 0.85 mgd  
12 to 0.49 mgd was not only unnecessary, but would be detrimental to the District and to  
13 Fresno Irrigation District, the owners of the central canal as the new limit would require the  
14 District to discharge into the central canal when it otherwise would not be required to.

15           It should also be noted that the August 28, 2014, Preliminary Draft Orders were the  
16 first indication the District had that the CVRB was considering changing the District's  
17 discharge limit. On or about September 25, 2014, the CVRB issued a "Notice of Public  
18 Hearing concerning renewal of wastewater discharge requirements and National Pollution  
19 Discharge Eliminations System Permit (NPDES No. CA0084239) and adoption of a Cease  
20 and Desist Order for Malaga County Water District Wastewater Treatment Facility Fresno  
21 County." These Orders appeared to be identical to the Preliminary Draft Orders which  
22 were sent to the District on August 28, 2014. On October 27, 2014, the District submitted  
23 comments and evidence in response to the September 25, 2014, Notice which contained,  
24 among other things, a number of comments and objections to the proposed orders  
25 including objections to the vagueness of the Notice and procedures to be followed;  
26 evidence, in the form of a Memorandum from the District's Engineer which directly  
27 contradicted the "findings" contained in the Orders. Thereafter, the CVRB requested that  
28 the District resubmit the Engineer's Memorandum with the Engineer's stamp and signature

1 and that the District provide additional information. This additional requested information  
2 was provided to the CVRB on or about November 19, 2014. On November 17, 2014, the  
3 CVRB issued responses to the comments on the proposed orders wherein, the CVRB,  
4 through an unidentified staff member or members, states, in conclusory fashion, that the  
5 CVRB requested information related to the District's discharge capacity on or about  
6 August 19, 2013, and that the District "failed to provide detailed, useful information  
7 regarding the disposal capacity in response to the August 2013 letter." On this basis, the  
8 Central Valley Water Board staff maintained it had to "proceed with the renewal process  
9 as the WDR/NPDES Permit in the absence of information because the Discharger's  
10 WDR/NPDES Permit was over six months past expiration date." The District did respond  
11 to the CVRB's August 19, 2013, request for information and received no indication from  
12 the CVRB that the information was either not detailed or useful regarding the disposal  
13 capacity of the District.

14 More importantly, the CVRB did not give the District any indication either in the  
15 August 19, 2013, letter, or thereafter, that the CVRB was considering reducing the District's  
16 discharge limit to its percolation ponds from 0.85 mgd to 0.49 mgd. It appears from this  
17 claimed failure to provide information that the CVRB staff simply failed to timely process  
18 the District's NPDES Permit renewal application and was using this as an excuse for its  
19 failure. Furthermore, the CVRB offers no explanation as to why if the processing of the  
20 District's permit renewal application was so time sensitive, it took a year for the CVRB to  
21 distribute a preliminary draft of the Permit.

22 On or about November 26, 2014, the CVRB issued "late revisions" for the  
23 December 4-5, 2014, Board meeting related to the District's proposed permit and CDO.  
24 The late revisions indicated the receipt of the evidence from the District, however, stated  
25 that "[a]s of the adoption date of this Order, Central Valley Water Board staff had not had  
26 sufficient time to thoroughly review the Discharger's 27 October 2014 and 19 November  
27 2014 technical submittals." Assuming that the "adoption date of this Order" means the  
28 hearing date which would either be December 4, 2014, or December 5, 2014, then the

1 CVRB staff concluded at that time, that staff would not have time to review the four (4)  
2 page Memorandum from the District's Engineer that was submitted on October 27, 2014,  
3 prior to the Public Hearing. In fact, CVRB staff simply declined to review the comments  
4 and data submitted by the District and proceeded as though no additional evidence had  
5 been received as evidenced by the late revisions referring to the District's evidence in the  
6 past tense from a meeting that was yet to occur. At the hearing, Counsel for the District  
7 pointed out that because CVRB staff had failed to review the data and evidence provided  
8 by the District, the Water Board should continue the hearing until the data had been  
9 reviewed. In fact, following the adoption of these Orders on December 4, 2014, the CVRB  
10 staff reviewed the data in a matter of mere days and reached the conclusion that the  
11 District's assertion that the data supported an increased discharge limit was in fact correct.  
12 This failure of the CVRB to review, consider, analyze, or otherwise accept the data and  
13 evidence presented by the District lead to a clearly erroneous change in the District's  
14 discharge limit.

15 B. GOVERNING LAW AND PROCEDURE

16 The Orders are apparently issued on the authority of §13200, et seq.; §13370, et  
17 seq., and the U. S. Clean Water Act and are required to be, among other things, based on  
18 findings made by the issuing authority, the CVRB. In this case, the findings are a mere  
19 recitation of hearsay and conclusory statements made by unknown staff of the CVRB.  
20 What evidence these findings are based on is not disclosed in the Orders or supporting  
21 documents other than vague and/or out of context references to and/or excerpts from  
22 various documents and reports submitted by the District over a period of many years,  
23 none of which was included in the evidence presented.

24 Neither the Water Code or the CCR's set forth the procedure for the renewal of a  
25 permit. However, in the CVRB's Notice of Public Hearing related to the permit and CDO  
26 dated September 25, 2014, Malaga is designated as a "designated party." A copy of the  
27 Notice of Public Hearing is attached hereto and incorporated by this reference herein as  
28 Exhibit C. The September 26, 2014, Notice then goes on to state that designated parties



1 "will have these rights: to call and examine witnesses; to cross examine opposing  
2 witnesses; to impeach any witness; and to rebut the evidence against him or her. Central  
3 Valley Water Board staff will prepare the administrative record, and may present evidence,  
4 make an oral presentation and cross examine opposing witnesses." The Notice of Public  
5 Hearing required that "persons wishing to comment on these items must submit testimony,  
6 evidence, if any, and/or comments in writing to the Central Valley Water Board no later  
7 than 5:00 p.m. on 27 October 2014. Testimony, evidence and/or written comments  
8 submitted after 5:00 p.m. on 27 October 2014 will not be accepted and will not be  
9 incorporated into the administrative record absent a ruling by the Board Chair." Further,  
10 the Notice states that "the procedures governing Central Valley Water Board meetings may  
11 be found at Title 23, California Code of Regulations, §647, et seq., and are available upon  
12 request. Hearings before the Central Valley Water Board are not conducted pursuant to  
13 Government Code §11500, et seq." However, the Notice does not state whether the  
14 matter is contested or uncontested or an adjudicative proceeding or a non-adjudicative  
15 proceeding. Malaga raised this issue as an objection contained in its October 27, 2014,  
16 comments to the Notice. (Ex. C at para. 4.) A true and correct copy of the District's  
17 October 27, 2014, comments are attached hereto and incorporated by this reference  
18 herein as Exhibit D. In its November 17, 2014, response to comments, the unknown staff  
19 person, states that "moreover, the Discharger's claim that it is being denied due process  
20 is misplaced. There is no mandatory legal requirement that a Notice of Public Hearing  
21 specifically state whether a matter is contested or uncontested and the Discharger has  
22 provided no authority to the contrary. Adoption of a permit is quasi-adjudicatory  
23 proceeding and governed pursuant to California Code of Regulations, Title 23 §648, et  
24 seq." (Response to Written Comments at p. 4.) A true and correct copy of the CVRB's  
25 Response to Written Comments is attached hereto and incorporated by this reference  
26 herein as Exhibit E. The Notice (Ex. C), while not stating that the hearing is to be a  
27 adjudicative proceeding, describes some of the procedures and rights afforded to a  
28 designated party in an adjudicative proceeding. The CVRB, provides "procedure for

1 hearings in adjudicative matters" which was attached to the Agenda for the December 4-5,  
2 2014, meeting wherein the matters related to Malaga were heard. A true and correct copy  
3 of the agenda is attached hereto and incorporated by this reference herein as Exhibit F.  
4 These procedures identify waste discharge requirements, NPDES Permits, and "certain  
5 enforcement orders" (which presumably includes Cease and Desist Orders), are governed  
6 by the procedures set forth in CCR Title 23 §648, et seq. CCR §648, et seq., sets forth  
7 the procedures for adjudicative proceedings. There is no mention in the CCR or in any  
8 Water Code Section which referred to or defines a "quasi-adjudicative proceeding" as  
9 referred to in the CVRB's response to the District's comments.

10 Clearly, in the absence of any defined procedures for the adoption of NPDES  
11 Permits and/or Cease and Desist Orders, the Permit and CDO must be considered and  
12 can only be adopted following an adjudicative proceeding which are required to be  
13 conducted in conformity with CCR §648, et seq., including the requirement to conform to  
14 the procedures prescribed by the Administrative Procedure Act, Government Code  
15 §11400, et seq. ("APA"). Because the "hearing" is one "for determination of fact pursuant  
16 to which an agency (defined to include the CVRB) formulates and issues a decision" this  
17 is an adjudicative proceeding within the meaning of Government Code §11405.2 and CCR  
18 §648(a). (See, Government Code §11405.3 (defining Agency); §11405.5 (defining a  
19 decision as an Agency action of specific application that determines a legal right or duty).)

20 If under federal or state statute or Constitution "an evidentiary hearing for determination  
21 of facts is required for formulation and issuance of the decision, the provisions of  
22 Chapter 4.5 of the APA apply. Here, the CVRB is determining whether and under what  
23 conditions, the District may treat and discharge wastewater by the adoption of an NPDES  
24 Permit and Cease and Desist Order which are matters which the CVRB defines as  
25 adjudicative proceedings. All adjudicative proceedings before the CVRB are required to  
26 be conducted pursuant to Chapter 4.5 of the APA and §11513 of the Government Code.  
27 (CCR §648.)

28 C. ARGUMENT

1           1.       THE PROCESS AND HEARING ACCORDED TO MALAGA BY THE  
2 REGIONAL BOARD FAILED TO CONFORM TO THE REQUIREMENTS OF THE  
3 ADMINISTRATIVE PROCEDURE ACT RESULTING IN A DENIAL OF DUE PROCESS  
4 TO MALAGA BECAUSE THE AGENCY DID NOT PROVIDE MALAGA WITH ADEQUATE  
5 NOTICE OR AN OPPORTUNITY TO BE HEARD AND AN OPPORTUNITY TO PRESENT  
6 AND REBUT EVIDENCE.

7           As stated above, in the Notice of Public Hearing dated September 25, 2014 (Ex. C),  
8 designated the Malaga County Water District as a "designated party for this hearing." It  
9 then stated that:

10           "Designated parties, but not interested persons will have these rights: to call  
11 and examine witnesses, to cross examine opposing witnesses; to impeach  
12 any witness and to rebut the evidence against him or her. Central Valley  
13 Water Board staff will prepare the administrative record, and may present  
14 evidence, make an oral presentation and cross examine opposing  
15 witnesses." (Ex. C at p. 2).

16           The Notice then states that:

17           "'Interested persons' may submit evidence "if the evidence is submitted in  
18 accordance with the deadlines for submitting evidence described below."

19           The next paragraph states that:

20           "Persons wishing to comment on these items must submit testimony,  
21 evidence, if any, and/or comments in writing to the Central Valley Water  
22 Board no later than 5:00 p.m. on 27 October 2014. Testimony, evidence,  
23 and/or written comments submitted after 5:00 p.m. on 27 October 2014, will  
24 not be accepted and will not be incorporated into the administrative record  
25 absent a ruling by the Board Chair."

26           The Notice, which was not issued by the Board or the presiding officer but was  
27 issued by Lonnie M. Wass, Supervising Engineer, does not set forth a deadline for the  
28 submission or presentation of evidence by the designated party. Rather, the Notice sets  
a deadline for the submission of evidence by "other persons," presumably interested  
parties wishing to comment. In the CVRB's Response to Comments (Ex. E), which, as  
stated above, does not identify who or whom prepared the responses, states that the "5:00  
p.m. on 27 October 2014" deadline for submission of evidence or comments in writing  
applies to Malaga as follows:

"[t]hus, if the Discharger intends to submit testimony, evidence, and/or

1 additional written comments after the comment deadline, which has already  
2 passed, it should note that the testimony, evidence, and/or additional written  
3 comments may or may not be incorporated into the administrative record."  
4 (Ex. E at p. 4-5).

5 The response continues to state:

6 "[i]n short, although it is true that the Discharger may seek to submit  
7 evidence and testimony at any time up to and including the hearing, whether  
8 the Discharger is allowed to do so is subject to the discretion of the Board  
9 Chair." (Id. at p. 5).

10 This, of course, is in direct contradiction with the public meeting agenda (Ex. F), the  
11 Notice of Public Hearing (Ex. C), and CCR §648.4. The public meeting agenda (Ex. F)  
12 states that:

13 "Order of proceeding: For adjudicative hearings, the proceeding will generally  
14 be conducted in the following order, unless modified by the Board Chair or  
15 specified differently in any item-specific notice or hearing procedure:

- 16 • Testimony and cross examination of Board staff, then testimony and  
17 cross examination of the designated parties named in the Order or  
18 Permit, followed by testimony and cross examination of other  
19 designated parties;
- 20 • Statement of interested persons;
- 21 • Closing Statement by designated parties other than those named in  
22 the Order or Permit then Closing Statement by designated parties  
23 named in the Order or Permit, followed by Closing Statement of Board  
24 staff;
- 25 • Recommendation by Board's Executive Officer (as appropriate);
- 26 • Close of hearing followed by deliberation and voting by the Board.

27 Closing Statements are not to be used to introduce new evidence or  
28 testimony. Persons wishing to introduce exhibits (i.e., maps, charts,  
photographs), must leave them with the Board."

CCR §648.4(b) states that:

"The hearing officer may require that all parties intending to present evidence  
at a hearing shall submit the following information to the Board prior to the  
hearing: The name of each witness whom the parties intends to call at the  
hearing, the subject of each witness' proposed testimony, the estimated time  
required by the witness to present direct testimony, and the qualifications of  
each expert witness. The required information shall be submitted in  
accordance with the procedure specified in the hearing notice."

As stated above, the hearing notice (Ex. C) simply stated that designated parties will

1 have the right to call and examine witnesses; to cross examine opposing witnesses; to  
2 impeach any witness; and to rebut the evidence against him or her. That notice, which was  
3 not issued by the Board, or presiding officer of the Board, did not, in any way specify that  
4 any procedures other than the order of proceedings as described in CCR §648.5 and the  
5 public meeting agenda (Ex. F) would be followed at the hearing. Further, the Notice (Ex.  
6 C) states that: "The Central Valley Water Board staff 'will prepare the administrative  
7 record.'" To the knowledge of the District no administrative record was prepared and  
8 presented to the Board at the hearing nor has an administrative record been prepared  
9 following the hearing as of the date of this Petition. At the hearing, the CVRB presented  
10 a single witness, Aide Ortez, a direct subordinate of Lonnie M. Wass, Supervising  
11 Engineer, who prepared and distributed the Notice of Public Hearing (Ex. C). Said  
12 testimony was given in the form of narrative presentation solely of hearsay, conclusory  
13 statements and unsupported findings, most of which the witness had no personal  
14 knowledge of all which were admitted over the objection of Malaga or in direct contradiction  
15 with CCR §648.4(a) which is a policy of the CVRB to discourage the introduction of  
16 surprise testimony and exhibits. Each objection of the District was summarily overruled by  
17 the Board Chair who routinely interjected himself in an attempt to prevent the District from  
18 raising objections or cross examining witnesses and engaged in direct argument with the  
19 District's counsel.

20 The primary concern of the District at the hearing was the implementation of a new,  
21 lower discharge limit being imposed on the District and related provisions and findings.  
22 The proposed permit, at Section IV(A)(1)(b) reduces the District's discharge from  
23 Discharge Point 002, which discharges into the District's percolation ponds, from 0.85 mgd  
24 which is the limit in the 2008 permit, to 0.49 mgd. The District currently discharges  
25 approximately 0.55 mgd. This provision then allows the Executive Officer to approve a  
26 higher flow as follows:

27 "b. 0.49 mgd at Discharge Point 002, unless the Executive Officer  
28 approves a higher flow, up to 0.85 mgd, as allowed by provision VI.C.2.b.  
Compliance shall be determined at monitoring location EFF-002."

1 For the reasons set forth in Section 3 below, the District does not view this  
2 "approved higher flow" as an option as it is an impermissible delegation of authority by the  
3 CVRB. This new lower limit is premised on "findings" as set forth in attachments to the  
4 Permit, response to comments, and the late revisions. The District objected to those  
5 "findings" in its comments (Ex. D). In the permit, those findings are found in Attachment  
6 F Section II(B)(3) which merely recite various conclusions including "[t]he Central Valley  
7 Water Board calculated the disposal capacity of the ponds based on 100-year rainfall and  
8 evaporation, assuming half of the storage capacity available at the beginning of the water  
9 year (1 October), and a percolation rate of 0.6 inch per day."

10 This calculation was based on information provided to the CVRB by the District in a report  
11 dated July 28, 2008, which, in fact, was based on data from 2005 and 2007. (See,  
12 comments (Ex. D) at p. 2). This section then goes on to state:

13 "In August 2013, the Central Valley Water Board requested updated  
14 information regarding the facilities' disposable capacity, and requested the  
15 Discharger provide the number of ponds that had received maintenance  
16 work and whether the work had affected disposal capacity (e.g., increased  
17 percolation rates). The Discharger's response did not include detailed  
18 information about which ponds had received maintenance work, and only  
19 indicated the Discharger intended to isolate one or more ponds to determine  
20 the current percolation rate. The Discharger never followed up with  
21 documentation indicating whether it isolated disposal ponds to determine the  
22 percolation rate."

23 This passage clearly acknowledges that the District provided a response to the  
24 August 2013 request, but does not include the request or the response of the District.  
25 Rather, it simply states, in conclusory fashion, that the District "did not include detailed  
26 information." More importantly, nothing contained in any of the "findings" or any other  
27 document prepared by CVRB staff to be presented to the Board indicated that the CVRB  
28 staff intended on changing the discharge limit did, until distributing the "preliminary" draft  
orders were distributed on August 28, 2014. Malaga also objected to various findings in  
the CDO primarily the findings in the NPDES permit associated with the change in the  
discharge limit at Discharge Point 002. Those objections are set forth in detail in the  
District's comments (Ex. D).

1 As stated above, the District provided, along with its comments, a memorandum  
2 from its Engineer related to the District's disposal pond capacity which included updated  
3 data clearly indicating that the disposal ponds had the capacity to accept 0.85 mgd and as  
4 such the discharge limit should remain unchanged. (Ex. C).

5 On November 19, 2014, at the request of CVRB staff, the District submitted  
6 additional information, clarification, and resubmitted the District Engineer's memorandum  
7 with the District Engineer's stamp and signature. A copy of the response to the CVRB's  
8 request for additional comments is attached hereto and incorporated by this reference  
9 herein as Exhibit G. On November 26, 2014, the CVRB prepared "late revisions" which  
10 amended a document referred to as the "Buff Sheet" which is, presumably, a staff report  
11 prepared by unknown member(s) of the CVRB. A true and correct copy of the late  
12 revisions dated November 26, 2014, is attached hereto and incorporated by this reference  
13 herein as Exhibit H. In the late revisions, CVRB staff acknowledges that it received the  
14 memorandum from the District's Engineer on October 27, 2014, the memorandum of the  
15 Engineer with signature and stamp on November 3, 2014, and the additional comments  
16 requested by the CVRB on November 19, 2014. While acknowledging receipt of this  
17 information, the CVRB staff simply states that it "as of the adoption of this order, Central  
18 Valley Water Board staff had not had sufficient time to thoroughly review the Discharger's  
19 27 October 2014 and 19 November 2014 technical submittals." Clearly, the CVRB  
20 received this evidence from the District but failed to review the evidence and comments in  
21 any meaningful way by deciding in advance of the hearing, that it "had not had time" to  
22 review the information as of the date of the hearing that had not yet occurred. It appears  
23 to be a pattern of practice of the CVRB to make findings prior to the public hearing. In the  
24 permit, at Section II(F) the finding states that:

25 "[t]he Central Valley Water Board, in a public meeting, heard and considered  
26 all comments pertaining to the discharge. Details of the public hearing are  
provided in the Fact Sheet."

27 This finding, as with the other findings, was prepared in advance of the hearing  
28 using past tense as though prepared after the hearing. The Fact Sheet provides no details

1 of the public hearing as set forth in this section. The Fact Sheet at page 65 merely recites  
2 that a public hearing was held with the date filled in and that interested persons were  
3 invited (past tense) to attended and that the CVRB heard (past tense) testimony pertinent  
4 to the discharge requirements, CDO and Permit. Further, the public participation section  
5 states that "for accuracy of the record, important testimony was requested in writing."  
6 There is no description of what this testimony was. (See, Permit, Attachment F, VIII Public  
7 Participation).

8 2. THE FINDINGS IN THE ORDER ARE NOT SUPPORTED BY ANY  
9 EVIDENCE OR SUBSTANTIAL EVIDENCE AND ARE PREMISED SOLELY ON  
10 HEARSAY, CONCLUSORY STATEMENTS, AND TESTIMONY OF AN INDIVIDUAL WHO  
11 HAD NO PERSONAL KNOWLEDGE OF FACTS STATED IN THE FINDINGS  
12 CONTAINED IN THE PERMIT, CDO, OR ATTACHMENTS THERETO, THE  
13 UNDISPUTED WRITTEN AND ORAL EVIDENCE SUBMITTED BY THE DISTRICT  
14 SHOWS IT HAS MORE THAN ADEQUATE CAPACITY FOR A DISCHARGE LIMIT OF  
15 0.85 MGD.

16 The reduced discharge limit is based entirely on the "findings" that appear in  
17 Attachment F to the Permit. Those "findings" consist of nothing but hearsay and argument  
18 and are not based on any evidence at all. The only evidence before the Board in this  
19 proceeding was the evidence presented by Malaga showing it has the long-term capacity  
20 to discharge up to 0.85 mgd per day into its ponds. There is simply no basis for the  
21 discharge limitation reduction.

22 3. THE PERMIT AND CDO CONTAIN AN IMPERMISSIBLE AND/OR  
23 UNCONSTITUTIONAL DELEGATION OF THE CENTRAL VALLEY WATER BOARD'S  
24 AUTHORITY TO ITS EXECUTIVE OFFICER.

25 The Permit/WDR was adopted pursuant to §§13377 and 13378. The WDR's/Permit  
26 can only be adopted following notice and any necessary hearing. (§13378.) All  
27 requirements set forth in the WDR's/Permits must be prescribed by the Regional Board in  
28 accordance with §13263. Any revisions to the requirements must be reviewed by the  
Board. (§13263(e)). As set forth above, the Permit at Section IV(A)(1)(b) sets the District's  
discharge at point 002 at 0.49 mgd as follows:

"b. 0.49 mgd at Discharge Point 002, unless the Executive Officer  
approves a higher flow, up to 0.85 mgd, as allowed by Provision VI(C)(2)(b).  
Compliance shall be determined at Monitoring Location EFF-002."



1 Provision VI(C)(2)(b) reads as follows:

2 "(b) **Requests for increased flow** as described in Attachment F - Fact  
3 Sheet, Section 2.B.3, the estimated disposal capacity of the ponds  
4 (Discharge Point 002) is approximately 0.49 mgd. This Order restricts the  
5 flow to Discharge Point 002 to 0.49 mgd as an average monthly. Order R5-  
6 2008-0033 included an effluent flow limitation to Discharge Point 002 of 0.85  
7 mgd, as an average monthly. The Discharger may request an increased flow  
8 at Discharge Point 002, up to 0.85 mgd. The request for the increased flow  
9 must include supporting calculations and documentation showing the ponds  
10 have enough capacity for reliably disposing of the requested average  
11 monthly flow. At minimum, the request must stress the percolation rate and  
12 how the rate was determined. The request must also include a proposed  
13 maintenance program for the disposal ponds, which shall include an ongoing  
14 schedule for performing maintenance work to maintain adequate disposal  
15 capacity. The increased flow will be subject to Executive Officer approval,  
16 and the Discharger may not discharge at the higher flow rate until any and  
17 all proposed maintenance work has been completed and the request for an  
18 increase in flow has been approved by the Central Valley Water Board  
19 Executive Officer. The Discharger may request an increase in flow at any  
20 time during the term of this Order. If the Discharger requests an increase in  
21 flow and the request is approved, the Discharger must submit an annual  
22 update in its annual report, as described in Attachment E - MRP, Section  
23 X.D.3.e."

14 As set forth above, §13263(e) requires that any review and revision of requirements  
15 must be made by the Regional Board as follows:

16 "§13263 . . . (e) upon application by any affected person, or on its own  
17 motion, the Regional Board may review and revise requirements. All  
18 requirements shall be reviewed periodically."

18 It is clear from §13263 that any application to change a requirement in a Permit, in  
19 this case the discharge limit of 0.49 mgd at Discharge Point 002, must be made to and  
20 approved by the Regional Board. Clearly, the only permitted procedure to revise a  
21 requirement in a Permit is upon application to the Regional Board. Neither the Permit nor  
22 the findings provide any authority for the Regional Board to delegate such authority to its  
23 Executive Officer. By including a provision in the Permit that allows the Executive Officer  
24 to arbitrarily change a Permit limit is an improper and impermissible delegation of authority.

25 Furthermore, there is no procedure for making any such application to the Executive  
26 Officer and Provision VI(C)(2)(b) provides no application process, procedure, criteria,  
27 review, or appeal process. This allows the Executive Officer to arbitrarily decide the fate  
28 of the Water District and is a clear violation of the District's due process rights.



# **EXHIBIT A**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

1685 "E" Street, Fresno, California 93706  
Phone (559) 445-5116 • Fax (559) 445-5910  
<http://www.waterboards.ca.gov/centralvalley>

**ORDER R5-2014-XXXX  
NPDES NO. CA0084239**

**WASTE DISCHARGE REQUIREMENTS  
FOR THE MALAGA COUNTY WATER DISTRICT  
WASTEWATER TREATMENT FACILITY  
FRESNO COUNTY**

The following Discharger is subject to waste discharge requirements (WDRs) set forth in this Order, and is authorized to discharge at the locations below:

**Table 1. Discharger Information**

Discharger	Malaga County Water District
Name of Facility	Wastewater Treatment Facility
Facility Address	3749 South Maple Avenue
	Fresno, CA 93725
	Fresno County

**Table 2. Discharge Locations**

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
001	Disinfected Tertiary-treated Municipal Wastewater	36° 40' 41.52" N	119° 44' 43.98" W	Fresno Irrigation District Central Canal
002	Un-disinfected Secondary-treated Municipal Wastewater	--	--	Groundwater

**Table 3. Administrative Information**

This Order was adopted on:	<Adoption Date>
This Order shall become effective on:	<Effective Date>
This Order shall expire on:	<Expiration Date>
The Discharger shall file a Report of Waste Discharge as an application for reissuance of WDRs in accordance with title 23, California Code of Regulations, and an application for reissuance of a National Pollutant Discharge Elimination System (NPDES) permit no later than:	<180 days prior to the Order expiration date>
The U.S. Environmental Protection Agency (U.S. EPA) and the California Regional Water Quality Control Board, Central Valley Region have classified this discharge as follows:	Major

I, Pamela Creedon, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of the Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on [DATE].

\_\_\_\_\_  
**PAMELA C. CREEDON**, Executive Officer

**CONTENTS**

I. FACILITY INFORMATION ..... 3  
II. FINDINGS..... 3  
III. DISCHARGE PROHIBITIONS ..... 4  
IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS ..... 4  
    A. FLOW EFFLUENT LIMITATIONS – DISCHARGE POINTS 001 AND 002 ..... 4  
    B. EFFLUENT LIMITATIONS – DISCHARGE POINT 001 ..... 4  
        1. FINAL EFFLUENT LIMITATIONS – DISCHARGE POINT 001 ..... 4  
        2. INTERIM EFFLUENT LIMITATIONS – NOT APPLICABLE ..... 5  
    C. LAND DISCHARGE SPECIFICATIONS – DISCHARGE POINT 002 ..... 5  
    D. RECYCLING SPECIFICATIONS – NOT APPLICABLE ..... 6  
V. RECEIVING WATER LIMITATIONS ..... 6  
    A. SURFACE WATER LIMITATIONS ..... 6  
    B. GROUNDWATER LIMITATIONS ..... 7  
VI. PROVISIONS ..... 8  
    A. STANDARD PROVISIONS ..... 8  
    B. MONITORING AND REPORTING PROGRAM (MRP) REQUIREMENTS ..... 11  
    C. SPECIAL PROVISIONS ..... 11  
        1. REOPENER PROVISIONS ..... 11  
        2. SPECIAL STUDIES, TECHNICAL REPORTS, AND ADDITIONAL MONITORING  
            REQUIREMENTS ..... 12  
        3. BEST MANAGEMENT PRACTICES AND POLLUTION PREVENTION ..... 14  
        4. CONSTRUCTION, OPERATION, AND MAINTENANCE SPECIFICATIONS ..... 14  
        5. SPECIAL PROVISIONS FOR MUNICIPAL FACILITIES (POTWS ONLY) ..... 16  
        6. OTHER SPECIAL PROVISIONS ..... 18  
        7. COMPLIANCE SCHEDULES – NOT APPLICABLE ..... 19  
VII. COMPLIANCE DETERMINATION ..... 19

**TABLES**

TABLE 1. DISCHARGER INFORMATION ..... 1  
TABLE 2. DISCHARGE LOCATIONS ..... 1  
TABLE 3. ADMINISTRATIVE INFORMATION ..... 1  
TABLE 4. FINAL EFFLUENT LIMITATIONS ..... 5  
TABLE 5. LAND DISCHARGE SPECIFICATIONS ..... 6

**ATTACHMENTS**

ATTACHMENT A – DEFINITIONS ..... A-1  
ATTACHMENT B – MAP ..... B-1  
ATTACHMENT C – FLOW SCHEMATIC ..... C-1  
ATTACHMENT D – STANDARD PROVISIONS ..... D-1  
ATTACHMENT E – MONITORING AND REPORTING PROGRAM ..... E-1  
ATTACHMENT F – FACT SHEET ..... F-1  
ATTACHMENT G – SUMMARY OF REASONABLE POTENTIAL ANALYSIS AT  
    DISCHARGE POINT 001 ..... G-1  
ATTACHMENT H – CALCULATION OF WQBELS ..... H-1  
ATTACHMENT I – REQUIRED REPORTING LEVELS FOR PRIORITY POLLUTANTS ..... I-1

## I. FACILITY INFORMATION

Information describing the Malaga County Water District Wastewater Treatment Facility (Facility) is summarized in Table 1 and in sections I and II of the Fact Sheet (Attachment F). Section I of the Fact Sheet also includes information regarding the Facility's permit application.

## II. FINDINGS

The California Regional Water Quality Control Board, Central Valley Region (hereinafter Central Valley Water Board), finds:

- A. Legal Authorities.** This Order serves as WDRs pursuant to article 4, chapter 4, division 7 of the California Water Code (Water Code; commencing with section 13260). This Order is also issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. EPA and chapter 5.5, division 7 of the Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from this Facility to surface waters.
- B. Background and Rationale for Requirements.** The Central Valley Water Board developed the requirements in this Order based on information submitted as part of the application, through monitoring and reporting programs, and other available information. The Fact Sheet (Attachment F), which contains background information and rationale for the requirements in this Order, is hereby incorporated into and constitutes Findings for this Order. Attachments A through E and G through I are also incorporated into this Order.
- C. Provisions and Requirements Implementing State Law.** The provisions/requirements in subsections IV.C, V.B, and portions of VI.C are included to implement state law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations.
- D. Monitoring and Reporting.** Title 40, Code of Federal Regulations, Section 122.48 (40 CFR 122.48) requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorize the Central Valley Water Board to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements. The Monitoring and Reporting Program is provided in Attachment E.

The technical and monitoring reports in this Order are required in accordance with Water Code section 13267, which states the following in subsection (b)(1), "*In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*"

The Discharger owns and operates the Facility subject to this Order. The monitoring reports required by this Order are necessary to determine compliance with this Order. The need for the monitoring reports is discussed in the Fact Sheet.

- E. Notification of Interested Parties.** The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe WDRs for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of the notification are provided in the Fact Sheet.
- F. Consideration of Public Comment.** The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet.

THEREFORE, IT IS HEREBY ORDERED that Order R5-2008-0033 is rescinded upon the effective date of this Order except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the CWA and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Order. This action in no way prevents the Central Valley Water Board from taking enforcement action for past violations of the previous Order.

### III. DISCHARGE PROHIBITIONS

- A.** Discharge of wastewater from the Facility, as the Facility is specifically described in the Fact Sheet in section II, in a manner different from that described in this Order is prohibited.
- B.** The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard Provisions I.G and I.H (Attachment D).
- C.** Neither the discharge nor its treatment shall create a condition of pollution or nuisance as defined in Water Code section 13050.
- D.** The Discharger shall not allow pollutant-free wastewater to be discharged into the treatment or disposal system in amounts that significantly diminish the system's capability to comply with this Order. Pollutant-free wastewater means rainfall, groundwater, cooling waters, and condensates that are essentially free of pollutants.
- E.** Discharge of waste classified as 'hazardous', as defined in Title 23, California Code of Regulations (CCR), Section 2521(a), et seq, is prohibited.

### IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

#### A. Flow Effluent Limitations – Discharge Points 001 and 002

- 1. Average Monthly Flow.** The average monthly discharge flow shall not exceed the following:
  - a. 0.45 mgd at Discharge Point 001. Compliance shall be determined at monitoring location EFF-001.
  - b. 0.49 mgd at Discharge Point 002, unless the Executive Officer approves a higher flow, up to 0.85 mgd, as allowed by Provision VI.C.2.b. Compliance shall be determined at monitoring location EFF-002.
  - c. 1.2 mgd, total for both discharge points. Compliance shall be determined by summing the flows at monitoring locations EFF-001 and EFF-002.

#### B. Effluent Limitations – Discharge Point 001

##### 1. Final Effluent Limitations – Discharge Point 001

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001, as described in the Monitoring and Reporting Program, Attachment E:

- a. The Discharger shall maintain compliance with the effluent limitations specified in Table 4:

**Table 4. Final Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Biochemical Oxygen Demand 5-day @ 20°C (BOD <sub>5</sub> )	mg/L	10	15	30	--	--
	lbs/day	38	56	113	--	--
Total Suspended Solids (TSS)	mg/L	10	15	30	--	--
	lbs/day	38	56	113	--	--
pH	standard units	--	--	--	6.5	8.3
Copper, Total Recoverable	µg/L	6.5	--	12	--	--
Cyanide, Total (as CN)	µg/L	4.2	--	8.7	--	--
Aluminum, Total Recoverable	µg/L	341	761	--	--	--
Ammonia, un-ionized (as N)	mg/L	--	--	0.025	--	--
Boron	mg/L	--	--	1.0	--	--
Chloride	mg/L	--	--	175	--	--
Nitrate plus Nitrite (as N)	mg/L	10.	--	--	--	--

- b. **Percent Removal.** The average monthly percent removal of BOD<sub>5</sub> and TSS shall not be less than 90 percent.
- c. **Acute Whole Effluent Toxicity.** Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:
- i. 70%, minimum for any one bioassay;
  - ii. 90%, median for any three consecutive bioassays.
- d. **Chronic Whole Effluent Toxicity.** There shall be no chronic toxicity in the effluent discharge.
- e. **Total Coliform.** Effluent total coliform shall not exceed:
- i. 2.2 most probable number (MPN) per 100 mL, as a 7-sample median;
  - ii. 23 MPN/100 mL, more than once in any 30-day period; and
  - iii. 240 MPN/100 mL, at any time.
- f. **Electrical Conductivity @ 25°C (EC).** The 12-month rolling average effluent EC shall not exceed 1,000 µmhos/cm or the 12-month rolling average EC of the source water plus 500 µmhos/cm, whichever is more stringent. When source water is from more than one source, the EC shall be a flow-weighted average of all sources.

**2. Interim Effluent Limitations – Not Applicable**

**C. Land Discharge Specifications – Discharge Point 002**

1. The Discharger shall maintain compliance with the following discharge specifications at Discharge Point 002, with compliance measured at Monitoring Location EFF-002, as described in the Monitoring and Reporting Program, Attachment E:

- a. The Discharger shall maintain compliance with the discharge specifications in Table 5:



**Table 5. Land Discharge Specifications**

Parameter	Units	Land Discharge Specifications			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Biochemical Oxygen Demand 5-day @ 20°C (BOD <sub>5</sub> )	mg/L	40	80	--	--
Total Suspended Solids (TSS)	mg/L	40	80	--	--
pH	standard units	--	--	6.5	8.3
Boron	mg/L	--	1.0	--	--
Chloride	mg/L	--	175	--	--
Settleable Solids	mL/L	0.2	1.0	--	--

- b. **Electrical Conductivity @ 25°C (EC).** The 12-month rolling average effluent EC shall not exceed 1,000 µmhos/cm or the 12-month rolling average EC of the source water plus 500 µmhos/cm, whichever is more stringent. When source water is from more than one source, the EC shall be a flow-weighted average of all sources.

**D. Recycling Specifications – Not Applicable**

**V. RECEIVING WATER LIMITATIONS**

**A. Surface Water Limitations**

The discharge shall not cause the following in Central Canal:

1. **Un-ionized Ammonia.** Un-ionized ammonia to be present in amounts that adversely affect beneficial uses nor to be present in excess of 0.025 mg/L (as N).
2. **Bacteria.** The fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, to exceed a geometric mean of 200 MPN/100 mL, nor more than 10 percent of the total number of fecal coliform samples taken during any 30-day period to exceed 400 MPN/100 mL.
3. **Biostimulatory Substances.** Water to contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.
4. **Chemical Constituents.** Chemical constituents to be present in concentrations that adversely affect beneficial uses.
5. **Color.** Discoloration that causes nuisance or adversely affects beneficial uses.
6. **Dissolved Oxygen:**
  - a. The monthly median dissolved oxygen concentration to fall below 85 percent of saturation in the main water mass at centroid of flow;
  - b. The 95 percentile dissolved oxygen concentration to fall below 75 percent of saturation; nor
  - c. The dissolved oxygen concentration to be reduced below 5.0 mg/L at any time.
7. **Floating Material.** Floating material, including but not limited to solids, liquids, foams, and scum, to be present in amounts that cause nuisance or adversely affect beneficial uses.
8. **Oil and Grease.** Oils, greases, waxes, or other materials to be present in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.
9. **pH.** The pH to be depressed below 6.5, nor raised above 8.3.

**10. Pesticides:**

- a. Pesticides to be present, individually or in combination, in concentrations that adversely affect beneficial uses;
- b. Pesticides to be present in bottom sediments or aquatic life in concentrations that adversely affect beneficial uses;
- c. Pesticides to be present in concentration in excess of the maximum contaminant levels (MCLs) specified in Table 64444-A (Organic Chemicals) of section 64444 of Title 22 of the CCR.

**11. Radioactivity:**

- a. Radionuclides to be present in concentrations that are deleterious to human, plant, animal, or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
- b. Radionuclides to be present in excess of the MCLs specified in Table 64442 of section 64442 and Table 64443 of section 64443 of Title 22 of the CCR.

**12. Suspended Sediments.** The suspended sediment load and suspended sediment discharge rate of surface waters to be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

**13. Settleable Materials.** Substances to be present in concentrations that result in the deposition of material that causes nuisance or adversely affects beneficial uses.

**14. Suspended Material.** Suspended material to be present in concentrations that cause nuisance or adversely affect beneficial uses.

**15. Taste and Odors.** Taste- or odor-producing substances to be present in concentrations that cause nuisance, adversely affect beneficial uses, or impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or to domestic or municipal water supplies.

**16. Temperature.** The natural temperature to be increased by more than 5°F. Compliance to be determined based on the difference in temperature at RSW-001 and RSW-002.

**17. Toxicity.** Toxic substances to be present, individually or in combination, in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.

**18. Turbidity.** The turbidity to increase as follows:

- a. More than 1 Nephelometric Turbidity Unit (NTU) where natural turbidity is between 0 and 5 NTUs;
- b. More than 20 percent where natural turbidity is between 5 and 50 NTUs;
- c. More than 10 NTUs where natural turbidity is equal to or between 50 and 100 NTUs; nor
- d. More than 10 percent where natural turbidity is greater than 100 NTUs.

**B. Groundwater Limitations**

1. Release of waste constituents associated with the Facility or discharge shall not cause or contribute to groundwater containing constituent concentrations in excess of the concentrations specified below or natural background quality for the specified constituents, whichever is greater:
  - a. Nitrate (as N) of 10 mg/L.

- b. For constituents identified in Title 22 of the California Code of Regulations, the MCLs quantified therein.

## VI. PROVISIONS

### A. Standard Provisions

1. The Discharger shall comply with all Standard Provisions included in Attachment D.
2. The Discharger shall comply with the following provisions. In the event that there is any conflict, duplication, or overlap between provisions specified by this Order, the more stringent provision shall apply:
  - a. If the Discharger's wastewater treatment plant is publicly owned or subject to regulation by California Public Utilities Commission, it shall be supervised and operated by persons possessing certificates of appropriate grade according to Title 23, CCR, division 3, chapter 26.
  - b. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
    - i. violation of any term or condition contained in this Order;
    - ii. obtaining this Order by misrepresentation or by failing to disclose fully all relevant facts;
    - iii. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
    - iv. a material change in the character, location, or volume of discharge.

The causes for modification include:

- i. *New regulations.* New regulations have been promulgated under section 405(d) of the CWA, or the standards or regulations on which the Order was based have been changed by promulgation of amended standards or regulations or by judicial decision after the Order was issued.
- ii. *Land application plans.* When required by an Order condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.
- iii. *Change in sludge use or disposal practice.* Under 40 CFR 122.62(a)(1), a change in the Discharger's sludge use or disposal practice is a cause for modification of the Order. It is cause for revocation and reissuance if the Discharger requests or agrees.

The Central Valley Water Board may review and revise this Order at any time upon application of any affected person or the Central Valley Water Board's own motion.

- c. If a toxic effluent standard or prohibition (including any scheduled compliance specified in such effluent standard or prohibition) is established under section 307(a) of the CWA, or amendments thereto, for a toxic pollutant that is present in the discharge authorized herein, and such standard or prohibition is more stringent than any limitation upon such pollutant in this Order, the Central Valley Water Board will revise or modify this Order in accordance with such toxic effluent standard or prohibition.

The Discharger shall comply with effluent standards and prohibitions within the time provided in the regulations that establish those standards or prohibitions, even if this Order has not yet been modified.

- d. This Order shall be modified, or alternately revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the CWA, if the effluent standard or limitation so issued or approved:
  - i. Contains different conditions or is otherwise more stringent than any effluent limitation in the Order; or
  - ii. Controls any pollutant limited in the Order.

The Order, as modified or reissued under this paragraph, shall also contain any other requirements of the CWA then applicable.

- e. The provisions of this Order are severable. If any provision of this Order is found invalid, the remainder of this Order shall not be affected.
- f. The Discharger shall take all reasonable steps to minimize any adverse effects to waters of the State or users of those waters resulting from any discharge or sludge use or disposal in violation of this Order. Reasonable steps shall include such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge or sludge use or disposal.
- g. The Discharger shall ensure compliance with any existing or future pretreatment standard promulgated by U.S. EPA under section 307 of the CWA, or amendment thereto, for any discharge to the municipal system.
- h. A copy of this Order and any amendments or modifications shall be maintained at the discharge Facility and be available at all times to operating personnel. Key operating personnel shall be familiar with its content.
- i. Safeguard to electric power failure:
  - i. The Discharger shall provide safeguards to assure that, should there be reduction, loss, or failure of electric power, the discharge shall comply with the terms and conditions of this Order.
  - ii. Upon written request by the Central Valley Water Board, the Discharger shall submit a written description of safeguards. Such safeguards may include alternate power sources, standby generators, retention capacity, operating procedures, or other means. A description of the safeguards provided shall include an analysis of the frequency, duration, and impact of power failures experienced over the past 5 years on effluent quality and on the capability of the Discharger to comply with the terms and conditions of the Order. The adequacy of the safeguards is subject to the approval of the Central Valley Water Board.
  - iii. Should the treatment works not include safeguards against reduction, loss, or failure of electric power, or should the Central Valley Water Board not approve the existing safeguards, the Discharger shall, within 90 days of having been advised in writing by the Central Valley Water Board that the existing safeguards are inadequate, provide to the Central Valley Water Board and U.S. EPA a schedule of compliance for providing safeguards such that in the event of reduction, loss, or failure of electric power, the Discharger shall comply with the terms and conditions of this Order. The schedule of compliance shall, upon approval of the Central Valley Water Board, become a condition of this Order.
- j. The Discharger, upon written request of the Central Valley Water Board, shall file with the Board a technical report on its preventive (failsafe) and contingency (cleanup) plans for controlling accidental discharges, and for minimizing the effect of such events. This

report may be combined with that required under Standard Provision VI.A.2.i of this Order.

The technical report shall:

- i. Identify the possible sources of spills, leaks, untreated waste by-pass, and contaminated drainage. Loading and storage areas, power outage, waste treatment unit outage, and failure of process equipment, tanks and pipes should be considered.
- ii. Evaluate the effectiveness of present facilities and procedures and state when they became operational.
- iii. Predict the effectiveness of the proposed facilities and procedures and provide an implementation schedule containing interim and final dates when they will be constructed, implemented, or operational.

The Central Valley Water Board, after review of the technical report, may establish conditions which it deems necessary to control accidental discharges and to minimize the effects of such events. Such conditions shall be incorporated as part of this Order, upon notice to the Discharger.

- k. A publicly owned treatment works whose waste flow has been increasing, or is projected to increase, shall estimate when flows will reach hydraulic and treatment capacities of its treatment and disposal facilities. The projections shall be made in January, based on the last 3 years' average dry weather flows, peak wet weather flows and total annual flows, as appropriate. When any projection shows that capacity of any part of the facilities may be exceeded in 4 years, the Discharger shall notify the Central Valley Water Board by 31 January. A copy of the notification shall be sent to appropriate local elected officials, local permitting agencies and the press. Within 120 days of the notification, the Discharger shall submit a technical report showing how it will prevent flow volumes from exceeding capacity or how it will increase capacity to handle the larger flows. The Central Valley Water Board may extend the time for submitting the report.
- l. The Discharger shall submit technical reports as directed by the Executive Officer. All technical reports required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code, sections 6735, 7835, and 7835.1. To demonstrate compliance with Title 16, CCR, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.
- m. The Central Valley Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13350, 13385, 13386, and 13387.
- n. For publicly owned treatment works, prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater that results in a permanent decrease of flow in any portion of a watercourse, the Discharger must file a petition with the State Water Board, Division of Water Rights, and receive approval for such a change. (Water Code section 1211).

- o. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be immediately forwarded to the Central Valley Water Board.

To assume operation under this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the persons responsible for contact with the Central Valley Water Board, and a statement. The statement shall comply with the signatory and certification requirements in the federal Standard Provisions (Attachment D, section V.B) and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the Water Code. Transfer shall be approved or disapproved in writing by the Executive Officer.

- p. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing discharges from this Facility, may subject the Discharger to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject the Discharger to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.
- q. In the event the Discharger does not comply or will be unable to comply for any reason, with any prohibition, instantaneous minimum effluent limitation, instantaneous maximum effluent limitation, maximum daily effluent limitation, acute toxicity effluent limitation, or receiving water limitation contained in this Order, the Discharger shall notify the Central Valley Water Board by telephone at (559) 445-5116 within 24 hours of having knowledge of such noncompliance, and shall confirm this notification in writing within five days, unless the Central Valley Water Board waives confirmation. The written notification shall state the nature, time, duration, and cause of noncompliance, and shall describe the measures being taken to remedy the current noncompliance and prevent recurrence including, where applicable, a schedule of implementation. Other noncompliance requires written notification as above at the time of the normal monitoring report.

#### **B. Monitoring and Reporting Program (MRP) Requirements**

The Discharger shall comply with the MRP, and future revisions thereto, in Attachment E of this Order.

#### **C. Special Provisions**

##### **1. Reopener Provisions**

- a. Conditions that necessitate a major modification of an order are described in 40 CFR 122.62, including, but not limited to:
  - i. If new or amended applicable water quality standards are promulgated or approved pursuant to section 303 of the CWA, or amendments thereto, this Order may be reopened and modified in accordance with the new or amended standards.
  - ii. When new information, that was not available at the time of Order issuance, would have justified different Order conditions at the time of issuance.
- b. This Order may be reopened for modification, or revocation and reissuance, as a result of the detection of a reportable priority pollutant generated by special conditions included in this Order. These special conditions may be, but are not limited to, fish tissue

sampling, whole effluent toxicity monitoring requirements on internal waste stream(s), and monitoring for surrogate parameters. Additional requirements may be included in this Order as a result of the special condition monitoring data.

- c. **Whole Effluent Toxicity.** As a result of a Toxicity Reduction Evaluation (TRE), this Order may be reopened to include a numeric chronic toxicity effluent limitation, new acute toxicity effluent limitations, and/or effluent limitations for specific toxicants identified in the TRE. Additionally, if the State Water Board revises the SIP's toxicity control provisions that would require the establishment of numeric chronic toxicity effluent limitations, this Order may be reopened to include a numeric chronic toxicity effluent limitation based on the new provisions.
- d. **Water-Effects Ratios (WERs) and Metal Translators.** A default WER of 1.0 has been used in this Order for calculating CTR criteria for applicable priority pollutant inorganic constituents. In addition, default dissolved-to-total metal translators have been used to convert water quality objectives from dissolved to total recoverable when developing effluent limitations for copper. If the Discharger performs studies to determine site-specific WERs and/or site-specific dissolved-to-total metal translators, this Order may be reopened to modify the effluent limitations for the applicable inorganic constituents.
- e. **Drinking Water Policy.** On 26 July 2013, the Central Valley Water Board adopted Resolution R5-2013-0098 amending the Basin Plan and establishing a Drinking Water Policy. The State Water Board approved the Drinking Water Policy on 3 December 2013. This Order may be reopened to incorporate monitoring of drinking water constituents to implement the Drinking Water Policy.
- f. **Ultraviolet Light (UV) Disinfection Operating Specifications.** The UV operating specifications in this Order are based on the UV guidelines developed by the National Water Research Institute and American Water Works Association Research Foundation titled, "Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse." If the Discharger conducts a site-specific UV engineering study that identifies site-specific UV operating specifications that will achieve the virus inactivation equivalent to Title 22 disinfected tertiary recycled water, this Order may be reopened to modify the UV operating specifications.
- g. **Beneficial Use Dedsignation.** If the Discharger chooses to complete a dedesignation study and it results in adoption of a Basin Plan amendment that dedesignates one or more beneficial uses for Central Canal, this Order shall be reopened to implement necessary changes.

## 2. Special Studies, Technical Reports, and Additional Monitoring Requirements

- a. **TRE Requirements.** For compliance with the Basin Plan's narrative toxicity objective, this Order requires the Discharger to conduct chronic whole effluent toxicity (WET) testing, as specified in Attachment E, section V. Furthermore, this Provision requires the Discharger to investigate the causes of, and identify corrective actions to reduce or eliminate effluent toxicity. If the discharge exceeds the numeric toxicity monitoring trigger during accelerated monitoring established in this Provision, the Discharger is required to initiate a TRE in accordance with an approved TRE Work Plan, and take actions to mitigate the impact of the discharge and prevent recurrence of toxicity. A TRE is a site-specific study conducted in a stepwise process to identify the source(s) of toxicity and the effective control measures for effluent toxicity. TREs are designed to identify the causative agents and sources of whole effluent toxicity, evaluate the effectiveness of the toxicity control options, and confirm the reduction in effluent toxicity.

# **EXHIBIT B**



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

1685 "E" Street, Fresno, California 93706  
Phone (559) 445-5116 • Fax (559) 445-5910  
<http://www.waterboards.ca.gov/centralvalley>

**ORDER R5-2014-XXXX  
NPDES NO. CA0084239**

**WASTE DISCHARGE REQUIREMENTS  
FOR THE MALAGA COUNTY WATER DISTRICT  
MALAGA WASTEWATER TREATMENT FACILITY  
FRESNO COUNTY**

The following Discharger is subject to waste discharge requirements (WDRs) set forth in this Order, and is authorized to discharge at the locations below:

**Table 1. Discharger Information**

Discharger	Malaga County Water District
Name of Facility	Malaga Wastewater Treatment Facility
Facility Address	3749 South Maple Avenue
	Fresno, CA 93725
	Fresno County

**Table 2. Discharge Locations**

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
001	Disinfected Tertiary-treated Municipal Wastewater	36° 40' 41.52" N	119° 44' 43.98" W	Fresno Irrigation District Central Canal
002	Un-disinfected Secondary-treated Municipal Wastewater	--	--	Groundwater

**Table 3. Administrative Information**

This Order was adopted on:	<Adoption Date>
This Order shall become effective on:	<Effective Date>
This Order shall expire on:	<Expiration Date>
The Discharger shall file a Report of Waste Discharge as an application for reissuance of WDRs in accordance with title 23, California Code of Regulations, and an application for reissuance of a National Pollutant Discharge Elimination System (NPDES) permit no later than:	<180 days prior to the Order expiration date>
The U.S. Environmental Protection Agency (U.S. EPA) and the California Regional Water Quality Control Board, Central Valley Region have classified this discharge as follows:	Major

I, Pamela Creedon, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of the Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on [DATE].

\_\_\_\_\_  
**PAMELA C. CREEDON**, Executive Officer

**CONTENTS**

I. FACILITY INFORMATION .....	3
II. FINDINGS.....	3
III. DISCHARGE PROHIBITIONS .....	4
IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS .....	4
A. FLOW EFFLUENT LIMITATIONS – DISCHARGE POINTS 001 AND 002 .....	4
B. EFFLUENT LIMITATIONS – DISCHARGE POINT 001.....	4
1. FINAL EFFLUENT LIMITATIONS – DISCHARGE POINT 001 .....	4
2. INTERIM EFFLUENT LIMITATIONS – NOT APPLICABLE .....	5
C. LAND DISCHARGE SPECIFICATIONS – DISCHARGE POINT 002 .....	5
D. RECYCLING SPECIFICATIONS – NOT APPLICABLE.....	6
V. RECEIVING WATER LIMITATIONS .....	6
A. SURFACE WATER LIMITATIONS.....	6
B. GROUNDWATER LIMITATIONS .....	7
VI. PROVISIONS .....	8
A. STANDARD PROVISIONS .....	8
B. MONITORING AND REPORTING PROGRAM (MRP) REQUIREMENTS.....	11
C. SPECIAL PROVISIONS.....	11
1. REOPENER PROVISIONS .....	11
2. SPECIAL STUDIES, TECHNICAL REPORTS, AND ADDITIONAL MONITORING REQUIREMENTS .....	12
3. BEST MANAGEMENT PRACTICES AND POLLUTION PREVENTION.....	14
4. CONSTRUCTION, OPERATION, AND MAINTENANCE SPECIFICATIONS .....	14
5. SPECIAL PROVISIONS FOR MUNICIPAL FACILITIES (POTWS ONLY).....	16
6. OTHER SPECIAL PROVISIONS.....	18
7. COMPLIANCE SCHEDULES – NOT APPLICABLE .....	19
VII. COMPLIANCE DETERMINATION.....	19

**TABLES**

TABLE 1. DISCHARGER INFORMATION.....	1
TABLE 2. DISCHARGE LOCATIONS.....	1
TABLE 3. ADMINISTRATIVE INFORMATION.....	1
TABLE 4. FINAL EFFLUENT LIMITATIONS.....	5
TABLE 5. LAND DISCHARGE SPECIFICATIONS .....	6

**ATTACHMENTS**

ATTACHMENT A – DEFINITIONS.....	A-1
ATTACHMENT B – MAP .....	B-1
ATTACHMENT C – FLOW SCHEMATIC.....	C-1
ATTACHMENT D – STANDARD PROVISIONS .....	D-1
ATTACHMENT E – MONITORING AND REPORTING PROGRAM .....	E-1
ATTACHMENT F – FACT SHEET .....	F-1
ATTACHMENT G – SUMMARY OF REASONABLE POTENTIAL ANALYSIS AT DISCHARGE POINT 001.....	G-1
ATTACHMENT H – CALCULATION OF WQBELS.....	H-1
ATTACHMENT I – REQUIRED REPORTING LEVELS FOR PRIORITY POLLUTANTS .....	I-1

## I. FACILITY INFORMATION

Information describing the Malaga County Water District Wastewater Treatment Facility (Facility) is summarized in Table 1 and in sections I and II of the Fact Sheet (Attachment F). Section I of the Fact Sheet also includes information regarding the Facility's permit application.

## II. FINDINGS

The California Regional Water Quality Control Board, Central Valley Region (hereinafter Central Valley Water Board), finds:

- A. Legal Authorities.** This Order serves as WDRs pursuant to article 4, chapter 4, division 7 of the California Water Code (Water Code; commencing with section 13260). This Order is also issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. EPA and chapter 5.5, division 7 of the Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from this Facility to surface waters.
- B. Background and Rationale for Requirements.** The Central Valley Water Board developed the requirements in this Order based on information submitted as part of the application, through monitoring and reporting programs, and other available information. The Fact Sheet (Attachment F), which contains background information and rationale for the requirements in this Order, is hereby incorporated into and constitutes Findings for this Order. Attachments A through E and G through I are also incorporated into this Order.
- C. Provisions and Requirements Implementing State Law.** The provisions/requirements in subsections IV.C, V.B, and portions of VI.C are included to implement state law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations.
- D. Monitoring and Reporting.** Title 40, Code of Federal Regulations, Section 122.48 (40 CFR 122.48) requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorize the Central Valley Water Board to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements. The Monitoring and Reporting Program is provided in Attachment E.

The technical and monitoring reports in this Order are required in accordance with Water Code section 13267, which states the following in subsection (b)(1), "*In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*"

The Discharger owns and operates the Facility subject to this Order. The monitoring reports required by this Order are necessary to determine compliance with this Order. The need for the monitoring reports is discussed in the Fact Sheet.

- E. Notification of Interested Parties.** The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe WDRs for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of the notification are provided in the Fact Sheet.
- F. Consideration of Public Comment.** The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet.

THEREFORE, IT IS HEREBY ORDERED that Order R5-2008-0033 is rescinded upon the effective date of this Order except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the CWA and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Order. This action in no way prevents the Central Valley Water Board from taking enforcement action for past violations of the previous Order.

### III. DISCHARGE PROHIBITIONS

- A.** Discharge of wastewater from the Facility, as the Facility is specifically described in the Fact Sheet in section II, in a manner different from that described in this Order is prohibited.
- B.** The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard Provisions I.G and I.H (Attachment D).
- C.** Neither the discharge nor its treatment shall create a condition of pollution or nuisance as defined in Water Code section 13050.
- D.** The Discharger shall not allow pollutant-free wastewater to be discharged into the treatment or disposal system in amounts that significantly diminish the system's capability to comply with this Order. Pollutant-free wastewater means rainfall, groundwater, cooling waters, and condensates that are essentially free of pollutants.
- E.** Discharge of waste classified as 'hazardous', as defined in Title 23, California Code of Regulations (CCR), Section 2521(a), et seq, is prohibited.

### IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

#### A. Flow Effluent Limitations – Discharge Points 001 and 002

- 1. **Average Monthly Flow.** The average monthly discharge flow shall not exceed the following:
  - a. 0.45 mgd at Discharge Point 001. Compliance shall be determined at monitoring location EFF-001.
  - b. 0.49 mgd at Discharge Point 002, unless the Executive Officer approves a higher flow, up to 0.85 mgd, as allowed by Provision VI.C.2.b. Compliance shall be determined at monitoring location EFF-002.
  - c. 1.2 mgd, total for both discharge points. Compliance shall be determined by summing the flows at monitoring locations EFF-001 and EFF-002.

#### B. Effluent Limitations – Discharge Point 001

##### 1. Final Effluent Limitations – Discharge Point 001

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001, as described in the Monitoring and Reporting Program, Attachment E:

- a. The Discharger shall maintain compliance with the effluent limitations specified in Table 4:

**Table 4. Final Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Biochemical Oxygen Demand 5-day @ 20°C (BOD <sub>5</sub> )	mg/L	10	15	30	--	--
	lbs/day	38	56	113	--	--
Total Suspended Solids (TSS)	mg/L	10	15	30	--	--
	lbs/day	38	56	113	--	--
pH	standard units	--	--	--	6.5	8.3
Copper, Total Recoverable	µg/L	6.5	--	12	--	--
Cyanide, Total (as CN)	µg/L	4.2	--	8.7	--	--
Aluminum, Total Recoverable	µg/L	341	761	--	--	--
Ammonia, un-ionized (as N)	mg/L	--	--	0.025	--	--
Boron	mg/L	--	--	1.0	--	--
Chloride	mg/L	--	--	175	--	--
Nitrate plus Nitrite (as N)	mg/L	10.	--	--	--	--

- b. **Percent Removal.** The average monthly percent removal of BOD<sub>5</sub> and TSS shall not be less than 90 percent.
- c. **Acute Whole Effluent Toxicity.** Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:
- i. 70%, minimum for any one bioassay;
  - ii. 90%, median for any three consecutive bioassays.
- d. **Chronic Whole Effluent Toxicity.** There shall be no chronic toxicity in the effluent discharge.
- e. **Total Coliform.** Effluent total coliform shall not exceed:
- i. 2.2 most probable number (MPN) per 100 mL, as a 7-sample median;
  - ii. 23 MPN/100 mL, more than once in any 30-day period; and
  - iii. 240 MPN/100 mL, at any time.
- f. **Electrical Conductivity @ 25°C (EC).** The 12-month rolling average effluent EC shall not exceed 1,000 µmhos/cm or the 12-month rolling average EC of the source water plus 500 µmhos/cm, whichever is more stringent. When source water is from more than one source, the EC shall be a flow-weighted average of all sources.

**2. Interim Effluent Limitations – Not Applicable**

**C. Land Discharge Specifications – Discharge Point 002**

1. The Discharger shall maintain compliance with the following discharge specifications at Discharge Point 002, with compliance measured at Monitoring Location EFF-002, as described in the Monitoring and Reporting Program, Attachment E:

- a. The Discharger shall maintain compliance with the discharge specifications in Table 5:

**Table 5. Land Discharge Specifications**

Parameter	Units	Land Discharge Specifications			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Biochemical Oxygen Demand 5-day @ 20°C (BOD <sub>5</sub> )	mg/L	40	80	--	--
Total Suspended Solids (TSS)	mg/L	40	80	--	--
pH	standard units	--	--	6.5	8.3
Boron	mg/L	--	1.0	--	--
Chloride	mg/L	--	175	--	--
Settleable Solids	mL/L	0.2	1.0	--	--

- b. **Electrical Conductivity @ 25°C (EC).** The 12-month rolling average effluent EC shall not exceed 1,000 µmhos/cm or the 12-month rolling average EC of the source water plus 500 µmhos/cm, whichever is more stringent. When source water is from more than one source, the EC shall be a flow-weighted average of all sources.

**D. Recycling Specifications – Not Applicable**

**V. RECEIVING WATER LIMITATIONS**

**A. Surface Water Limitations**

The discharge shall not cause the following in Central Canal:

1. **Un-ionized Ammonia.** Un-ionized ammonia to be present in amounts that adversely affect beneficial uses nor to be present in excess of 0.025 mg/L (as N).
2. **Bacteria.** The fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, to exceed a geometric mean of 200 MPN/100 mL, nor more than 10 percent of the total number of fecal coliform samples taken during any 30-day period to exceed 400 MPN/100 mL.
3. **Biostimulatory Substances.** Water to contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.
4. **Chemical Constituents.** Chemical constituents to be present in concentrations that adversely affect beneficial uses.
5. **Color.** Discoloration that causes nuisance or adversely affects beneficial uses.
6. **Dissolved Oxygen:**
  - a. The monthly median dissolved oxygen concentration to fall below 85 percent of saturation in the main water mass at centroid of flow;
  - b. The 95 percentile dissolved oxygen concentration to fall below 75 percent of saturation; nor
  - c. The dissolved oxygen concentration to be reduced below 5.0 mg/L at any time.
7. **Floating Material.** Floating material, including but not limited to solids, liquids, foams, and scum, to be present in amounts that cause nuisance or adversely affect beneficial uses.
8. **Oil and Grease.** Oils, greases, waxes, or other materials to be present in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.
9. **pH.** The pH to be depressed below 6.5, nor raised above 8.3.

**10. Pesticides:**

- a. Pesticides to be present, individually or in combination, in concentrations that adversely affect beneficial uses;
- b. Pesticides to be present in bottom sediments or aquatic life in concentrations that adversely affect beneficial uses;
- c. Pesticides to be present in concentration in excess of the maximum contaminant levels (MCLs) specified in Table 64444-A (Organic Chemicals) of section 64444 of Title 22 of the CCR.

**11. Radioactivity:**

- a. Radionuclides to be present in concentrations that are deleterious to human, plant, animal, or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
- b. Radionuclides to be present in excess of the MCLs specified in Table 64442 of section 64442 and Table 64443 of section 64443 of Title 22 of the CCR.

**12. Suspended Sediments.** The suspended sediment load and suspended sediment discharge rate of surface waters to be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

**13. Settleable Materials.** Substances to be present in concentrations that result in the deposition of material that causes nuisance or adversely affects beneficial uses.

**14. Suspended Material.** Suspended material to be present in concentrations that cause nuisance or adversely affect beneficial uses.

**15. Taste and Odors.** Taste- or odor-producing substances to be present in concentrations that cause nuisance, adversely affect beneficial uses, or impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or to domestic or municipal water supplies.

**16. Temperature.** The natural temperature to be increased by more than 5°F. Compliance to be determined based on the difference in temperature at RSW-001 and RSW-002.

**17. Toxicity.** Toxic substances to be present, individually or in combination, in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.

**18. Turbidity.** The turbidity to increase as follows:

- a. More than 1 Nephelometric Turbidity Unit (NTU) where natural turbidity is between 0 and 5 NTUs;
- b. More than 20 percent where natural turbidity is between 5 and 50 NTUs;
- c. More than 10 NTUs where natural turbidity is equal to or between 50 and 100 NTUs; nor
- d. More than 10 percent where natural turbidity is greater than 100 NTUs.

**B. Groundwater Limitations**

1. Release of waste constituents associated with the Facility or discharge shall not cause or contribute to groundwater containing constituent concentrations in excess of the concentrations specified below or natural background quality for the specified constituents, whichever is greater:
  - a. Nitrate (as N) of 10 mg/L.

- b. For constituents identified in Title 22 of the California Code of Regulations, the MCLs quantified therein.

## VI. PROVISIONS

### A. Standard Provisions

1. The Discharger shall comply with all Standard Provisions included in Attachment D.
2. The Discharger shall comply with the following provisions. In the event that there is any conflict, duplication, or overlap between provisions specified by this Order, the more stringent provision shall apply:
  - a. If the Discharger's wastewater treatment plant is publicly owned or subject to regulation by California Public Utilities Commission, it shall be supervised and operated by persons possessing certificates of appropriate grade according to Title 23, CCR, division 3, chapter 26.
  - b. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
    - i. violation of any term or condition contained in this Order;
    - ii. obtaining this Order by misrepresentation or by failing to disclose fully all relevant facts;
    - iii. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
    - iv. a material change in the character, location, or volume of discharge.

The causes for modification include:

- i. *New regulations.* New regulations have been promulgated under section 405(d) of the CWA, or the standards or regulations on which the Order was based have been changed by promulgation of amended standards or regulations or by judicial decision after the Order was issued.
- ii. *Land application plans.* When required by an Order condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.
- iii. *Change in sludge use or disposal practice.* Under 40 CFR 122.62(a)(1), a change in the Discharger's sludge use or disposal practice is a cause for modification of the Order. It is cause for revocation and reissuance if the Discharger requests or agrees.

The Central Valley Water Board may review and revise this Order at any time upon application of any affected person or the Central Valley Water Board's own motion.

- c. If a toxic effluent standard or prohibition (including any scheduled compliance specified in such effluent standard or prohibition) is established under section 307(a) of the CWA, or amendments thereto, for a toxic pollutant that is present in the discharge authorized herein, and such standard or prohibition is more stringent than any limitation upon such pollutant in this Order, the Central Valley Water Board will revise or modify this Order in accordance with such toxic effluent standard or prohibition.

The Discharger shall comply with effluent standards and prohibitions within the time provided in the regulations that establish those standards or prohibitions, even if this Order has not yet been modified.



- d. This Order shall be modified, or alternately revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the CWA, if the effluent standard or limitation so issued or approved:
  - i. Contains different conditions or is otherwise more stringent than any effluent limitation in the Order; or
  - ii. Controls any pollutant limited in the Order.

The Order, as modified or reissued under this paragraph, shall also contain any other requirements of the CWA then applicable.

- e. The provisions of this Order are severable. If any provision of this Order is found invalid, the remainder of this Order shall not be affected.
- f. The Discharger shall take all reasonable steps to minimize any adverse effects to waters of the State or users of those waters resulting from any discharge or sludge use or disposal in violation of this Order. Reasonable steps shall include such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge or sludge use or disposal.
- g. The Discharger shall ensure compliance with any existing or future pretreatment standard promulgated by U.S. EPA under section 307 of the CWA, or amendment thereto, for any discharge to the municipal system.
- h. A copy of this Order and any amendments or modifications shall be maintained at the discharge Facility and be available at all times to operating personnel. Key operating personnel shall be familiar with its content.
- i. Safeguard to electric power failure:
  - i. The Discharger shall provide safeguards to assure that, should there be reduction, loss, or failure of electric power, the discharge shall comply with the terms and conditions of this Order.
  - ii. Upon written request by the Central Valley Water Board, the Discharger shall submit a written description of safeguards. Such safeguards may include alternate power sources, standby generators, retention capacity, operating procedures, or other means. A description of the safeguards provided shall include an analysis of the frequency, duration, and impact of power failures experienced over the past 5 years on effluent quality and on the capability of the Discharger to comply with the terms and conditions of the Order. The adequacy of the safeguards is subject to the approval of the Central Valley Water Board.
  - iii. Should the treatment works not include safeguards against reduction, loss, or failure of electric power, or should the Central Valley Water Board not approve the existing safeguards, the Discharger shall, within 90 days of having been advised in writing by the Central Valley Water Board that the existing safeguards are inadequate, provide to the Central Valley Water Board and U.S. EPA a schedule of compliance for providing safeguards such that in the event of reduction, loss, or failure of electric power, the Discharger shall comply with the terms and conditions of this Order. The schedule of compliance shall, upon approval of the Central Valley Water Board, become a condition of this Order.
- j. The Discharger, upon written request of the Central Valley Water Board, shall file with the Board a technical report on its preventive (failsafe) and contingency (cleanup) plans for controlling accidental discharges, and for minimizing the effect of such events. This

report may be combined with that required under Standard Provision VI.A.2.i of this Order.

The technical report shall:

- i. Identify the possible sources of spills, leaks, untreated waste by-pass, and contaminated drainage. Loading and storage areas, power outage, waste treatment unit outage, and failure of process equipment, tanks and pipes should be considered.
- ii. Evaluate the effectiveness of present facilities and procedures and state when they became operational.
- iii. Predict the effectiveness of the proposed facilities and procedures and provide an implementation schedule containing interim and final dates when they will be constructed, implemented, or operational.

The Central Valley Water Board, after review of the technical report, may establish conditions which it deems necessary to control accidental discharges and to minimize the effects of such events. Such conditions shall be incorporated as part of this Order, upon notice to the Discharger.

- k. A publicly owned treatment works whose waste flow has been increasing, or is projected to increase, shall estimate when flows will reach hydraulic and treatment capacities of its treatment and disposal facilities. The projections shall be made in January, based on the last 3 years' average dry weather flows, peak wet weather flows and total annual flows, as appropriate. When any projection shows that capacity of any part of the facilities may be exceeded in 4 years, the Discharger shall notify the Central Valley Water Board by 31 January. A copy of the notification shall be sent to appropriate local elected officials, local permitting agencies and the press. Within 120 days of the notification, the Discharger shall submit a technical report showing how it will prevent flow volumes from exceeding capacity or how it will increase capacity to handle the larger flows. The Central Valley Water Board may extend the time for submitting the report.
- l. The Discharger shall submit technical reports as directed by the Executive Officer. All technical reports required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code, sections 6735, 7835, and 7835.1. To demonstrate compliance with Title 16, CCR, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.
- m. The Central Valley Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13350, 13385, 13386, and 13387.
- n. For publicly owned treatment works, prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater that results in a permanent decrease of flow in any portion of a watercourse, the Discharger must file a petition with the State Water Board, Division of Water Rights, and receive approval for such a change. (Water Code section 1211).

- o. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be immediately forwarded to the Central Valley Water Board.

To assume operation under this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the persons responsible for contact with the Central Valley Water Board, and a statement. The statement shall comply with the signatory and certification requirements in the federal Standard Provisions (Attachment D, section V.B) and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the Water Code. Transfer shall be approved or disapproved in writing by the Executive Officer.

- p. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing discharges from this Facility, may subject the Discharger to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject the Discharger to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.
- q. In the event the Discharger does not comply or will be unable to comply for any reason, with any prohibition, instantaneous minimum effluent limitation, instantaneous maximum effluent limitation, maximum daily effluent limitation, acute toxicity effluent limitation, or receiving water limitation contained in this Order, the Discharger shall notify the Central Valley Water Board by telephone at (559) 445-5116 within 24 hours of having knowledge of such noncompliance, and shall confirm this notification in writing within five days, unless the Central Valley Water Board waives confirmation. The written notification shall state the nature, time, duration, and cause of noncompliance, and shall describe the measures being taken to remedy the current noncompliance and prevent recurrence including, where applicable, a schedule of implementation. Other noncompliance requires written notification as above at the time of the normal monitoring report.

#### **B. Monitoring and Reporting Program (MRP) Requirements**

The Discharger shall comply with the MRP, and future revisions thereto, in Attachment E of this Order.

#### **C. Special Provisions**

##### **1. Reopener Provisions**

- a. Conditions that necessitate a major modification of an order are described in 40 CFR 122.62, including, but not limited to:
  - i. If new or amended applicable water quality standards are promulgated or approved pursuant to section 303 of the CWA, or amendments thereto, this Order may be reopened and modified in accordance with the new or amended standards.
  - ii. When new information, that was not available at the time of Order issuance, would have justified different Order conditions at the time of issuance.
- b. This Order may be reopened for modification, or revocation and reissuance, as a result of the detection of a reportable priority pollutant generated by special conditions included in this Order. These special conditions may be, but are not limited to, fish tissue

sampling, whole effluent toxicity monitoring requirements on internal waste stream(s), and monitoring for surrogate parameters. Additional requirements may be included in this Order as a result of the special condition monitoring data.

- c. **Whole Effluent Toxicity.** As a result of a Toxicity Reduction Evaluation (TRE), this Order may be reopened to include a numeric chronic toxicity effluent limitation, new acute toxicity effluent limitations, and/or effluent limitations for specific toxicants identified in the TRE. Additionally, if the State Water Board revises the SIP's toxicity control provisions that would require the establishment of numeric chronic toxicity effluent limitations, this Order may be reopened to include a numeric chronic toxicity effluent limitation based on the new provisions.
- d. **Water-Effects Ratios (WERs) and Metal Translators.** A default WER of 1.0 has been used in this Order for calculating CTR criteria for applicable priority pollutant inorganic constituents. In addition, default dissolved-to-total metal translators have been used to convert water quality objectives from dissolved to total recoverable when developing effluent limitations for copper. If the Discharger performs studies to determine site-specific WERs and/or site-specific dissolved-to-total metal translators, this Order may be reopened to modify the effluent limitations for the applicable inorganic constituents.
- e. **Drinking Water Policy.** On 26 July 2013, the Central Valley Water Board adopted Resolution R5-2013-0098 amending the Basin Plan and establishing a Drinking Water Policy. The State Water Board approved the Drinking Water Policy on 3 December 2013. This Order may be reopened to incorporate monitoring of drinking water constituents to implement the Drinking Water Policy.
- f. **Ultraviolet Light (UV) Disinfection Operating Specifications.** The UV operating specifications in this Order are based on the UV guidelines developed by the National Water Research Institute and American Water Works Association Research Foundation titled, "Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse." If the Discharger conducts a site-specific UV engineering study that identifies site-specific UV operating specifications that will achieve the virus inactivation equivalent to Title 22 disinfected tertiary recycled water, this Order may be reopened to modify the UV operating specifications.
- g. **Beneficial Use Dedesignation.** If the Discharger chooses to complete a dedesignation study and it results in adoption of a Basin Plan amendment that dedesignates one or more beneficial uses for Central Canal, this Order shall be reopened to implement necessary changes.

## 2. Special Studies, Technical Reports, and Additional Monitoring Requirements

- a. **TRE Requirements.** For compliance with the Basin Plan's narrative toxicity objective, this Order requires the Discharger to conduct chronic whole effluent toxicity (WET) testing, as specified in Attachment E, section V. Furthermore, this Provision requires the Discharger to investigate the causes of, and identify corrective actions to reduce or eliminate effluent toxicity. If the discharge exceeds the numeric toxicity monitoring trigger during accelerated monitoring established in this Provision, the Discharger is required to initiate a TRE in accordance with an approved TRE Work Plan, and take actions to mitigate the impact of the discharge and prevent recurrence of toxicity. A TRE is a site-specific study conducted in a stepwise process to identify the source(s) of toxicity and the effective control measures for effluent toxicity. TREs are designed to identify the causative agents and sources of whole effluent toxicity, evaluate the effectiveness of the toxicity control options, and confirm the reduction in effluent toxicity.

This Provision includes procedures for accelerated chronic toxicity monitoring and TRE initiation.

- i. **TRE Work Plan.** By **<90 days from the effective date of this Order>**, the Discharger shall submit to the Central Valley Water Board a TRE Work Plan for approval by the Executive Officer. The TRE Work Plan shall outline the procedures for identifying the source(s) of, and reducing or eliminating effluent toxicity. The TRE Work Plan must be developed in accordance with U.S. EPA guidance, as listed in Attachment F – Fact Sheet, Section VI.B.2.a and be of adequate detail to allow the Discharger to immediately initiate a TRE as required in this Provision.
- ii. **Accelerated Monitoring and TRE Initiation.** When the numeric toxicity monitoring trigger is exceeded during regular chronic toxicity monitoring, and the testing meets all test acceptability criteria, the Discharger shall initiate accelerated monitoring as required in the Accelerated Monitoring Specifications. The Discharger shall initiate a TRE to address effluent toxicity if any WET testing results exceed the numeric toxicity monitoring trigger during accelerated monitoring.
- iii. **Numeric Toxicity Monitoring Trigger.** The numeric toxicity monitoring trigger to initiate a TRE is  $>1 \text{ TUc}$  (where  $\text{TUc} = 100/\text{NOEC}$ ) (NOEC = No Observed Effect Concentration). The monitoring trigger is not an effluent limitation; it is the toxicity threshold at which the Discharger is required to begin accelerated monitoring and initiate a TRE.
- iv. **Accelerated Monitoring Specifications.** If the numeric toxicity monitoring trigger is exceeded during regular chronic toxicity testing, the Discharger shall initiate accelerated monitoring within 14 days of notification by the laboratory of the exceedance. Accelerated monitoring shall consist of four chronic toxicity tests in a six-week period (i.e., one test conducted every two weeks) using the species that exhibited toxicity. The following protocol shall be used for accelerated monitoring and TRE initiation:
  - (a) If the results of four consecutive accelerated monitoring tests do not exceed the monitoring trigger, the Discharger may cease accelerated monitoring and resume regular chronic toxicity monitoring. However, notwithstanding the accelerated monitoring results, if there is adequate evidence of effluent toxicity, the Executive Officer may require that the Discharger initiate a TRE.
  - (b) If the source(s) of the toxicity is easily identified (e.g., temporary Facility upset), the Discharger shall make necessary corrections to the Facility and shall continue accelerated monitoring until four consecutive accelerated tests do not exceed the monitoring trigger. Upon confirmation that the effluent toxicity has been removed, the Discharger may cease accelerated monitoring and resume regular chronic toxicity monitoring.
  - (c) If the result of any accelerated toxicity test exceeds the monitoring trigger, the Discharger shall cease accelerated monitoring and begin a TRE to investigate the cause(s) of, and identify corrective actions to reduce or eliminate effluent toxicity. **Within thirty (30) days** of notification by the laboratory of any test result exceeding the monitoring trigger during accelerated monitoring, the Discharger shall submit a TRE Action Plan to the Central Valley Water Board including, at minimum:
    - (1) Specific actions the Discharger will take to investigate and identify the cause(s) of toxicity, including a TRE WET monitoring schedule;

(2) Specific actions the Discharger will take to mitigate the impact of the discharge and prevent the recurrence of toxicity; and

(3) A schedule for these actions.

- b. **Request for Increase in Flow.** As described in Attachment F – Fact Sheet, Section II.B.3, the estimated disposal capacity of the ponds (Discharge Point 002) is approximately 0.49 mgd. This Order restricts the flow to Discharge Point 002 to 0.49 mgd as an average monthly. Order R5-2008-0033 included an effluent flow limitation to Discharge Point 002 of 0.85 mgd, as an average monthly. The Discharger may request an increase in flow at Discharge Point 002, up to 0.85 mgd. The request for the increase in flow must include supporting calculations and documentation showing the ponds have enough capacity for reliably disposing of the requested average monthly flow. At minimum, the request must address the percolation rate and how the rate was determined. The request must also include a proposed maintenance program for the disposal ponds, which shall include an ongoing schedule for performing maintenance work to maintain adequate disposal capacity. The increased flow will be subject to Executive Officer approval, and the Discharger may not discharge at the higher flow rate until any and all proposed maintenance work has been completed and the request for an increase in flow has been approved by the Central Valley Water Board Executive Officer. The Discharger may request an increase in flow at any time during the term of this Order. If the Discharger requests an increase in flow and the request is approved, the Discharger must submit an annual update in its Annual Report, as described in Attachment E – MRP, Section X.C.3.e.

### 3. Best Management Practices and Pollution Prevention

- a. **Salinity Evaluation and Minimization Plan.** The Discharger shall prepare a salinity evaluation and minimization plan to identify and address sources of salinity to and from the Facility. Sources of salinity shall include sources to the Facility, including sources from industrial users, and sources at the Facility (e.g., from chemical addition). The plan shall be completed and submitted to the Central Valley Water Board by **<9 months of the adoption date of this Order>** for the approval by the Executive Officer.

### 4. Construction, Operation, and Maintenance Specifications

#### a. Filtration System Operating Specifications

- i. When coagulation is used, the Discharger shall operate the treatment system to ensure that the turbidity measured at FIL-002, as described in Attachment E – MRP, shall not exceed:
- (a) 2 NTU as a daily average;
  - (b) 5 NTU more than 5 percent of the time within a 24-hour period; and
  - (c) 10 NTU, at any time.
- ii. When coagulation is not used, the Discharger shall operate the treatment system to ensure:
- (a) The turbidity of the influent to the filtration unit measured at FIL-001 (see Attachment E – MRP) shall not exceed 5 NTU for more than 15 minutes and never exceed 10 NTU; and
  - (b) The effluent turbidity measured at FIL-002 (see Attachment E – MRP) shall not exceed 2 NTU at any time.

- b. **Filtration Rate.** The maximum filtration rate shall not exceed 5 gallons per minute per square foot of surface area, as measured at Monitoring Location FIL-001.
- c. **Ultraviolet Light (UV) Disinfection System Operating Specifications.** The UV disinfection system must be operated in accordance with an operations and maintenance program that ensures adequate disinfection, and shall meet the following minimum specifications to provide virus inactivation equivalent to Title 22 Disinfected Tertiary Recycled Water:
  - i. **UV Dose.** The minimum hourly average UV dose in the UV reactor shall be 100 millijoules per square centimeter ( $\text{mJ}/\text{cm}^2$ ).
  - ii. **UV Transmittance.** The minimum hourly average UV transmittance (at 254 nanometers) in the effluent measured at UVS-001 shall not fall below 55 percent.
  - iii. The lamp sleeves and cleaning system components must be visually inspected per the manufacturer's operations manual for physical wear (scoring, solarization, seal leaks, cleaning fluid levels, etc.) and to check the efficacy of the cleaning system.
  - iv. The lamp sleeves must be cleaned periodically as necessary to meet the UV dose requirements.
  - v. Lamps must be replaced per the manufacturer's operations manual, or sooner, if there are indications the lamps are failing to provide adequate disinfection. Lamp age and lamp replacement records must be maintained.
- d. **Disposal Ponds Operating Requirements**
  - i. The disposal ponds shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency.
  - ii. Public contact with wastewater shall be precluded through such means as fences, signs, and other acceptable alternatives.
  - iii. Ponds shall be managed to prevent breeding of mosquitoes. In particular,
    - (a) An erosion control program should assure that small coves and irregularities are not created around the perimeter of the water surface.
    - (b) Weeds shall be minimized.
    - (c) Dead algae, vegetation, and debris shall not accumulate on the water surface.
  - iv. Vegetation management operations in areas in which nesting birds have been observed shall be carried out either before or after, but not during, the 1 April through 30 June bird nesting season.
  - v. Ponds shall have sufficient capacity to accommodate allowable wastewater flow and design seasonal precipitation and ancillary inflow and infiltration during the non-irrigation season (i.e., during periods when there are no irrigation water deliveries). Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns. The Discharger shall operate and maintain all ponds sufficiently to protect the integrity of containment dams and berms and prevent overtopping and/or structural failure. Unless a California-registered civil engineer certifies (based on design, construction, and conditions of operation and maintenance) that less freeboard is adequate, the operating freeboard in any pond shall never be less than two feet (measured vertically from the lowest possible points of overflow).

- vi. Prior to the onset of the rainy season each year, available pond storage capacity shall at least equal the volume necessary to comply with the Disposal Ponds Operating Requirement at Section VI.C.4.d.v, above.
- vii. Objectionable odors originating at this Facility shall not be perceivable beyond the limits of the wastewater treatment and disposal areas (or property owned by the Discharger) at an intensity that creates or threatens to create nuisance conditions.
- viii. As a means of discerning compliance with Disposal Ponds Operation Requirement at Section VI.C.4.d.vii, above, the dissolved oxygen (DO) content in the upper one foot of any disposal pond shall not be less than 1.0 mg/L for three consecutive weekly sampling events. If the DO in any single pond is below 1.0 mg/L for three consecutive sampling events, the Discharger shall report the findings to the Central Valley Water Board in writing within ten (10) days and shall include a specific plan to resolve the low DO results within thirty (30) days.

**e. Disposal Ponds Maintenance Requirements**

- i. If the Discharger submits, and the Executive Officer approves, the request in flow increase to the disposal ponds (Provision VI.C.2.b of this Order), the Discharger shall properly maintain the disposal ponds in accordance with the approved maintenance program submitted with the request.

**5. Special Provisions for Municipal Facilities (POTWs Only)**

**a. Pretreatment Requirements**

- i. The Discharger shall be responsible and liable for the performance of all Control Authority pretreatment requirements contained in 40 CFR Part 403, including any subsequent regulatory revisions to 40 CFR Part 403. Where 40 CFR Part 403, or subsequent revision, places mandatory actions upon the Discharger as Control Authority but does not specify a timetable for completion of the actions, the Discharger shall complete the required actions within 6 months from the issuance date of this Order or the effective date of the 40 CFR Part 403 revisions, whichever comes later. For violations of pretreatment requirements, the Discharger shall be subject to enforcement actions, penalties, fines, and other remedies by U.S. EPA or other appropriate parties, as provided in the CWA. U.S. EPA may initiate enforcement action against a nondomestic user for noncompliance with applicable standards and requirements as provided in the CWA.
- ii. The Discharger shall enforce the requirements promulgated under sections 307(b), 307(c), 307(d), and 402(b) of the CWA with timely, appropriate and effective enforcement actions. The Discharger shall cause all nondomestic users subject to federal categorical standards to achieve compliance no later than the date specified in those requirements or, in the case of a new nondomestic user, upon commencement of the discharge.
- iii. The Discharger shall perform the pretreatment functions as required in 40 CFR Part 403 including, but not limited to:
  - (a) Implement the necessary legal authorities as provided in 40 CFR 403.8(f)(1);
  - (b) Enforce the pretreatment requirements under 40 CFR 403.5 and 403.6;
  - (c) Implement the programmatic functions as provided in 40 CFR 403.8(f)(2); and
  - (d) Provide the requisite funding and personnel to implement the pretreatment program as provided in 40 CFR 403.8(f)(3).



- iv. **Pretreatment Reporting Requirements.** Pretreatment reporting requirements are included in the Monitoring and Reporting Program, Section X.C.4 of Attachment E – MRP.
- b. **Sludge/Biosolids Treatment or Discharge Specifications.** Sludge in this document means the solid, semisolid, and liquid residues removed during primary, secondary, or advanced wastewater treatment processes. Solid waste refers to grit and screening material generated during preliminary treatment. Residual sludge means sludge that will not be subject to further treatment at the Facility. Biosolids refer to sludge that has been treated and tested and shown to be capable of being beneficially and legally used pursuant to federal and state regulations as a soil amendment for agricultural, silvicultural, horticultural, and land reclamation activities as specified under 40 CFR Part 503.
  - i. Collected screenings, residual sludge, biosolids, and other solids removed from liquid wastes shall be disposed of in a manner approved by the Executive Officer, and consistent with *Consolidated Regulations for Treatment, Storage, Processing, or Disposal of Solid Waste*, as set forth in Title 27, CCR, division 2, subdivision 1, section 20005, et seq. Removal for further treatment, storage, disposal, or reuse at sites (e.g., landfill, composting sites, soil amendment sites) that are operated in accordance with valid waste discharge requirements issued by a Regional Water Board will satisfy these specifications.
  - ii. Sludge and solid waste shall be removed from screens, sumps, ponds, clarifiers, etc. as needed to ensure optimal plant performance.
  - iii. The treatment of sludge generated at the Facility shall be confined to the Facility property and conducted in a manner that precludes infiltration of waste constituents into soils in a mass or concentration that will violate Groundwater Limitations V.B of this Order. In addition, the storage of residual sludge, solid waste, and biosolids on Facility property shall be temporary and controlled, and contained in a manner that minimizes leachate formation and precludes infiltration of waste constituents into soils in a mass or concentration that will violate Groundwater Limitations V.B of this Order.
  - iv. The use, disposal, storage, and transportation of biosolids shall comply with existing federal and state laws and regulations, including permitting requirements and technical standards included in 40 CFR Part 503. If the State Water Board and the Central Valley Water Board are given the authority to implement regulations contained in 40 CFR Part 503, this Order may be reopened to incorporate appropriate time schedules and technical standards. The Discharger must comply with the standards and time schedules contained in 40 CFR Part 503 whether or not they have been incorporated into this Order.
  - v. The Discharger shall comply with Section IX.A – Biosolids of the Monitoring and Reporting Program, Attachment E.
  - vi. Any proposed change in biosolids use or disposal practice from a previously approved practice shall be reported to the Executive Officer and U.S. EPA Regional Administrator at least **90 days** in advance of the change.
  - vii. By **<180 days of the permit effective date>**, the Discharger shall submit a biosolids use or disposal plan to the Central Valley Water Board. The plan shall describe at a minimum:
    - (a) Sources and amounts of biosolids generated annually.

- (b) Location(s) of onsite storage and description of the containment area.
  - (c) Plans for ultimate disposal. For landfill disposal, include the present classification of the landfill; and the name and location of the landfill. For land application or composting, identify the name and location of the facility/area to which the biosolids are hauled to or applied.
  - (d) A description of the measures taken to ensure the integrity of the lined sludge drying beds is not compromised.
- c. **Collection System.** On 2 May 2006, the State Water Board adopted State Water Board Order 2006-0003-DWQ, Statewide General WDRs for Sanitary Sewer Systems. The Discharger shall be subject to the requirements of Order 2006-0003-DWQ and any future revisions thereto. Order 2006-0003-DWQ requires that all public agencies that currently own or operate sanitary sewer systems apply for coverage under the general WDRs. The Discharger has applied for and has been approved for coverage under Order 2006-0003-DWQ for operation of its wastewater collection system.
- d. **Facility Personnel.** The Discharger shall maintain adequate personnel at the Facility, which is a Class IV facility, in accordance with Title 23, CCR, section 3680. This includes an adequate number of operational staff with valid, unexpired, State Water Board-issued operator certificates of appropriate grade levels. **Within 10 days** following any change in Facility personnel that results in the Facility not being supervised by at least a Grade IV operator, or results in at least one-half of the wastewater treatment plant operators not possessing at least a Grade II wastewater operator certificate, the Discharger shall provide written notification to the Central Valley Water Board describing the measures it will take, along with an implementation schedule, to comply with Title 23, CCR, section 3680.
- e. **Anaerobically Digestible Material.** If the Discharger proposes to receive hauled-in anaerobically digestible material for injection into an anaerobic digester for co-digestion, the Discharger shall notify the Central Valley Water Board and develop and implement standard operating procedures (SOPs) for this activity prior to initiation of the hauling. The SOPs shall address material handling, including unloading, screening, or other processing prior to anaerobic digestion, transportation, spill prevention, and spill response. In addition, the SOPs shall address avoidance of the introduction of materials that could cause interference, pass-through, or upset of the treatment processes; avoidance of prohibited material, vector control, odor control, operation and maintenance, and the disposition of any solid waste segregated from introduction to the digester. The Discharger shall provide training to its staff on the SOPs and shall maintain records for a minimum of three years for each load received, describing the hauler, waste type, and quantity received. In addition, the Discharger shall maintain records for a minimum of three years for the disposition, location, and quantity of accumulated pre-digestion-segregated solid waste hauled off-site.

## 6. Other Special Provisions

- a. **Title 22, or Equivalent, Disinfection Requirements.** Wastewater discharged at Discharge Point 001 shall be oxidized, coagulated, filtered, and adequately disinfected pursuant to the California Department of Public Health (CDPH) reclamation criteria, CCR, Title 22, division 4, chapter 3, (Title 22), or equivalent.
- b. **Discharge to Central Canal.** By **<permit expiration date>**, discharge to Central Canal during months when there are no irrigation water deliveries shall cease. The irrigation water delivery period each year is generally between April and September, but may vary from year to year. Discharge to Central Canal is not allowed when flow in the Canal

provides less than 20:1 dilution. The Discharger shall work with Fresno Irrigation District every year to determine when the irrigation water delivery period begins and ends. The Discharger shall certify annually in its Annual Report required in Section X.C.3 of Attachment E – MRP when the irrigation water delivery period began and ended.

- c. This Order does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control the discharge of treated wastewater subject to their control. Discharges allowed by this Order to local irrigation or storm water collection and conveyance facilities must obtain approval from the agency responsible for operation and maintenance of the facilities.
- d. Physical facilities shall be designed and constructed according to accepted engineering practice and shall be capable of full and consistent compliance with this Order when properly operated and maintained. Proper operation and maintenance shall be described in an Operation and Maintenance (O&M) manual prepared by the design engineer, a copy of which shall be kept at the Facility. The operation and maintenance manual shall be reviewed at least every time a significant change, alteration, or expansion is made to the Facility. The Discharger shall certify in every annual report whether the operation and maintenance manual is complete and reflective of the Facility, and whether operation, maintenance, and staffing for the year being reported was as prescribed in the O&M manual.

#### 7. Compliance Schedules – Not Applicable

### VII. COMPLIANCE DETERMINATION

- A. **BOD<sub>5</sub> and TSS Effluent Limitations (Section IV.B.1.a, IV.B.1.b, and IV.C.1.a).** Compliance with the final effluent limitations for BOD<sub>5</sub> and TSS required in Limitations and Discharge Requirements sections IV.B.1.a and IV.C.1.a shall be ascertained by 24-hour composite samples. Compliance with effluent limitations required in Limitations and Discharge Requirements section IV.B.1.b for percent removal shall be calculated using the arithmetic mean of BOD<sub>5</sub> and TSS in effluent samples collected over a monthly period at EFF-001 as a percentage of the arithmetic mean of the values for influent samples (at INF-001) collected at approximately the same times during the same period.
- B. **Total Coliform Effluent Limitations (Section IV.B.1.e).** For each day that an effluent sample is collected and analyzed for total coliform at EFF-001, the 7-sample median shall be determined by calculating the median concentration of total coliform bacteria in the effluent utilizing the bacteriological results of the last seven (7) samples. If the 7-sample median of total coliform exceeds a most probable number (MPN) of 2.2 per 100 milliliters, the Discharger will be considered out of compliance.
- C. **Mass Effluent Limitations.** The mass effluent limitations contained in the Final Effluent Limitations IV.B.1.a are based on the permitted flow at Discharge Point 001 and calculated as follows:  
$$\text{Mass (lbs/day)} = \text{Flow (mgd)} \times \text{Concentration (mg/L)} \times 8.34 \text{ (conversion factor)}$$
- D. **Priority Pollutant Effluent Limitations.** Compliance with effluent limitations for priority pollutants shall be determined in accordance with Section 2.4.5 of the SIP, as follows:
  1. The Discharger shall be deemed out of compliance with an effluent limitation, if the concentration of the priority pollutant in the monitoring sample is greater than the effluent limitation and greater than or equal to the reporting level (RL).
  2. The Discharger shall be required to conduct a Pollutant Minimization Program (PMP) in accordance with section 2.4.5.1 of the SIP when there is evidence (e.g., sample results

reported as DNQ when the effluent limitation is less than the MDL, sample results from analytical methods more sensitive than those methods included in the permit in accordance with sections 2.4.2 or 2.4.3 of the SIP, presence of whole effluent toxicity, health advisories for fish consumption, results of benthic or aquatic organism tissue sampling) that the priority pollutant is present in the effluent above an effluent limitation and either:

- a. A sample result is reported as detected, but not quantified (DNQ) and the effluent limitation is less than the RL in Attachment I of this Order; or
  - b. A sample result is reported as non-detect (ND) and the effluent limitation is less than the method detection limit (MDL).
3. When determining compliance with an average monthly effluent limitation (AMEL) and more than one sample result is available in a month, the Discharger shall compute the arithmetic mean unless the data set contains one or more reported determinations of DNQ or ND. In those cases, the Discharger shall compute the median in place of the arithmetic mean in accordance with the following procedure:
- a. The data set shall be ranked from low to high, reported ND determinations lowest, DNQ determinations next, followed by quantified values (if any). The order of the individual ND or DNQ determinations is unimportant.
  - b. The median value of the data set shall be determined. If the data set has an odd number of data points, then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of the points are ND or DNQ, in which case the median value shall be the lower of the two data points where DNQ is lower than a quantified value and ND is lower than DNQ.
4. If a sample result, or the arithmetic mean or median of multiple sample results, is below the RL, and there is evidence that the priority pollutant is present in the effluent above an effluent limitation and the Discharger conducts a PMP (as described in section 2.4.5.1 of the SIP), the discharger shall not be deemed out of compliance.
- E. Chronic Whole Effluent Toxicity Effluent Limitation (Section IV.B.1.d).** Compliance with the accelerated monitoring and TRE provisions of Provision VI.C.2.a shall constitute compliance with the effluent limitation.
- F. Electrical Conductivity (Sections IV.B.1.f and IV.C.1.b).** Compliance with the electrical conductivity effluent limitations shall be determined monthly at monitoring locations EFF-001 and EFF-002 by comparing the 12-month rolling average of the effluent electrical conductivity data with 1,000  $\mu\text{mhos/cm}$  and with the 12-month rolling flow-weighted electrical conductivity data submitted for the public water supply plus 500  $\mu\text{mhos/cm}$ . When the Discharger only discharges at one discharge point during the month, compliance shall be determined at that discharge point. When the Discharger discharges at both discharge points during the month, compliance shall be determined separately at each discharge point.

## ATTACHMENT A – DEFINITIONS

### Arithmetic Mean ( $\mu$ )

Also called the average, is the sum of measured values divided by the number of samples. For ambient water concentrations, the arithmetic mean is calculated as follows:

$$\text{Arithmetic mean} = \mu = \Sigma x / n \quad \text{where: } \Sigma x \text{ is the sum of the measured ambient water concentrations, and } n \text{ is the number of samples.}$$

### Average Monthly Effluent Limitation (AMEL)

The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

### Average Weekly Effluent Limitation (AWEL)

The highest allowable average of daily discharges over a calendar week (Sunday through Saturday), calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

### Best Practicable Treatment or Control (BPTC)

BPTC is a requirement of State Water Resources Control Board Resolution 68-16 – “Statement of Policy with Respect to Maintaining High Quality of Waters in California” (referred to as the “Antidegradation Policy”). BPTC is the treatment or control of a discharge necessary to assure that *“(a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.”* Pollution is defined in California Water Code section 13050(i). In general, an exceedance of a water quality objective in the Basin Plan constitutes “pollution”.

### Bioaccumulative

Those substances taken up by an organism from its surrounding medium through gill membranes, epithelial tissue, or from food and subsequently concentrated and retained in the body of the organism.

### Carcinogenic Pollutants

Carcinogenic pollutants are substances that are known to cause cancer in living organisms.

### Coefficient of Variation (CV)

CV is a measure of the data variability and is calculated as the estimated standard deviation divided by the arithmetic mean of the observed values.

### Daily Discharge

Daily discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any 24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

For composite sampling, if 1 day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

### Detected, but Not Quantified (DNQ)

DNQ are those sample results less than the RL, but greater than or equal to the laboratory’s MDL. Sample results reported as DNQ are estimated concentrations.

**Dilution Credit**

Dilution credit is the amount of dilution granted to a discharge in the calculation of a water quality-based effluent limitation, based on the allowance of a specified mixing zone. It is calculated from the dilution ratio or determined through conducting a mixing zone study or modeling of the discharge and receiving water.

**Effluent Concentration Allowance (ECA)**

ECA is a value derived from the water quality criterion/objective, dilution credit, and ambient background concentration that is used, in conjunction with the coefficient of variation for the effluent monitoring data, to calculate a long-term average (LTA) discharge concentration. The ECA has the same meaning as waste load allocation (WLA) as used in U.S. EPA guidance (Technical Support Document For Water Quality-based Toxics Control, March 1991, second printing, EPA/505/2-90-001).

**Enclosed Bays**

Enclosed bays means indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays include, but are not limited to, Humboldt Bay, Bodega Harbor, Tomales Bay, Drake's Estero, San Francisco Bay, Morro Bay, Los Angeles-Long Beach Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay. Enclosed bays do not include inland surface waters or ocean waters.

**Estimated Chemical Concentration**

The estimated chemical concentration that results from the confirmed detection of the substance by the analytical method below the ML value. See "Detected, but Not Quantified (DNQ)."

**Estuaries**

Estuaries means waters, including coastal lagoons, located at the mouths of streams that serve as areas of mixing for fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and seawater. Estuarine waters include, but are not limited to, the Sacramento-San Joaquin Delta, as defined in Water Code section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay rivers. Estuaries do not include inland surface waters or ocean waters.

**Inland Surface Waters**

All surface waters of the state that do not include the ocean, enclosed bays, or estuaries.

**Instantaneous Maximum Effluent Limitation**

The highest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous maximum effluent limitation).

**Instantaneous Minimum Effluent Limitation**

The lowest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous minimum effluent limitation).

**LC50**

The concentration of effluent that is lethal to 50% of the exposed test organisms, measured in a dilution series ranging from 100% effluent to 0% effluent.

**Lowest Observed Effect Concentration (LOEC)**

The lowest concentration of an effluent at which adverse effects are observed on an aquatic test organism.

**Maximum Daily Effluent Limitation (MDEL)**

The highest allowable daily discharge of a pollutant, over a calendar day (or 24-hour period). For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

**Median**

The middle measurement in a set of data. The median of a set of data is found by first arranging the measurements in order of magnitude (either increasing or decreasing order). If the number of measurements (n) is odd, then the median =  $X_{(n+1)/2}$ . If n is even, then the median =  $(X_{n/2} + X_{(n/2)+1})/2$  (i.e., the midpoint between the n/2 and n/2+1).

**Method Detection Limit (MDL)**

MDL is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR part 136, Appendix B.

**Minimum Level (ML)**

ML is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

**Mixing Zone**

Mixing zone is a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body.

**Not Detected (ND)**

Sample results that are less than the laboratory's MDL.

**Ocean Waters**

The territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Water Board's California Ocean Plan.

**Persistent Pollutants**

Persistent pollutants are substances for which degradation or decomposition in the environment is nonexistent or very slow.

**Pollutant Minimization Program (PMP)**

PMP means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The Central Valley Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3, shall be considered to fulfill the PMP requirements.

**Pollution Prevention**

Pollution prevention means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to,

input change, operational improvement, production process change, and product reformulation (as defined in Water Code section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State Water Board or Central Valley Water Board.

**Source of Drinking Water**

Any water designated as municipal or domestic supply (MUN) in a Central Valley Water Board Basin Plan.

**Standard Deviation ( $\sigma$ )**

Standard deviation is a measure of variability that is calculated as follows:

$$\sigma = (\sum[(x - \mu)^2]/(n - 1))^{0.5}$$

where:

x is the observed value;

$\mu$  is the arithmetic mean of the observed values; and

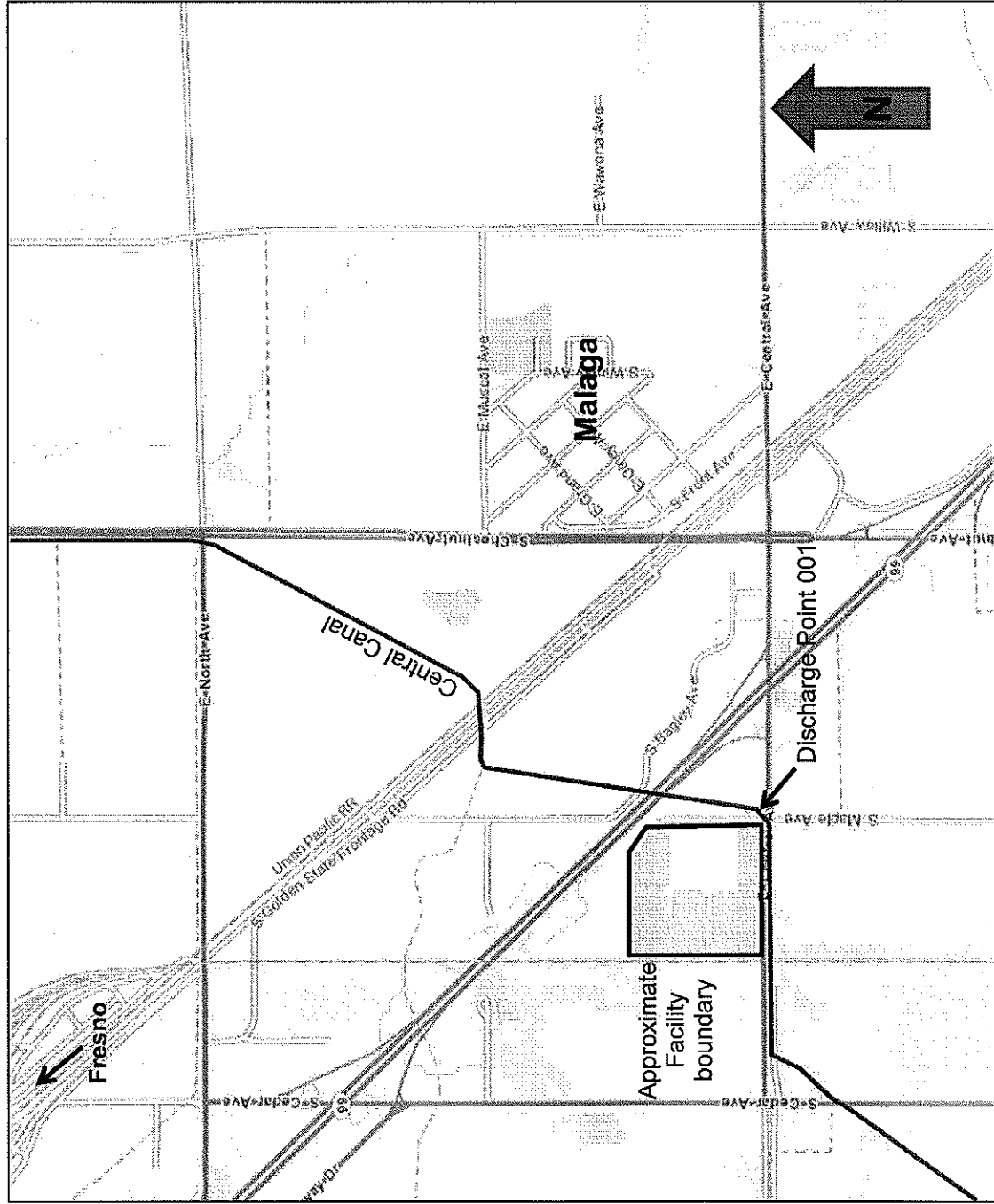
n is the number of samples.

**Toxicity Reduction Evaluation (TRE)**

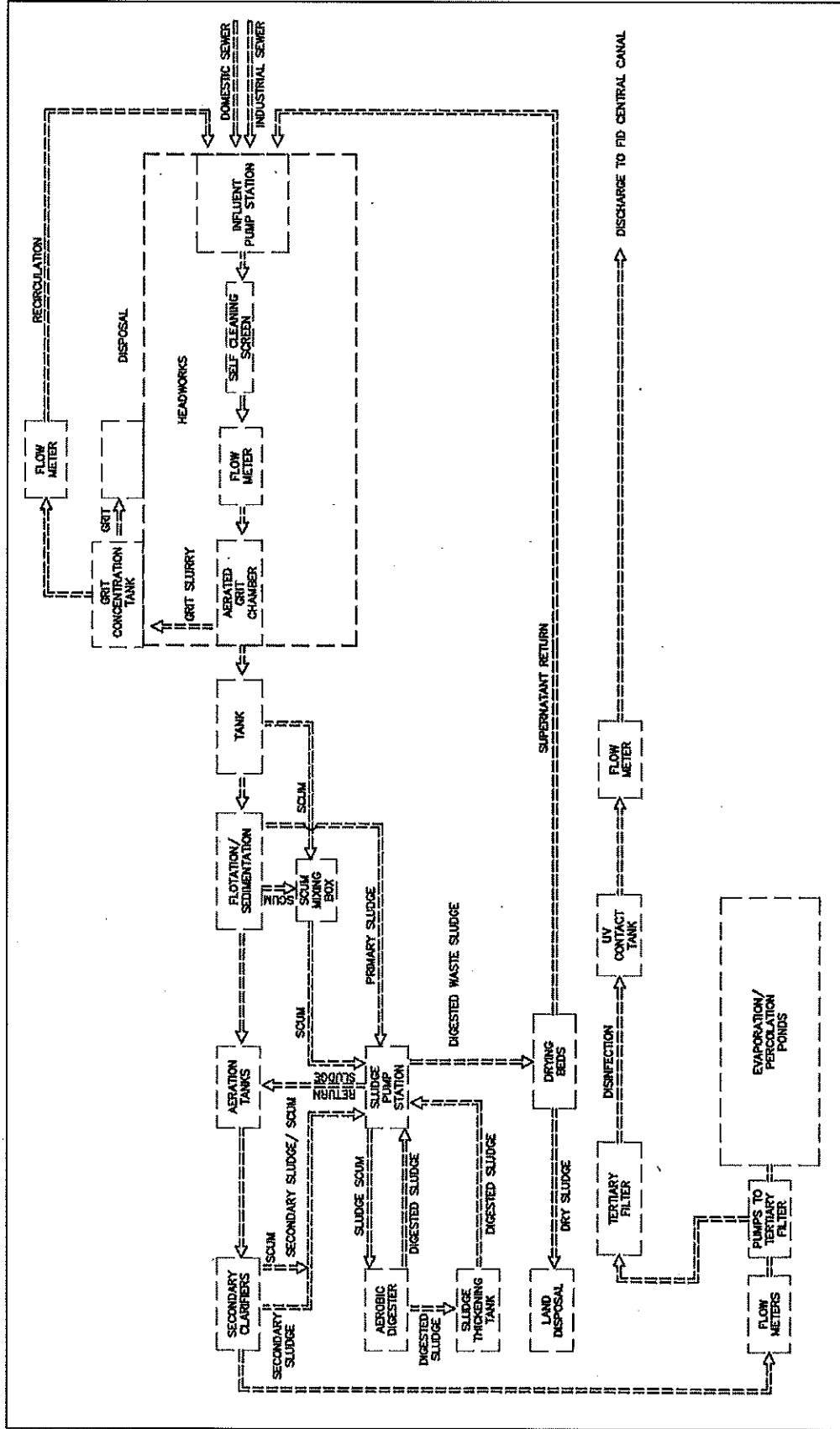
TRE is a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.



ATTACHMENT B – MAP



ATTACHMENT C – FLOW SCHEMATIC



## ATTACHMENT D – STANDARD PROVISIONS

### I. STANDARD PROVISIONS – PERMIT COMPLIANCE

#### A. Duty to Comply

1. The Discharger must comply with all of the terms, requirements, and conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code (Water Code) and is grounds for enforcement action, permit termination, revocation and reissuance, or modification; denial of a permit renewal application, or a combination thereof. (40 CFR 122.41(a); Water Code sections 13261, 13263, 13265, 13268, 13000, 13001, 13304, 13350, 13385.)
2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement. (40 CFR 122.41(a)(1).)

#### B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order. (40 CFR 122.41(c).)

#### C. Duty to Mitigate

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment. (40 CFR 122.41(d).)

#### D. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order. (40 CFR 122.41(e).)

#### E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges. (40 CFR 122.41(g).)
2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. (40 CFR 122.5(c).)

#### F. Inspection and Entry

The Discharger shall allow the Central Valley Regional Water Quality Control Board (Central Valley Water Board), State Water Resources Control Board (State Water Board), United States Environmental Protection Agency (U.S. EPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to (33 U.S.C. § 1318(a)(4)(B); 40 CFR 122.41(i); Water Code section 13383):

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order (33 U.S.C. § 1318(a)(4)(B)(ii); 40 CFR 122.41(i)(1); Water Code sections 13267, 13383);
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order (33 U.S.C. § 1318(a)(4)(B)(ii); 40 CFR 122.41(i)(2); Water Code sections 13267, 13383);
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order (33 U.S.C. § 1318(a)(4)(B)(ii); 40 CFR 122.41(i)(3); Water Code sections 13267, 13383); and
4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the Water Code, any substances or parameters at any location. (33 U.S.C. § 1318(a)(4)(B)(ii); 40 CFR 122.41(i)(4); Water Code sections 13267, 13383.)

#### **G. Bypass**

1. Definitions
  - a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. (40 CFR 122.41(m)(1)(i).)
  - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (40 CFR 122.41(m)(1)(ii).)
2. Bypass not exceeding limitations. The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance I.G.3, I.G.4, and I.G.5 below. (40 CFR 122.41(m)(2).)
3. Prohibition of bypass. Bypass is prohibited, and the Central Valley Water Board may take enforcement action against a Discharger for bypass, unless (40 CFR 122.41(m)(4)(i)):
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (40 CFR 122.41(m)(4)(i)(A));
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance (40 CFR 122.41(m)(4)(i)(B)); and
  - c. The Discharger submitted notice to the Central Valley Water Board as required under Standard Provisions – Permit Compliance I.G.5 below. (40 CFR 122.41(m)(4)(i)(C).)
4. The Central Valley Water Board may approve an anticipated bypass, after considering its adverse effects, if the Central Valley Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above. (40 CFR 122.41(m)(4)(ii).)

5. Notice

- a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass. (40 CFR 122.41(m)(3)(i).)
- b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below (24-hour notice). (40 CFR 122.41(m)(3)(ii).)

**H. Upset**

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (40 CFR 122.41(n)(1).)

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance I.H.2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. (40 CFR 122.41(n)(2).)
2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that (40 CFR 122.41(n)(3)):
  - a. An upset occurred and that the Discharger can identify the cause(s) of the upset (40 CFR 122.41(n)(3)(i));
  - b. The permitted facility was, at the time, being properly operated (40 CFR 122.41(n)(3)(ii));
  - c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) (40 CFR 122.41(n)(3)(iii)); and
  - d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above. (40 CFR 122.41(n)(3)(iv).)
3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof. (40 CFR 122.41(n)(4).)

**II. STANDARD PROVISIONS – PERMIT ACTION**

**A. General**

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition. (40 CFR 122.41(f).)

**B. Duty to Reapply**

If the Discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the Discharger must apply for and obtain a new permit. (40 CFR 122.41(b).)

**C. Transfers**

This Order is not transferable to any person except after notice to the Central Valley Water Board. The Central Valley Water Board may require modification or revocation and reissuance of the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the CWA and the Water Code. (40 CFR 122.41(l)(3); 40 CFR 122.61.)

**III. STANDARD PROVISIONS – MONITORING**

- A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. (40 CFR 122.41(j)(1).)
- B. Monitoring results must be conducted according to test procedures under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503 unless other test procedures have been specified in this Order. (40 CFR 122.41(j)(4); 40 CFR 122.44(i)(1)(iv).)

**IV. STANDARD PROVISIONS – RECORDS**

- A. Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Central Valley Water Board Executive Officer at any time. (40 CFR 122.41(j)(2).)
- B. Records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements (40 CFR 122.41(j)(3)(i));
  - 2. The individual(s) who performed the sampling or measurements (40 CFR 122.41(j)(3)(ii));
  - 3. The date(s) analyses were performed (40 CFR 122.41(j)(3)(iii));
  - 4. The individual(s) who performed the analyses (40 CFR 122.41(j)(3)(iv));
  - 5. The analytical techniques or methods used (40 CFR 122.41(j)(3)(v)); and
  - 6. The results of such analyses. (40 CFR 122.41(j)(3)(vi).)
- C. Claims of confidentiality for the following information will be denied (40 CFR 122.7(b)):
  - 1. The name and address of any permit applicant or Discharger (40 CFR 122.7(b)(1)); and
  - 2. Permit applications and attachments, permits and effluent data. (40 CFR 122.7(b)(2).)

**V. STANDARD PROVISIONS – REPORTING**

**A. Duty to Provide Information**

The Discharger shall furnish to the Central Valley Water Board, State Water Board, or U.S. EPA within a reasonable time, any information which the Central Valley Water Board, State Water Board, or U.S. EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Discharger shall also furnish to the Central Valley Water Board, State Water Board, or U.S. EPA copies of records required to be kept by this Order. (40 CFR 122.41(h); Water Code section 13267.)

## **B. Signatory and Certification Requirements**

1. All applications, reports, or information submitted to the Central Valley Water Board, State Water Board, and/or U.S. EPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below. (40 CFR 122.41(k).)
2. All permit applications shall be signed by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA). (40 CFR 122.22(a)(3).)
3. All reports required by this Order and other information requested by the Central Valley Water Board, State Water Board, or U.S. EPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above (40 CFR 122.22(b)(1));
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) (40 CFR 122.22(b)(2)); and
  - c. The written authorization is submitted to the Central Valley Water Board and State Water Board. (40 CFR 122.22(b)(3).)
4. If an authorization under Standard Provisions – Reporting V.B.3 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard Provisions – Reporting V.B.3 above must be submitted to the Central Valley Water Board and State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 CFR 122.22(c).)
5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above shall make the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (40 CFR 122.22(d).)*

## **C. Monitoring Reports**

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this Order. (40 CFR 122.41(l)(4).)
2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Central Valley Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. (40 CFR 122.41(l)(4)(i).)

3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Central Valley Water Board. (40 CFR 122.41(l)(4)(ii).)
4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order. (40 CFR 122.41(l)(4)(iii).)

#### **D. Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order, shall be submitted no later than 14 days following each schedule date. (40 CFR 122.41(l)(5).)

#### **E. Twenty-Four Hour Reporting**

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. (40 CFR 122.41(l)(6)(i).)
2. The following shall be included as information that must be reported within 24 hours under this paragraph (40 CFR 122.41(l)(6)(ii)):
  - a. Any unanticipated bypass that exceeds any effluent limitation in this Order. (40 CFR 122.41(l)(6)(ii)(A).)
  - b. Any upset that exceeds any effluent limitation in this Order. (40 CFR 122.41(l)(6)(ii)(B).)
3. The Central Valley Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours. (40 CFR 122.41(l)(6)(iii).)

#### **F. Planned Changes**

The Discharger shall give notice to the Central Valley Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when (40 CFR 122.41(l)(1)):

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b) (40 CFR 122.41(l)(1)(i)); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Order. (40 CFR 122.41(l)(1)(ii).)
3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. (40 CFR 122.41(l)(1)(iii).)



**G. Anticipated Noncompliance**

The Discharger shall give advance notice to the Central Valley Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with this Order's requirements. (40 CFR 122.41(l)(2).)

**H. Other Noncompliance**

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above. (40 CFR 122.41(l)(7).)

**I. Other Information**

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Central Valley Water Board, State Water Board, or U.S. EPA, the Discharger shall promptly submit such facts or information. (40 CFR 122.41(l)(8).)

**VI. STANDARD PROVISIONS – ENFORCEMENT**

- A.** The Central Valley Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13385, 13386, and 13387.

**VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS**

**A. Publicly-Owned Treatment Works (POTWs)**

All POTWs shall provide adequate notice to the Central Valley Water Board of the following (40 CFR 122.42(b)):

1. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to sections 301 or 306 of the CWA if it were directly discharging those pollutants (40 CFR 122.42(b)(1)); and
2. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of adoption of the Order. (40 CFR 122.42(b)(2).)
3. Adequate notice shall include information on the quality and quantity of effluent introduced into the POTW as well as any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW. (40 CFR 122.42(b)(3).)

**ATTACHMENT E – MONITORING AND REPORTING PROGRAM**

**Contents**

I. GENERAL MONITORING PROVISIONS.....	E-2
II. MONITORING LOCATIONS .....	E-3
III. INFLUENT MONITORING REQUIREMENTS .....	E-3
A. MONITORING LOCATION INF-001 .....	E-3
IV. EFFLUENT MONITORING REQUIREMENTS .....	E-4
A. MONITORING LOCATION EFF-001 .....	E-4
V. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS .....	E-6
VI. LAND DISCHARGE MONITORING REQUIREMENTS .....	E-8
A. MONITORING LOCATION EFF-002 .....	E-8
VII. RECYCLING MONITORING REQUIREMENTS – NOT APPLICABLE.....	E-8
VIII. RECEIVING WATER MONITORING REQUIREMENTS .....	E-9
A. MONITORING LOCATIONS RSW-001 AND RSW-002 .....	E-9
B. MONITORING LOCATION GW-00N .....	E-10
IX. OTHER MONITORING REQUIREMENTS .....	E-11
A. BIOSOLIDS.....	E-11
B. MUNICIPAL WATER SUPPLY .....	E-11
C. FILTRATION SYSTEM MONITORING.....	E-11
D. ULTRAVIOLET LIGHT (UV) DISINFECTION SYSTEM.....	E-12
X. REPORTING REQUIREMENTS .....	E-13
A. GENERAL MONITORING AND REPORTING REQUIREMENTS .....	E-13
B. SELF-MONITORING REPORTS (SMRS) AND DISCHARGE MONITORING REPORTS (DMRS).....	E-13
C. OTHER REPORTS .....	E-16

**Tables**

TABLE E-1. MONITORING STATION LOCATIONS .....	E-3
TABLE E-2. INFLUENT MONITORING .....	E-3
TABLE E-3. EFFLUENT MONITORING .....	E-4
TABLE E-4. CHRONIC TOXICITY TESTING DILUTION SERIES .....	E-7
TABLE E-5. LAND DISCHARGE MONITORING REQUIREMENTS.....	E-8
TABLE E-6. RECEIVING WATER MONITORING REQUIREMENTS – RSW-001 AND RSW-002 .....	E-9
TABLE E-7. GROUNDWATER MONITORING REQUIREMENTS.....	E-10
TABLE E-8. MUNICIPAL WATER SUPPLY MONITORING REQUIREMENTS.....	E-11
TABLE E-9. FILTRATION SYSTEM MONITORING REQUIREMENTS – FIL-001 .....	E-11
TABLE E-10. FILTRATION SYSTEM MONITORING REQUIREMENTS – FIL-002 .....	E-12
TABLE E-11. ULTRAVIOLET LIGHT DISINFECTION SYSTEM MONITORING REQUIREMENTS..	E-12
TABLE E-12. MONITORING PERIODS AND REPORTING SCHEDULE .....	E-13

### **ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)**

Title 40 of the Code of Federal Regulations, section 122.48 (40 CFR 122.48) requires that all NPDES permits specify monitoring and reporting requirements. California Water Code (Water Code) sections 13267 and 13383 also authorize the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to require technical and monitoring reports. This MRP establishes monitoring and reporting requirements that implement federal and California regulations.

#### **I. GENERAL MONITORING PROVISIONS**

- A.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring locations specified below and, unless otherwise specified, before the monitored flow joins or is diluted by any other waste stream, body of water, or substance. Monitoring locations shall not be changed without notification to and the approval of the Central Valley Water Board.
- B.** Effluent samples shall be taken downstream of the last addition of wastes to the treatment or discharge works where a representative sample may be obtained prior to mixing with the receiving waters. Samples shall be collected at such a point and in such a manner to ensure a representative sample of the discharge.
- C.** Chemical, bacteriological, and bioassay analyses of any material required by this Order shall be conducted by a laboratory certified for such analyses by the State Water Resources Control Board (State Water Board). Laboratories that perform sample analyses must be identified in all monitoring reports submitted to the Central Valley Water Board. In the event a certified laboratory is not available to the Discharger for any onsite field measurements such as pH, dissolved oxygen (DO), turbidity, and temperature, such analyses performed by a noncertified laboratory will be accepted provided a Quality Assurance-Quality Control Program is instituted by the laboratory. A manual containing the steps followed in this program for any onsite field measurements such as pH, DO, turbidity, and temperature must be kept onsite in the Facility laboratory and shall be available for inspection by Central Valley Water Board staff, State Water Board staff, United States Environmental Protection Agency (U.S. EPA) staff, and/or their authorized representatives. The Discharger must demonstrate sufficient capability (qualified and trained employees, properly calibrated and maintained field instruments, etc.) to adequately perform these field measurements. The Quality Assurance-Quality Control Program must conform to U.S. EPA guidelines or to procedures approved by the Central Valley Water Board.
- D.** Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. All monitoring instruments and devices used by the Discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary, at least yearly, to ensure their continued accuracy. All flow measurement devices shall be calibrated at least once per year to ensure continued accuracy of the devices.
- E.** Monitoring results, including noncompliance, shall be reported at intervals and in a manner specified in this Monitoring and Reporting Program.
- F.** Laboratories analyzing monitoring samples shall be certified by the State Water Board, in accordance with the provision of Water Code section 13176, and must include quality assurance/quality control data with their reports.
- G.** The Discharger shall ensure that the results of the Discharge Monitoring Report-Quality Assurance (DMR-QA) Study or the most recent Water Pollution Performance Evaluation Study are submitted annually to the State Water Board at the following address:

State Water Resources Control Board Quality Assurance Program Officer  
Office of Information Management and Analysis  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

- H. The Discharger shall file with the Central Valley Water Board technical reports on self-monitoring performed according to the detailed specifications contained in this Monitoring and Reporting Program.
- I. The results of all monitoring required by this Order shall be reported to the Central Valley Water Board, and shall be submitted in such a format as to allow direct comparison with the limitations and requirements of this Order. Unless otherwise specified, discharge flows shall be reported in terms of the monthly average and the daily maximum discharge flows at each location.

**II. MONITORING LOCATIONS**

The Discharger shall monitor the following locations to demonstrate compliance with the effluent limitations, discharge specifications, and other requirements in this Order:

**Table E-1. Monitoring Station Locations**

Discharge Point Name	Monitoring Location Name	Monitoring Location Description
--	INF-001	Influent stream prior to any treatment or return flows
001	EFF-001	Disinfected tertiary effluent to Central Canal, after the last addition of wastes (36° 40' 41.52" N, 119° 44' 43.98" W)
002	EFF-002	Un-disinfected secondary effluent to the onsite disposal ponds, after the last addition of wastes
--	RSW-001	Central Canal, approximately 600 feet upstream of Discharge Point 001 (36° 40' 46.416" N, 119° 44' 42.468" W)
--	RSW-002	Central Canal, approximately 600 feet downstream of Discharge Point 001 (36° 40' 40.08" N, 119° 44' 49.632" W)
--	SPL-001	Public water supply for the area served by the Facility
--	G-00n	Groundwater monitoring wells
--	BIO-001	Biosolids at the sludge drying beds, before removal for storage or disposal
--	PND-001 through PND-008	Onsite disposal ponds
--	FIL-001	A location where a representative sample of the influent to the filtration system can be obtained.
--	FIL-002	A location where a representative sample of the effluent from the filtration system, prior to disinfection, can be obtained.
--	UVS-001	Ultraviolet light disinfection system

The latitude and longitude values in Table E-1, above, are approximate for administrative purposes.

**III. INFLUENT MONITORING REQUIREMENTS**

**A. Monitoring Location INF-001**

- 1. The Discharger shall monitor influent to the Facility at INF-001, as follows:

**Table E-2. Influent Monitoring**

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Flow	mgd	Meter	Continuous	--

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Biochemical Oxygen Demand (BOD) (5-day @ 20°C)	mg/L	Composite <sup>1</sup>	1/Week	2
Total Suspended Solids	mg/L	Composite <sup>1</sup>	1/Week	2
pH	standard units	Grab <sup>3</sup>	1/Week	2,4,5
Oil and Grease	mg/L	Grab <sup>3</sup>	1/Month	2
Electrical Conductivity @ 25°C	µmhos/cm	Grab <sup>3</sup>	1/Week	2

<sup>1</sup> Composite samples shall be 24-hour, flow-proportional composites.

<sup>2</sup> Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; or by methods approved by the Central Valley Water Board or the State Water Board.

<sup>3</sup> Grab samples shall not be collected at the same time each day to get a complete representation of variations in the influent.

<sup>4</sup> A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Monitoring and Reporting Program shall be maintained at the Facility.

<sup>5</sup> pH samples must be analyzed within 15 minutes of sample collection, in accordance with 40 CFR Part 136.

#### IV. EFFLUENT MONITORING REQUIREMENTS

##### A. Monitoring Location EFF-001

- The Discharger shall monitor disinfected, tertiary-treated effluent to Central Canal at EFF-001, as follows. If the discharge is intermittent, rather than continuous, then on the first day of each such intermittent discharge, the Discharger shall monitor and record data for all of the constituents listed in Table E-3, after which the frequencies of analysis given in the schedule shall apply for the duration of each such intermittent discharge. In no event shall the Discharger be required to monitor and record data more often than twice the frequencies listed in Table E-3.

**Table E-3. Effluent Monitoring**

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Flow	mgd	Meter	Continuous	-
<b>Conventional Pollutants</b>				
Biochemical Oxygen Demand (BOD) (5-day @ 20°C)	mg/L	Composite <sup>1</sup>	1/Week	2
	lbs/day	Calculate	1/Week	--
	% removal	Calculate	1/Month	--
Total Suspended Solids	mg/L	Composite <sup>1</sup>	1/Week	2
	lbs/day	Calculate	1/Week	--
	% removal	Calculate	1/Month	-
pH	standard units	Grab	1/Day <sup>3</sup>	2,4,14
<b>Priority Pollutants</b>				
Copper, Total Recoverable	µg/L	Composite <sup>1</sup>	1/Month <sup>11</sup>	2,9
Cyanide, Total (as CN)	µg/L	Grab	1/Month	2,9
Priority Pollutants	vary	Grab/ Composite <sup>1,5</sup>	1/Year <sup>6,11</sup>	2,7,8,9
<b>Non-Conventional Pollutants</b>				
Aluminum, Total Recoverable	µg/L	Composite <sup>1</sup>	1/Month	2
Ammonia Nitrogen, Total (as N)	mg/L	Grab	1/Month <sup>3</sup>	2

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Ammonia, un-ionized (as N)	mg/L	Calculate	1/Month	–
Boron	mg/L	Composite <sup>1</sup>	1/Month	2
Chloride	mg/L	Composite <sup>1</sup>	1/Month	2
Electrical Conductivity @ 25°C	µmhos/cm	Grab	1/Day	2
Fluoride	mg/L	Composite <sup>1</sup>	1/Month	2
General Minerals <sup>10</sup>	mg/L	Composite <sup>1</sup>	1/Year	2
Hardness (as CaCO <sub>3</sub> )	mg/L	Composite <sup>1</sup>	1/Month <sup>11</sup>	2
Nitrate Nitrogen, Total (as N)	mg/L	Grab	1/Month <sup>12</sup>	2
Nitrite Nitrogen, Total (as N)	mg/L	Grab	1/Month <sup>12</sup>	2
Oil and Grease	mg/L	Grab	1/Month	2
Temperature	°C/°F	Grab	1/Day <sup>3</sup>	2,4,14
Total Coliform	MPN/100 mL	Grab	1/Week <sup>13</sup>	2
Total Dissolved Solids	mg/L	Composite <sup>1</sup>	1/Month	2
Total Kjeldahl Nitrogen	mg/L	Grab	1/Month	2
Total Nitrogen	mg/L	Calculate	1/Month	--
Whole Effluent Toxicity (see Section V. below)	--	--	--	--

- <sup>1</sup> Composite samples shall be 24-hour, flow-proportional composites.
- <sup>2</sup> Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136 or by methods approved by the Central Valley Water Board or the State Water Board.
- <sup>3</sup> pH and temperature shall be recorded at the time of ammonia sample collection.
- <sup>4</sup> A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Monitoring and Reporting Program shall be maintained at the Facility.
- <sup>5</sup> Volatile constituents shall be sampled in accordance with 40 CFR Part 136 or by methods approved by the Central Valley Water Board or the State Water Board.
- <sup>6</sup> Concurrent with receiving surface water priority pollutant sampling.
- <sup>7</sup> In order to verify if bis(2-ethylhexyl)phthalate is truly present in the effluent discharge, the Discharger shall take steps to ensure that sample containers, sampling apparatus, and analytical equipment are not sources of the detected contaminant.
- <sup>8</sup> Total recoverable mercury samples shall be collected using clean hands/dirty hands procedures, as described in U.S. EPA method 1669: *Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels*, for collection of equipment blanks (section 9.4.4.2), and shall be analyzed by U.S. EPA method 1630/1631 (Revision E) with a reporting limit of 0.5 ng/L for total recoverable mercury.
- <sup>9</sup> Reporting levels shall be equal to the reporting levels specified in Attachment I of this Order. If more than one analytical test method and reporting level is listed for a given parameter in Attachment I, the Discharger may select from the listed methods and corresponding reporting level.
- <sup>10</sup> General minerals shall include the following: boron, calcium, iron, magnesium, potassium, sodium, chloride, manganese, phosphorus, total alkalinity (including alkalinity series), and hardness, and include verification that the analysis is complete (i.e., cation/anion balance).
- <sup>11</sup> Hardness samples shall be collected concurrently with metals samples.
- <sup>12</sup> Monitoring for nitrite and nitrate shall be conducted concurrently.
- <sup>13</sup> Samples for total coliform may be collected at any point following disinfection.
- <sup>14</sup> pH samples must be analyzed within 15 minutes of sample collection, and temperature must be analyzed immediately, in accordance with 40 CFR Part 136.

## V. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS

- A. Acute Toxicity Testing.** The Discharger shall conduct acute toxicity testing to determine whether the effluent is contributing acute toxicity to the receiving water. The Discharger shall meet the following acute toxicity testing requirements:
1. Monitoring Frequency – The Discharger shall perform **semi-annual (2/year)** acute toxicity testing.
  2. Sample Types – The samples shall be flow proportional 24-hour composites and shall be representative of the volume and quality of the discharge. The effluent samples shall be taken at the effluent monitoring location EFF-001.
  3. Test Species – Test species shall be fathead minnows (*Pimephales promelas*).
  4. Test Type and Duration – Test type shall be static renewal, and the test duration shall be 96 hours.
  5. Dilutions – The acute toxicity testing shall be performed using undiluted effluent.
  6. Test Methods – The acute toxicity testing samples shall be analyzed using *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, Fifth Edition, October 2002, EPA-821-R-02-012 (Method Manual). Temperature and pH shall be recorded at the time of sample collection. No pH adjustment may be made unless approved by the Executive Officer.
  7. Test Failure – If an acute toxicity test does not meet all test acceptability criteria, as specified in the test method, the Discharger must re-sample and re-test as soon as possible, not to exceed 7 days following notification of test failure.
- B. Chronic Toxicity Testing.** The Discharger shall conduct three species chronic toxicity testing to determine whether the effluent is contributing chronic toxicity to the receiving water. The Discharger shall meet the following chronic toxicity testing requirements:
1. Monitoring Frequency – The Discharger shall perform **quarterly (1/quarter)** three species chronic toxicity testing.
  2. Sample Types – Effluent samples shall be flow proportional 24-hour composites and shall be representative of the volume and quality of the discharge. The effluent samples shall be taken at the effluent monitoring location EFF-001.
  3. Sample Volumes – Adequate sample volumes shall be collected to provide renewal water to complete the test in the event that the discharge is intermittent.
  4. Test Species – Chronic toxicity testing measures sublethal (e.g., reduced growth, reproduction) and/or lethal effects to test organisms exposed to an effluent compared to that of the control organisms. The Discharger shall conduct chronic toxicity tests with:
    - a. The cladoceran, water flea, *Ceriodaphnia dubia* (survival and reproduction test);
    - b. The fathead minnow, *Pimephales promelas* (larval survival and growth test); and
    - c. The green alga, *Selenastrum capricornutum* (growth test).
  5. Test Methods – The presence of chronic toxicity shall be estimated as specified in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, October 2002, EPA/821-R-02-013 (Method Manual).
  6. Reference Toxicant – As required by the SIP, all chronic toxicity tests shall be conducted with concurrent testing with a reference toxicant and shall be reported with the chronic toxicity test results.

7. **Dilutions** – For routine and accelerated chronic toxicity monitoring, it is not necessary to perform the test using a dilution series. The test may be performed using 100% effluent and one control. For TRE monitoring, the chronic toxicity testing shall be performed using the dilution series identified in Table E-4, below, unless an alternative dilution series is detailed in the submitted TRE Action Plan. Laboratory water control may be used as the diluent.

**Table E-4. Chronic Toxicity Testing Dilution Series**

Sample	Dilutions (%)					Control
	100	75	50	25	12.5	
% Effluent	100	75	50	25	12.5	0
% Laboratory Water	0	25	50	75	87.5	100

8. **Test Failure** – The Discharger must re-sample and re-test as soon as possible, but no later than fourteen (14) days after receiving notification of a test failure. A test failure is defined as follows:
- a. The reference toxicant test or the effluent test does not meet all test acceptability criteria as specified in the Method Manual, and its subsequent amendments or revisions; or
  - b. The percent minimum significant difference (PMSD) measured for the test exceeds the upper PMSD bound variability criterion in Table 6 on page 52 of the Method Manual. (A retest is only required in this case if the test results do not exceed the monitoring trigger specified in Special Provision VI.C.2.a.iii of this Order.)
- C. WET Testing Notification Requirements.** The Discharger shall notify the Central Valley Water Board within 24 hours after the receipt of test results exceeding the monitoring trigger during regular or accelerated monitoring, or an exceedance of an acute toxicity effluent limitation.
- D. WET Testing Reporting Requirements.** All toxicity test reports shall include the contracting laboratory's complete report provided to the Discharger and shall be in accordance with the appropriate "Report Preparation and Test Review" sections of the method manuals. At a minimum, whole effluent toxicity monitoring shall be reported as follows:
1. **Chronic WET Reporting.** Regular chronic toxicity monitoring results shall be reported to the Central Valley Water Board **quarterly (1/quarter)**, and shall contain, at minimum:
    - a. The dates of sample collection and initiation of each toxicity test; and
    - b. The results compared to the numeric toxicity monitoring trigger.

Additionally, the monthly discharger self-monitoring reports shall contain an updated chronology of chronic toxicity test results expressed in TUc, and organized by test species, type of test (survival, growth or reproduction), and monitoring frequency, i.e., either quarterly, monthly, accelerated, or Toxicity Reduction Evaluation (TRE).
  2. **Acute WET Reporting.** Acute toxicity test results shall be submitted **with the monthly discharger self-monitoring reports** and reported as percent survival.
  3. **TRE Reporting.** Reports for TREs shall be submitted in accordance with the schedule contained in the Discharger's approved TRE Work Plan, or as amended by the Discharger's TRE Action Plan.
  4. **Quality Assurance (QA).** The Discharger must provide the following information for QA purposes:



- a. Results of the applicable reference toxicant data with the statistical output page giving the species, NOEC, LOEC, type of toxicant, dilution water used, concentrations used, PMSD, and dates tested.
- b. The reference toxicant control charts for each endpoint, which include summaries of reference toxicant tests performed by the contracting laboratory.
- c. Any information on deviations or problems encountered and how they were dealt with.

## VI. LAND DISCHARGE MONITORING REQUIREMENTS

### A. Monitoring Location EFF-002

1. The Discharger shall monitor un-disinfected secondary-treated effluent to the onsite disposal ponds at EFF-002, as follows. If the discharge is intermittent, rather than continuous, then on the first day of each such intermittent discharge, the Discharger shall monitor and record data for all of the constituents listed in Table E-5, after which the frequencies of analysis given in the schedule shall apply for the duration of each such intermittent discharge. In no event shall the Discharger be required to monitor and record data more often than twice the frequencies listed in Table E-5.

**Table E-5. Land Discharge Monitoring Requirements**

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Flow	mgd	Meter	Continuous	--
Biochemical Oxygen Demand (BOD) (5-day @ 20°C)	mg/L	Grab	1/Week	1
Total Suspended Solids	mg/L	Grab	1/Week	1
pH	standard units	Grab	1/Day	1,2,4
Ammonia Nitrogen, Total (as N)	mg/L	Grab	1/Month	1
Boron	mg/L	Grab	1/Month	1
Chloride	mg/L	Grab	1/Month	1
Electrical Conductivity @ 25°C	µmhos/cm	Grab	1/Day	1
General Minerals <sup>3</sup>	mg/L	Grab	1/Year	1
Nitrate Nitrogen, Total (as N)	mg/L	Grab	1/Month	1
Settleable Solids	ml/L	Grab	1/Week	1
Total Dissolved Solids	mg/L	Grab	1/Month	1
Total Kjeldahl Nitrogen	mg/L	Grab	1/Month	1
Total Nitrogen	mg/L	Calculate	1/Month	--

<sup>1</sup> Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136 or by methods approved by the Central Valley Water Board or the State Water Board.

<sup>2</sup> A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Monitoring and Reporting Program shall be maintained at the Facility.

<sup>3</sup> General minerals shall include the following: boron, calcium, iron, magnesium, potassium, sodium, chloride, manganese, phosphorus, total alkalinity (including alkalinity series), and hardness, and include verification that the analysis is complete (i.e., cation/anion balance).

<sup>4</sup> pH samples must be analyzed within 15 minutes of sample collection, in accordance with 40 CFR Part 136.

## VII. RECYCLING MONITORING REQUIREMENTS – NOT APPLICABLE

**VIII. RECEIVING WATER MONITORING REQUIREMENTS**

**A. Monitoring Locations RSW-001 and RSW-002**

1. The Discharger shall monitor Central Canal at RSW-001 and RSW-002, as follows. The Discharger is only required to monitor Central Canal when there is discharge at Discharge Point 001. If the discharge is intermittent, rather than continuous, then on the first day of each such intermittent discharge, the Discharger shall monitor and record data for all of the constituents listed in Table E-6, after which the frequencies of analysis given in the schedule shall apply for the duration of each such intermittent discharge. In no event shall the Discharger be required to monitor and record data more often than twice the frequencies listed in Table E-6.

**Table E-6. Receiving Water Monitoring Requirements – RSW-001 and RSW-002**

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Flow	mgd/cfs	Meter	Continuous <sup>5</sup>	--
pH	standard units	Grab	1/Week <sup>1</sup>	2,3,10
Priority Pollutants	vary	Grab	1/Year <sup>4,5</sup>	2,6,7,8
Aluminum, Total Recoverable	µg/L	Grab	1/Month	2
Ammonia Nitrogen, Total (as N)	mg/L	Grab	1/Month <sup>1</sup>	2
Ammonia, un-ionized (as N)	mg/L	Calculate	1/Month	--
Dissolved Oxygen	mg/L	Grab	1/Week	2,3,10
Electrical Conductivity @ 25°C	µmhos/cm	Grab	1/Week	2
Fecal Coliform	MPN/100 mL	Grab	1/Month	2
General Minerals <sup>9</sup>	mg/L	Grab	1/Year	2
Hardness (as CaCO <sub>3</sub> )	mg/L	Grab	1/Month <sup>5</sup>	2
Nitrate Nitrogen, Total (as N)	mg/L	Grab	1/Month	2
Temperature	°C/°F	Grab	1/Week <sup>1</sup>	2,3,10
Total Dissolved Solids	mg/L	Grab	1/Month	2

- <sup>1</sup> pH and temperature shall be recorded at the time of ammonia sample collection.
- <sup>2</sup> Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136 or by methods approved by the Central Valley Water Board or the State Water Board.
- <sup>3</sup> A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Monitoring and Reporting Program shall be maintained at the Facility.
- <sup>4</sup> Concurrent with effluent priority pollutant sampling at EFF-001.
- <sup>5</sup> Monitoring is only required at RSW-001.
- <sup>6</sup> In order to verify if bis(2-ethylhexyl) phthalate is truly present in the receiving water, the Discharger shall take steps to ensure that sample containers, sampling apparatus, and analytical equipment are not sources of the detected contaminant.
- <sup>7</sup> Total mercury samples shall be taken using clean hands/dirty hands procedures, as described in U.S. EPA method 1669: *Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels*, for collection of equipment blanks (section 9.4.4.2), and shall be analyzed by U.S. EPA method 1630/1631 (Revision E) with a reporting limit of 0.5 ng/L for total recoverable mercury.
- <sup>8</sup> Reporting levels shall be equal to the reporting levels specified in Attachment I of this Order. If more than one analytical test method and reporting level is listed for a given parameter in Attachment I, the Discharger may select from the listed methods and corresponding reporting level.
- <sup>9</sup> General minerals shall include the following: boron, calcium, iron, magnesium, potassium, sodium, chloride, manganese, phosphorus, total alkalinity (including alkalinity series), and hardness, and include verification that the analysis is complete (i.e., cation/anion balance).
- <sup>10</sup> pH and DO samples must be analyzed within 15 minutes of sample collection, and temperature must be analyzed immediately, in accordance with 40 CFR Part 136

**B. Monitoring Location GW-00n**

1. Once installed, all new groundwater wells shall be added to the monitoring network (which currently consists of Monitoring Wells MW-1, MW-2, MW-3, and MW-4) and shall be sampled and analyzed according to the schedule below. All samples shall be collected using approved U.S. EPA methods. Water table elevations shall be measured to determine groundwater gradient and direction of flow.
2. Prior to sampling, the groundwater elevations shall be measured and the wells shall be purged of at least three well volumes until temperature, pH, and electrical conductivity have stabilized. Depth to groundwater shall be measured to the nearest 0.01 feet. Groundwater elevation shall be determined based on depth-to-water measurements from a surveyed measuring point elevation on the well. The groundwater elevation shall be used to calculate the direction and gradient of groundwater flow, which must be reported. Groundwater monitoring at MW-1, MW-2, MW-3, MW-4, and any new groundwater monitoring wells shall include, at a minimum, the following:

**Table E-7. Groundwater Monitoring Requirements**

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Depth to Groundwater	feet below ground surface	Measured	1/Quarter <sup>1</sup>	--
Groundwater Elevation	feet MSL	Calculate	1/Quarter <sup>1</sup>	--
Gradient	feet/feet	Calculate	1/Quarter <sup>1</sup>	--
Gradient Direction	degrees	Calculate	1/Quarter <sup>1</sup>	--
pH	standard units	Grab	1/Quarter <sup>1</sup>	2,3,5
Ammonia, Total (as N)	mg/L	Grab	1/Quarter <sup>1</sup>	2
Chloride	mg/L	Grab	1/Quarter <sup>1</sup>	2
Electrical Conductivity @ 25°C	µmhos/cm	Grab	1/Quarter <sup>1</sup>	2
General Minerals <sup>4</sup>	mg/L	Grab	1/Quarter <sup>1</sup>	2
Nitrate Nitrogen, Total (as N)	mg/L	Grab	1/Quarter <sup>1</sup>	2
Total Dissolved Solids	mg/L	Grab	1/Quarter <sup>1</sup>	2
Total Kjeldahl Nitrogen	mg/L	Grab	1/Quarter <sup>1</sup>	2
Total Organic Carbon	mg/L	Grab	1/Quarter <sup>1</sup>	2
Total Nitrogen	mg/L	Calculate	1/Quarter <sup>1</sup>	--

<sup>1</sup> New groundwater monitoring wells shall be sampled monthly (1/month) for twelve months, after which they shall be sampled in accordance with the minimum sampling frequency.

<sup>2</sup> Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136 or by methods approved by the Central Valley Water Board Executive Officer or the State Water Board. Samples collected for metals shall be filtered using a 0.45 µm filter prior to preservation, digestion, and analysis.

<sup>3</sup> A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring required by this Monitoring and Reporting Program shall be maintained at the Facility.

<sup>4</sup> General minerals shall include the following: boron, calcium, iron, magnesium, potassium, sodium, chloride, manganese, phosphorus, total alkalinity (including alkalinity series), and hardness, and include verification that the analysis is complete (i.e., cation/anion balance).

<sup>5</sup> pH samples must be analyzed within 15 minutes of sample collection, in accordance with 40 CFR Part 136