

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0512

FOR ADMINISTRATIVE CIVIL LIABILITY IN THE MATTER OF

MALAGA COUNTY WATER DISTRICT
MALAGA COUNTY WATER DISTRICT WASTEWATER TREATMENT FACILITY
FRESNO COUNTY

This Complaint is issued to Malaga County Water District (hereafter "Discharger"), pursuant to California Water Code ("Water Code") sections 13350, 13268, and 13385, which authorize the imposition of administrative civil liability, and Water Code section 13323, which authorizes the Assistant Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements ("WDRs") Order No. R5-2008-0033 (NPDES No. CA0084239) (the "2008 Permit"), and Cease and Desist Order ("CDO") No. R5-2008-0032 (the "2008 CDO").

THE ASSISTANT EXECUTIVE OFFICER OF THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD (CENTRAL VALLEY WATER BOARD OR BOARD) ALLEGES THE FOLLOWING:

BACKGROUND

1. The Discharger is a county water district organized under Water Code section 30000 *et seq.* The Discharger provides domestic water, irrigation water, wastewater, parks and recreation, and solid waste collection services. The Discharger's powers and purposes are enumerated in Water Code sections 31144.7 through 31144.79 and include, in part, regulating, prohibiting, or controlling the discharge of pollutants, waste, or any other material into the Discharger's facilities by requiring its dischargers to obtain a permit from it prior to any discharge and by prohibiting the discharge of pollutants or other material which does or may cause a nuisance into its facilities without first obtaining a permit.
2. The Discharger owns and operates the Malaga County Water District Wastewater Treatment Facility ("WWTF" or "Facility"), a publicly-owned treatment works ("POTW") which provides sewerage service for the unincorporated community of Malaga and its industrial users. Secondary-treated wastewater is discharged to unlined evaporation percolation disposal ponds, and tertiary-treated wastewater is discharged to the Fresno Irrigation District Central Canal (Central Canal), a water of the United States.
3. The Central Canal is a distributary of the Kings River via the Fresno and Fancher Creek Canals and feeds into other canals and aqueducts to the south and to the west. The Central Canal is hydraulically connected to Fresno Slough which, during periods of heavy rain, drains to the San Joaquin River. Both the Fresno Slough and the San Joaquin River are waters of the United States.
4. The *Water Quality Control Plan for the Tulare Lake Basin, Second Edition*, ("Basin Plan") designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board ("State Water Board"). Based on the Basin Plan, the beneficial uses of the Central Canal are municipal and domestic supply, agricultural supply, water contact recreation, and warm freshwater habitat. The beneficial uses of the

underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, industrial process supply, water contact recreation, and non-contact water recreation.

5. The Discharger's February 2010 *Water, Sewer, & Solid Waster Rate Study Final Report* found that non-residential sewage comprises approximately 92 percent of the influent to the WWTF.
6. The federal Clean Water Act ("CWA"), section 307(b), and 40 Code of Federal Regulations ("CFR") part 403, require POTWs such as the Discharger to develop an acceptable industrial pretreatment program. A pretreatment program is required to prevent the introduction of pollutants that interfere with treatment plant operations or sludge disposal, and prevent pass through of pollutants that exceed water quality objectives, standards or permit limitations. Pretreatment requirements are imposed pursuant to 40 CFR part 403.
7. On 6 October 2004, as required by CDO No. 5-01-001 and WDRs Order No. 99-100, the Discharger submitted its industrial pretreatment program and a draft ordinance amending its Municipal Code to the Central Valley Water Board. The State Water Board's Office of Chief Counsel deemed the ordinance adequate on 29 December 2005.
8. On 14 March 2008, the Central Valley Water Board issued the 2008 Permit to regulate, in part, the discharge of secondary-treated wastewater from the Facility to evaporation percolation ponds and tertiary-treated wastewater from the Facility to the Central Canal. The 2008 Permit, which approved the Discharger's pretreatment program, took effect upon issuance.
9. On 14 March 2008, the Central Valley Water Board also issued the 2008 CDO, which rescinded CDO 5-01-001 and required the Discharger to cease the discharge of waste in violation, or threatened violation, of the 2008 Permit pursuant to a time schedule that includes interim deadlines to bring the Discharger back into compliance with its 2008 Permit.
10. On 18 February 2010, United States Environmental Protection Agency ("U.S. EPA") contractor Tetra Tech, Inc., on behalf of the Central Valley Water Board, performed a pretreatment compliance inspection ("2010 PCI") of the Facility. The Discharger's representatives were present during the inspection and were verbally informed of non-compliance issues and program deficiencies. A *POTW Pretreatment Compliance Inspection Checklist*, which identified those issues and deficiencies, was provided to the Discharger's staff during the PCI exit interview on 18 February 2010. The Tetra Tech, Inc. inspector discussed the non-compliance issues and program deficiencies with the Discharger's staff in detail during the exit interview. Despite receiving both verbal and written notice of the non-compliance issues and program deficiencies observed by Tetra Tech, Inc. on 18 February 2010, the Discharger indicated in its 2010, 2011, and 2012 Annual Pretreatment Reports that it had not made the recommended changes or corrected the deficiencies. In those reports, the Discharger stated that it was waiting for a formal copy of the 2010 PCI *Summary Report* before making the changes.
11. On 16 August 2010, the Discharger was issued a Notice of Violation ("NOV") for violations of the 2008 CDO. On 12 April 2012, the Discharger was issued an NOV for violations associated with the 2008 CDO and pretreatment program violations.
12. On 12 July 2012, Central Valley Water Board and State Water board staff conducted a follow-up inspection to the 2010 PCI. On 6 September 2013, Central Valley Water Board staff transmitted the reports to the Discharger for both the 2010 PCI and the 12 July 2012 follow-up inspection via an NOV. The NOV noted that on 5 December 2012, Tetra Tech, Inc. staff had confirmed to Central Valley Water Board staff that the inspector had conducted an exit interview during the 2010

PCI and had reviewed a checklist identifying each deficiency with Discharger personnel. The NOV requested that the Discharger address and document all deficiencies identified in the 2010 PCI *Summary Report* in the 2013 Annual Pretreatment Report due 28 February 2014 and that the Discharger submit monthly progress reports documenting progress toward compliance.

13. On 6 and 7 January 2014, PG Environmental, LLC, a U.S EPA contractor acting on behalf of the Central Valley Water Board performed a Pretreatment Compliance Audit ("2014 PCA" or "2014 Audit") of the Discharger's pretreatment program. The Discharger's representatives were present during the 2014 PCA and were verbally informed of multiple instances of non-compliance found during the 2014 PCA. The *Final Summary Report* of the 2014 PCA, which identified non-compliance issues and program deficiencies, and an NOV were provided to the Discharger on 14 February 2014. The NOV noted agreement with the contract inspector's findings, cited specific findings within the 2014 PCA *Final Summary Report* as violations of the 2008 Permit, and requested a report of the Discharger's plans to correct the violations by 14 March 2014. The NOV further noted that many of the violations and deficiencies were significant and chronic violations that had been brought to the Discharger's attention in previous correspondence.
14. On 7 July 2014, the Discharger was issued an NOV for violations of pretreatment standards, monitoring and reporting requirements, and the 2008 CDO. The NOV noted the Central Valley Water Board's staff intent to pursue formal enforcement and requested a meeting with the Discharger. On 18 August 2014, in response to a request from the Discharger, a supplemental NOV was issued providing a detailed basis for each violation cited in the 7 July 2014 NOV.
15. On 25 and 26 March 2015, Central Valley Water Board and PG Environmental, LLC staff performed a pretreatment compliance inspection ("2015 PCI"). The Discharger's representatives were present during the 2015 PCI and were verbally informed of multiple instances of non-compliance found during, and at the end of, the 2015 PCI. The *Summary Report* of the 2015 PCI, which identified non-compliance issues and program deficiencies, was transmitted to the Discharger on 10 September 2015.

REGULATORY CONSIDERATIONS

16. **Pretreatment Program Requirements:** The Discharger is required to comply with the federal pretreatment requirements of 40 CFR part 403. Standard Provision VI.A.2.g at p. 16 of the 2008 Permit requires that "[t]he Discharger shall ensure compliance with any existing or future pretreatment standard promulgated by USEPA under Section 307 of the CWA or amendment thereto, for any discharge to the municipal system." Special Provision VI.C.5.a.ii at p. 25 of the 2008 Permit, states that "(t)he Discharger shall perform the pretreatment functions required by 40 CFR Part 403."
 - a. The Discharger is required to issue individual permits to its Significant Industrial Users ("SIUs").
 - i. 40 CFR section 403.3 (v)(1) defines Significant Industrial User to mean the following:
 - (i) All Industrial Users¹ subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
 - (ii) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and

¹ The term Industrial User or User means a source of indirect discharge. (40 CFR § 403.3(j).)

boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)."

ii. 40 CFR section 403.8(f)(1)(iii)(B) requires the Discharger to issue permits:

"(B) Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

- (1) Statement of duration (in no case more than five years);
- (2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with § 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;
- (5) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
- (6) Requirements to control Slug Discharges, if determined by the POTW to be necessary." [emphasis added].

b. The Discharger is required to analyze self-monitoring reports.

- i. 40 CFR section 403.8(f)(2)(iv) requires the Discharger to receive and analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in 40 CFR section 403.12.

c. The Discharger is required to sample the effluent from each SIU at least once a year.

- i. 40 CFR section 403.8(f)(2)(v) requires the Discharger to inspect and sample the effluent from each SIU at least once a year. The provision provides an exception to that requirement, which is not applicable here.

d. The Discharger is required to publish a list of Industrial Users in significant non-compliance.

- i. 40 CFR section 403.8(f)(2)(viii) requires that the Discharger:

“Comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users which, at any time during the previous 12 months, were in significant noncompliance with applicable Pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:” [emphasis added].

- ii. 40 CFR section 403.8(f)(2)(viii)(A)-(H) defines significant non-compliance as:

- “(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (C) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.”

e. The Discharger is required to determine whether or not a slug control plan is necessary for each SIU.

i. 40 CFR section 403.8(f)(2)(vi) requires the POTW to:

“(vi) Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User. For purposes of this subsection, a Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW’s regulations, local limits or Permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(A) Description of discharge practices, including non-routine batch Discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under § 403.5(b) with procedures for follow-up written notification within five days;

(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;”

17. **Monitoring and Reporting Program (“MRP”) Requirements:** Standard Provision VI.A.2.g at p. 16 of the 2008 Permit requires that “[t]he Discharger shall ensure compliance with any existing or future pretreatment standard promulgated by USEPA under Section 307 of the CWA or amendment thereto, for any discharge to the municipal system.” Special Provision VI.C.5.a.ii at p. 25 of the 2008 Permit states that “(t)he Discharger shall perform the pretreatment functions required by 40 CFR Part 403.” Water Code sections 13267 and 13383 authorize the Central Valley Water Board to require technical and monitoring reports. Provision VI.B at p. 18 of the 2008 Permit, requires the Discharger to “comply with the MRP [Monitoring and Reporting Program] and any revisions thereto (Attachment E of this Order).”

a. Annual Pretreatment Reports. 40 CFR section 403.12(i) requires that the Discharger provide the Central Valley Water Board with an annual pretreatment report that briefly describes the

program activities, and includes specified elements. The 2008 Permit's MRP, Reporting Requirement X.D.4 at p. E-17, requires submittal of an annual pretreatment report by 28 February of each year:

"Annual Pretreatment Reporting Requirements. The Discharger shall submit annually a report to the Regional Water Board, with copies to USEPA Region 9 and the State Water Board, describing the Discharger's pretreatment activities over the previous 12 months. In the event that the Discharger is not in compliance with any conditions or requirements of this Order, including noncompliance with pretreatment audit/compliance inspection requirements, then the Discharger shall also include the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements."

The MRP to the 2008 Permit, Reporting Requirement X.D.4.a-h at pp. E-17-18, describes the required components of the annual pretreatment report, which include, but are not limited to, a summary of analytical results, a discussion of upset, interference, or pass-through incidents, the cumulative number of industrial users that the Discharger has notified regarding baseline monitoring reports and the cumulative number of industrial user responses, an updated list of industrial users with compliance characterizations, a summary of inspection and sampling activities, a summary of compliance and enforcement activities, a description of significant changes in operating the pretreatment program, and a summary of the annual pretreatment budget.

- b. Quarterly Pretreatment Reports. The 2008 Permit, Reporting Requirement X.D.4.d at pp. E-18-19 of the MRP, requires the following:

"A report describing the compliance status of each industrial user characterized by the descriptions in items iii. through vii. above shall be submitted for each calendar quarter **within 21 days of the end of the quarter**. The report shall **identify the specific compliance status** of each such industrial user and shall also identify the compliance status of the POTW with regards to audit/pretreatment compliance inspection requirements. If none of the aforementioned conditions exist, at a minimum, a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter must be submitted. The information required in the fourth quarter report shall be included as part of the annual report. This quarterly reporting requirement shall commence upon issuance of this Order."

18. **Cease and Desist Order Requirements:** The 2008 CDO, Task 3.a at p. 6, requires the Discharger to evaluate WWTF treatment and disposal capacity and identify short-term and long-term measures to secure adequate treatment and disposal capacity, as specified below:

"Submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. Study results shall include evaluations of, but not limited to, short-term measures necessary to comply with Order No. R5-2008-0033, implementation of appropriate ongoing operations and maintenance, and

long-term measures to meet WWTF treatment and disposal needs through at least 2028. The time schedule for short-term measures shall not exceed **14 March 2011**. The technical report shall include actions to generate appropriate population and WWTF flow projections and their rationale.”

19. **Water Code section 13268:** The Discharger’s failure to timely submit monitoring and technical reports required by the 2008 CDO and the 2008 Permit subjects it to civil liabilities under Water Code section 13268.
 - a. Water Code section 13268, subdivision (a)(1) states: “Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).”
 - b. Water Code section 13268, subdivision (b)(1) states: “Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”
20. **Water Code section 13385:** The Discharger’s violations of its pretreatment program are subject to civil liabilities under Water Code section 13385.
 - a. Water Code section 13385(a)(2) states, in part, “ A person who violates...a waste discharge requirement...issued pursuant to this chapter...shall be liable civilly in accordance with this section.”
 - b. Water Code section 13385(a)(3) states, in part, “A person who violates...a requirement established pursuant to Section 13383...shall be liable civilly in accordance with this section.”
 - c. Water Code section 13385(a)(5) states, in part, “ A person who violates...a requirement of Section 307 of the federal Clean Water Act...shall be liable civilly in accordance with this section.”
 - d. Water Code section 13385(a)(6) states, in part, “A person who violates...a requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator...shall be liable civilly in accordance with this section.”
 - e. Water Code section 13385(c)(a) states, in part, “Civil liability may be administratively imposed by the state board or a regional board...in an amount not to exceed...ten thousand dollars (\$10,000) for each day in which the violation occurs.”
21. **Water Code section 13350:** The Discharger’s violations of its CDO are subject to civil liabilities under Water Code section 13350.
 - a. Water Code section 13350(a) states, in relevant part, “[a] person who violates a cease and desist order...shall be liable civilly, and remedies may be proposed, in accordance with subdivision (e).”
 - b. Water Code section 13350(e)(1) states, in relevant part, that a regional board may impose civil liability administratively on a daily basis not to exceed five thousand dollars (\$5,000) for each day the violation occurs.

22. Pursuant to Water Code sections 13385(e) and 13327, in determining the amount of any civil liability imposed under Water Code section 13385(c), the Central Valley Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require. These factors are considered in detail in Attachments A (with Exhibits 1) and B, which are attached hereto and incorporated herein by this reference.
23. On 17 November 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy ("Enforcement Policy"). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code sections 13327 and 13385(e). The Enforcement Policy requires that liability be assessed, at a minimum, at a level that recovers the economic benefit that result from the actions or lack thereof that constitute the violation, plus ten percent.
24. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment A. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
25. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the Water Code not addressed herein.
26. Issuance of this Administrative Civil Liability Complaint is an enforcement action, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 *et seq.*), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

SUMMARY OF ALLEGED VIOLATIONS AND MAXIMUM AND MINIMUM ADMINISTRATIVE CIVIL LIABILITY

27. The violations and corresponding proposed penalty amounts that are summarized here are described in detail in Attachment A. The maximum penalties represent the statutory maximum imposed per day pursuant to Water Code section 13385 and Water Code section 13350, respectively. The minimum penalties are based on the Enforcement Policy's requirement to assess a liability of at least the amount of economic benefit associated with the violation plus ten percent. The proposed penalties take into account the factors prescribed under Water Code 13385(e) and the Enforcement Policy.
28. The Regional Water Boards, acting by and through their Assistant Executive Officers, have broad discretion to determine the number of violations in a penalty action. (*See e.g., Borden Ranch Partnership v. United States Army Corps of Engineers* (9th Cir. 2001) 261 F.3d 810, 817-818 [discussing different approaches federal courts have allowed USEPA to take when determining number of violations depending on underlying factual circumstances].) Here, although each distinct violation of the Code of Federal Regulations' and 2008 Permit's pretreatment program requirements *could be* the basis for a distinct violation and, accordingly, civil liability, the Assistant

Executive Officer declines to take that approach based on the unique facts of this case. This is the first administrative civil liability complaint for violations of a pretreatment program the Central Valley Water Board has undertaken. While there is little evidence showing a direct connection between the violations and environmental harm, for many years the Discharger demonstrated a wholesale disregard of its regulatory obligations in the face of numerous reminders from staff. While in the last two years, under a new General Manager, some positive changes in the pretreatment program have begun, many deficiencies persist or remain to be corrected. The violations of various Code of Federal Regulation and 2008 Permit requirements described below amount to complete and systematic failure by the Discharger to develop and implement a pretreatment program. Essentially, and for the limited purpose of this particular proceeding only, the Assistant Executive Officer has elected to treat all of the Code of Federal Regulation and 2008 Permit pretreatment violations as a single, group violation – Violation 1. Violation 2 addresses the Discharger's separate and distinct violations of the Central Valley Water Board's 2008 CDO.

Violation 1: Failure to Implement a Legally Sufficient Pretreatment Program.

A. The Discharger failed to control the contribution to the POTW by each significant industrial user through individual permits that meet the minimum requirements of the pretreatment program pursuant to 40 CFR section 403.8(f)(1)(iii)(B). The Discharger has failed to have the required or adequate permits in place from at least the adoption of the 2008 Permit. The Discharger had seven SIUs in 2008, two of which were de-designated after 2009.

B. The Discharger failed to inspect and sample its SIUs once a year as required by 403.8(f)(2)(v). In 2008, the Discharger did not sample five of its SIUs. In 2010, the Discharger failed to sample two of its SIUs. In 2011, the Discharger failed to sample two of its SIUs. In 2013, the Discharger failed to sample one of its SIUs. In 2014, the Discharger failed to sample five of its SIUs.

C. The Discharger failed to publish a list of users in significant non-compliance as required by 40 CFR section 403.8 (f)(2)(viii). The Discharger failed to comply with the publication requirement over at least a four year period from 2009 and 2012. Throughout that four-year period, there were multiple instances in which an SIU was in significant non-compliance during the given year.

D. The Discharger failed to evaluate whether a slug control plan is necessary for each SIU and produce them upon request as required by 40 CFR section 403.8 (f)(2)(vi). To date, the Discharger has not produced an evaluation, despite requests at the 2010 PCI, the 2014 PCA, and the 2015 PCI.

E. The Discharger failed to file materially sufficient annual pretreatment reports pursuant to the requirements of 40 CFR section 403.12(i), Provision VI.C.5.a.ii at p. 25 of the 2008 Permit, and Provision X.D.4 at pp. E-17-20 of the Monitoring and Reporting Requirements of the 2008 Permit.

F. The Discharger failed to file adequate quarterly pretreatment reports pursuant to the requirements of Provision VI.C.5.a.ii at p. 25 of the 2008 Permit, and Provision X.D.4.d at pp. E-18-19 of the MRP of the 2008 Permit. The Quarterly Pretreatment Reports for the first quarters of 2009 and 2014 have, to date, not been received. The rest of the Quarterly Pretreatment Reports from the second quarter of 2008 (due 21 July 2008) through the first quarter of 2010 (due 21 April 2010) were not received until 7 May 2012. Aside from the two missing reports, all of the Quarterly Pretreatment Reports from the adoption through the rescission of the 2008 Permit (18 in total) are materially deficient based on lack of requisite certification, lack of accurate IU compliance status discussion, or other grounds, as discussed in detail in Attachment A and Exhibit 1.

G. The Discharger failed to analyze reports from its SIUs pursuant to the requirements in 40 CFR section 403.8(f)(2)(iv). The first documentation of the Discharger’s failure to adequately receive and analyze self-monitoring reports was at the 2010 PCI, during which auditors noted that the Discharger had failed to analyze self-monitoring reports from 2009.

The Discharger failed to implement key components of its pretreatment program from the adoption of the 2008 Permit on 14 March 2008 through the rescission of the 2008 Permit on 31 January 2015. The period of violation totals 2,515 days. The maximum liability for this violation is \$25,150,000. The recommended total base liability for this violation is \$775,368.

Violation 2: Failure to Submit Treatment and Disposal Capacity Study and Propose a Workplan as Required By the 2008 CDO.

The Discharger failed to submit a report required by the 2008 CDO evaluating WWTF treatment and disposal capacity and to propose a workplan identifying short and long-term measures to secure adequate treatment and disposal capacity for the volume, type and concentrations of wastes in influent. The Discharger failed to comply with these 2008 CDO requirements since 14 June 2008, the first date of non-compliance in regard to Task 3 of the 2008 CDO, through 4 December 2014 when the 2008 CDO was rescinded and replaced. The period of violation totals 2,365 days, which the Prosecution Team recommends reducing to 1,640 days as detailed in Attachment A. The maximum penalty for this violation is \$8,200,000. The recommended total base liability for the violation is \$261,360.

29. The total maximum liability for the two violations described above is **\$33,350,000**. The minimum liability is **\$781,721**. Based on a consideration of the factors in Water Code sections 13385(e) and 13327, this Complaint is for one million thirty-six thousand seven hundred and twenty-eight dollars (**\$1,036,728**).

Violation	Minimum Liability ²	Maximum Liability	Recommended Liability
Violation 1: Failure to implement legally adequate pretreatment program (2,515 days of violation, collapsed to 89) Potential for Harm: moderate Deviation from Requirement: major Per Day Factor: 0.55 Culpability: 1.3 Cooperation and Cleanup: 1.2 History of Violations: 1.1	\$777,193	\$25,150,000	\$775,368
Violation 2: Failure to submit CDO-required reports (1,640 days of violation, collapsed to 60) Potential for Harm: major Deviation from Requirement: moderate Per Day Factor: 0.55 Culpability: 1.5 Cooperation and Cleanup: 1.0 History of Violations: 1.2	\$4,528	\$8,200,000	\$261,360
Totals:	\$781,721	\$33,350,000	\$1,036,728
Proposed Liability Amount:	\$1,036,728		

² Minimum liability is based on Enforcement Policy’s requirement to assess economic benefit plus ten percent.

MALAGA COUNTY WATER DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an administrative civil liability in the amount of **\$1,036,728**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **21/22 April 2016**, unless the Discharger does one of the following by **16 February 2016**:
 - a. The Discharger waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment of the proposed civil liability; or
 - b. The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option 2 on the attached form, and returning it to the Board along with a letter describing the issues to be discussed; or
 - c. The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option 3 on the attached form, and returning it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is conducted, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.



CLAY L. RODGERS, Assistant Executive Officer

1/27/2016

(Date)

Attachment A: Calculations for Pretreatment Violations (and Exhibits 1 and 2)
Attachment B: Economic Benefit Table

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Malaga County Water District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2016-0512 (hereinafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full)

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board
- b. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **(\$1,036,728)** by check that references "ACL Complaint R5-2016-0512" made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Central Valley Water Board by **16 February 2016**
- c. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Date)

(Signature)

ATTACHMENT A

Administrative Civil Liability Complaint No. R5-2016-0512 Malaga County Water District Calculation of Liability for Violations

Background and Introduction

In accordance with Waste Discharge Requirements (“WDRs”) Order No. R5-2008-0033 (National Pollutant Discharge Elimination System (“NPDES”) No. CA0084239) (the “2008 Permit”) for the Malaga County Water District (“Discharger”) Wastewater Treatment Facility (“WWTF”), Fresno County, the Discharger is required to ensure compliance with any existing or future pretreatment standard promulgated by the United States Environmental Protection Agency under section 307 of the Clean Water Act (“CWA”), or amendment thereto, for any discharge to the WWTF or its collection system. (2008 Permit, at p. 16, Provisions—Standard Provisions VI.A.2.g.) The 2008 Permit specifies that the Discharger shall implement the pretreatment functions required by 40 Code of Federal Regulations (“CFR”) part 403. (2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.) The pretreatment requirements of 40 CFR part 403 are specifically incorporated into the requirements of the 2008 Permit. Both the 2008 Permit and Cease and Desist Order R5-2008-0032 (the “2008 CDO”) were adopted by the Central Valley Regional Water Quality Control Board (“Central Valley Water Board”) on 14 March 2008.

Violation 1 is a violation of the 2008 Permit and of the federal pretreatment requirements of 40 CFR part 403. Violation 2 is a violation based on the Discharger’s failure to submit a treatment and disposal capacity study and propose a work plan as required by the 2008 CDO. Violation 1 demonstrates a systemic, pervasive and chronic failure in the Discharger’s administration of its mandated pretreatment program. The Discharger has consistently violated pretreatment program requirements, despite numerous attempts on the part of Central Valley Water Board staff, made over a five-year period, to aid the Discharger in returning to compliance. The actions or failures to act, which constitute Violation 1, critically impair the Discharger’s ability to implement the pretreatment program in accordance with state and federal law and thwart the oversight role of the Central Valley Water Board. While the Assistant Executive Officer could elect to treat each violation of each requirement imposed by the Code of Federal Regulations as a distinct violation, based on the unique circumstances of this case, he declines to do so. Instead, and for purposes of this case only, the Assistant Executive Officer recommends the Central Valley Water Board treat the Discharger’s violation of seven distinct requirements of the Code of Federal Regulations’ and 2008 Permit’s pretreatment requirements as a single, programmatic violation – “Failure to Implement the Required Pretreatment Program.” The Assistant Executive Officer believes taking this approach achieves substantial justice on the unique facts of this case.

Each factor of the State Water Resources Control Board (“State Water Board”) Water Quality Enforcement Policy (“Enforcement Policy”) methodology and its corresponding category, adjustment, or amount for the violations alleged in Administrative Civil Liability (“ACL”) Complaint No. R5-2016-0512 (“Complaint”) is presented below.

Violation No. 1: The Discharger Failed to Implement the Required Pretreatment Program

Steps 1 and 2 - Potential for Harm and Assessments for Discharge Violations

These steps are not applicable because the violation considered herein is not a discharge violation.

The Discharger's violations of the Code of Federal Regulations' pretreatment program requirements and the 2008 Permit fall into seven general categories, which are described in greater detail in Exhibit 1—Detailed Analysis of Individual Permit Component and CDO Violations ("Exhibit 1"), which is hereby incorporated:

A. The Discharger Failed to Adopt Significant Industrial User Permits Containing the Minimum Requirements of the Pretreatment Program (40 CFR sections 403.8(f)(1), 403.12(g)(3).)

The Discharger is required to issue individual permits or equivalent individual control mechanisms to its Significant Industrial Users ("SIUs"). (40 CFR section 403.8(f)(1)(iii); 2008 Permit, at p. 25, Pretreatment Requirements VI.C.5.a.ii.) Permits must specify effluent limits based on local limits, sampling location, correct sample type, and a statement of applicable civil and criminal penalties for violation of pretreatment requirements. (40 CFR § 403.8(f)(1)(iii)(B)(3)-(5) and 40 CFR § 403.12(g)(3).)

The Discharger failed to set effluent limits based on local limits for oil and grease, and for pH in applicable SIU permits. (See Exhibit 1, pp. 2-3.) (Tabs 1A; 1D) The Discharger failed to include sampling location in its SIU permits. (See Exhibit 1, p. 3.) (Tabs 1G; 1H; 1I; 1K; 1L; 1M) This is illustrated by the fact that at some SIUs samples were collected at a point that is downstream of where one facility's wastewater comingles with another's. (Tab 2E) The Discharger failed to include sampling type in its SIU permits. (See Exhibit 1, p. 4.) (Tabs 1E; 1K; 1O; 1P; 1Q) The Discharger failed to include a statement of applicable civil and criminal penalties in its SIU permits, and in some instances, completely failed to establish and implement permits. (See Exhibit 1, p. 5.) (Tabs 1E; 1F; 1H; 1I; 1J; 1L; 1M; 2G; 3G)

B. The Discharger Failed to Inspect and Sample the Effluent of Significant Industrial Users Annually and Maintain Records (40 CFR sections 403.8(f)(2)(v), 403.12(o).)

Pursuant to the federal regulations and the 2008 Permit, the Discharger is required to inspect and sample the effluent of SIUs at least once a year. (40 CFR § 403.8(f)(2)(v); 2008 Permit, at p. 25, Pretreatment Regulations VI.C.5.a.ii.) The federal regulations require a Publicly Owned Treatment Works ("POTW") to maintain records of all information resulting from monitoring, including compliance and enforcement activities. (40 CFR § 403.12(o).) The 2008 Permit requires the Discharger to retain records of all monitoring information for a period of at least three years from the date of the sample, measurement, report or application. (2008 Permit, at p. D-5, Attachment D--Standard Provisions--Records IV.A.) From 2008 through 2014 the Discharger failed to comply with these requirements. (See Exhibit 1, pp. 9-12.) (Tabs 1E; 2A; 2B; 2C; 2D; 2E; 2F; 2G; 2H; 2I; 3G)

C. The Discharger Failed to Publish its List of Industrial Users in Significant Non-Compliance with Pretreatment Requirements (40 CFR section 403.8(f)(2)(viii).)

Pursuant to federal regulations and the 2008 Permit, the Discharger is required to, at least annually, to publish a list of its industrial users which, at any time during the previous 12

months, were in Significant Non-Compliance (“SNC”), as defined, with applicable pretreatment program requirements. (40 CFR § 403.8(f)(2)(viii); 2008 Permit, at p. 25, Pretreatment Requirements VI.C.5.a.ii.e.) The Discharger had industrial users in SNC in 2009, 2010, 2011, and 2012 and failed to publish a list of those users. (See Exhibit 1, pp 13-17.) (Tabs 3A; 3B; 3C; 3D; 3F; 3G; 5B)

D. The Discharger Failed to Evaluate Whether a Slug Control Plan is Necessary for Each SIU and Produce Them Upon Request (40 CFR section 403.8(f)(2)(vi).)

Pursuant to 40 CFR section 403.8(f)(2)(vi), the Discharger is required to develop and implement procedures to evaluate whether each of its Significant Industrial User needs a plan or other action to control Slug Discharges, as defined. 40 CFR section 403.8(f)(2)(vi) requires that the Discharger make the results of slug evaluations available to the Central Valley Water Board upon request. The Discharger failed to comply with these requirements. (See Exhibit 1, pp. 18-19.) (Tabs 1E; 3G; 4A; 4B; 4C; 1O; 4D; 4E; 4F)

E. The Discharger Failed to Comply with Annual Pretreatment Reporting Requirements (40 CFR section 403.12(i).)

Pursuant to federal requirements and the 2008 Permit, the Discharger is required to file annual pretreatment reports. (40 CFR § 403.12(i); 2008 Permit, at p. 25, Pretreatment Requirements VI.C.5.a.ii; 2008 Permit, at p. E-17, Attachment E, Annual Pretreatment Reporting Requirements X.D.4.) The Discharger failed to include the following required elements in its annual pretreatment reports: (1) The analytical results for influent, effluent, or sludge; (2) a discussion of upset, interference, or pass-through incidents at the treatment plant, which the Discharger knows or suspects were caused by its industrial users; (3) a summary of industrial user compliance status; (4) a summary of inspection and sampling activities; (5) a summary of the annual pretreatment budget, and; (6) requisite signature and certification. (See Exhibit 1, pp. 22-24.) (Tab 2F; 5A; 5B; 5C) For example, in some annual pretreatment reports, the Discharger included a statement that “[a]nalytical results for pollutants identified [sic] in §307(a) of the Clean Water Act and 40 CFR 401.15 are limited. The industries served by the Malaga County Water District are generally not identified as dischargers of these pollutants.” (See for example Tab 5A) Yet, permits issued by the Discharger to several of its SIUs included limits and required sampling for a range of heavy metals, listed in §307(a) of the CWA and 40 CFR section 401.15. (See for example Tab 5E) Additionally, the Discharger failed to submit annual pretreatment reports by the required due date. (See Exhibit 1, p. 24.) (Tab 5D)

F. The Discharger Failed to Comply with Quarterly Pretreatment Reporting Requirements (2008 Permit, Monitoring and Reporting Program (MRP) section X.D.4.d.)

Pursuant to the requirements of the 2008 Permit, the Discharger is required to submit quarterly pretreatment reports. (2008 Permit, at p. 25, Pretreatment Requirements VI.C.5.a.ii; 2008 Permit, at p. E-18, Attachment E, Annual Pretreatment Reporting Requirements X.D.4.d.) The Discharger failed to identify the compliance status of each industrial user in its submissions, failed to include the requisite certification, and failed to submit reports by the required due dates. (See Exhibit 1, pp. 28-30.) (Tabs 6A; 6B; 6C; 6D; 6E; Tab 3A; 3B; 3C; 3D; 3G) To date, the Discharger has not submitted first quarterly pretreatment reports for 2009 or 2014.

G. The Discharger Failed to Analyze Self-Monitoring Reports (40 CFR section 403.8(f)(2)(iv).)

Pursuant to the federal regulations and the 2008 Permit, The Discharger is required to analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in 40 CFR section 403.12. (40 CFR § 403.8(f)(2)(iv); 2008 Permit, at p. 25, Pretreatment Requirements VI.C.5.a.ii.) The Discharger has failed to comply with this requirement since at least 2010. (See Exhibit 1, p. 34.) (Tabs 2B; 3G; 4A; 4E; 7A)

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy's penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential threat to beneficial uses or for harm. (Enforcement Policy, at p. 16.)

The beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, industrial process supply, water contact recreation, and non-contact water recreation. Based on the *Water Quality Control Plan for the Tulare Lake Basin* ("Basin Plan"), the beneficial uses of the Central Canal are municipal and domestic supply, agricultural supply, water contact recreation, and warm freshwater habitat. This violation deprives the Central Valley Water Board of the opportunity to perform its regulatory function of assuring the protection of beneficial uses by masking the cause and potential magnitude of water quality impacts in relevant receiving waters.

By failing to implement local limits, including those for pH and oil and grease, in industrial user permits, the Discharger is hindered from ensuring that industrial influent loading to its WWTF headworks can be adequately treated to avoid "pass through"¹ or "interference"² and meet the effluent limits in its NPDES permit, thereby, protecting receiving water quality. For example, excessive levels of oil and grease contribute to creation of blockages in sanitary sewer pipelines and may cause or exacerbate sewage overflows. Additionally, oils and greases can adversely affect beneficial uses through reduced surface aeration of water, increased turbidity, clogging of gills, oily sheens and foaming, and off tastes and odors.

Unrepresentative results stemming from failing to specify, or specifying improper, sampling locations hinder both the Discharger and Central Valley Water Board staff from readily identifying sources of pollutants (e.g., copper, chromium) at or above hazardous waste concentrations in the WWTF sludge and impedes their ability to adequately characterize waste, ascertain compliance, and respond appropriately. (See Tab 0A; 2C) Proper sampling protocol is critical to determine whether industrial users are complying with the pretreatment program, to

¹ "Pass through" means a discharge which exits a wastewater treatment plant to waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the wastewater treatment plant's NPDES permit. (40 CFR § 403.3(p).)

² "Interference" means a discharge which, alone or in conjunctions with a discharge or discharges from other sources, both inhibits or disrupts the wastewater treatment plant, its treatment processes or operation, or its sludge processes, use or disposal; and therefore is a cause of a violation of any requirement of the wastewater treatment plant's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with section 405 of the Clean Water Act, Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. (40 CFR § 403.3(k).)

understanding the characteristics of the waste entering the collection system and WWTF, and to ensuring that incompatible wastes are not introduced to the treatment system.

The Discharger's failure to sample SIUs at least once a year prevents the Discharger from knowing the levels at which pollutants of concern are entering its WWTF, thereby impairing its ability to timely identify and address potential adverse impacts to both the WWTF's ability to treat wastewater (*i.e.*, interference) and the receiving water itself (*i.e.*, pass-through). By failing to sample its SIUs at least once a year, the Discharger impedes the Central Valley Water Board's efforts to assess the potential impacts and risks to water quality posed by the Discharger, and circumvents the Central Valley Water Board from ensuring that the Discharger is implementing its approved pretreatment program.

The Discharger's failed to publish a list of users in SNC that would have provided notice to communities that could be affected by incidents of non-compliance. While the requirement to provide such notice plays an important role in providing the public with information, the failure to do so does not pose a significant potential for harm to beneficial uses.

The Discharger's failure to assess the need for slug control plans impairs the Discharger's ability to timely develop and implement plans to prevent or mitigate potential adverse impacts to both the WWTF's ability to treat wastewater (*i.e.*, interference) and the receiving water itself (*i.e.*, pass-through) due to non-routine, episodic discharges, which has the potential to harm beneficial uses and degrade water quality. While slug control plans are a critical prevention measure in mitigating adverse impacts during non-routine discharges, the need for such plans to be implemented is likely infrequent.

The annual pretreatment report requirements exist to provide the Central Valley Water Board with information necessary to evaluate the operation of the Discharger's pretreatment program, in order to protect the health and safety of the public and environment. By failing to comply with the minimum annual pretreatment report requirements, the Discharger inhibits its ability and the ability of the Central Valley Water Board to timely identify and provide feedback regarding deficiencies in the Discharger's implementation of its pretreatment program and, potentially, to prevent and properly address risks to beneficial uses.

By providing information on the compliance status of industrial users, the quarterly pretreatment report serves a role in identifying problems with compliance and ensuring that they are appropriately addressed. By failing to comply with the minimum quarterly pretreatment report requirements, the Discharger inhibits the ability of the Central Valley Water Board to identify and address risks to beneficial uses.

The Discharger's failure to receive and analyze self-monitoring reports poses an egregious threat to beneficial uses. The receipt and analysis requirements ensure that the Discharger is implementing the practices necessary to properly regulate the disposal of industrial wastewater, protect the physical structures and safety of operation of its collection and treatment system, and to comply with its approved pretreatment program. The analysis of self-monitoring reports serves an important role in identifying problems with compliance and ensuring that they are appropriately addressed. By failing to comply with the minimum receipt and analysis requirements, the Discharger inhibits its ability and the ability of the Central Valley Water Board to prevent and properly address risks to beneficial uses. Specifically, failure to analyze industrial user monitoring reports effectively precluded the Discharger from complying with other pretreatment program requirements, such as accurately discussing industrial user compliance

characterizations in quarterly and annual pretreatment reports, and identifying and publicly noticing instances of industrial user SNC.

The combined effect of the failure to adequately implement the pretreatment program, including failure to identify and address instances of significantly non-compliant levels of arsenic, barium, chromium, and copper, has likely contributed to copper and chromium concentrations in sludge at hazardous levels (Tab 0A), and repeated instances of chronic toxicity of the alga *Selenastrum capricornutum* in three-species chronic toxicity bioassays. (Tabs 0B; 0C; 0D) Specific factors contributing to inadequate characterization of industrial user discharges, including failure to identify and specify appropriate sample locations and types in permits, failure to inspect and comprehensively sample industrial user facilities, failure to identify users in non-compliance, failure to respond to non-compliance with appropriate enforcement or other control measures, and failure to evaluate and understand the nature of contributing industrial processes and the need for slug control plans have, however, collectively rendered the available information regarding industrial discharges so deficient that a definitive determination of causes and environmental impacts cannot be made.

Given the foregoing discussion, the Potential for Harm is determined to be **moderate**, as the characteristics of the violations present a substantial threat to beneficial uses. (Enforcement Policy, at p. 16.)

Deviation from Requirement:

The Discharger failed to develop and issue industrial pretreatment permits that specified effluent limits based on local limits, sampling location, correct sample type, and a statement of applicable civil and criminal penalties for violation of pretreatment requirements. In addition, the Discharger failed in several instances to meet the basic requirement of having an individual control mechanism in place for its SIUs. While permits issued by the Discharger have included some of the required elements, several of the core purposes of having individual control mechanisms in place were rendered ineffective by the omission of critical information.

By failing to collect samples on an annual basis (Tab 2D), and on some occasions, by collecting unrepresentative samples from comingled locations (Tab 2E), the Discharger rendered the purposes of the applicable federal and state requirements—including confirmation of compliance with pretreatment standards, verification of self-monitoring data reported by industrial users, support of potential enforcement actions and permit re-issuance, and identification of problems associated with sample locations and industrial users sampling practices--ineffective in their essential functions. By failing, over at least a five-year period, to publish a list of Industrial Users which were in SNC, the intended effectiveness of the applicable federal requirements, including the public participation requirements of 40 CFR part 25, were rendered completely ineffective.

The Discharger failure to conduct slug evaluations and produce them upon request for at least seven of its SIUs pursuant to 40 CFR section 403.8(f)(2)(vi), rendered that requirement ineffective. While the Discharger reported conducting an evaluation for SIU Air Products, it was unable to produce results of that evaluation upon request as required by law. Furthermore, during the 25/26 March 2015 Pretreatment Compliance Inspection ("PCI"), inspectors found it necessary to thoroughly discuss the definition of a slug discharge with Discharger personnel--suggesting that Discharger personnel were not even familiar with the term's regulatory meaning.

(Tab 10) Given the foregoing information, it cannot be concluded that the Discharger has ever complied with the requirement.

The Discharger's submissions made pursuant to the annual pretreatment report requirements of 40 CFR section 403.12(i), Provision VI.C.5.a.ii of the 2008 Permit, and Provision X.D.4 of the MRP have been intermittent, untimely, and materially deficient. The quarterly pretreatment reports submitted by the Discharger pursuant to the 2008 Permit were not submitted timely, contained inaccurate characterizations of compliance, failed to contain the requisite certification in all but two cases and, as such, are materially deficient. Two of the required quarterly pretreatment reports were never submitted.

The Discharger's deviation from the requirement in both 40 CFR § 403.8(f)(2)(iv) and the 2008 Permit to receive and analyze self-monitoring reports was rendered ineffective as inspections and audits from 2010 through 2015 show that the Discharger repeatedly failed to do so.

Based on the foregoing, the Deviation from the Requirement is determined to be **major** as the requirements have been rendered partially compromised. (Ibid.)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of major results in a factor of **0.55**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: The Discharger failed to implement significant elements of the pretreatment program requirements from at least the adoption of the 2008 Permit on 14 March 2008 through the rescission of the 2008 Permit on 31 January 2015. The total days of violation are 2,515.

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, though the Discharger experienced a programmatic cost savings from failing to comply with the minimum pretreatment requirements, there is no discrete daily cost associated with the violations.³ Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this approach, the minimum number of days of violation is 89. Although it is within the Board's discretion to find that the days of violation lie anywhere between 89 and 2,515, the Prosecution Team recommends that the Board choose to apply the minimum number allowed under the Enforcement Policy of 89.

³ Although the economic benefit model relies on specific date ranges associated with compliance, non-compliance, and penalty payment to calculate an appropriate benefit, these dates are used solely to determine the effective discount rate applied to the one-time expense. Therefore, no discrete daily economic benefit is realized, only compounding interest based on the expected penalty payment date.

Violation No. 1 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

89 days x \$10,000 x 0.55

Total Initial Liability = \$489,500

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.2

For culpability, the Enforcement Policy suggests an adjustment resulting in a multiplier between 0.5 and 1.5, with a lower multiplier for accidental incidents, and a higher multiplier for intentional or negligent behavior. (Enforcement Policy, at p. 17.)

A reasonable and prudent person would have complied with the standard of care established by the CFR and 2008 Permit pretreatment requirements. The Discharger failure to comply with those requirements, despite having knowledge of them, which falls far below the due standard of care.

The Discharger knew of the elements required in industrial user permits, as evidenced by the numerous occasions--at least six--during which those elements were discussed, including verbally during 18 February 2010 PCI, the 6/7 January 2014 Pretreatment Compliance Audit (“PCA”), and the 25/26 March 2015 PCI, and in writing in a Notice of Violation (“NOV”) dated 6 September 2013, the *Final Summary Report* for the 6/7 January 2014 PCA transmitted by NOV on 14 February 2014, and in a 7 July 2014 NOV (supplemented on 18 August 2014), and the 2015 PCI. (Tabs 1B; 1C; 1H; 1J; 1K; 1L; 1M; 1O; 2C; 3G; 8K) Similarly, the Discharger knew of the requirement to conduct annual sampling of its industrial users, as that requirement was discussed on at least six occasions, including verbally during the 18 February 2010 PCI, the 6/7 January 2014 PCA, and the 25/26 March 2015 PCI, and in writing in an NOV dated 6 September 2013 and attached *Final Summary Report* for the 2010 PCI, the *Final Summary Report* for the 6/7 January 2014 PCA transmitted by NOV on 14 February 2014, and in a 7 July 2014 NOV (supplemented on 18 August 2014). (Tabs 2B; 2C; 2E; 2G; 2H; 2I; 8K) The Discharger’s willful disregard of its known obligations warrants a high culpability multiplier.

In February of 2010, the Discharger was notified in the 2010 PCI *POTW Pretreatment Compliance Inspection Checklist* (Section III) that it was required, at least annually, to publish a list of its industrial users which, at any time during the previous 12 months, were in SNC with applicable Pretreatment requirements, and that it had not met that requirement. (Tab 3E) This was communicated again to the Discharger in subsequent years. (Tabs 3F; 3G; 5B) The Discharger was reminded of the slug control plan requirement verbally during the 18 February 2010 PCI, during the 6/7 January 2014 PCA, and in writing in the *Summary Report* for the 2010 PCI transmitted with the 4 September 2013 NOV. (Tabs 1E; 1O; 3G; 4A; 4D; 4E; 4F) The Discharger was informed of the inadequacy of its industrial user self-evaluation approach in the final report for the 6/7 January 2014 PCA transmitted by NOV on 14 February 2014. (Tab 4A)

The Discharger was notified of deficiencies in its annual and quarterly pretreatment reports in a 12 April 2012 NOV (Tab 5D) and received notices of inadequate or late pretreatment reports in April 2012 (Tab 5D), and in July and August of 2014. (Tabs 8K; 8L) The Discharger was given notice of its failure to receive and analyze self-monitoring reports during the 2010 PCI (Tab 2B; Tab 3G). The 2014 PCA *Final Summary Report* reiterated the requirement to analyze monitoring reports. (Tabs 4A) Yet, the Discharger's failure to comply with the requirement was again documented in detail during the 2015 PCI. (Tab 4E; 3F) In continuing to violate the receipt and analysis requirements despite knowledge of them, the Discharger's actions, at best, demonstrate gross negligence.

Evidence shows that when the Discharger carried out, or failed to carry out, the actions that constituted failing to implement its pretreatment program, it acted with knowledge of what those pretreatment requirements were. The continued failure to comply despite knowledge of the requirements suggests a negligent, if not willful, disregard of those requirements. A factor of 1.2 is appropriate for this violation because the Discharger's actions fell below the due standard of care in failing to implement the pretreatment program.

Cleanup and Cooperation: 1.2

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. (Enforcement Policy, at p. 17.)

The Discharger was given many opportunities to cooperate with Central Valley Water Board staff and come into compliance. With each PCI, PCA, and NOV detailed above, the Discharger was given an opportunity to return to compliance and demonstrate cooperation. (Tabs 1E; 1H; 1J; 1K; 1L; 1M; 1O; 2B; 2C; 2E; 2G; 2H; 2I; 3E; 3F; 3G; 4A; 4D; 4E; 5B; 5D; 8J; 8K) Specifically, with each annual SIU permit reissuance, the Discharger had the opportunity to correct deficiencies in the SIU permits. (Tab 1B; 1N)

The Discharger has made some improvements in implementing its pretreatment program, including the hiring of an Environmental Compliance Inspector whose responsibilities include assistance with permit drafting and sampling and inspections. (Tab 2J) The Discharger's extent of cooperation has, however, been severely lacking in other areas.

For example, in 2012, the Discharger exceeded its chronic toxicity limits, which triggered the requirement that it develop a Toxicity Reduction Evaluation ("TRE") Report to determine the source of the toxicity exceedance. It was not until that additional onus that the Discharger conducted more comprehensive sampling of its SIUs. Still, the Discharger failed to come into compliance, as documented by the 2014 Annual Pretreatment Report, in which the Discharger reported that it failed to collect samples from six of its SIUs. (Tab 2D)

During discussions as a component of the 2015 inspection, the Discharger's representatives stated that they had not performed the calculations necessary to determine if any of its SIUs were in SNC for the 2014/2015 year, without which the Discharger cannot comply with the SNC public notice requirements. (Tab 3F)

The 2014 Annual Pretreatment Report, received in February 2015, improved upon prior submittals by including a higher proportion of required elements, but continued to be materially deficient. While the Discharger began to submit quarterly pretreatment reports in a timelier manner after receiving the April 2012 NOV, the reports submitted continued inaccurate or

misleading requisite information and were materially deficient. Following the 7 July 2014 NOV, the Discharger began including in its quarterly pretreatment reports the required certification and discussion of pretreatment program compliance status components, but omitted the required industrial user compliance status component, which had been included in prior reports. Quarterly pretreatment reports for the 1st quarters of 2009 and 2014 have not been submitted to date.

The Discharger was assessed a multiplier value of 1.2 based on the lack of cooperation exhibited by the Discharger in returning to compliance.

History of Violations: 1.1

The Enforcement Policy states that where there is a history of repeat violations, a minimum multiplier of 1.1 should be used to reflect this. (Enforcement Policy, at p. 17) In this case, a multiplier of 1.1 should apply because there is a history of violations, which have been fully adjudicated. In 2006 (ACL R5-2006-0003) and 2013 (ACL R5-2013-0090) the Central Valley Water Board issued Administrative Civil Liability Orders to the Discharger for violations of the Discharger's 2008 Permit.

Step 5 - Determination of Recommended Total Base Liability Amount

The Recommended Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 1 – Recommended Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$489,500 \times 1.2 \times 1.2 \times 1.1 = \$775,368$$

Statutory Maximum Civil Liability for Violation No. 1 = \$25,150,000

Recommended Total Base Liability Amount for Violation No. 1 = \$775,368

Steps 6 through 10 are applied to the combined total base liability amount for the sum of all violations, and are discussed following the total base liability recommendations for each violation.

Violation No. 2: The Discharger Failed to Submit Treatment and Disposal Capacity Study and Propose Workplan Required by Cease and Desist Order No. R5-2008-0032

The 2008 CDO, Task 3(a), requires the Discharger to evaluate WWTF treatment and disposal capacity and identify short-term and long-term measures to secure adequate treatment and disposal capacity for the volume, type, and concentrations of wastes in influent projected through at least 2028. In order to meet that requirement, the Discharger is required to submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. The study must include evaluations of, but not limited to, ongoing operations and maintenance, and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The 2008 CDO requires that technical reports submitted in accordance with this requirement include actions to generate appropriate population and WWTF flow projections and their rationale. The 2008 CDO required the

Discharger to submit the results of the study evaluating treatment and disposal capacity and propose the work plan described in Task 3(a) by 13 June 2008.

On 25 July 2008, over a month past due, Provost and Pritchard Consulting Group, on behalf of the Discharger, submitted a *Study Evaluating Treatment and Disposal Facilities* to fulfill the requirements of Task 3(a). (Tab 8A) In a memorandum and letter, dated 19 August 2009 (Tab 8B) and 24 September 2009 (Tab 8C) respectively, Central Valley Water Board staff informed the Discharger that the study was materially deficient and requested a revised study by 27 October 2009. The letter and memorandum cited deficiencies and required corrective actions including, but not limited to, revising short-term and long-term flow projections, revising the work plan for expansion of design capacity, including reclamation proposals, revising consolidation, and updating work plan and time-schedules.

By letter dated 28 April 2011, the Discharger submitted a report to comply with Task 3(d). (Tab 8D) That report, however, indicated that not all the short-term measures had been completed, as required. The report did not include long-term measures or a revised work plan, and did not remedy the deficiencies in the 28 July 2008 report. The report did not bring the Discharger into compliance with Tasks 3(a) or 3(d). The cover letter for that report incorrectly stated that the Discharger had not received a response to the work plan submitted on 25 July 2008. (Tab 8D) On 12 April 2012, Central Valley Water Board staff issued a NOV citing the Discharger's failure to comply with Tasks 3(a) and 3(d) of the 2008 CDO. (Tab 5D)

On 19 August 2013, Central Valley Water Board staff again sent the Discharger a letter requesting that it submit technical information regarding disposal capacity by 3 October 2013, which was originally due 13 June 2008. (Tab 8B) In summary, the letter requested that the Discharger address whether the discharge to the Central Canal will cease, provide an estimate of the pond disposal capacity after pond maintenance was performed in 2008 and thereafter, revise influent flow projections, provide the status of land acquisition for additional disposal ponds, and provide the status of alternative disposal measures. On 10 October 2013, Central Valley Water Board staff called the Discharger's Board President requesting an update on the response due 3 October 2013. (Tab 8F) On 10 October 2013, Central Valley Water Board staff received by e-mail a memorandum dated 23 September 2013 from the Discharger's consulting engineer written to the Discharger requesting additional information in order to prepare a response to the Central Valley Water Board's letter. (Tab 8G)

On 21 October 2013, Central Valley Water Board staff sent the Discharger's General Manager an email to again inquire on the status of the Discharger's response. (Tab 8H) On 29 October 2013, the Discharger submitted a deficient and late response. (Tab 8I) The Discharger admitted in its response that it had not yet developed a schedule to isolate one or more ponds to confirm and monitor percolation capacity, and that follow-up reports would be forthcoming.

On 7 July 2014, Central Valley Water Board staff sent the Discharger a NOV, which cited, in part, the Discharger's failure to comply with Task 3 of the 2008 CDO. (Tab 8J) On 18 August 2014, Central Valley Water Board staff sent the Discharger a Supplemental NOV, which again cited, in part, the Discharger's failure to comply with the 2008 CDO Task 3. (Tab 8K)

After the Discharger learned its flow limit had been restricted in its proposed revised permit, the Discharger submitted technical data in November 2014 and January 2015 in order to confirm pond disposal capacity. The 2008 CDO was rescinded on 4 December 2014 and tasks not

complied with in the 2008 CDO were carried over to CDO R5-2014-0146 and to Waste Discharge Requirements R5-2014-0145 (NPDES No. CA 0084239).

The Discharger violated the 2008 CDO by failing to submit an adequate and complete study of its treatment and disposal capacity and a workplan to address treatment and disposal capacity issues from 13 June 2008 through the rescission of the CDO on 4 December 2014, for a total of **2,365 days**. However, based on the interactions between Central Valley Water Board staff and the Discharger recited above, the Prosecution Team recommends “tolling” the days of violation during the 387-day period between the 28 July 2008 date upon which the Discharger’s initial report was submitted and the 19 August 2009 date upon which staff notified Discharger in writing that the report was deficient. Prosecution staff further recommends “tolling” the days of violation for the 351-day period between the 28 April 2011 date upon which Discharger submitted a revised report and the 12 April 2012 date upon which staff issued a Notice of Violation documenting the deficiencies in the revised report. Other than these two time periods, Discharger was on written notice that its report was overdue, incomplete and insufficient to meet the directives of the 2008 CDO. Accordingly, the Prosecution Team recommends calculating the civil liability for Violation 2 on the basis of **1,640 days** of violation.

Pursuant to Water Code section 13350, a violation of those requirements is subject to administrative civil liability in an amount of up to \$5,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Discharger’s failure to comply with Task 3 of the CDO in a timely manner hindered Central Valley Water Board staff’s efforts to assess disposal capacity for the renewal of the Discharger’s NPDES permit, which delayed issuance of the Permit.

Based on the Basin Plan, the beneficial uses of the Central Canal are municipal and domestic supply, agricultural supply, water contact recreation, and warm freshwater habitat. The beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, industrial process supply, water contact recreation, and non-contact water recreation.

The 2008 CDO was issued, in part, because the Discharger discharged and threatened to discharge waste in violation of the 2008 Permit. In addition, a number of conditions at the WWTF relating to minimum freeboard requirements, pond evaporation and percolation capacity, increasing influent flow and base flow, and total disposal capacity, were found to create a risk of overtopping and levee breach. The Discharger’s WWTF ponds are adjacent to the Central Canal, several businesses, and the main railroad line for the Santa Fe Railroad and Amtrak. Overflow of undisinfected secondary treated wastewater from the ponds to the Central Canal would adversely affect its beneficial use for unrestricted agricultural supply, water contact recreation, and municipal and domestic supply due to excessive pathogen loading. Overflow of the ponds to area businesses, which occurred in 2000, or to the railroad right-of-way would cause or threaten to create public health risks and a nuisance condition. (Tab 8L)

The Discharger's actions in failing to meet the 2008 CDO requirements pose a high potential for harm to beneficial uses. Given the foregoing discussion, the Potential for Harm is determined to be **major**. (Enforcement Policy, at p. 16.)

Deviation from Requirement: The 2008 CDO required the Discharger to submit specified study results to the Central Valley Water Board. While the Discharger submitted documents pursuant to the 2008 CDO requirements, those submissions were materially deficient and late. Therefore, the Deviation from the Requirements is determined to be **moderate** as the requirements have been partially compromised. (Ibid.)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of moderate results in a factor of **0.55**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: The Discharger has failed to comply with the 2008 CDO requirements since 14 June 2008, the first date of non-compliance with Task 3, through 4 December 2014. The period of violation totals 2,365 days, but as indicated above, the Prosecution Team recommends reducing this number to 1,640 days based on two periods where it believes the Central Valley Water Board should exercise its discretion to equitably toll the violation period.

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to comply with the 2008 CDO results in an economic benefit that cannot be measured on a daily basis, though the Discharger may have experienced a programmatic cost savings from failing to comply with the requirements. Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this approach, assuming the Central Valley Water Board agrees with the Prosecution Team's recommendation to equitably toll the violation period, the minimum days of violation total 60. Although it is within the Board's discretion to find that the days of violation lie anywhere between 60 and 2,365, the Prosecution Team recommends that the Board choose to apply the minimum number of days allowed under equitable tolling and the Enforcement Policy of 60.

Violation No. 8 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

60 days x \$5,000 x 0.55

Total Initial Liability = \$165,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

Culpability: 1.2

A factor of 1.2 is appropriate for this violation. The Discharger knew of the 2008 CDO requirement as it was granted the opportunity to comment on those tasks prior to the 2008 CDO adoption date. In addition, as evidenced by the 23 September 2013 Memorandum (Tab 8G) from the Discharger's consultant, the Discharger had notice of the specific regulatory requirements which remained to be met. The Discharger's knowledge of the material inadequacy of its submissions is demonstrated by the fact that those deficiencies were discussed in a series of correspondence between the Discharger and Central Valley Water Board staff. (Tab 8B; 8C; 8E; 8F; 8J; 8K) A reasonably prudent person would have complied with the 2008 CDO requirements in a timely manner. The Discharger knowingly disregarded the requirements associated with Task 3.

Cleanup and Cooperation: 1.2

For non-discharge violations, efforts towards cleanup are not applicable. Beginning in September 2009, Central Valley Water Board contacted the Discharger through phone calls, email, and letters, in attempts to retrieve the requisite information and bring the Discharger into compliance. (Tab 8B; 8C; 8E; 8F; 8J; 8K) The Discharger had multiple opportunities to correct the violation, yet failed to work cooperatively with Central Valley Water Board staff to achieve the common goal of compliance and failed to submit the technical information required pursuant to Task 3 of the 2008 CDO. The Prosecution Team recommends a 1.2.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation. In 2001, the Central Valley Water Board issued CDO 5-01-001 due to pond capacity issues and due to the overflow of the ponds to neighboring businesses in 2000. The issuance of the 2008 CDO stemmed, in part, from the Discharger's ongoing failure to comply with the 2001 CDO. Therefore, the application of a 1.1 is appropriate.

Step 5 - Determination of Recommended Total Base Liability Amount

The Recommended Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 2 – Recommended Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$165,000 \times 1.2 \times 1.2 \times 1.1 = \$261,360$$

Statutory Maximum Civil Liability for Violation No. 2 = \$8,200,000

Recommended Total Base Liability Amount for Violation No. 2 = \$261,360

Step 6 – Ability to Pay and Ability to Continue in Business

Adjusted Combined Total Base Liability Amount: \$1,036,728

Consistent with Water Code section 13385, the Enforcement Policy provides that if the Central Valley Water Board has sufficient financial information to make a finding that the Discharger lacks the ability to pay the Total Base Liability, or to make a finding that the Total Base Liability will negatively impact the Discharger's ability to continue in business, then it may adjust the Total Base Liability amount downward. Ultimately, the adjusted Final Liability Amount may not fall below ten percent higher than the economic benefit the Discharger realized from committing the violations. (Enforcement Policy, at p. 20-21.)

The Discharger's February 2010, Malaga County Water District *Water, Sewer, & Solid Waster Rate Study Final Report* found that non-residential sewage comprises approximately 92 percent of the influent to the WWTF. (Tab 9A) The combined influent flow is approximately equivalent to the wastewater generated by a population of 6,000 people. The Discharger has the ability to levy and collect fees or charges upon sewer ratepayers, and regularly collects such fees. (Water Code § 31144.72.)

Therefore, the Central Valley Water Board has enough information to suggest that the Discharger has the ability to pay the proposed liability without risking the Discharger's ability to continue in business. Based on the reasons discussed above, an ability to pay factor of 1 has been applied to the Combined Total Base Liability Amount.

Step 7 – Other Factors as Justice May Require

The Enforcement Policy provides that an adjustment may be made under this step if it is determined that the proposed liability amount is inappropriate and express findings are made to justify the adjustment. No factors warrant adjustment under this step.

Step 8 – Economic Benefit

Estimated Economic Benefit: \$710,655

The Economic Benefit amount is any savings or monetary gain derived from the act or omission that constitutes the violation. (Enforcement Policy, at p. 20.) Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation. To act as an appropriate deterrent and not merely be considered a cost of doing business by a discharger, the Enforcement Policy requires that, at a minimum, a civil liability be established at ten percent higher than the economic benefit the discharger realized from committing the violations.

A. Economic Benefit of Pretreatment Program Violation (Violation 1)

The violations of the 2008 Permit were due to the failure to adhere to the pretreatment requirements of 40 CFR part 403. Based on the violations considered, the following compliance actions constitute the minimum effort avoided by the Discharger:

- The Discharger failed to identify sampling locations for its SIUs. The Central Valley Water Board estimates that at a minimum, a site inspection and evaluation would have been necessary for each SIU at the time of adoption of the Order.

- The Discharger failed to adequately conduct annual inspections and sampling events from 2008 to 2014 at each of its SIUs.
- The Discharger failed to adequately review the compliance status for its SIUs and publicly publish a list of those users in SNC from 2010 to 2014.
- The Discharger failed to conduct slug control evaluations at its SIUs at the time of adoption of the 2008 Permit. The Central Valley Water Board contends that these evaluations would include site visits in addition to process review, evaluation, and documentation.
- The Discharger submitted deficient annual pretreatment reports and failed to properly certify those reports from 2008 to 2012. The Central Valley Water Board contends that although each annual pretreatment report is deficient in different aspects, all would require substantial improvements in order to comply with the 2008 Permit.
- The Discharger submitted deficient quarterly reports and in two cases, the Discharger failed to submit the required report. The Central Valley Water Board contends that deficient quarterly reporting may have been significantly rectified by avoided labor associated with other violations and therefore cost benefits are assumed to have already been captured. However, the Central Valley Water Board estimates that a benefit was afforded the Discharger when they failed to prepare and submit two quarterly reports.
- The Discharger failed to adequately review the self-monitoring reports generated by its SIUs. As a result, the Discharger failed to identify violations and enforcement opportunities to correct such deficiencies.

The compliance actions described above demonstrate a chronic failure in the administration of the Discharger's pretreatment program. The Discharger's lack of adequate administration of the program is indicative of a lack of dedicated and trained staff. The Central Valley Water Board evaluated comparably-sized pretreatment programs located within the Central Valley and determined that a minimum of one additional staff member should be fully dedicated to program administration from the effective date of the 2008 Permit. (Tab 9B) As a result, the Discharger avoided annual salary expenses of \$706,539.

This cost assessment assumes that appropriate program staffing was achieved with the June 2014 hiring of an environmental compliance inspector to administer the pretreatment program. As violations have continued to reoccur, the staffing estimate is considered conservative, and may still be inadequate to maintain program compliance.

B. Economic Benefit of 2008 CDO Violation (Violation 2)

In addition to the pretreatment program violation, the Discharger violated the conditions of the 2008 CDO. The Discharger incurred an economic benefit by routinely failing to adequately evaluate, oversee, and report on its pretreatment program. The Discharger also avoided costs associated with preparing a technical report required by the CDO and failing to comply with annual status reporting requirements of the Order. The Central Valley Water Board contends that the Discharger avoided minimum costs of \$4,116 for these actions.

The BEN financial model provided by the United States Environmental Protection Agency was used to compute the total economic benefit of non-compliance. Cost estimate and other assumptions are detailed in the Economic Benefit tables, which are attached and hereby fully incorporated (Attachment B). For computational purposes, the penalty payment date was established as the projected hearing date, 21 April 2016. Changes to this date will affect the

total economic benefit. Based on specific assumptions within the model, the total economic benefit of non-compliance was determined to be at least \$710,655.

Step 9 – Maximum and Minimum Liability Amounts

Minimum Liability Amount: \$781,721

The Enforcement Policy states (p. 21) that the total liability shall be at least 10 percent higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides meaningful deterrent to future violations.” The minimum total liability associated with the economic benefit is approximately \$781,270.

Maximum Liability Amount: \$33,350,000

The maximum administrative liability amount for Violation 1 is the maximum amount allowed by Water Code section 13385, which is ten thousand dollars (\$10,000) for each day in which the violation occurs. The maximum administrative liability amount for Violation 2 is the maximum amount allowed by Water Code section 13350, which is five thousand dollars (\$5,000) for each day in which the violation occurs.

The total maximum liability amount is \$33,350,000 (Violation No. 1 [\$25,150,000] + Violation No. 2 [\$8,200,000]). The proposed liability falls between the maximum and minimum liability amounts.

Final Liability Amount

Statutory Maximum for Violations 1 and 2 (\$25,150,000 + \$8,200,000) = \$33,350,000

Minimum Penalty Amount (Economic Benefit Amount + 10%) = \$781,721

**Recommended Final Liability Amount for Violations 1 and 2 (\$775,368 + \$261,360)
=\$1,036,728**

Step 10 – Final Proposed Liability Amount: \$1,036,728

The final liability amount proposed is one million thirty-six thousand seven hundred and twenty-eight dollars (\$1,036,728).

Attachment B

Economic Benefit Analysis Malaga County Water District

Compliance Action	Amount	Capital Investment Basis	Date	Delayed?	Amount	One-Time Non-Depreciable Expenditure Basis	Date	Delayed?	Amount	Annual Cost Basis	Date	Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance
Compliance Action #1: Hire one dedicated program staff person		ECI	1/1/2015	Y		ECI	11/1/2009	N	\$ 111,816	ECI	3/26/2015	1/1/2009	6/1/2014	4/21/2016	4.90%	\$ 706,539
Compliance Action #2: WWTF treatment & disposal capacity evaluation report		ECI	1/1/2015	Y	\$ 8,800.00	ECI	2/18/2010	Y		ECI	1/1/2015	6/13/2008	12/4/2014	4/21/2016	5.10%	\$ 2,259
Compliance Action #3: Annual status reports		ECI	1/1/2015	Y		ECI	1/21/2015	N	\$ 220	ECI	2/18/2010	6/13/2008	12/4/2014	4/21/2016	5.10%	\$ 1,857

Income Tax Schedule: Not-For-Profit
 USEPA BEN Model Version: Version 5.5.0 (July 2015)
 Assumptions: Analyst: Bryan Elder
 Date/Time of Analysis: 1/20/2016 9:19
Total Benefit: \$ 710,655

- 1 staff labor rate (\$53.76) based on CWEA job posting; Environmental Technician/Selma-Kingsburg-Fowler County Sanitation District/up to \$4659/mo (3/26/2015) and includes a multiplier of 2.0 to cover salary, health/retirement benefits, equipment and administrative overhead costs associated with labor.
- 2 PE labor rate assumed for reporting purposes (\$110) based on consultant service contract secured by City of Coalinga for city engineering services in February 2010. Rate is based on Project Manager/Licensed Civil Engineer service fee.
- 3 Capacity and evaluation report estimated at 80 hours to complete.
- 4 Annual reporting estimated at 2 hours per year.
- 5 Non-compliance date for Compliance Action #1 based on date of Ordinance adoption date.
- 6 Non-compliance date for Compliance Actions #2 and #3 based on due date for Cease and Desist Order.
- 7 Compliance date for Compliance Action #1 based on assumed hire date for permanent, program-dedicated staff.
- 8 Compliance date for Compliance Actions #2 and #3 based on original CDO decision date.
- 9 Penalty payment dates based on approximate hearing date.

Administrative Civil Liability Complaint No. R5-2016-0512

MALAGA COUNTY WATER DISTRICT
WASTWATER TREATMENT FACILITY
FRESNO COUNTY

Exhibit 1
Detailed Analysis of Individual Permit Component and CDO Violations

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Abbreviations and Acronyms

2004 SUO	Sewer Use Ordinance No. 01-13-2004
2008 CDO	Cease and Desist Order No. R5-2008-0032
2008 Permit	WDRs Order No. R5-2008-0033
ACL	Administrative Civil Liability
Basin Plan	<i>Water Quality Control Plan for the Tulare Lake Basin</i>
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CWA	Clean Water Act
Discharger	Malaga County Water District
IU	Industrial User
mg/L	Milligrams per Liter
MRP	Monitoring and Reporting Program No. R5-2008-0033
NPDES	National Pollutant Discharge Elimination System
N/A	Not Applicable
NOV	Notice of Violation
PCA	Pretreatment Compliance Audit
PCI	Pretreatment Compliance Inspection
ppm	Parts per Million
SIU	Significant Industrial User
SNC	Significant Non-Compliance
TRC	Technical Review Criteria
TRE	Toxicity Reduction Evaluation
TSS	Total Suspended Solids
WDRs	Waste Discharge Requirements
WWTF	Wastewater Treatment Facility

Exhibit 1
Detailed Analysis of Individual Permit Component and CDO Violations
Administrative Civil Liability Complaint No. R5-2016-0512
Malaga County Water District

Background and Introduction

In accordance with Waste Discharge Requirements (“WDRs”) Order No. R5-2008-0033 (National Pollutant Discharge Elimination System (“NPDES”) No. CA0084239)(the “2008 Permit”) for the Malaga County Water District (“Discharger”) Wastewater Treatment Facility (“WWTF”), Fresno County, the Discharger is required to ensure compliance with any existing or future pretreatment standard promulgated by the United States Environmental Protection Agency under section 307 of the Clean Water Act (“CWA”), or amendment thereto, for any discharge to the WWTF or its collection system. (2008 Permit, at p. 16, Provisions—Standard Provisions VI.A.2.g.) Furthermore, the 2008 Permit specifies that the Discharger shall implement the pretreatment functions required by 40 Code of Federal Regulations (“CFR”) part 403. (2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.) The pretreatment requirements of 40 CFR part 403 are therefore specifically incorporated into the requirements of the 2008 Permit. Both the 2008 Permit and Cease and Desist Order R5-2008-0032 (the “2008 CDO”) were adopted by the Central Valley Regional Water Quality Control Board (“Central Valley Water Board”) on 14 March 2008.

Violations 1 through 7 are violations of the 2008 Permit and of the federal pretreatment requirements of 40 CFR part 403. Violation 8 is a violation of the 2008 CDO. While each violation is discussed separately below, in total, Violations 1 through 7 demonstrate a systemic, pervasive and chronic failure in the Discharger’s administration of pretreatment program. The Discharger has consistently violated pretreatment program requirements, despite at least seven attempts on the part of Central Valley Water Board staff, made over a five year period, to aid the Discharger in coming back into compliance. Cumulatively, the violations critically impair the Discharger’s ability to implement the pretreatment program in accordance with state and federal law and thwart the oversight role of the Central Valley Water Board.

Steps 1 and 2 - Potential for Harm and Assessments for Discharge Violations

These steps are not applicable because none of violations considered herein are discharge violations. However, the non-discharge violations discussed below are very serious and warrant a substantial civil liability because they deprive the Central Valley Water Board of the opportunity to perform its regulatory function of assuring the protection of beneficial uses by masking the cause and potential magnitude of water quality impacts in relevant receiving waters.

While potential for harm is discussed for each category of individual violations below, the combined effect of the failure to adequately implement the pretreatment program, including failure to identify and address instances of significantly non-compliant levels of arsenic, barium, chromium, and copper, has likely contributed to copper and chromium concentrations in sludge at hazardous levels (Tab 0A), and repeated instances of chronic toxicity of the alga *Selenastrum capricornutum* in three-species chronic toxicity bioassays. (See Cal. Code Regs. tit. 22, § 66261.24.) (Tabs 0B; 0C; 0D) Specific factors contributing to inadequate characterization of

industrial user discharges, including failure to identify and specify appropriate sample locations and types in permits, failure to inspect and comprehensively sample industrial user facilities, failure to identify users in non-compliance, failure to respond to non-compliance with appropriate enforcement or other control measures, and failure to evaluate and understand the nature of contributing industrial processes and the need for slug control plans have, however, collectively rendered the available information regarding industrial discharges so deficient that a definitive determination of causes and environmental impacts cannot be made.

Violation No. 1: The Discharger Failed to Adopt Significant Industrial User Permits Containing the Minimum Requirements of the Pretreatment Program

The Discharger is required to issue individual permits or equivalent individual control mechanisms to its Significant Industrial Users (“SIUs”) pursuant to 40 CFR section 403.8(f)(1)(iii). Pursuant to the 2008 Permit and 40 CFR part 403, permits issued by the Discharger to its SIUs must meet the minimum requirements in 40 CFR section 403.8(f)(1)(iii)(B). (2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.ii.) Pursuant to those provisions, permits must specify effluent limits based on local limits, sampling location, correct sample type, and a statement of applicable civil and criminal penalties for violation of pretreatment requirements. (40 CFR § 403.8(f)(1)(iii)(B)(3)-(5) and 40 CFR § 403.12(g)(3).)

A. The Discharger Failed to Set Effluent Limits Based on Local Limits for Oil and Grease in SIU Permits

The Discharger is required to include effluent limits based on local limits in its SIU permits. (40 CFR § 403.8(f)(1)(iii)(B)(3).) The Discharger’s Sewer Use Ordinance No. 01-13-2004 (“2004 SUO”) (Tab 1A) Sections 2.4.02 through 2.4.03 contain the maximum limitations on wastewater discharges to the Discharger’s WWTF. The Discharger’s 2004 SUO established a local limit of 100 mg/l for oil and grease. The Discharger failed to include effluent limits for oil and grease based on that local limit in applicable SIU permits. In 2012, the Discharger changed the effluent limit for oil and grease from 100 ppm to 200 ppm in its permit issued to SIU Stratas Foods. (Tab 1D) By failing to include an effluent limit based on local limits for oil and grease in applicable SIU permits the Discharger failed to comply with the minimum permit requirements, and directly violated the Discharger’s own 2004 SUO. Excessive levels of oil and grease contribute to creation of blockages in sanitary sewer pipelines and may cause or exacerbate sewage overflows. Additionally, oils and greases can adversely affect beneficial uses through reduced surface aeration of water, increased turbidity, clogging of gills, oily sheens and foaming, and off tastes and odors.

B. The Discharger Failed to Set Effluent Limits Based on Local Limits for pH in SIU Permits

The 2004 SUO establishes that the acceptable range for pH is 6.0 to 9.0 pH units. In the same 2012 Stratas Foods permit mentioned above, the Discharger also failed to include effluent pH limits based on local limits. Instead of the acceptable pH range of 6.0 to 9.0 established by the Discharger in the 2004 SUO, the permit specified an acceptable pH range of 6.0 to 10.5 for the discharge, directly violating the Discharger’s own 2004 SUO. If discharges of elevated pH waste streams into the sanitary sewerage system are not adequately neutralized, before reaching the WWTF, the microbial population involved in the biological treatment process could be adversely affected, resulting in poorer plant performance. Should the pH remain elevated

through the time of discharge, the effluent upper pH limitation could be exceeded (as it was on 18, 19, 20, and 21 April 2008; 12 May 2008; 10 and 19 July 2008; 5 June 2009; and 2 July 2013) and could contribute to an exceedance of the *Water Quality Control Plan for the Tulare Lake Basin* (“Basin Plan”) objective of 8.3.

C. The Discharger Failed to Include Sampling Location in SIU Permits

The Discharger is required to include sampling location in its SIU permits. (40 CFR § 403.8(f)(1)(iii)(B)(4).) From 2008 through 2013, the Discharger failed to consistently identify sampling location in SIU permits. (See for example Tab 1G) The 2010 Pretreatment Compliance Inspection (“PCI”) *POTW Pretreatment Compliance Inspection Checklist* noted that sampling type and sampling location were missing from the Discharger’s SIU permits. (Tab 1E)

The 2014 Pretreatment Compliance Audit (“PCA”) *Final Summary Report* noted in Section 7.3 that the Discharger’s SIU permits included a placeholder measurement location of “001,” but that the location was not defined, described, or depicted in the permits. (Tab 1H) Other SIU permits completely lacked reference to sampling location. (See for example Tab 1I) Not only did the Discharger fail to adequately describe the sampling locations, the Discharger either did not know the sample locations or contributing waste streams or, knowingly failed to correct inappropriate location(s), as illustrated by the fact that the SIU PPG Industries stated, during the 2014 pretreatment audit, that self-monitoring samples were collected at a point that is downstream of where the facility’s wastewater comingles with wastewater generated at the co-located Air Products and Chemicals, Inc. facility (2014 PCA *Final Summary Report*, at p. 38.) (Tab 2E)

Specifying the sampling location in industrial user permits ensures the accuracy, consistency, and representative nature of industrial wastewater samples. Unrepresentative results hinder both the Discharger and Central Valley Water Board staff from readily identifying sources of pollutants (e.g., copper, chromium) at or above hazardous waste concentrations in the WWTF sludge (see Tab 0A) and impedes their ability to adequately characterize waste, ascertain compliance, and respond appropriately. Unrepresentative, inadequate characterization of waste streams impaired or prevented, and continues to impair or prevent, the Discharger from reliably complying with the 2008 Permit and federal regulations, which require(d) the Discharger to provide the Central Valley Water Board with adequate notification regarding the characteristics of pollutants discharged into the WWTF. (2008 Permit, at p. D-9, Attachment D—Provisions—Standard Provisions VII.A.1-3; 40 CFR § 122.42(b)(1)-(3).) The 2008 Permit also requires that the Discharger ensure that incompatible wastes are not introduced to the treatment system. (2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.iii.)

D. The Discharger Failed to Include Correct Sampling Type in SIU Permits

The Discharger is required to include sampling type in its SIU permits. (40 CFR § 403.8(f)(1)(iii)(B)(4); 2008 Permit, at p. 16, Provisions—Standard Provisions VI.A.2.g.) The Discharger’s IUs are required to collect grab samples for pH and oil and grease, and, unless specific conditions are met, flow-proportional composite samples for all other analytes, including, biochemical oxygen demand (“BOD”). (40 CFR § 403.12(g)(3).) The Discharger specified sampling types in its SIU permits, which are contrary to those prescribed by the federal regulations.

From 2008 through 2013, the Discharger failed to consistently identify a sample type for flow, and failed to consistently specify the correct sample type for wastewater quality samples in SIU permits. (See for example Tab 1E) The 2015 PCI Summary Report noted in Section 6.5.1 (Tab 1O) that the 2014 Rio Bravo and 2015 Kinder Morgan permits reviewed as part of the PCI failed to identify flow sample type and identified flow sample type as “grab,” respectively. As flow must be measured quantitatively in place, rather than sampled for qualitative analysis, specification of “grab” was incorrect. A subsequent review of SIU permits provided as part of pretreatment annual report submittals confirmed the SIU permits failed to specify flow monitoring type, specified “composite” as the sample type for pH, rather than grab, and repeatedly specified “grab” as the sample type for BOD and total suspended solids, rather than composite. (See for example Tab 1P and 1Q)

SIU permits lacking sampling type, sampling location, and a statement of applicable penalties (discussed below) are summarized in Table 1.

Table 1 - Selected Significant Industrial User Permit Deficiencies

Significant Industrial User ¹	Permit No.	Year ²	Sample Type ^{3,4,5}	Sample Location ³	Applicable Penalties Statement ³
Calpine/Smurfit/RockTenn	1001	2008	No	Yes	No
		2009	No	Yes	No
		2010	Yes	No	No
		2011	Yes	No	No
		2012	Yes	No	No
		2013	No	No	No
Rio Bravo	1005	2008	No	No	No
		2009	No	No	No
		2010	No	No	No
		2011	No	No	No
		2012	No	No	No
		2013	No	No	No
Stratas Foods	1008	2008	No	Yes	No
		2009	No	Yes	No
		2010	No	No	No
		2011	No	No	No
		2012	No	No	No
		2013	No	No	No
Kinder Morgan SFPP	1025	2008	No	No	No
		2009	No	No	No
Wholesale Equipment of Fresno	1030	2008	No	No	No
		2009	No	No	No
PPG Industries	1038	2008	No	No	No
		2009	No	Yes	No
		2010	Yes	No	No
		2011	Yes	No	No
		2012	Yes	No	No
		2013	Yes	No	No
Air Products and Chemical	1140	2008	Yes	No	No

Significant Industrial User ¹	Permit No.	Year ²	Sample Type ^{3,4,5}	Sample Location ³	Applicable Penalties Statement ³
		2009	Yes	No	No
		2010	Yes	No	No
		2011	Yes	No	No
		2012	Yes	No	No
		2013	Yes	No	No

¹ Permits for Lester Lube, Inc. dba Fresno Truck Wash, Speedy (formerly Moga) Truck Wash, Fifth Wheel Truck Stop, and Imperial Truck Wash not provided.
² 2014 significant industrial user permits not provided
³ No = indicates missing, incomplete, or incorrect element
⁴ Includes correct specification of grab or composite sample
⁵ Water quality monitoring sample type

E. The Discharger Failed to Include a Statement of the Applicable Civil and Criminal Penalties

The Discharger is required to include a statement of applicable civil and criminal penalties in its SIU permits. (40 CFR § 403.8(f)(1)(iii)(B)(5).) The 2010 PCI *POTW Pretreatment Compliance Inspection Checklist* noted that a statement of the applicable civil and criminal penalties was missing from the Discharger’s SIU permits. (Tab 1E) From at least 2008 through 2013, the Discharger failed to reference the applicable civil or criminal penalty authorities or include a description of the applicable penalties in its permits. (See for example Tab 1F)

F. The Discharger Failed to Establish and Implement Permits

The Discharger failed to meet the basic requirement of having an individual control mechanism in place for its SIUs pursuant to 40 CFR section 403.8(f)(1)(iii). As documented in the 2014 PCA *Final Summary Report*, Discharger representatives informed the auditors during the 2014 PCA that all of its SIU permits were expired and, thus, invalid. (Tab 1J) Furthermore, during a 2012 inspection, Water Board staff found that the Discharger’s SIU permits were signed by the Discharger consulting engineer rather than by authorized Discharger staff. (Tab 2C) Pursuant to Water Code section 13385 subdivisions (a)(6) and (c), a violation of these pretreatment requirements subjects the Discharger to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential threat to beneficial uses or for harm. (Enforcement Policy, at p. 16.)

Based on the Basin Plan, the beneficial uses of the Central Canal are municipal and domestic supply, agricultural supply, water contact recreation, and warm freshwater habitat. The beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural

supply, industrial service supply, industrial process supply, water contact recreation, and non-contact water recreation.

The Discharger's failure to adopt industrial user permits containing the minimum requirements, such as the inclusion in the SIU permits of effluent limits based on local limits and sampling requirements, had the potential to harm beneficial uses. The inclusion of effluent limits based on local limits in industrial user permits ensures that pollutants introduced into a wastewater treatment plant by industrial users do not cause "pass through"¹ or "interference"². By implementing local limits in industrial user permits, the Discharger is better able to ensure that industrial influent loading to its WWTF headworks can be adequately treated in order to avoid pass through and interference and meet the effluent limits in its NPDES permit, thereby, protecting receiving water quality.

Furthermore, specifying the sampling location in industrial user permits ensures the accuracy, consistency, and representative nature of industrial wastewater samples. Unrepresentative results hinder both the Discharger and Central Valley Water Board staff from readily identifying sources of pollutants (e.g., copper, chromium) at or above hazardous waste concentrations in the WWTF sludge (see Tab 2C) and impedes their ability to adequately characterize waste, ascertain compliance, and respond appropriately. Proper sampling protocol is critical to determine whether industrial users are complying with the pretreatment program and to understand the characteristics of the waste entering the collection system and WWTF. Given the foregoing discussion, the Potential for Harm is determined to be **moderate**, as the characteristics of the violations present a substantial threat to beneficial uses. (Ibid.)

Deviation from Requirement: Federal regulations and the 2008 Permit require the Discharger to develop and implement industrial pretreatment permits with specified components. (40 CFR § 403.8(f)(1)(iii)(B); 2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements— VI.C.5.a.) Permits issued by the Discharger to its industrial users do not comply with the minimum requirements. The Discharger failed to issue permits that specified effluent limits based on local limits, sampling location, correct sample type, and a statement of applicable civil and criminal penalties for violation of pretreatment requirements. (40 CFR § 403.8(f)(1)(iii)(B)(3)-(5) and 40 CFR § 403.12(g)(3).) In addition, the Discharger failed in several instances to meet the basic requirement of having an individual control mechanism in place for its SIUs. (40 CFR § 403.8(f)(1)(iii).) While permits issued by the Discharger have included some of the required elements, several of the core purposes of having individual control mechanisms in place were rendered ineffective by the omission of critical information. Therefore, the Deviation from the Requirement is determined to be **moderate** as the requirements have been rendered partially compromised. (Ibid.)

¹ "Pass through" means a discharge which exits a wastewater treatment plant to waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the wastewater treatment plant's NPDES permit. (40 CFR § 403.3(p).)

² "Interference" means a discharge which, alone or in conjunctions with a discharge or discharges from other sources, both inhibits or disrupts the wastewater treatment plant, its treatment processes or operation, or its sludge processes, use or disposal; and therefore is a cause of a violation of any requirement of the wastewater treatment plant's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with section 405 of the Clean Water Act, Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. (40 CFR § 403.3(k).)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of moderate results in a factor of **0.40**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: The Discharger failed to adopt SIU permits that met the minimum pretreatment program requirements from at least the adoption of the 2008 Permit on 14 March 2008 through 2014, as documented by the 2014 PCA. (Tabs 1H-1J) The total days of violation are 13,736 [(658 x 2) + (2,484 x 5)]. The Discharger had seven SIUs in 2008, two of which were no longer designated as SIUs in the 2010 Annual Pretreatment Report.

- The period of violation is 658 days for each of the two SIUs that were de-designated after 2009 (from the adoption of the 2008 Permit on 14 March 2008 through the end of the calendar year in 2009).
- The period of violation is 2,484 days for each of the remaining five SIUs (from the adoption of the 2008 Permit through the end of the 2014 calendar year).

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to have adequate individual control mechanisms in place for each SIU resulted in no economic benefit that can be measured on a daily basis, though the Discharger may have experienced a programmatic cost savings from failing to comply with the minimum pretreatment requirements, there is no discrete daily cost associated with the violations.³ Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five-day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this approach, the minimum number of days of violation is 494 [(27 x 2) + (88 x 5)]. Although it is within the Board's discretion to find that the days of violation lie anywhere between 494 and 13,736, the Prosecution Team recommends that the Board choose to apply the minimum number allowed under the Enforcement Policy of 494.

Violation No. 1 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

494 days x \$10,000 X 0.40

Total Initial Liability = \$1,976,000

³ Although the economic benefit model relies on specific date ranges associated with compliance, non-compliance, and penalty payment to calculate an appropriate benefit, these dates are used solely to determine the effective discount rate applied to the one-time expense. Therefore, no discrete daily economic benefit is realized, only compounding interest based on the expected penalty payment date.

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.3

For culpability, the Enforcement Policy suggests an adjustment resulting in a multiplier between 0.5 and 1.5, with a lower multiplier for accidental incidents, and a higher multiplier for intentional or negligent behavior. (Enforcement Policy, at p. 17.) A factor of 1.3 is appropriate for this violation. The Discharger was notified of its failure to include the appropriate sampling location and sampling type during the 2010 PCI and in the concurring 6 September 2013 Notice of Violation, which transmitted the 2010 PCI *Summary Report*. The PCI inspector noted that the permits did not specify the appropriate sampling location and instructed the Discharger to implement corrective action by including a specific description of where the sampling point is located (Tab 1K). During the 2014 PCA, auditors again made findings regarding the Discharger’s failure to include specific sampling location descriptions in its six SIU permits (Tab 1L). With each annual SIU permit reissuance (Tab 1N), the Discharger had the opportunity to correct this deficiency. During the 2015 PCI, inspectors verified that these minimum requirements were still not met in the Kinder Morgan permit. (2015 PCI, Section 6.3.) (Tab 1M) In summary, the Discharger was reminded of the elements required in industrial user permits six times, including verbally during 18 February 2010 PCI, the 6/7 January 2014 PCA, and the 25/26 March 2015 PCI, and in writing in a Notice of Violation (“NOV”) dated 6 September 2013, the *Final Summary Report* for the 6/7 January 2014 PCA transmitted by NOV on 14 February 2014, and in a 7 July 2014 NOV (supplemented on 18 August 2014). The continued failure to comply despite knowledge of the lack of compliance suggests a negligent, if not willful, disregard of the requirements.

Cleanup and Cooperation: 1.2

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. (Enforcement Policy, at p. 17.) The Discharger was assessed a multiplier value of 1.2 based on the lack of cooperation exhibited by the Discharger in returning to compliance. During the 2010 PCI, the Discharger received notice of the SIU permit deficiencies. However, the Discharger continued to knowingly disregard the requirements and did not come into compliance. The 2014 PCA *Final Summary Report* (Tab 1C; Tab 1H; Tab 1J; Tab 1L) and the 2015 PCI *Summary Report* (Tab 1M) noted continued deficiencies in the permits issued to SIUs. The Discharger has recently made efforts to improve by hiring an Environmental Compliance Inspector whose responsibilities include, in part, assistance with permit drafting. Therefore, a multiplier of 1.2 is appropriate.

History of Violations: 1.1

The Enforcement Policy states that where there is a history of repeat violations, a minimum multiplier of 1.1 should be used to reflect this. (Enforcement Policy, at p. 17) In this case, a multiplier of 1.1 should apply because there is a history of violations, which have been fully adjudicated. In 2006 (ACL R5-2006-0003) and 2013 (ACL R5-2013-0090) the Central Valley Water Board issued Administrative Civil Liability Orders to the Discharger for violations of the Discharger’s 2008 Permit.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 1 –Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$1,976,000 \times 1.3 \times 1.2 \times 1.1 = \$3,390,816$$

Statutory Maximum Civil Liability for Violation No. 1 = \$137,360,000
Liability at Collapsed Days (494) Prior to Per Day and Conduct Factor Application = \$4,940,000
Total Base Liability Amount for Violation No. 1 = \$3,390,816

Violation No. 2: The Discharger Failed to Inspect and Sample the Effluent of Significant Industrial Users Annually

Pursuant to the federal regulations and the 2008 Permit, the Discharger is required to inspect and sample the effluent of SIUs at least once a year. (40 CFR § 403.8(f)(2)(v); 2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Regulations VI.C.5.a.ii.) The federal regulations require a POTW to maintain records of all information resulting from monitoring, including compliance and enforcement activities. (40 CFR § 403.12(o).) The 2008 Permit also requires the Discharger to retain records of all monitoring information for a period of at least three years from the date of the sample, measurement, report or application. (2008 Permit, at p. D-5, Attachment D—Standard Provisions—Records IV.A.) From 2008 through 2014 the Discharger failed to comply with these requirements. The 2008 through the 2012 Annual Pretreatment Reports state that many facilities were sampled, but do not identify which SIUs were sampled or provide sampling results. Those five annual pretreatment reports state that facilities requiring permit renewals were inspected, but provide no documentation of those inspections or indication of which specific facilities were inspected. (See for example [Tab 2A](#)) The 2010 PCI *POTW Pretreatment Compliance Inspection Checklist* ([Tab 2B](#)) as well as the 2010 PCI *Summary Report* ([Tab 2G](#)) note that the Discharger was not able to provide documentation of annual inspections or sampling. The conclusory statements that samples were taken and inspections took place fail to satisfy the requirements of the federal regulations.

In 2012, State Water Board and Central Valley Water Board staff visited Stratas Foods and PPG Industries, two of the Discharger's SIUs. Representatives from both SIUs stated that a pretreatment inspection of the facility had never been conducted by the Discharger. ([Tab 2C](#)) Based on the information available in the 2013 Annual Pretreatment Report, it appears that the Discharger did inspect each SIU in 2013, but failed to sample one of them. According to Table 2 of the Discharger's 2014 Annual Pretreatment Report, the Discharger inspected all ten SIUs, but failed to sample five (Stratas Foods, RockTenn, Rio Bravo, PPG Industries, and Air Products) of its SIUs in 2014. ([Tab 2D](#)) Annual SIU sampling events are summarized in Table 2.

Table 2 – Significant Industrial Users Sampled by Malaga County Water District

Significant Industrial User	Permit No.	Samples Collected By Discharger						
		2008	2009	2010	2011	2012	2013	2014
Calpine/Smurfit/RockTenn	1001	¹	Yes	No	No	Yes	Yes	No
Rio Bravo	1005	¹	Yes	Yes	Yes	Yes	Yes	No
Stratas Foods	1008	¹	Yes	Yes	Yes	Yes	Yes	No
Kinder Morgan SFPP	1025	¹	¹	N/A ²	N/A ²	N/A ²	N/A ²	No
Wholesale Equipment of Fresno	1030	¹	¹	N/A ²				
Fifth Wheel Truck Stop	1037	¹	N/A ²	Yes				
PPG Industries	1038	¹	Yes	Yes	Yes	Yes	Yes	No
Lester Lube, Inc. dba Fresno Truck Wash	1095	¹	N/A ²	Yes				
Speedy (formerly Moga) Truck Wash	1098	¹	N/A ²	Yes				
Air Products and Chemical	1140	¹	Yes	No	No	Yes	No	No
Imperial Truck Wash	1205	¹	N/A ²	Yes				

¹ Information provided insufficient to determine
² Not applicable; not significant industrial user at the time

The 2008 Permit requires that samples and measurements taken for the purpose of monitoring be representative of the monitored activity. (2008 Permit, at p. D-4, Attachment D—Standard Provisions, III.A Standard Provisions—Monitoring.) The 2014 PCA Final Summary Report noted that the Discharger’s compliance sample collection location for PPG Industries was located where PPG’s wastewater comingles with the wastewater of Air Products and Chemicals, Inc. (2014 PCA *Final Summary Report*, at p. 38.) (Tab 2E) The 2014 PCA Final Summary Report also noted that the Discharger was collecting samples from SIU Stratas Foods at a location where the facility’s domestic wastewater was diluting the facility’s industrial wastewater flow. (2014 PCA *Final Summary Report*, Section 14.1.) (Tab 2E) Thus, not only did the Discharger fail to consistently sample all SIUs annually, samples from at least two of its SIUs were taken from locations that do not meet the 2008 Permit’s requirement that samples and measurements taken for the purpose of monitoring be representative of the monitored activity. (2008 Permit, at p. D-4. Attachment D—Standard Provisions—Monitoring III.A.) The 2015 PCI *Summary Report* (Tab 2I) noted that while the General Manager stated that the Discharger conducts compliance sampling at its SIUs at least once per year, the sampling data on file did not include the results of any monitoring conducted by the Discharger.

Pursuant to Water Code section 13385 subdivisions (a)(6) and (c), a violation of the requirements to inspect and sample the effluent of SIUs annually subjects the Discharger to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. The Discharger's failure to sample SIUs at least once a year prevents the Discharger from knowing the levels at which pollutants of concern are entering its WWTF, thereby impairing its ability to timely identify and address potential adverse impacts to both the WWTF's ability to treat wastewater (*i.e.*, interference) and the receiving water itself (*i.e.*, pass-through). By failing to sample its SIUs at least once a year, the Discharger impedes the Central Valley Water Board's efforts to assess the potential impacts and risks to water quality posed by the Discharger, and circumvents the Central Valley Water Board from ensuring that the Discharger is implementing its approved pretreatment program. Because the violation thwarts both the Discharger's and the Central Valley Water Board's ability to identify water quality risks, the violation has the potential to exacerbate the presence and accumulation of, and the related risks associated with, pollutants of concern. Therefore, the Potential for Harm is **major** because the characteristics of the threat indicate a very high potential for harm to beneficial uses. (Enforcement Policy, at p. 16.)

Deviation from Requirement: The Extent of Deviation from applicable requirements is **major** because the intended effectiveness of the requirement has been rendered ineffective. (Ibid.) In addition to failing to collect samples on an annual basis (Tab 2D), the Discharger, on some occasions, collected unrepresentative samples from comingled locations, which is documented in the 2014 PCA *Final Summary Report*. (Tab 2E) Sampling by the Discharger is necessary to confirm compliance with pretreatment standards, to verify self-monitoring data reported by the industrial user, to support potential enforcement actions, to support permit re-issuance, and to identify problems associated with sample locations and industrial user sampling practices. The Discharger's failure to collect proper samples on an annual basis rendered the purposes of the requirement ineffective in its essential functions.

Per Day Factor: Applying a Potential for Harm of major and an Extent of Deviation of major results in a factor of **0.70**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: In 2008, the Discharger did not sample five of its SIUs. In 2010, the Discharger failed to sample two of its SIUs. In 2011, the Discharger failed to sample two of its SIUs. In 2013, the Discharger failed to sample one of its SIUs. In 2014, the Discharger failed to sample five of its SIUs. The days of violation have been assessed as 15 (one day of violation for each instance in which the Discharger failed to sample an SIU during a given year).

Violation No. 2 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

$$15 \text{ days} \times \$10,000 \times 0.70$$

Total Initial Liability = \$105,000

Step 4 - Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

Culpability: 1.3

A culpability multiplier of 1.3 has been applied. In February of 2010, the Discharger was notified in the PCI *POTW Pretreatment Compliance Inspection Checklist* that it was required to sample its SIUs once a year and that it had not met that requirement. (Tab 2B) Despite knowledge of the annual sampling and inspecting requirements since at least that time, the Discharger continued to commit violations for the years 2010 and 2011. (See for example Tab 2F) The Discharger was provided notice of the requirement to conduct annual sampling of its industrial users on at least six occasions, including verbally during the 18 February 2010 PCI, the 6/7 January 2014 PCA, and the 25/26 March 2015 PCI, and in writing in an NOV dated 6 September 2013 and attached *Final Summary Report* for the 2010 PCI, the *Final Summary Report* for the 6/7 January 2014 PCA transmitted by NOV on 14 February 2014, and in a 7 July 2014 NOV (supplemented on 18 August 2014). The Discharger's disregard of its obligations even after having been notified on at least six occasions warrants a high culpability multiplier. (Enforcement Policy, at p. 17 [higher multiplier for intentional and negligent behavior].)

Cleanup and Cooperation: 1.3

For cleanup and cooperation, the Enforcement Policy suggests an adjustment that should result in a multiplier between 0.75 and 1.5, with the lower multiplier where there is a high degree of cleanup and cooperation. (Enforcement Policy, at p. 17.) The Discharger was provided with notice that it was in violation of the sampling and inspection requirements in 2010 when it received the 2010 PCI *POTW Pretreatment Compliance Inspection Checklist* (Tab 2B). In 2012, the Discharger exceeded its chronic toxicity limits, which triggered the requirement that it develop a Toxicity Reduction Evaluation ("TRE") Report to determine the source of the toxicity exceedance. It was not until that additional onus that the Discharger conducted more comprehensive sampling of its SIUs. Still, the Discharger failed to come into compliance. It was provided with notice of deficiencies in 2013 when it received the 2010 PCI *Summary Report* (Tab 2G), in 2014 when it received the 2014 PCA *Final Summary Report* (Tab 2H) and in the aforementioned NOV's. With each notice, the Discharger was provided with an opportunity to come into compliance. Despite numerous opportunities to correct the deficiencies, the Discharger continued to disregard the requirement, as documented by the 2014 Annual Pretreatment Report, in which the Discharger reported that it failed to collect samples from six of its SIUs. After being on notice that it was in violation of the requirements for over five years, the Discharger finally made some efforts to improve by hiring an Environmental Compliance Inspector in 2014 to assist with sampling and inspections, among other responsibilities. (Tab 2J) Accordingly, a 1.3 has been applied.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation; the same circumstances described for Violation No. 1 are applicable to this violation.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

Violation No. 2 - Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$105,000 \times 1.3 \times 1.3 \times 1.1 = \$195,195$$

Because the maximum civil liability for this violation is \$150,000 (15 days of violation x the statutory maximum of \$10,000 per day), the total base liability is capped at that amount.

Statutory Maximum Civil Liability for Violation No. 2 = \$150,000

Total Base Liability Amount for Violation No. 2 = \$150,000

Violation No. 3: The Discharger Failed to Publish its List of Industrial Users in Significant Non-Compliance with Pretreatment Requirements

Pursuant to federal regulations and the 2008 Permit, the Discharger is required to, at least annually, publish a list of its industrial users which, at any time during the previous 12 months, were in Significant Non-Compliance (“SNC”) with applicable pretreatment program requirements. (40 CFR § 403.8(f)(2)(viii); 2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.ii.e.) The Discharger has not complied with this requirement.

SNC is defined to include “[c]hronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l); (B) Technical Review Criteria (“TRC”) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).” (40 CFR § 403.8(f)(2)(viii)(A)-(B).)

Pretreatment Standards or Requirements are defined to include “any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to §403.5.” (40 CFR § 403.3(l).) Where a POTW develops specific prohibitions or limits on pollutant or pollutant parameters, those limits are deemed Pretreatment Standards. (40 CFR § 403.5(d).)

A. Calpine

Significant Industrial User Calpine (also known as Smurfit and RockTenn) was in SNC for the first half of 2011. Its single arsenic result for the first half of 2011 was reported as 5.2 mg/l, in excess of the limit of 5.0 mg/l. The result constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under 40 CFR section 403.8(f)(2)(viii)(A). (Tab 3A)

Calpine’s single barium result for the first half of 2011 was reported as 56 mg/l, in excess of the limit of 10 mg/l. The result exceeds the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B). (Tab 3A)

Calpine was also in SNC for the second half of 2011. Calpine’s single barium result for the second half of 2011 was reported as 78 mg/l, in excess of the limit of 10 mg/l. The result exceeds the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B). (Tab 3A)

Calpine’s single chromium result for the first half of 2011 was reported as 10 mg/l, in excess of the limit of 5 mg/l. The result exceeds the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B). (Tab 3A)

Calpine’s single chromium result for the second half of 2011 was reported as 10 mg/l, in excess of the limit of 5 mg/l. The result exceeds the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B). (Tab 3A)

Calpine’s single copper result for the first half of 2011 was reported as 9.9 mg/l, in excess of the limit of 5 mg/l. The result exceeds the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B). (Tab 3A)

Calpine’s single copper result for the second half of 2011 was reported as 65 mg/l, in excess of the limit of 5 mg/l. The result exceeds the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B). (Tab 3A)

B. Stratas Foods

Significant Industrial User Stratas Foods was in SNC for the first half of 2009 and the second half of 2012 pursuant to 40 CFR section 403.8(f)(2)(viii)(B) for oil and grease violations, as shown below. (Tab 3B)

Table 3 - Stratas Foods Oil and Grease Significant Non-Compliance

Stratas Foods Sample Event	Oil and Grease Monthly Average (mg/l)	% over 100 mg/l Local Limit ¹	40% TRC Exceeded?	% Exceeding in 6-Month Period	SNC?
Jul-2009	127	27	No	17 (TRC) 66 (limit)	Yes
Aug-2009	147	47	Yes		
Sep-2009	82	N/A	No		
Oct-2009	102	2.0	No		
Nov-2009	62	N/A	No		
Dec-2009	111	11	No		
Jul-2012	84	N/A	No	50 (TRC)	Yes
Aug-2012	92	N/A	No		

Stratas Foods Sample Event	Oil and Grease Monthly Average (mg/l)	% over 100 mg/l Local Limit ¹	40% TRC Exceeded?	% Exceeding in 6-Month Period	SNC?
Sep-2012	166	66	Yes		
Oct-2012	217	117	Yes		
Nov-2012	132	32	No		
Dec-2012	152	52	Yes		

¹ Limitation period not specified in Sewer Use Ordinance, but specified as monthly in permit.

C. PPG Industries

Significant Industrial User PPG Industries was in SNC for electrical conductivity (“EC”) for the second half of 2012 (see Table 4) (Tab 3C), and in SNC for copper in the second half of 2010. (Tab 3D)

Table 4 - PPG Industries Electrical Conductivity Significant Non-Compliance

PPG Industries Sample Event	EC Result (µmhos/cm)	Monthly Average (µmhos/cm)	% over 1,000 µmhos/cm local limit	20% TRC Exceeded?	% Exceeding in 6-Month Period	SNC?
Jul-2012	14,000	14,000	1,300	Yes	67 (TRC)	Yes
Aug-2012	750	750	N/A	No		
Sep-2012	--	--	N/A	N/A		
Oct-2012	1,000 7,900 15,000	7,967	700	Yes	67 (limit)	
Nov-2012	--	--	N/A	N/A		
Dec-2012	--	--	N/A	N/A		

The single copper result for the second half of 2010 was 21 mg/l. The copper result exceeds the effluent limitation of 5 mg/l and the TRC and constitutes 100% of the measurements taken in that six-month period, thereby achieving SNC under both 40 CFR section 403.8(f)(2)(viii)(A) and 40 CFR section 403.8(f)(2)(viii)(B).

D. Summary of SIUs in SNC

The 2010 PCI *POTW Pretreatment Compliance Inspection Checklist* identified that the Discharger did not publish a list of industrial users in SNC. (Tab 3E) At the 2014 PCA, a Discharger representative stated that it does not publish notices of facilities in SNC and that it was unaware if any of the SIUs were in SNC in 2013. (Tab 5B) On 26 March 2015, at the 2015 Pretreatment Compliance Inspection, representatives of the Discharger similarly stated it had never evaluated whether its SIUs were in SNC. (Tab 3F) Table 5 summarizes the years in which SIUs were in SNC.

Table 5 - Summary of SIUs in Significant Non-Compliance

Significant Industrial User	Permit No.	In Significant Non-Compliance						
		2008	2009	2010	2011	2012	2013	2014
Calpine/Smurfit/RockTenn	1001	1	Yes	Yes	Yes	1	1	1
Rio Bravo	1005	1	1	1	1	1	1	1

Significant Industrial User	Permit No.	In Significant Non-Compliance						
		2008	2009	2010	2011	2012	2013	2014
Stratas Foods	1008	1	1	1	1	1	1	1
Kinder Morgan SFPP	1025	1	1	1	1	1	1	1
Wholesale Equipment of Fresno	1030	1	1	1	1	1	1	1
Fifth Wheel Truck Stop ²	1037	1	1	1	1	1	1	1
PPG Industries	1038	1	1	Yes	1	Yes	1	1
Lester Lube, Inc. dba Fresno Truck Wash ²	1095	1	1	1	1	1	1	1
Speedy (formerly Moga) Truck Wash ²	1098	1	1	1	1	1	1	1
Air Products and Chemical	1140	1	1	1	1	1	1	1
Imperial Truck Wash ²	1205	1	1	1	1	1	1	1
¹ Insufficient data to determine additional instances of SNC								
² Deemed significant industrial user by 29 October 2014								

The Discharger failed to publish a list of industrial users in SNC in 2009, 2010, 2011, and 2012. Pursuant to Water Code section 13385 subdivisions (a)(6) and (c), the Discharger’s violation of the requirement that it publish a list of industrial users in SNC subjects it to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. In this case, to the Discharger’s failed to publish a list of users in SNC. That publication would have provided notice to the community that may be affected by the incidents of non-compliance. While the requirement to provide such notice plays an important role in providing the public with information, the failure to do so does not pose a significant potential for harm to beneficial uses. The Potential for Harm is **minor** because the characteristics of the threat indicate a minor potential for harm. (Enforcement Policy, at p. 16.)

Deviation from Requirement: The Extent of Deviation from applicable requirements is **major** because the intended effectiveness of the requirement has been completely compromised. (Ibid.) The purpose of the requirement, in part, is to comply with the public participation requirements of 40 CFR part 25. By failing, over at least a five-year period, to publish a list of Industrial Users which were in SNC, the intended effectiveness of the requirement was rendered completely ineffective.

Per Day Factor: Applying a Potential for Harm of minor and an Extent of Deviation of major results in a factor of **0.30**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: There are four years in which the Discharger was required and failed to publish notice of users in SNC. The days of violation have been calculated as 4 (1 violation per

each instance at least one SIU was in SNC during a given year). Therefore, the maximum penalty for this violation is \$40,000.

Violation No. 3 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

$$4 \text{ days} \times \$10,000 \times 0.30 = \$12,000$$

Total Initial Liability = \$12,000

Step 4 - Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

Culpability: 1.3

For culpability, the Enforcement Policy suggests an adjustment resulting in a multiplier between 0.5 and 1.5, with a lower multiplier for accidental incidents, and a higher multiplier for intentional or negligent behavior. (Enforcement Policy, at p. 17.) In this case, a culpability multiplier of 1.3 is appropriate. In February of 2010, the Discharger was notified in the 2010 PCI *POTW Pretreatment Compliance Inspection Checklist* (Section III)(**Tab 3E**) that it was required, at least annually, to publish a list of its industrial users which, at any time during the previous 12 months, were in SNC with applicable Pretreatment requirements, and that it had not met that requirement. Despite having knowledge that it had failed to act with the due standard of care, the Discharger continued to disregard the requirement for four more years. Thus, the Discharger acted at least negligently in committing the violation.

Cleanup and Cooperation: 1.3

For cleanup and cooperation, the Enforcement Policy suggests a multiplier between 0.75 and 1.3, with the lower multiplier where there is a high degree of cleanup and cooperation. (Enforcement Policy, at p. 17.) The Discharger did not cooperate with the Central Valley Water Board despite being provided with ample notice of the violations and opportunities to remedy them. Therefore, a 1.3 has been assigned for this factor. The Discharger was notified in the September 2013 NOV (**Tab 2C**) and attached 2010 PCI *Summary Report* (**Tab 3G**) that it had failed to comply with the public notification requirements. That NOV required the Discharger to take corrective actions by February 2014. The Discharger did not comply in response to that NOV. In January of 2014 at the PCA exit interview and again in February of 2014, when the Discharger was sent the 2014 PCA *Final Summary Report*, the Discharger was again notified that it was in violation of the public notice requirements. During discussions as a component of the 2015 inspection, the Discharger representatives stated that they had not performed calculations to determine if any of its SIUs were in SNC for the 2014/2015 year, (**Tab 3F**) which are necessary in order to comply with the public notice requirements. The continued failure to comply with the requirements despite being reminded of them both verbally and in writing warrants the application of a 1.3.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation; the same circumstances described for Violation No. 1 are applicable to this violation.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

Violation No. 3 - Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$12,000 \times 1.3 \times 1.3 \times 1.1 = \$22,308$$

Statutory Maximum Civil Liability for Violation No. 3 = \$40,000

Total Base Liability Amount for Violation No. 3 = \$22,308

Violation No. 4: The Discharger Failed to Evaluate Whether a Slug Control Plan is Necessary for Each SIU and Produce Them Upon Request

Pursuant to 40 CFR section 403.8(f)(2)(vi), the Discharger is required to develop and implement procedures to evaluate whether each of its Significant Industrial User needs a plan or other action to control Slug Discharges, as defined. The federal regulations specify that the Discharger conduct an evaluation at least once by October 14, 2006 for Industrial Users (“IUs”) identified as significant prior to November 14, 2005. For IUs identified as significant after that date, the Discharger is required to conduct a slug evaluation within 1 year of the IU being designated as significant. 40 CFR section 403.8(f)(2)(vi) requires that the Discharger make the results of slug evaluations available to the Central Valley Water Board upon request.

The federal regulations require that slug control plans contain, at a minimum, the following elements: (A) Description of discharge practices, including non-routine batch Discharges; (B) Description of stored chemicals; (C) Procedures for immediately notifying the Discharger of Slug Discharges, including any discharge that would violate a prohibition under § 403.5(b) with procedures for follow-up written notification within five days; (D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

The 2010 PCI states that the Discharger had not performed slug evaluations for any of its SIUs. (Tab 3G) In October of 2013, the Discharger sent a form to its SIUs asking them to determine whether they needed a slug evaluation. The 2014 Pretreatment Compliance Audit, however, concluded that those forms did not constitute slug evaluations. (Tab 4A) The Discharger stated in its 2013 Annual Pretreatment Report that a slug evaluation was performed for Air Products, but none of the other SIUs. (Tab 4B) The third quarterly pretreatment report in 2014 includes a discussion of factors considered in developing a “Slug” Discharge Plan for the newly re-designated SIU Kinder Morgan. (Tab 4C) However, the 2015 PCI *Summary Report* documents that the Discharger fails to differentiate between the terms “slug” and “batch” (Tab 1O) and specifically cites the Kinder Morgan plan as an example. (Tab 4F)

As noted in the 2010 PCI (*POTW Pretreatment Compliance Inspection Checklist*, at pp. 15 and 21) (Tab 4D, Tab 1E), and the 2014 PCA (Tab 4A), the Discharger had not complied with the requirement to conduct slug evaluations. The Discharger was asked at both the 2010 PCI and the 2014 PCA to provide the results of its slug evaluations. The Discharger was unable to produce slug evaluation results on those occasions. At the 2015 PCI on 26 March 2015, however, Discharger representatives stated that there were no records of slug evaluations ever having been conducted by the Discharger. (Tab 4E)

For SIU Air Products, the Discharger reported in its 2013 Annual Pretreatment Report that it conducted a slug evaluation, but was unable to produce the results of the evaluation upon request, as required by 40 CFR section 403.8(f)(2)(vi), at the 2014 PCA. Evaluations for the other SIUs have also not been produced to date. Pursuant to Water Code section 13385 subdivisions (a)(6) and (c) a violation of those requirements subjects the Discharger to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy's penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. (Enforcement Policy, at p. 16.) The Discharger's failure to comply with the slug evaluation requirements has the potential to harm beneficial uses.

The purpose of the slug evaluation requirement is to ensure that the Discharger determines which facilities have a high potential for Slug Discharges and whether control plans or other actions are necessary to prevent interference and pass-through at such facilities. The Discharger's failure to assess the need for slug control plans impairs the Discharger's ability to timely develop and implement plans to prevent or mitigate potential adverse impacts to both the WWTF's ability to treat wastewater (*i.e.*, interference) and the receiving water itself (*i.e.*, pass-through) due to non-routine, episodic discharges, which has the potential to harm beneficial uses and degrade water quality. While slug control plans are a critical prevention measure in mitigating adverse impacts during non-routine discharges, the need for such plans to be implemented is likely infrequent. Given the foregoing discussion, the Potential for Harm is determined to be **minor**, as the characteristics of the violations present a minor potential for harm to beneficial uses. (Ibid.)

Deviation from Requirement: 40 CFR section 403.8(f)(2)(vi) requires the Discharger to evaluate at least once, within specified time periods, whether each SIU needs a slug control plan or other action to control Slug Discharges and produce those evaluations upon request. The Discharger failed to conduct that evaluation for at least seven of its SIUs. While the Discharger reported conducting an evaluation for SIU Air Products, it was unable to produce results of that evaluation upon request as required by law. Furthermore, during the 25/26 March 2015 PCI, inspectors found it necessary to thoroughly discuss the definition of a Slug Discharge with Discharger personnel suggesting that Discharger personnel were not even familiar with the term's actual meaning. (Tab 1O) Given the foregoing information, it cannot be concluded that the Discharger has even complied with the requirement partially. The Deviation from

Requirement is determined to be **major** as the requirement has been rendered ineffective in its essential function. (Ibid.)

Per Day Factor: Applying a Potential for Harm of minor and an Extent of Deviation of major results in a factor of **0.35**. (Enforcement Policy, at p. 16. Table 3.)

Days of Violation: The Discharger has failed to comply with the requirement to perform slug evaluations and produce them upon request. The Discharger reported in its 2008 Annual Pretreatment Report that it had 7 SIUs. It did not indicate that any of the SIUs were newly designated as such. Therefore, the Discharger had, at the most, until 1 January 2009 to evaluate whether a slug control plan was necessary for those SIUs. It was documented at the PCI on 18 February 2010 that the Discharger had not conducted slug evaluations for any of its SIUs (Tab 3G) and was unable to produce them upon request. At both the 2014 PCA and the 2015 PCI, the Discharger was unable to produce the results of any Slug Discharge evaluations.

- The period of violation is 365 days for each of the two SIUs that were no longer designated as such in the 2010 Annual Pretreatment Report (from 1 January 2009 through the end of the 2009 calendar year).
- The period of violation is 2,222 days for each of the remaining five SIUs (from the adoption through the rescission of the 2008 Permit).
- The total days of violation are 11,840 [(365 x 2) + (2,222 x 5)].

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to evaluate the need for a slug control plan resulted in no economic benefit that can be measured on a daily basis, though the Discharger may have experienced a programmatic cost savings from failing to comply with the minimum pretreatment requirements. Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five-day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this approach, the minimum number of days of violation is 436 [(18 collapsed days x 2 SIUs) + (80 collapsed days x 5 SIUs)]. Although it is within the Board's discretion to find that the days of violation lie anywhere between 436 and 11,840, the Prosecution Team recommends that the Board choose to apply the minimum number allowed under the Enforcement Policy of 436.

Violation No. 4 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

436 days x \$10,000 X 0.35

Total Initial Liability = \$1,526,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.3

A factor of 1.3 is appropriate for this violation. The manner in which the Discharger should have acted is defined by the 40 CFR part 403, which establishes the minimum time frames by which the Discharger must conduct a slug evaluation for each SIU and specifies that the Discharger must produce the evaluation results upon request. The Discharger was reminded of the slug control plan requirement verbally during the 18 February 2010 PCI, during the 6/7 January 2014 PCA (Tab 4A), and in writing in the *Summary Report* for the 2010 PCI transmitted with the 4 September 2013 NOV (Tab 4D; Tab 1E; Tab 3G). The Discharger was informed of the inadequacy of its industrial user self-evaluation approach in the final report for the 6/7 January 2014 PCA transmitted by NOV on 14 February 2014. The continued failure to comply with the requirement despite repeated notice suggests that the Discharger’s actions or lack thereof, were carried out with gross negligent.

Cleanup and Cooperation: 1.3

This factor reflects the extent to which the Discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. (Enforcement Policy, at p. 17.) The Discharger was given a multiplier value of 1.3 because of its lack of cooperation in returning to compliance. The Discharger had the opportunity to return to compliance when notified of the violation in a 7 July 2014 NOV (supplemented on 18 August 2014) (Tab 8K). Yet, at the 2015 PCI, representatives for the Discharger confirmed that slug evaluations had never been performed. This demonstrates a willful disregard of the law. A multiplier of 1.3 is appropriate to reflect the Discharger’s lack of cooperation in returning to compliance.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation; the same circumstances described for Violation No. 1 are applicable to this violation.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 4 - Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$1,526,000 \times 1.3 \times 1.3 \times 1.1 = \$2,836,834$$

Statutory Maximum Civil Liability for Violation No. 4 = \$118,400,000
Liability at Collapsed Days (436) Prior to Per Day and Conduct Factor Application = \$4,360,000
Total Base Liability Amount for Violation No. 4 = \$2,836,834

Violation No. 5: The Discharger Failed to Comply with Annual Pretreatment Reporting Requirements

Pursuant to federal requirements and the 2008 Permit, the Discharger is required to file annual pretreatment reports. (40 CFR § 403.12(i); 2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.ii; 2008 Permit, at p. E-17, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.) 40 CFR section 403.12(i) requires that the Discharger provide the Central Valley Water Board with an annual pretreatment report describing its program activities, which must include, at a minimum, an updated list, as specified, of its Industrial Users, a summary of each Industrial User's compliance status, a summary of compliance and enforcement activities, a summary of changes to the Discharger's pretreatment program that were not previously reported to the Central Valley Water Board, and any other relevant information requested by the Central Valley Water Board. The 2008 Permit Monitoring and Reporting Program ("MRP") has additional annual pretreatment report requirements. Pursuant to the MRP, the Discharger is required to include in its annual pretreatment report a summary of analytical results from sampling of influent, effluent, and sludge for pollutants that USEPA has identified under Section 307(a) of the CWA which are known or suspected to be discharged by industrial users. (2008 Permit, at p. E-17, Attachment E--Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.) The Discharger is required to include a summary, including conclusions or results, of industrial user annual sampling and inspecting activities. The Discharger must also provide any influent, effluent, or sludge monitoring data for non-priority pollutants which may be causing or contributing to interference, pass-through or adversely impacting sludge quality.

A. The Discharger Failed to Include a Summary of Analytical Results for Influent, Effluent, or Sludge

Since at least the adoption of the 2008 Permit, the Discharger has failed to meet the annual pretreatment report requirements. From 2008 through 2012, the Discharger did not include analytical results for influent, effluent, or sludge in its annual pretreatment reports. (See for example Tab 5A) In the annual pretreatment reports for those years the Discharger included a statement that "[a]nalytical results for pollutants indentified [sic] in §307(a) of the Clean Water Act and 40 CFR 401.15 are limited. The industries served by the Malaga County Water District are generally not identified as dischargers of these pollutants." (See for example Tab 5A) Yet, permits issued by the Discharger to several of its SIUs included limits and required sampling for a range of heavy metals, listed in §307(a) of the CWA and 40 CFR section 401.15. (See for example Tab 5E)

B. The Discharger Failed to Include a Summary of Upset, Interference, or Pass-Through Incidents

The MRP requires that the Discharger include in its annual pretreatment reports a discussion of upset, interference, or pass-through incidents at the treatment plant, which the Discharger knows or suspects were caused by its industrial users. (2008 Permit, at p. E-18, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.b.) The Discharger is required to discuss the reasons why the incidents occurred, the corrective actions taken and, if known, the name and address of, the IUs responsible. The Discharger is also required to include a review of the

applicable pollutant limitations to determine whether any additional limitations, or changes to existing requirements, may be necessary to prevent pass-through, interference, or non-compliance with sludge disposal requirements.

Beginning in at least 2010, the Discharger failed to fully comply with this requirement. In its 2010, 2011, and 2012 Annual Pretreatment Reports, the Discharger indicates that it experienced or may have experienced upset, interference, and pass-through events. (See for example Tab 2F) The Discharger fails to include in the annual pretreatment reports a review of the applicable pollutant limitations to determine whether additional limitations or changes may be necessary to prevent pass-through, interference, or non-compliance with sludge disposal requirements. (See for example Tab 2F)

C. The Discharger Failed to Include a Summary of Industrial User Compliance Status

Both the federal regulations and the MRP require the Discharger to include in its annual pretreatment reports an updated list of its industrial users with IU names and addresses. (40 CFR § 403.12(i); 2008 Permit, at p. E-18, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.d.) The Discharger is required to list the noncategorical industrial users that are subject to local limitations. The Discharger is required to characterize the compliance status through the year of record for each industrial user by employing the following descriptions: i. complied with baseline monitoring report requirements (where applicable); ii. consistently achieved compliance; iii. inconsistently achieved compliance; iv. significantly violated applicable pretreatment requirements as defined by 40 CFR section 403.8(f)(2)(vii); v. complied with schedule to achieve compliance (include the date final compliance is required); vi. did not achieve compliance and not on a compliance schedule; and vii. compliance status unknown. A report describing the compliance status of each industrial user and identifying the compliance status of the Discharger with regard to audit/pretreatment compliance inspection requirements must be included in the annual pretreatment report or, if none of the aforementioned conditions exist, at a minimum, a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter must be included with the annual pretreatment report.

The Discharger failed to accurately report compliance status with the required characterizations. In 2010, 2011, and 2012, the Discharger failed to characterize IUs who caused pass-through, or interference and were, therefore, in SNC. (See for example Tab 2F) For those IUs identified as being noncompliant, the Discharger failed to note whether the user was on a compliance schedule. (Tab 5A)

D. The Discharger Failed to Include a Summary of Inspection and Sampling Activities

The Discharger is required, pursuant to the MRP, to include in its annual pretreatment report a summary of the inspection and sampling activities it has conducted during the past year to gather information and data regarding its IUs. (2008 Permit, at p. E-19, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.e.) The Discharger is required to include in that summary the names and addresses of IUs subjected to surveillance, an explanation of whether and how often those IUs were inspected or sampled, and the conclusions or results from the inspections and sampling for each IU.

The Discharger failed to fully meet this requirement for the annual pretreatment reports dating from at least 2008 through 2013. In the 2008 through 2012 Annual Pretreatment Reports, the Discharger does not explicitly list or otherwise identify any of the IUs that it inspected, except to state that facilities requiring permit renewals were inspected (See for example Tab 2A). In the 2013 Annual Pretreatment Report, the Discharger provided most of the required information for the Class I IUs (*i.e.*, the SIUs). The Discharger, in those reports, also does not provide the frequency of inspections or include any inspection results. (See for example Tab 2A) The Discharger was unable to produce inspection reports at the 2010 PCI (2010 PCI Summary Report, Section 7.2.) (Tab 2G)

E. The Discharger Failed to Include a Summary of Annual Pretreatment Budget

The MRP requires that the Discharger include in its annual pretreatment reports a summary of the annual pretreatment budget, including the cost of pretreatment program functions and equipment purchases. (2008 Permit, at p. E-17, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.h.) In its annual pretreatment reports from 2008 through 2013, the Discharger failed to comply with this requirement. From 2008 through 2013, the Discharger states solely that the pretreatment program budget is a part of the overall sewer budget for Malaga County Water District. (See for example Tab 5A) During the 2014 PCA, a Discharger representative stated that the budget was not specifically broken down by program, indicating that there was no way to identify resources strictly dedicated to pretreatment program. (2014 PCA Final Summary Report, paragraph 25.) (Tab 5B) The Discharger does not include the cost of pretreatment program functions and equipment purchases in any of those reports.

F. The Discharger Failed to Include Requisite Signature and Certification

Pursuant to the 2008 Permit, annual pretreatment reports must be signed and certified, as specified, by either a principal executive officer or ranking elected official, or its duly-authorized representative, as defined. (2008 Permit, at p. D-6, Attachment D—Standard Provisions—Reporting—Signatory and Certification Requirements V.B.) The Discharger failed to certify its annual pretreatment reports from 2008 through 2013. Furthermore, the 2008 Annual Pretreatment Report was signed by its consulting engineer, who does not meet the definition of a duly-authorized representative. (Tab 5C)

G. The Discharger Failed to Submit Annual Pretreatment Reports By Due Date

In addition to the annual pretreatment report deficiencies cited above, the Discharger has violated the annual pretreatment report requirements by failing to submit those reports on time. The Discharger submitted its 2008 Annual Pretreatment Report due 28 February 2009 over one month late on 3 April 2009. The 2009 Annual Pretreatment Report due 28 February 2010 was not submitted until 7 May 2012, after Central Valley Water Board staff had sent a Notice of Violation in April of that year citing the late annual pretreatment report as a violation. (Tab 5D) The 2012 Annual Pretreatment Report was due 28 February 2013 and received 7 March 2013. Summaries of annual pretreatment report receipt status and deficiencies are provided in Table 6 and Table 7, respectively.

Table 6 - Annual Pretreatment Report Submittal Status

Reporting Year	Date Due	Date Received	Days Late
2008	28-Feb-2009	3-Apr-2009	34
2009	28-Feb-2010	7-May-2012	799
2010	28-Feb-2011	24-Feb-2011	--
2011	28-Feb-2012	9-Mar-2012	10
2012	28-Feb-2013	7-Mar-2013	7
2013	28-Feb-2014	26-Feb-2014	--
2014	28-Feb-2015	27-Feb-2015	--

Table 7 - Annual Pretreatment Report Deficiencies

Monitoring and Reporting Program X.D.4 Annual Pretreatment Reporting Requirements	CWA 307(a) Results	Upset/Interference/Pass-Through	Baseline Notification Count	Baseline Monitoring Requirements	Consistent Compliance	Inconsistent Compliance	Significant Non-Compliance	Complied with Schedule	Noncompliant; No Schedule	Status Unknown	Inspection and Sampling Activities	Compliance/Enforcement	Program Changes	Annual Budget	Certification
	4.a	4.b	4.c	4.d – Industrial User Compliance							4.e	4.f	4.g	4.h	
				i	ii	iii	iv	v	vi	vii					
Report Year															
2008	No	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	No	No
2009	No	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	No	No
2010	No	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	No	No
2011	No	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	No	No
2012	No	Yes	No	No	Yes	Yes	No	No	No	No	No	Yes	Yes	No	No
2013	Yes	Yes	No	Yes	Yes	Yes	No	No	No	No	No	Yes	Yes	No	No
2014	No	Yes	No	Yes	Yes	Yes	¹	No	No	Yes	No	Yes	Yes	Yes	Yes

¹ Insufficient data provided to independently determine instances of SNC
 No = indicates missing, incomplete, or incorrect element

Pursuant to Water Code section 13385 subdivisions (a)(6) and (c), a violation of the annual pretreatment report requirements subjects the Discharger to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. (Enforcement Policy, at p. 16.) The annual pretreatment report requirements exist to provide the Central Valley Water Board with information necessary to evaluate the operation of the Discharger's pretreatment program, in order to protect the health and safety of the public and environment. By failing to comply with the minimum annual pretreatment report requirements, the Discharger inhibits its ability and the ability of the Central Valley Water Board to timely identify and provide feedback regarding deficiencies in the Discharger's implementation of its pretreatment program and, potentially, to prevent and properly address risks to beneficial uses. By providing information on the compliance status of industrial users, the annual pretreatment report serves an important role in identifying problems with compliance and ensuring that they are appropriately addressed. By failing to comply with the minimum annual pretreatment report requirements, the Discharger inhibits its ability and the ability of the Central Valley Water Board to prevent and properly address risks to beneficial uses. Given the foregoing discussion, the Potential for Harm is determined to be **moderate**, as the characteristics of the violations present a substantial threat to beneficial uses and the circumstances of the violations indicate a substantial potential for harm to beneficial uses. (Ibid.)

Deviation from Requirement: The Discharger has not complied with the annual pretreatment report requirements of 40 CFR section 403.12(i), Provision VI.C.5.a.ii of the 2008 Permit, or Provision X.D.4 of the MRP. Submissions made pursuant to these requirements have been intermittent, untimely, and materially deficient. Therefore, the Deviation from the Requirements is determined to be **moderate**, as the requirements have been partially compromised. (Ibid.)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of moderate results in a factor of **0.35**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: Annual pretreatment reports received for 2008 through 2012 were materially deficient. The period of violation for each of the five materially deficient annual pretreatment reports is 365 days and runs from the first date on which the report was deemed late or substantially deficient through the date on which the next year's report was due.

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to file annual pretreatment reports results in no economic benefit that can be measured on a daily basis. Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this approach, the minimum number of days for each of the five annual pretreatment reports is 18. Although it is within the Board's discretion to find that the days of violation lie anywhere between 18 and 365, the Prosecution Team recommends that the Board choose to apply the minimum number allowed under the Enforcement Policy of 18 for each of the five annual pretreatment reports deemed substantially deficient.

Violation No. 5 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

2008: 18 days x \$10,000 X 0.35
2009: 18 days x \$10,000 X 0.35
2010: 18 days x \$10,000 X 0.35

2011: 18 days x \$10,000 X 0.35
2012: 18 days x \$10,000 X 0.35

Total Initial Liability = \$315,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.3

The manner in which a reasonably prudent person would have acted is defined by 40 CFR part 403 and the 2008 Permit. Those requirements establish the minimum components that must be included in the Discharger’s annual pretreatment reports. The Discharger was notified of deficiencies in its annual pretreatment reports in a 12 April 2012 NOV. (Tab 5D) After receiving notice in 2012 of overdue annual pretreatment reports, the Discharger continued to submit reports that failed to meet the minimum requirements. A factor of 1.3 is appropriate for this violation given that the Discharger acted at least negligently in failing to submit timely and complete annual pretreatment reports.

Cleanup and Cooperation: 1.2

The Discharger was given a multiplier value of 1.2 because of its lack of cooperation in returning to compliance. The Discharger was notified of specific material deficiencies in its annual pretreatment reports in an 18 August 2014 Supplemental NOV. (Tab 8K) The 2014 Annual Pretreatment Report, received in February 2015, improved upon prior submittals by including a higher proportion of required elements, but continued to be materially deficient. Therefore a 1.2 is appropriate here.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation; the same circumstances described for Violation No. 1 are applicable to this violation.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 5 - Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$315,000 \times 1.3 \times 1.2 \times 1.1 = \$540,540$$

Statutory Maximum Civil Liability for Violation No. 5 = \$18,250,000
Liability at Collapsed Days (90) Prior to Per Day and Conduct Factor Application = \$900,000
Total Base Liability Amount for Violation No. 5 = \$540,540

Violation No. 6: The Discharger Failed to File Quarterly Pretreatment Reports

Pursuant to the requirements of the 2008 Permit, the Discharger is required to submit quarterly pretreatment reports. (2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.ii; 2008 Permit, at p. E-18, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.d.) Within 21 days of the end of each quarter, the Discharger is required to submit a report that describes the compliance status of each industrial user characterized by the following: i. complied with baseline monitoring report requirements (where applicable); ii. consistently achieved compliance; iii. inconsistently achieved compliance; iv. significantly violated applicable pretreatment requirements as defined by 40 CFR 403.8(f)(2)(vii); v. complied with schedule to achieve compliance (include the date final compliance is required); vi. did not achieve compliance and not on a compliance schedule; and vii. compliance status unknown. The information required in the fourth quarter report must be included in the Discharger's annual pretreatment report.

In addition to identifying the specific compliance status of each industrial user, the Discharger in the quarterly pretreatment report must identify the compliance status of the POTW with regard to audit and pretreatment compliance inspection requirements. In the absence of such conditions, at a minimum, the Discharger must submit a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter.

In addition, pursuant to the 2008 Permit, quarterly pretreatment reports must be signed and certified, as specified, by either a principal executive officer or ranking elected official, or its duly authorized representative, as specified. (2008 Permit, at p. D-6, Attachment D—Standard Provisions—Reporting—Signatory and Certification Requirements V.B.5.)

A. The Discharger Failed to Identify Compliance Status of Each Industrial User

The Discharger's quarterly pretreatment reports are deficient and/or inaccurate in a number of ways. With the exception of Fresno Truck Wash, the Discharger fails to identify in its quarterly pretreatment reports that industrial users were in non-compliance. (See for example Tab 6A) Yet, data submitted by the Discharger's industrial users and reported by the Discharger in the monitoring data contained in its annual pretreatment reports (See Tab 3) indicates otherwise. For example, in 2012 and 2013, that data shows that industrial users were in non-compliance for all four quarters of 2012 and in the first quarter of 2013. The industrial users that were in

non-compliance and not identified in the quarterly pretreatment reports include, but are not limited to, Stratas Foods, Rio Bravo Fresno, Cemex, EM Tharp dba Golden State Peterbilt, Roger’s Truck, Kinder Morgan, PPG, Fifth Wheel Truck Stop, Coca Cola, Western State Glass, GreenTec, Fresno Truck Center, Inland Star, and Penske. (Tab 6B; also see Tab 3)

In addition, the Discharger did not report that Fresno Truck Wash was in non-compliance until the first quarter of 2011. The Discharger, however, drafted Administrative Complaint 2010-01 for Fresno Truck Wash in 2010, which states that Fresno Truck Wash had been in non-compliance since early 2009. (Tab 6C) The 2009 and 2010 quarterly pretreatment reports stated erroneously that all industrial users were in compliance. (Tab 6D; Tab 6E)

Although insufficient data were provided for 2008 and 2014 to fully evaluate compliance, at a minimum, the Discharger failed to identify SIUs in SNC (iv) as shown in Table 5 and in inconsistent compliance with effluent limits (iii) and SNC (iv) on at least the following occasions (Table 8):

Table 8 – Significant Industrial Users in Non-Compliance

Significant Industrial User	Permit No.	Significant Industrial Users In Inconsistent Compliance					
		2009 ¹	2010	2011	2012	2013	2014
Calpine/Smurfit/RockTenn	1001	Q1:EC Q3: EC Q4: EC	SA1: As, Ba	SA1: Cr, Cu SA2: Ba, Cr, Cu	--	--	--
Rio Bravo	1005	--	--	--	Q4: EC	Q1,2,3,4: EC	missing data
Stratas Foods	1008	Q1: O&G Q3: O&G Q4: O&G	Q1: O&G	--	Q1: O&G, pH Q2: O&G, pH Q3: O&G, pH Q4: O&G	Q2: O&G, pH Q3: O&G Q4: O&G, pH	Q2: O&G Q3: pH
Kinder Morgan SFPP	1025	no data provided	no data provided	2	2	2	3
Wholesale Equipment of Fresno	1030	no data provided	no data provided	2	2	2	2
Fifth Wheel Truck Stop	1037	2	2	2	2	2	Q4: EC
PPG Industries	1038	--	SA2: Cu, Fe	--	Q2: EC Q3: EC	Q2: EC Q4: Fe	--
Lester Lube, Inc. dba Fresno Truck Wash	1095	2	2	2	2	2	3
Speedy (formerly Moga) Truck Wash	1098	2	2	2	2	2	3
Air Products and Chemical	1140	--	--	--	--	--	no data provided
Imperial Truck Wash	1205	2	2	2	2	2	3

Significant Industrial User	Permit No.	Significant Industrial Users In Inconsistent Compliance					
		2009 ¹	2010	2011	2012	2013	2014
¹ No data provided in 2008.							
² Not significant industrial user at this time							
² No data provided for dates subsequent to SIU designation/re-designation							
Q = quarter; SA = undated semi-annual result, quarter unknown; SA1 = January - June; SA2 = July - December							
As = arsenic; Ba = barium; Cr = chromium; Cu = copper; EC = electrical conductivity; Fe = iron; O&G = oil and grease							

B. The Discharger Failed to Submit Quarterly Pretreatment Reports by the Due Date

Since 2008, the Discharger has violated the quarterly pretreatment report requirements of the 2008 Permit by submitting both late and deficient reports. The quarterly pretreatment reports for the second quarter of 2008 through the first quarter of 2010 were not submitted until May of 2012, following the issuance of a 12 April 2012 NOV, which cited the quarterly pretreatment report violations. The first quarterly pretreatment report for 2009, which was not cited in the 12 April 2012 NOV due to an oversight has, to date, not been received by the Central Valley Water Board. The quarterly pretreatment reports from the second quarter of 2010 through the third quarter of 2011, the quarterly pretreatment report for the second quarter of 2013, and the quarterly pretreatment reports for the second and third quarters were all submitted after the due dates specified in the 2008 Permit, at Reporting Requirement X.D.4.d of the Monitoring and Reporting Program (pp. E-18 – E-19). To date, the Discharger has not submitted first quarterly pretreatment reports for 2009 or 2014.

C. The Discharger Failed to Include the Requisite Certification

The Discharger failed to certify its quarterly pretreatment reports with the required certification statement until the second quarter of 2014. (See for example Tab 6D; 6E) The Discharger received notices of inadequate quarterly pretreatment reports in April 2012 (Tab 5D), and in July and August of 2014. (Tab 8K; Tab 8L) Deficiencies and receipt status are summarized in Table 9, below.

Table 9 - Quarterly Pretreatment Reports, Receipt Status and Deficiencies

Quarter	Date Due	Date Received	Days Late	Contains Certification	Identifies All Noncompliant IUs	Discusses PCA/PCI Compliance Status ²
2008Q2	21-Jul-2008	7-May-2012	1,386	No	no data	N/A
2008Q3	21-Oct-2008	7-May-2012	1,294	No	no data	N/A
2009Q1	21-Apr-2009	not rec'd	2,111	--	--	N/A
2009Q2	21-Jul-2009	7-May-2012	1,021	No	No	N/A
2009Q3	21-Oct-2009	7-May-2012	929	No	No	N/A
2010Q1	21-Apr-2010	7-May-2012	747	No	No	N/A
2010Q2	21-Jul-2010	20-Sep-2010	61	No	No	N/A
2010Q3	21-Oct-2010	18-Nov-2010	28	No	--	N/A
2011Q1	21-Apr-2011	20-May-2011	29	No	SA ¹	N/A
2011Q2	21-Jul-2011	18-Jul-2011	0	No	No	N/A
2011Q3	21-Oct-2011	31-Oct-2011	10	No	SA ¹	N/A
2012Q1	21-Apr-2012	20-Apr-2012	0	No	No	N/A
2012Q2	21-Jul-2012	20-Jul-2012	0	No	No	N/A
2012Q3	21-Oct-2012	18-Oct-2012	0	No	No	N/A
2013Q1	21-Apr-2013	18-Apr-2013	0	No	--	N/A

Quarter	Date Due	Date Received	Days Late	Contains Certification	Identifies All Noncompliant IUs	Discusses PCA/PCI Compliance Status ²
2013Q2	21-Jul-2013	7-Aug-2013	17	No	No	N/A
2013Q3	21-Oct-2013	21-Oct-2013	0	No	No	No
2014Q1	21-Apr-2014	not rec'd	285	--	--	--
2014Q2	21-Jul-2014	24-Jul-2014	3	Yes	No	Yes
2014Q3	21-Oct-2014	29-Oct-2014	8	Yes	No	Yes

¹ Semi-annual results provided without sample date. Exact quarter of non-compliance unknown.

² Identification of compliance status with regards to PCA or PCI requirements could not take place until the findings of the first PCA or PCI conducted were conveyed to the Discharger. The Discharger received verbal notice of the PCI results during the exit interview on 18 February 2010. This assessment, however, takes the conservative approach of using the written transmittal in 2013 as the date by which the PCI compliance status discussion was required in the Quarterly Pretreatment Reports.

Pursuant to Water Code section 13385 subdivisions (a)(6) and (c), a violation of the annual pretreatment report requirements subjects the Discharger to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Discharger’s failure to submit quarterly pretreatment reports to the Central Valley Water Board had the potential to harm beneficial uses. The quarterly pretreatment report requirements exist to provide the Central Valley Water Board with information necessary to evaluate the operation of the Discharger’s pretreatment program. By providing information on the compliance status of industrial users, the quarterly pretreatment report serves a role in identifying problems with compliance and ensuring that they are appropriately addressed. By failing to comply with the minimum quarterly pretreatment report requirements, the Discharger inhibits the ability of the Central Valley Water Board to identify and address risks to beneficial uses. Given the foregoing discussion, the Potential for Harm is determined to be **minor**, as the characteristics of the violations present a minor potential for harm. (Enforcement Policy, at p. 16.)

Deviation from Requirement: The Discharger is required to submit quarterly pretreatment reports. (2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements C.5.a.ii; 2008 Permit, at p. E-18, Attachment E—Monitoring and Reporting Program—Reporting Requirements—Other Reports—Annual Pretreatment Reporting Requirements X.D.4.d.) The reports submitted by the Discharger, which were not submitted timely, contained inaccurate characterizations of compliance, failed to contain the requisite certification in all but two cases and, as such, are materially deficient. Therefore, the Deviation from the Requirements is determined to be **moderate** as the requirements have been partially compromised. (Ibid.)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of moderate results in a factor of **0.30**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: The first quarterly pretreatment report for 2009 and the quarterly pretreatment report for the first quarter of 2014 have, to date, not been received. The rest of the quarterly pretreatment reports from the second quarter of 2008 (due 21 July 2008) through the first quarter of 2010 (due 21 April 2010) were not received until 7 May 2012. Aside from the two missing reports, and considering the fourth quarterly reports for each year as part of the annual pretreatment report for the same year, all of the quarterly pretreatment reports from the adoption through the rescission date of the 2008 Permit (18 in total) are materially deficient based on lack of requisite certification, lack of accurate IU compliance status discussion, or other grounds discussed above.

- The period of violation for the quarterly pretreatment report for the first quarter of 2009 is 2,111 days and runs from 22 April 2009 (the first date on which the report was deemed late or substantially deficient) through the rescission of the 2008 Permit (to date the report has not been received).
- The period of violation for the quarterly pretreatment report for the first quarter of 2014 is 285 days and runs from 22 April 2014 (the first date on which the report was deemed late or substantially deficient) through the rescission of the 2008 Permit (to date the report has not been received).
- The period of violation for each of the other 18 quarterly pretreatment reports is 90 days and runs from the date after which they were due until the date on which the next quarter's report became due.
- The total period of violation is 4,016 [(90 x 18) + 285 + 2,111]

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to submit quarterly pretreatment reports results in no economic benefit that can be measured on a daily basis, though the Discharger may have experienced a programmatic cost savings from failing to comply with those requirements. Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.)

- For the quarterly pretreatment report for the first quarter of 2009, the minimum days of violation under this alternative approach is 76.
- For the quarterly pretreatment report for the first quarter of 2014, the minimum days of violation under this alternative approach is 15.
- For the remaining 18 quarterly pretreatment reports, the minimum days of violation under this alternative approach is 9 days.

The minimum number of days under this approach is 253 [(9 x 18) + 76 + 15]. Although it is within the Board's discretion to find that the days of violation lie anywhere between 253 and 4,016, the Prosecution Team recommends that the Board choose to apply the minimum allowed under the Enforcement Policy of 253.

Violation No. 6 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

2008 Q2: 9 days x \$10,000 X 0.30	2011 Q3: 9 days x \$10,000 X 0.30
2008 Q3: 9 days x \$10,000 X 0.30	2012 Q1: 9 days x \$10,000 X 0.30
2009 Q1: 76 days x \$10,000 X 0.30	2012 Q2: 9 days x \$10,000 X 0.30
2009 Q2: 9 days x \$10,000 X 0.30	2012 Q3: 9 days x \$10,000 X 0.30
2009 Q3: 9 days x \$10,000 X 0.30	2013 Q1: 9 days x \$10,000 X 0.30
2010 Q1: 9 days x \$10,000 X 0.30	2013 Q2: 9 days x \$10,000 X 0.30
2010 Q2: 9 days x \$10,000 X 0.30	2013 Q3: 9 days x \$10,000 X 0.30
2010 Q3: 9 days x \$10,000 X 0.30	2014 Q1: 15 days x \$10,000 X 0.30
2011 Q1: 9 days x \$10,000 X 0.30	2014 Q2: 9 days x \$10,000 X 0.30
2011 Q2: 9 days x \$10,000 X 0.30	2014 Q3: 9 days x \$10,000 X 0.30

Total Initial Liability = \$759,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.3

A factor of 1.3 is appropriate for this violation. The manner in which the Discharger should have acted is defined by the 40 CFR part 403 and the 2008 Permit, which establish in detail the minimum components that must be included in the Discharger’s Quarterly Pretreatment Reports. The Discharger received notices of inadequate or late pretreatment reports in April 2012 (Tab 5D), and in July and August of 2014. (Tab 8K; 8L) A factor of 1.3 is appropriate for this violation given that the Discharger acted at least negligently in failing to submit timely and complete quarterly pretreatment reports.

Cleanup and Cooperation: 1.3

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. (Enforcement Policy, at p. 17.) The Discharger was given a multiplier value of 1.3 based on the lack of cooperation exhibited by the Discharger in returning to compliance. While the Discharger began to submit quarterly pretreatment reports in a timelier manner after receiving the April 2012 NOV, the reports submitted continued inaccurate or misleading requisite information and were materially deficient. Following the 7 July 2014 NOV, the Discharger began including in its quarterly pretreatment reports the required certification and discussion of pretreatment program compliance status components, but omitted the required industrial user compliance status component, which it had previously included in prior reports. Furthermore, Quarterly Pretreatment Reports for the 1st quarters of 2009 and 2014 have not been submitted to date.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation; the same circumstances described for Violation No. 1 are applicable to this violation.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 6 - Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$759,000 \times 1.3 \times 1.3 \times 1.1 = \$1,410,981$$

Statutory Maximum Civil Liability for Violation No. 6 = \$40,160,000
Liability at Collapsed Days (253) Prior to Per Day and Conduct Factor Application= \$2,530,000
Total Base Liability Amount for Violation No. 6 = \$1,410,981

Violation No. 7: The Discharger Failed to Analyze Self-Monitoring Reports

Pursuant to the federal regulations and the 2008 Permit, The Discharger is required to analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in 40 CFR section 403.12. (40 CFR § 403.8(f)(2)(iv); 2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.ii.)

The Discharger has failed to comply with this requirement since at least 2010. The 2010 PCI Checklist documented that the Discharger had failed to identify reporting violations and to identify discharge violations. (*POTW Pretreatment Compliance Inspection Checklist*, Section III.) (Tab 2B) The 2010 PCI *Summary Report* also documented the Discharger's failure to review and analyze reports submitted by SIUs. (Tab 3G)

File review during the 2015 PCI revealed that the Discharger had failed to analyze the self-monitoring reports, as there was no indication that the Discharger identified potential violations or took enforcement action for the instantaneous sample results that exceed the industrial user permitted limits. (Tab 4E) The failure to analyze self-monitoring reports is further exhibited by statements made regarding SNC during the 2015 PCI. During the 2015 PCI, the Discharger's General Manager stated that calculations regarding SNC were not performed for the SIUs during 2014. (2015 PCI, Section 2.3.1.) (Tab 3F)

Pursuant to Water Code section 13385 subdivisions (a)(6) and (c), a violation of this requirement subjects the Discharger to administrative civil liability in an amount of up to \$10,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy's penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Discharger's failure to receive and analyze self-monitoring reports poses an egregious threat to beneficial uses. The receipt and analysis requirements ensure that

the Discharger is implementing the practices necessary to properly regulate the disposal of industrial wastewater, protect the physical structures and safety of operation of its collection and treatment system, and to comply with its approved pretreatment program. The analysis of self-monitoring reports serves an important role in identifying problems with compliance and ensuring that they are appropriately addressed. By failing to comply with the minimum receipt and analysis requirements, the Discharger inhibits its ability and the ability of the Central Valley Water Board to prevent and properly address risks to beneficial uses. Specifically, failure to analyze industrial user monitoring reports effectively precluded the Discharger from complying with other pretreatment program requirements, such as accurately discussing industrial user compliance characterizations in quarterly and annual pretreatment reports, and identifying and publicly noticing instances of industrial user SNC. Given the foregoing discussion, the Potential for Harm is determined to be **major**, as the characteristics of the violations present a high potential for harm. (Enforcement Policy, at p. 16.)

Deviation from Requirement: The Discharger is required to receive and analyze self-monitoring reports. (40 CFR § 403.8(f)(2)(iv); 2008 Permit, at p. 25, Provisions—Special Provisions—Special Provisions for Municipal Facilities (POTWs Only)—Pretreatment Requirements VI.C.5.a.ii.) Inspections and audits from 2010 through 2015 show that the Discharger has repeatedly failed to meet this requirement. Therefore, the Deviation from the Requirements is determined to be **major** as the requirement has been rendered ineffective in its essential function. (Ibid.)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of moderate results in a factor of **0.85**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: The first documentation of the Discharger's failure to adequately receive and analyze self-monitoring reports was at the 2010 PCI. (Tab 2B) During the 2010 PCI, auditors noted that the Discharger had failed to analyze self-monitoring reports from 2009. Continued failure to review SIU self-monitoring reports was confirmed during the 2015 PCI. The period of violation totals 2,222 days and runs from 1 January 2009 through the rescission of the 2008 Permit on 31 January 2015, inclusive.

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to require, receive and analyze self-monitoring reports results in no economic benefit that can be measured on a daily basis, though the Discharger may have experienced a programmatic cost savings from failing to comply with those requirements. Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five-day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this alternative approach, the minimum days of violation total 80. Although it is within the Board's discretion to find that the days of violation lie anywhere between 80 and 2,222, the Prosecution Team recommends that the Board choose to apply the minimum number allowed under the Enforcement Policy of 80.

Violation No. 7 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

80 days x \$10,000 X 0.85

Total Initial Liability = \$680,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.3

A factor of 1.3 is appropriate for this violation. The standard of care with which the Discharger should have acted is established in the 40 CFR part 403 and the 2008 Permit. The Discharger was given notice of its failure to meet the receipt and analysis requirement during the 2010 PCI (Tab 2B; Tab 3G). The 2014 PCA *Final Summary Report* reiterated the requirement to analyze monitoring reports. (Tab 4A) Yet, the Discharger’s failure to comply with the requirement was again documented in detail during the 2015 PCI. (Tab 4E; 3F) In continuing to violate the receipt and analysis requirements despite notice, the Discharger’s actions demonstrate gross negligence at best.

Cleanup and Cooperation: 1.4

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. (Enforcement Policy, at p. 17.) The Discharger was given a multiplier value of 1.4 because of the lack of cooperation exhibited by the Discharger in returning to compliance. The 2015 PCI *Summary Report* noted three instances of non-compliance by Stratas Foods in August 2014. (Tab 4E) Nevertheless, the third 2014 quarterly pretreatment report failed to accurately identify the industrial user’s compliance status, which demonstrates the Discharger’s continued failure to analyze monitoring reports. (Tab 7A) Despite being provided with multiple opportunities to come into compliance, the Discharger continued to fail to require, receive, and analyze self-monitoring reports as exhibited by the 2015 PCI findings, which show that the Discharger is still out of compliance.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation; the same circumstances described for Violation No. 1 are applicable to this violation.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

Violation No. 7 - Total Base Liability Amount

Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability

$$\$680,000 \times 1.3 \times 1.4 \times 1.1 = \$1,361,360$$

Statutory Maximum Civil Liability for Violation No. 7 = \$22,220,000
Liability at Collapsed Days (80) Prior to Per Day and Conduct Factor Application = \$800,000
Total Base Liability Amount for Violation No. 7 = \$1,361,360

Violation No. 8: The Discharger Failed to Submit Study Results Required by Cease and Desist Order No. R5-2008-0032

The 2008 CDO, Task 3(a), requires the Discharger to evaluate WWTF treatment and disposal capacity and identify short-term and long-term measures to secure adequate treatment and disposal capacity for the volume, type, and concentrations of wastes in influent projected through at least 2028. In order to meet that requirement, the Discharger is required to submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. The study must include evaluations of, but not limited to, ongoing operations and maintenance, and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The 2008 CDO requires that technical reports submitted in accordance with this requirement include actions to generate appropriate population and WWTF flow projections and their rationale. The 2008 CDO required the Discharger to submit the results of the study evaluating treatment and disposal capacity and propose the work plan described in Task 3(a) by 13 June 2008.

On 25 July 2008, over a month past due, Provost and Pritchard Consulting Group, on behalf of the Discharger, submitted a *Study Evaluating Treatment and Disposal Facilities* to fulfill the requirements of Task 3(a). (Tab 8A) In a memorandum and letter, dated 19 August 2009 (Tab 8B) and 24 September 2009 (Tab 8C) respectively, Central Valley Water Board staff informed the Discharger that the study was materially deficient and requested a revised study by 27 October 2009. The letter and memorandum cited deficiencies and required corrective actions including, but not limited to, revising short-term and long-term flow projections, revising the work plan for expansion of design capacity, including reclamation proposals, revising consolidation, and updating work plan and time-schedules.

By letter dated 28 April 2011, the Discharger submitted a report to comply with Task 3(d). (Tab 8D) That report, however, indicated that not all the short-term measures had been completed, as required. The report did not include long-term measures or a revised work plan, and did not remedy the deficiencies in the 28 July 2008 report. The report did not bring the Discharger into compliance with Tasks 3(a) or 3(d). The cover letter for that report incorrectly stated that the Discharger had not received a response to the work plan submitted on 25 July 2008. (Tab 8D) On 12 April 2012, Central Valley Water Board staff issued a NOV citing the Discharger's failure to comply with Tasks 3(a) and 3(d) of the 2008 CDO. (Tab 5D)

On 19 August 2013, Central Valley Water Board staff again sent the Discharger a letter requesting that it submit technical information regarding disposal capacity by 3 October 2013,

which was originally due 13 June 2008. (Tab 8B) In summary, the letter requested that the Discharger address whether the discharge to the Central Canal will cease, provide an estimate of the pond disposal capacity after pond maintenance was performed in 2008 and thereafter, revise influent flow projections, provide the status of land acquisition for additional disposal ponds, and provide the status of alternative disposal measures. On 10 October 2013, Central Valley Water Board staff called the Discharger's Board President requesting an update on the response due 3 October 2013. (Tab 8F) On 10 October 2013, Central Valley Water Board staff received by e-mail a memorandum dated 23 September 2013 from the Discharger's consulting engineer written to the Discharger requesting additional information in order to prepare a response to the Central Valley Water Board's letter. (Tab 8G)

On 21 October 2013, Central Valley Water Board staff sent the Discharger's General Manager an email to again inquire on the status of the Discharger's response. (Tab 8H) On 29 October 2013, the Discharger submitted a deficient and late response. (Tab 8I) The Discharger admitted in its response that it had not yet developed a schedule to isolate one or more ponds to confirm and monitor percolation capacity, and that follow-up reports would be forthcoming.

On 7 July 2014, Central Valley Water Board staff sent the Discharger a NOV, which cited, in part, the Discharger's failure to comply with Task 3 of the 2008 CDO. (Tab 8J) On 18 August 2014, Central Valley Water Board staff sent the Discharger a Supplemental NOV, which again cited, in part, the Discharger's failure to comply with the 2008 CDO Task 3. (Tab 8K)

After the Discharger learned its flow limit had been restricted in its proposed revised permit, the Discharger submitted technical data in November 2014 and January 2015 in order to confirm pond disposal capacity. The 2008 CDO was rescinded on 4 December 2014 and tasks not complied with in the 2008 CDO were carried over to CDO R5-2014-0146 and to Waste Discharge Requirements R5-2014-0145 (NPDES No. CA 0084239).

The Discharger violated the 2008 CDO by failing to submit an adequate and complete study of its treatment and disposal capacity and a workplan to address treatment and disposal capacity issues from 13 June 2008 through the rescission of the CDO on 4 December 2014, for a total of **2,365 days**. However, based on the interactions between Central Valley Water Board staff and the Discharger recited above, the Prosecution Team recommends "tolling" the days of violation during the 387-day period between the 28 July 2008 date upon which the Discharger's initial report was submitted and the 19 August 2009 date upon which staff notified Discharger in writing that the report was deficient. Prosecution staff further recommends "tolling" the days of violation for the 351-day period between the 28 April 2011 date upon which Discharger submitted a revised report and the 12 April 2012 date upon which staff issued a Notice of Violation documenting the deficiencies in the revised report. Other than these two time periods, Discharger was on written notice that its report was overdue, incomplete and insufficient to meet the directives of the 2008 CDO. Accordingly, the Prosecution Team recommends calculating the civil liability for Violation 2 on the basis of **1,640** days of violation.

Pursuant to Water Code section 13350, a violation of those requirements is subject to administrative civil liability in an amount of up to \$5,000 for each day in which the violation occurs.

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy's penalty calculation methodology directs the Central Valley Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and the Extent of Deviation from the applicable requirements.

Potential for Harm: The Discharger's failure to comply with Task 3 of the CDO in a timely manner hindered Central Valley Water Board staff's efforts to assess disposal capacity for the renewal of the Discharger's NPDES permit, which delayed issuance of the Permit.

Based on the Basin Plan, the beneficial uses of the Central Canal are municipal and domestic supply, agricultural supply, water contact recreation, and warm freshwater habitat. The beneficial uses of the underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, industrial process supply, water contact recreation, and non-contact water recreation.

The 2008 CDO was issued, in part, because the Discharger discharged and threatened to discharge waste in violation of the 2008 Permit. In addition, a number of conditions at the WWTF relating to minimum freeboard requirements, pond evaporation and percolation capacity, increasing influent flow and base flow, and total disposal capacity, were found to create a risk of overtopping and levee breach. The Discharger's WWTF ponds are adjacent to the Central Canal, several businesses, and the main railroad line for the Santa Fe Railroad and Amtrak. Overflow of undisinfected secondary treated wastewater from the ponds to the Central Canal would adversely affect its beneficial use for unrestricted agricultural supply, water contact recreation, and municipal and domestic supply due to excessive pathogen loading. Overflow of the ponds to area businesses, which occurred in 2000, or to the railroad right-of-way would cause or threaten to create public health risks and a nuisance condition. (Tab 8L)

The Discharger's actions in failing to meet the 2008 CDO requirements pose a high potential for harm to beneficial uses. Given the foregoing discussion, the Potential for Harm is determined to be **major**. (Enforcement Policy, at p. 16.)

Deviation from Requirement: The 2008 CDO required the Discharger to submit specified study results to the Central Valley Water Board. While the Discharger submitted documents pursuant to the 2008 CDO requirements, those submissions were materially deficient and late. Therefore, the Deviation from the Requirements is determined to be **moderate** as the requirements have been partially compromised. (Ibid.)

Per Day Factor: Applying a Potential for Harm of moderate and an Extent of Deviation of moderate results in a factor of **0.55**. (Enforcement Policy, at p. 16, Table 3.)

Days of Violation: The Discharger has failed to comply with the 2008 CDO requirements since 14 June 2008, the first date of non-compliance with Task 3, through 4 December 2014. The period of violation totals 2,365 days, but as indicated above, the Prosecution Team recommends reducing this number to 1,640 days based on two periods where it believes the Central Valley Water Board should exercise its discretion to equitably toll the violation period.

Multiple Day Violations: For violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to 30 days. For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment,

provided that it is no less than the per day economic benefit, if any, resulting from the violation. (Enforcement Policy, at p. 18.) In this case, the failure to comply with the 2008 CDO results in an economic benefit that cannot be measured on a daily basis, though the Discharger may have experienced a programmatic cost savings from failing to comply with the requirements. Therefore, the alternate approach for calculating multiday violations may be applied, and liability shall not be less than an amount calculated based on the initial Total Base Liability Amount for the first day of the violation, plus an assessment for each five-day period of violation until the 30th day, plus an assessment for each 30 days of violation. (Ibid.) Under this approach, assuming the Central Valley Water Board agrees with the Prosecution Team’s recommendation to equitably toll the violation period, the minimum days of violation total 60. Although it is within the Board’s discretion to find that the days of violation lie anywhere between 60 and 2,365, the Prosecution Team recommends that the Board choose to apply the minimum number of days allowed under equitable tolling and the Enforcement Policy of 60.

Violation No. 8 - Initial Liability Amount

The initial liability amounts for the violations calculated on a per-day basis are as follows:

60 days x \$5,000 X 0.55

Total Initial Liability = \$165,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s compliance history.

Culpability: 1.2

A factor of 1.2 is appropriate for this violation. The Discharger knew of the 2008 CDO requirement as it was granted the opportunity to comment on those tasks prior to the 2008 CDO adoption date. In addition, as evidenced by the 23 September 2013 Memorandum (Tab 8G) from the Discharger’s consultant, the Discharger had notice of the specific regulatory requirements which remained to be met. The Discharger’s knowledge of the material inadequacy of its submissions is demonstrated by the fact that those deficiencies were discussed in a series of correspondence between the Discharger and Central Valley Water Board staff. (Tab 8B; 8C; 8E; 8F; 8J; 8K) A reasonably prudent person would have complied with the 2008 CDO requirements in a timely manner. The Discharger knowingly disregarded the requirements associated with Task 3.

Cleanup and Cooperation: 1.2

For non-discharge violations, efforts towards cleanup are not applicable. Beginning in September 2009, Central Valley Water Board contacted the Discharger through phone calls, email, and letters, in attempts to retrieve the requisite information and bring the Discharger into compliance. (Tab 8B; 8C; 8E; 8F; 8J; 8K) The Discharger had multiple opportunities to correct the violation, yet failed to work cooperatively with Central Valley Water Board staff to achieve the common goal of compliance and failed to submit the technical information required pursuant to Task 3 of the 2008 CDO. The Prosecution Team recommends a 1.2.

History of Violations: 1.1

A factor of 1.1 is appropriate for this violation. In 2001, the Central Valley Water Board issued CDO 5-01-001 due to pond capacity issues and due to the overflow of the ponds to neighboring businesses in 2000. The issuance of the 2008 CDO stemmed, in part, from the Discharger's ongoing failure to comply with the 2001 CDO. Therefore, the application of a 1.1 is appropriate.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Total Initial Liability Amount determined in Step 3.

<u>Violation No. 8 –Total Base Liability Amount</u>	
Total Initial Liability x Culpability Multiplier x Cleanup and Cooperation Multiplier x History of Violations Multiplier = Total Base Liability	
$\$165,000 \times 1.2 \times 1.2 \times 1.0 = \$261,360$	
Statutory Maximum Civil Liability for Violation No. 8 = \$8,200,000	
Liability at Collapsed Days (60) Prior to Per Day and Conduct Factor Application = \$300,000	
Total Base Liability Amount for Violation No. 8 = \$261,360	

<u>COMBINED TOTAL BASE LIABILITY AMOUNT FOR VIOLATIONS 1 THROUGH 8</u>	
Violation No. 1: \$3,390,816	Violation No. 5: \$540,540
Violation No. 2: \$150,000	Violation No. 6: \$1,410,981
Violation No. 3: \$22,308	Violation No. 7: \$1,361,360
Violation No. 4: \$2,836,834	Violation No. 8: \$261,360
Statutory Maximum Civil Liability for all Violations = \$344,780,000	
Combined Total Base Liability Amount for All Violations = \$10,009,839	

Administrative Civil Liability Complaint No. R5-2016-0512

MALAGA COUNTY WATER DISTRICT
WASTWATER TREATMENT FACILITY
FRESNO COUNTY

Exhibit 2

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- A. 2004 Sewer Use Ordinance, pp. A-21, A-23
- B. 2010 PCI Summary Report, p. 4
- C. 2014 PCA Final Summary Report, p. 16
- D. 2012 Stratas Foods Permit (included in 2012 Annual Pretreatment Report)
- E. 2010 PCI Checklist, Section III, p. 21 (front and back of page)
- F. 2009 PPG Industries Permit (included in 2009 Annual Pretreatment Report), p. 3
- G. 2013 RockTenn Permit (included in 2013 Annual Pretreatment Report) (3 pages total)
- H. 2014 PCA Final Summary Report, p. 15
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- J. 2014 PCA Final Summary Report, Paragraph 7, p. 35
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- M. 2015 PCI Summary Report, p. 15
- N. 2010 PCI Checklist, Section II, p. 14
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- P. 2009 Kinder Morgan Permit (included in 2009 Annual Pretreatment Report) (2 pages total)
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- A. 2009 Annual Pretreatment Report
- B. 2010 PCI Checklist, Sections I and III, p. 22 (2 pages total)
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- A. RockTenn Compliance Log (included in 2011 Annual Pretreatment Report)
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- F. 2015 PCI Summary Report, p. 5 and pp. 36, 37
- G. 2010 PCI Summary Report, pp. 8-11

*All references to Annual Pretreatment Reports and IU permits indicate excerpts from those documents.

Tab 4 (Violation 1.D)

- A. 2014 PCA Final Summary Report, pp. 29-30
- B. 2013 Annual Pretreatment Report, "Class 1 Inspection & Sampling Activities"
- C. Kinder Morgan "Slug Discharge Plan" (included in 2014 3rd Quarterly Pretreatment Report)
- D. 2010 PCI Checklist, Section II, p. 15
- E. 2015 PCI Summary Report, pp. 30-33
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Tab 5 (Violation 1.E)

- A. 2010 Annual Pretreatment Report (8 pages total)
- B. 2014 PCA Final Summary Report, pp. 40-41
- C. 2008 Annual Pretreatment Report
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- A. 2011 1st Quarterly Pretreatment Report (2 pages total)
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- C. Administrative Complaint for Fresno Truck Wash, pp. 1-5 (included in 2010 Annual Pretreatment Report)
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- A. 25 July 2008 *Study Evaluating Treatment and Disposal Facilities*
- B. 19 August 2009 Central Valley Water Board Memorandum, pp. 1-5
- C. 24 September 2009 Central Valley Water Board Letter, pp. 1-2
- D. 28 April 2011 Cover Letter from Discharger with Technical Report
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- I. 29 October 2013 email from Discharger with response (17 pages total)
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- A. 2010 *Water, Sewer, & Solid Waster Rate Study*, pp. 2-3
- B. Visalia, Atwater, Selma-Kingsburg-Fowler, Fresno-Clovis, and Merced Annual Pretreatment Reports (40 pages total)

*All references to Annual Pretreatment Reports and IU permits indicate excerpts from those documents.

TAB 0

(Background and Introduction)

TAB 0A

2012 Annual Biosolids Report

Description of processes

Give a brief description of your sewage sludge treatment and use/disposal practices

Sludge in the WWTP is collected and pumped to two (2) aerobic digesters. The facility then moves the sludge to a sludge thickener. Sludge is drained from the sludge thickener to three (3) lined sludge drying beds. Dried sludge is stored on site until the District contracts for hauling and disposal.

Describe any changes to your operations, any unique features or operational issues encountered during past year

No changes to the operation.

Describe any instances of non-compliance and measures taken to correct it.

The sludge had high levels of Chromium and Copper.

The District intends to proceed with more frequent hauling of the sludge for disposal so that the concentrations of metals do not reach hazardous

concentrations.

Please enter the calendar date when the location data were collected, in mm/dd/yyyy format in the cell to the right (if the date is not known, please type UNKNOWN):



Liberty Composting, Inc.
P.O. Box 80727
Bakersfield, CA 93380-0727

Date Received: 07/09/12
Work Order No: 12-07-0370
Preparation: T22.11.5. All
Method: EPA 6010B
Units: mg/L

Project: MALAGA CWD

Page 1 of 1

Client Sample Number	Lab Sample Number	Date /Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
MALAGA CWD	12-07-0370-1-A	07/06/12 10:15	Solid	ICP 7300	07/12/12	07/16/12 15:44	120716LA1

Parameter	Result	RL	DF	Qual	Parameter	Result	RL	DF	Qual
Chromium	9.31	0.100	1		Lead	2.94	0.100	1	
Copper	30.2	0.100	1						

Method Blank	097-05-006-6,302	N/A	Aqueous	ICP 7300	07/12/12	07/16/12 15:20	120716LA1
--------------	------------------	-----	---------	----------	----------	----------------	-----------

Parameter	Result	RL	DF	Qual	Parameter	Result	RL	DF	Qual
Chromium	ND	0.100	1		Lead	ND	0.100	1	
Copper	ND	0.100	1						

RL - Reporting Limit , DF - Dilution Factor , Qual - Qualifiers

TAB 0B

December 2008 Chronic Toxicity

Test Results

pp. 1, 12



Ronald Boquist
Moore Twining Associates, Inc.
2527 Fresno Street
Fresno, CA 93721

January 9, 2009

Dear Mr. Boquist:

I have enclosed two copies of the report "NPDES Compliance Chronic Toxicity Testing of the Malaga WWTF Final Effluent" for testing performed of the effluent samples collected on December 15, 17, 19, and 22, 2008. The results of these tests can be summarized as follows:

Chronic Effects of Malaga Effluent on *Selenastrum capricornutum*

There were no significant reductions in algal growth in the Malaga effluent; the NOEC was 100% effluent, resulting in 1.0 TUc (where TUc = 100/NOEC).

Chronic Effects of Malaga Effluent on *Ceriodaphnia dubia*

There were significant reductions in *Ceriodaphnia* reproduction in the Malaga effluent; the NOEC was 50% effluent, resulting in 2.0 TUc (where TUc = 100/NOEC).

Chronic Effects of Malaga Effluent on Larval Fathead Minnows

There were no significant reductions in fathead minnow survival or growth in the Malaga effluent. The NOEC was 100% effluent, resulting in 1.0 TUc (where TUc = 100/NOEC) for both test endpoints.

If you have any questions regarding the performance or interpretation of these tests, please feel free to contact me at (707) 207-7760.

Sincerely,

R. Scott Ogle, Ph.D.

Principal & Special Projects Director

This testing was performed under Lab Order 14256. The test results reported herein conform to the most current NELAC standards, where applicable, unless otherwise narrated in the body of the report, and only relate to the sample(s) tested. This report shall not be reproduced, except in full, without the written consent of Pacific EcoRisk.

CORPORATE HEADQUARTERS
2250 Cordelia Road
Fairfield, CA 94534
phone : 707.207.7760
fax : 707.207.7916

CENTRAL VALLEY
6820 Pacific Avenue, Ste. 3D
Stockton, CA 95207
phone : 209.952.1180
fax : 209.952.1180

SOUTHERN CALIFORNIA
2792 W. Loker Avenue, Ste. 100
Carlsbad, CA 92010
phone : 760.602.7919
fax : 760.602.9119

3.2 Effects of Malaga Effluent on *Ceriodaphnia dubia*

The results of this test are summarized below in Table 4. There was 100% survival at the Lab Control treatment. There were no significant reductions in survival in the Malaga effluent; the survival NOEC was 100% effluent, resulting in 1.0 TUc (where TUc = 100/NOEC).

There was a mean of 19.4 offspring per female in the Lab Control. There were significant reductions in reproduction in the Malaga effluent; the reproduction NOEC was 50% effluent, resulting in 2.0 TUc (where TUc = 100/NOEC).

The test data and summary of statistical analyses for this test are presented in Appendix D.

Table 4. Effects of Malaga effluent on <i>Ceriodaphnia dubia</i> survival and reproduction.		
Test Treatment	% Survival	Reproduction (# neonates/female)
Lab Control	100	19.4
12.5% effluent	100	20.1
25% effluent	100	19.7
50% effluent	100	18.4
75% effluent	80	14.4*
100% effluent	100	15.2*
Summary of Statistics		
No Observable Effect Concentration (NOEC) =	100% effluent	50% effluent
TUc (100/NOEC) =	1.0	2.0
Survival EC25 or Reproduction IC25 =	could not be determined, can be assumed to be >100% effluent	74.9% effluent

* Significantly less than the Lab Control treatment response (p < 0.05).

TAB 0C

March 2011 Chronic Toxicity

Test Results



Tony Morales
Malaga Wastewater Treatment Facility
3580 S. Frank Street
Fresno, CA 93725-2511

April 22, 2011

Dear Mr. Morales:

I have enclosed a copy of the report "NPDES Compliance Chronic Toxicity Testing of the Malaga WTF Final Effluent" for testing performed of the effluent samples collected on March 21, 23, and 25, 2011. The results of these tests can be summarized as follows:

Chronic Effects of Malaga Effluent on *Selenastrum capricornutum*

There was a significant reduction in algal growth in the Malaga effluent; the NOEC was 75% effluent, resulting in 1.3 TUc.

Chronic Effects of Malaga Effluent on *Ceriodaphnia dubia*

There were no significant reductions in *Ceriodaphnia* survival or reproduction in the Malaga effluent; the NOEC was 100% effluent, resulting in 1.0 TUc for both test endpoints.

Chronic Effects of Malaga Effluent on Larval Fathead Minnows

There were no significant reductions in fathead minnow survival or growth in the Malaga effluent; the NOEC was 100% effluent, resulting in 1.0 TUc for both test endpoints.

If you have any questions regarding the performance or interpretation of these tests, please feel free to contact my colleague Stephen Clark or myself at (707) 207-7760.

Sincerely,

Drew
Gantner

Drew Gantner
Sr. Aquatic Ecotoxicologist

Digitally signed by Drew Gantner
DN: cn=Drew Gantner, o=Pacific
EcoRisk, ou,
email=dgantner@pacificecorisk.c
om, c=US
Date: 2011.04.25 17:30:43 -0700

This testing was performed under Lab Order 18130. The test results reported herein conform to the most current NELAC standards, where applicable, unless otherwise narrated in the body of the report, and only relate to the sample(s) tested. This report shall not be reproduced, except in full, without the written consent of Pacific EcoRisk.

TAB 0D

March 2012 Chronic Toxicity

Test Results



PACIFIC ECORISK

ENVIRONMENTAL CONSULTING & TESTING

Tony Morales
Malaga Wastewater Treatment Facility
3580 S. Frank Street
Fresno, CA 93725-2511

April 24, 2012

Dear Mr. Morales:

I have enclosed two copies of our report "NPDES Compliance Chronic Toxicity Testing of the Malaga WTF Final Effluent: Accelerated Monitoring Test #2 with *Selenastrum capricornutum*" for testing performed on the effluent sample collected on March 13, 2012. The results of this test follow:

Chronic Effects of Malaga Effluent on *Selenastrum capricornutum*

There was a significant reduction in algal growth in the 100% Malaga effluent; the NOEC of 75% effluent resulted in 1.3 TUC (where TUC = 100/NOEC). The IC₂₅ was 87% effluent.

If you have any questions regarding the performance and interpretation of this test, feel free to contact Stephen Clark or myself at (707) 207-7760.

Sincerely,

Drew Gantner

Digitally signed by Drew Gantner
DN: cn=Drew Gantner, o=Pacific EcoRisk,
ou, email=dgantner@pacificecorisk.com,
c=US
Date: 2012.04.25 09:19:40 -08'00'

Drew Gantner
Sr. Aquatic Ecotoxicologist

This testing was performed under Lab Order 19289. The test results reported herein conform to the most current NELAC standards, where applicable, unless otherwise narrated in the body of the report, and only relate to the sample(s) tested. This report shall not be reproduced, except in full, without the written consent of Pacific EcoRisk.

TAB 1
(Violation 1.A)

TAB 1A
2004 Sewer Use Ordinance
pp. A-21, A-23

USE OF PUBLIC SEWERS

Section 2.4.01 Introduction. This chapter is applicable to areas within the boundaries of the Malaga County Water District and to all other areas and entities which by contract are bound to comply with the ordinances, resolutions, rules and regulations of the District.

Section 2.4.02 Prohibitions on Wastewater Discharges. No Person shall discharge or deposit or cause or allow to be discharged or deposited into the Wastewater Facilities any Wastewater which may cause interference or pass through or which contains the following:

(A) **Oils and Grease.**

(1) Oil and grease concentrations or mass emission rates in violation of applicable federal pretreatment standards.

(2) Wax, grease or oil of animal, vegetable, mineral or petroleum origin (including emulsified forms) in any concentration or quantity which may cause or significantly contribute to flow obstruction, pass through or interference, or otherwise be incompatible with the Wastewater Facilities.

(3) Oil and grease limitations are established at 100 mg/l.

(B) **Explosive Mixtures.** Liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Wastewater Facilities or to the operation of such Wastewater Facilities. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes and any other liquids having a closed-cup flashpoint of less than 140 F, peroxides, chlorates, perchlorates, bromates, carbides, formaldehyde, hydrides, and sulfides.

At no time shall the reading on a combustible gas meter at the point of discharge, or at any point in the Wastewater Facilities exceed five percent (5%) of the lower explosive limit (LEL) of the meter.

(C) **Noxious Material.** Noxious or malodorous solids, liquids or bases, which either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, may cause acute worker health and safety problems, or are or may be sufficient to prevent entry into a Sewer for its maintenance and repair.

(D) **Improperly Shredded Garbage.** Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than three eighths (3/8) inch in any dimension.

(3) Any chemical element or compound, including taste or odor producing substances, which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the Wastewater Facilities.

(I) Unpolluted Waters. Any unpolluted water including, but not limited to, water from cooling systems or of Storm Water origin, which will increase the hydraulic load on the Wastewater Facilities.

(J) Discolored Materials. Wastes with objectionable color not removable by the treatment process. Such color shall be objectionable if it causes the plant effluent to fail to meet State or EPA standards for turbidity or light transmittance, or if it causes pollution to Waters of the State.

(K) Corrosive Wastes. Any Waste which will cause corrosion or deterioration detrimental to the design life expectancy of the Wastewater Facilities. All Wastes discharged to the Public Sewer must have a pH value in the range of six (6.0) to nine (9.0) standard units. Materials which may be prohibited under this Section include, but are not limited to, acids, caustic, sulfides, concentrated chloride and flouride compounds, and substances which will react with water to form acidic products.

(L) Interference With Reclamation or Reuse. Any Waste which will cause, threaten to cause, or is capable of causing either alone or by interaction with other substances in the District's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(M) Nuisance. Any Waste which will cause, threaten to cause, or is capable of causing either alone or by interaction with other substances a detrimental environmental impact or a nuisance in the Waters of the State or a condition unacceptable to the District or to any public agency having regulatory jurisdiction over the District.

(N) Incompatible Pollutants. Any Waste which is not a "compatible pollutant" as defined in this Sewer Use Ordinance or which may interfere with or may pass through the Sewerage System or which may cause abnormal increase in the operation costs of the Wastewater Facilities.

Section 2.4.03 Limitations on Wastewater Discharges. The following table specifies the maximum concentrations of pollutants allowable in Wastewater discharges to the Wastewater Facilities.

Table 1

pH -- acceptable range 6.0-9.0 pH units

Temperature -- not to exceed temperatures that will cause interference or that will cause the influent at the treatment plant to exceed 104°F, but in no case to exceed 150°F.

TAB 1B

2010 PCI Summary Report, p. 4

6. Control Mechanisms

To ensure compliance with applicable pretreatment standards, the federal pretreatment regulations at 40 CFR 403.8(f)(1)(iii) require POTWs to control the discharges from nondomestic dischargers by using control mechanisms (permits or other similar means). The control mechanisms must include, at a minimum, the following:

- Statement of duration (in no case more than 5 years)
- Statement of no transferability
- Effluent limits, including BMPs based on applicable pretreatment standards
- Self-monitoring, sampling, reporting, and record-keeping requirements
- Statement of penalties
- Compliance schedules (if applicable)
- Required resampling within 30 days after noticing a violation
- Slug control requirements (if necessary)
- Notification requirements
 - Notice of slug loadings
 - Notification of spills, bypasses, or upsets
 - Notification of significant change in discharge
 - Notification within 24 hours after noticing a violation.

Permits for CIUs must also properly use the combined wastestream formula, properly convert mass-based limits to concentration-based limits, and properly apply production-based limits (if applicable) and must include a prohibition on dilution as a substitute for treatment.

6.1 Reissuance of SIU permits

The Tetra Tech inspector could not find the 2009 Calpine permit. District personnel indicated that all SIU permits are issued for a duration of one year. The Tetra Tech inspector could find only an unsigned draft 2009 permit for Calpine. The District personnel could not explain why there was no final and signed 2009 permit in the files. According to Section 2.8.01 of the District's SUO, all SIUs discharging to the WWTF must have a permit. Without documentation of a final and signed permit in the files, it could be perceived that Calpine discharged illegally in 2009. Therefore, the District is required to ensure that every SIU is issued a signed and final permit prior to the expiration of the previous permit.

6.2 Effluent Limits

The iron limit in Calpine's permit is inconsistent with the limit established in the District's SUO. The iron limit in the permit is listed as 10 parts per million (milligrams per liter, mg/L) but the SUO specifies that the local limit for iron is 1 part per million. Therefore, the District is required to revise Calpine's permit to include the iron limit established in the SUO.

TAB 1C

2014 PCA Final Summary Report, p. 16

7.5 Effluent Limits

According to the 2010 inspection report, the iron limit in Calpine's permit was inconsistent with the limit established in the District's SUO. The iron limit in the permit was listed as 10 mg/L, but the SUO specified that the local limit for iron was 1 mg/L. Therefore, the District was required to revise Calpine's permit to include the iron limit established in its SUO. In response to this requirement, the District stated that the District, legal counsel, and Contract Engineer will review the limits identified in the SOU [sic] and the individual SIU permits. If exceptions to the SOU [sic] are not allowed, the necessary modifications to limits will be incorporated into the updated SOU [sic].

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2014 audit, the RockTenn CP, LLC (formerly Calpine Corrugated, LLC) permit was reviewed. It was determined that the effluent limit for iron is not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn is required to collect a grab sample for iron in June from measurement location 001. The District is required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3).

7.6 Self-monitoring Requirements

According to the 2010 inspection report, the permits reviewed contained inconsistent self-monitoring requirements. Therefore, the District was required to review all monitoring requirements to ensure that they were consistent throughout each permit. In response to this requirement, the District stated that the current SIU permits contain consistent monitoring requirements throughout. The District also stated that this item was addressed prior to the issuance of the NOV from the Central Valley Water Board. Current copies of permits assigned to each SIU were included in the report of September 30, 2013.

As a component of the 2014 audit, it was determined that part 3.2(a) of the permits reviewed stated the specific monitoring requirements for the user, including sample parameters, measurement location, frequency, and sample type. The audit team found the self-monitoring requirements in each permit reviewed to be consistent throughout the IU permit.

According to the 2010 inspection report, the permits did not clearly specify what types of samples must be collected for each pollutant. Therefore, the District was required to review all SIU permits to ensure that the appropriate sampling technique was clearly identified for each pollutant that the discharger was required to self-monitor. In response to this requirement, the District stated that the sample type and frequency were contained in SIU permits in Part 3—Monitoring and Reporting Requirements. The District also stated that this item was addressed prior to the issuance of the NOV. Current copies of permits assigned to each SIU were included in the report of September 30, 2013.

As a component of the 2014 audit, the self-monitoring requirements included in the SIU permits were reviewed. It was determined that Part 3.2, Self Monitoring Requirements

TAB 1D

2012 Stratas Foods Permit (included in
2012 Annual Pretreatment Report)

PART 2 DISCHARGE PROHIBITIONS AND LIMITATIONS

1. Standard Discharge Prohibitions

The permittee shall comply with all discharge prohibitions and limitations specified in Ordinance 01-13-2004. Prohibited materials include but are not necessarily limited to:

- (a) Any materials which may cause interference or pass-through;
- (b) Oils and grease in any concentration or quantity which may contribute to an obstruction;
- (c) Explosive mixtures;
- (d) Noxious material;
- (e) Improperly shredded garbage;
- (f) Solid or viscous wastes which may cause obstruction;
- (g) Slug loads;
- (h) Toxic or hazardous substances;
- (i) Unpolluted waters
- (j) wastes with objectionable color not removed by the treatment process;
- (k) Corrosive wastes;
- (l) Trucked or hauled waste;
- (m) Any other materials which may cause or contribute to a detrimental environmental impact or nuisance, interfere with District opportunities to reclaim or recycle products of the treatment process, or may otherwise be incompatible with the wastewater facilities.

2. Specific Discharge Prohibitions

pH acceptable range = 6.0 – 10.5

E.C. (conductivity) 950 µmhos/cm maximum (monthly average)

B.O.D. 1,000 mg/l, (Surcharge above 300mg/l) (monthly average)

Suspended Solids 1,000 mg/l, (Surcharge above 270mg/l) (monthly average)

C.O.D. 1,000 mg/l, (monthly average)

Oils and Greases 200 mg/l, (monthly average)

Metals (with associated maximum allowable discharge):

lead	5ppm	silver	5ppm		
arsenic	5ppm	benene	0.02ppm	phenols	1ppm
cadmium	0.1ppm	zinc	5ppm		
chromium	5ppm	copper	5ppm	aluminum	5ppm
mercury	0.2ppm	barium	10ppm		
nickel	5ppm	selenium	1ppm	boron	8ppm

TAB 1E

2010 PCI Checklist

Section III, p. 21, (front and back of
page)

SECTION III: EVALUATION AND SUMMARY (Continued)

Description	Regulatory Citation	Checklist Question(s)	Action	
			Rec.	Req.
C. CONTROL MECHANISM EVALUATION (Continued)				
2. Ensure control mechanisms contents include:	403.8(f)(1)(B)	I.B.2.a-j		✓
a. A statement of duration b. A statement of nontransferability c. Effluent limits d. Self-monitoring requirements e. A statement of penalties f. Compliance schedules g. Notice of slug loading h. Notification of spills, bypasses, upsets, etc. i. Notification of significant change in discharge j. 24-hour notification of violation/resample requirement				
<i>C. Error of Fe limit in Calhoun Permit</i> <i>d. Self monitoring requirements are listed in "Reporting Requirements"</i> <i>⊖ No sample type</i>				
D. APPLICATION OF PRETREATMENT STANDARDS AND REQUIREMENTS				
1. Apply all applicable pretreatment standards	403.8(f)(1)(iii)	I.B.2.a-j		
2. Evaluate the need for SIUs to develop slug discharge control plans	403.8(f)(2)(vi); 403.5	I.C.1 - 6; II.D.2		✓
<i>No document slug evaluations</i> <i>↳ need to send slug evaluation forms to District</i>				
E. COMPLIANCE MONITORING				
1. Inspect and sample each SIU in accordance with approved program	Approved program	I.D.2 & 7; II.E.1		✓
<i>No documented compliance inspections or monitoring</i>				

TAB 1F

2009 PPG Industries Permit (included in
2009 Annual Pretreatment Report)

p. 3

10. Transferability

This permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or to a new or changed operation.

11. Enforcement and Penalties

Failure to comply with any of the provisions of this permit, Ordinance 3-14-95, or applicable State or Federal laws or regulations may result in any or all of the following actions:

- (a) administrative actions including but not limited to Notices of Violation, Administrative Orders, Administrative Hearings, Governing Board Hearings, Compliance Orders, and civil penalties;
- (b) legal actions including but not limited to preliminary or permanent injunctions, or both;
- (c) civil and/or criminal penalties;
- (d) permit revocation;
- (e) temporary or permanent disconnection from the District's sewerage system.
- (f) water supply severance

12. Appeals

Any permittee affected by any decision, action, or determination, including Administrative Orders, issued by the Manager, interpreting or implementing the provisions of Ordinance 3-14-95 or any permit issued therein, may file with the District a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the permittee's request for reconsideration.

If the ruling made by the Manager is unsatisfactory to the person requesting reconsideration, this person may, within ten (10) days after notification of District action, file a written appeal to the District's Board of Directors. The written appeal shall be heard by the body within sixty (60) days from the date of filing. The District's Board of Directors shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

Any permittee aggrieved by a final order issued by the Board of Directors may obtain review of the order of the Board in the Superior Court by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of a decision and order issued by the Board.

If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the Board shall not be subject to review by any court or agency, except that the Board may grant review on its own motion after the expiration of the time limits.

13. Maintenance Fee

A permittee may apply for a permit to maintain availability of allocated sewer units. A determination will be made by the District of applicable fixed costs associated with said sewer units. The District may issue a permit to maintain the allocated sewer units for a specific time frame. Terms and conditions of such a permit are determined on a case by case basis.

TAB 1G

2013 RockTenn Permit (included in
2013 Annual Pretreatment Report)

(3 pages total)

PART 3 MONITORING AND REPORTING REQUIREMENTS

1. General Monitoring Requirements

- (a) The Manager may require any permittee to monitor wastewater discharge and to submit monitoring reports to the Manager, at a frequency specified by the Manager. The permittee shall comply with all monitoring requirements specified in this permit or otherwise required, in writing, by the District.
- (b) Flow monitoring and sampling facilities shall comply with all applicable provisions of this permit and ordinance 01-13-2004.
- (c) Laboratory analysis of industrial wastewater samples shall be performed in accordance with the approved test procedures specified in 40CFR136 unless otherwise authorized, in writing, by District staff.
- (d) All samples must be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR Part 136, and amendments.

2. Specific Monitoring Requirements

- (a) From the period beginning on the effective date of the permit, the permittee must monitor outfall 001 for the following parameters, at the indicated frequency:

Sample Parameter (units)	Measurement Location	Frequency	Sample Type
Flow (gpd)	001	Daily ¹	
BOD (mg/L)	001	Monthly	grab
TSS(mg/L)	001	Monthly	grab
Aluminum(mg/L)	001	June	grab
Arsenic (mg/L)	001	June	grab
Cadmium (mg/L)	001	June	grab
Chromium ⁵ (mg/L)	001	June	grab
Barium (mg/L)		June	grab
Boron (mg/L)		June	grab
Copper (mg/L)	001	June	grab
Iron (mg/L)	001	June	grab
Zinc (mg/L)	001	June	grab
pH (s.u.)	001	Weekly	Grab
Electroconductivity (µmhos/cm)	001	Continuous	Continuous

(meter)¹

¹Daily flows are to be recorded from the permittee's flow meter.

(grab)

³A single grab sample of daily discharge.

⁴Flow-proportional composite sample over daily duration of discharge.

- (b) The sampler shall be maintained in accordance with manufacturer's recommendations, shall be cleaned once per month when in use, and samples shall be maintained at 4.0°C (±2.0°C).
- (c) Operate and maintain flowmeter, have it electronically calibrated annually and hydraulically calibrated every three years by a recognized professional in flowmeter testing and repair, and provide proof of calibration to the District prior to July 31 annually.

3. Reporting Requirements

- (a) The Manager may require any permittee to submit monitoring reports to the Manager, in a format and at a frequency specified by the Manager. The permittee shall comply with all reporting requirements specified in this permit or otherwise required, in writing, by the District.
- (b) All permittees subject to Federal categorical pretreatment standards shall comply with all applicable reporting requirements specified in 40CFR403.12.
- (c) The permittee shall notify the District prior to any new or changed discharge, and shall immediately notify the District (phone 559-485-7353) of any wastewater discharge which is not in compliance with the permit or Ordinance 01-13-2004, or which might be reasonably judges to constitute a hazard to District personnel, the wastewater treatment system, or the environment.
- (d) Provide a site plan showing the location of all wastewater treatment facilities (grease traps, sand separators, etc.)
- (e) Monitor grease traps weekly (record scum and solids level)
- (f) As per Part 1 Section 4, maintain a log of all wastewater and solids removed from the premise. Submit copies of the log on a quarterly basis to MCWD for the first year and annually thereafter.
- (g) Monitoring results obtained must be summarized and reported on an Industrial User Monitoring Report Form.

Reports for parameter with a continuous monitoring frequency must be submitted monthly. The reports are due within 15 days after the end of each calendar month.

Reports for parameter with a 6 months monitoring frequency must be submitted within 15 days after each reporting period. The reporting period is January-December (calendar year).

All monitoring reports must indicate the nature and concentration of all pollutants in the effluent for which sampling and analysis were performed during the reporting period preceding the submission of each report.

(h) Certification Statements

The permittee is required to sign and submit the following certification statement with all monitoring reports:

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 ensure 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 signification penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

All reports required by this permit must be submitted to the **Malaga County Water District** at the following address:

Malaga County Water District
Attention: Manager
3580 S. Frank Street
Fresno, CA 93725

PART 4 SPECIAL CONDITIONS

1. Reservation of Sewer Unit Allocation

The user shall pay a reservation fee of \$2,500/month for the reservation of 735 sewer units.

2. Automatic Re-sampling

TAB 1H

2014 PCA Final Summary Report

p. 15

7.3 Sampling Location

According to the 2010 inspection report, the permits reviewed did not specify the correct sampling points. Therefore, the District was required to revise each SIU permit to include a specific description of where the sampling point was located. In response to this requirement, the District stated that the SIU permits would be reviewed to confirm the designation of specific sampling points. In addition, the District stated that the specific locations of sampling points for SIUs are defined in the individual permit files.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require POTWs to identify the sampling locations in control mechanisms (permits). As a component of the 2014 audit, the sampling locations listed in the permits were reviewed. Each of the permits reviewed stated that the permittee must monitor outfall 001. In addition, part 3.2(a) of the permits lists the measurement location as "001." However, this measurement location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the District is required to include an adequate description of the sampling locations in the permits as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4). The audit team also recommends that the District develop diagrams or include photographs of the sampling locations in the permits to avoid any confusion. For more information about the sampling locations at the facilities inspected as part of the audit, refer to section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit.

7.4 Statement of Civil and Criminal Penalties

According to the 2010 inspection report, the permits reviewed did not contain statements of applicable civil and/or criminal penalties. Therefore, the District was required to review all SIU permits to ensure that each SIU permit included a statement of applicable civil and/or criminal penalties. In response to this requirement, the District stated that the SUO had the appropriate civil and/or criminal penalty language; however, this was not referenced specifically in the SIU permits. The language was incorporated by reference to the existing SOU [sic]. In addition, the District stated that the District, legal counsel, and Contract Engineer reviewed specific language that has been proposed to be added to the individual permits. The draft language had been attached to the permits and would be submitted to the Central Valley Water Board in November 2013. The draft language was also incorporated with the SOU [sic] adoption anticipated for January 2014.

As a component of the 2014 audit, the permits were reviewed to determine if the appropriate modifications had been completed regarding the civil and criminal penalties statement. According to part 1.14 of the permit, "Failure to comply with any provisions of this permit, Ordinance 01-13-2004, or applicable State or Federal laws or regulations may result in ...(c) civil and/or criminal penalties." However, the draft version of the SUO provided to the audit team by the District was Ordinance No. 2013-1. The District is required to update the SUO reference in the permits to the most recent version of the SUO.

TAB 11

2009 Air Products Permit (included in
2009 Annual Pretreatment Report)

pp. 1-6

PART 1 STANDARD CONDITIONS

1. Duty to Comply

The permittee shall comply with all of the conditions of this permit and all of the provisions, terms, and requirements of all orders, ordinances, rules, and regulations of the District, including but not limited to connection permits, baseline discharge requirements (per Ordinance 3-14-95) and agreements for wastewater disposal variance, as amended.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or correct any adverse impact to the wastewater treatment system or the environment resulting from noncompliance with this permit.

3. Notification and Reporting

The permittee shall notify the District prior to any new or changed discharge, and shall immediately notify the District (phone 559-485-7353) of any wastewater discharge which is not in compliance with this permit or Ordinance 3-14-95, or which might be reasonably judged to constitute a hazard to District personnel, the wastewater treatment system, or the environment.

The permittee shall furnish any information relating to wastewater discharge quantity and quality as required by the District, and shall comply with all reporting requirements specified in this permit.

4. Retention of Records

The permittee shall maintain a copy of this permit and Ordinance 3-14-95 on file at 3333 S. Peach Ave., Fresno, CA 93725.

The permittee shall maintain on-site for a minimum of three years any records of monitoring activities and results, and wastes hauled off-site (including Uniform Hazardous Waste Manifests), and make such records available for inspection and copying by District staff upon request. All records that pertain to matters that are the subject of Administrative Orders or any other enforcement or litigation activities brought by the District shall be retained and preserved by the permittee until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

5. Costs and Fees

The permittee shall pay all fees required by District ordinances, including but not limited to, connection fees, annexation fees, bond debt services charges, and sewer unit fees.

The permittee shall also pay any additional cost or expenses incurred by the District for handling and treating excess loads imposed on the treatment system and any cost or expense incurred by the District in the enforcement of the provisions of its ordinances and the correction of violations thereof.

6. Facilities

The permittee shall make wastewater acceptable under the limitations of Ordinance 3-14-95 before discharging to the sewerage system. Any facilities required to pretreat wastewater to a level

acceptable to the District shall be provided and maintained at the permittee's expense. Detailed plans showing the pretreatment facilities and operating facilities shall be submitted to the District for review, and shall be acceptable to and approved by the District, in writing, before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the District under the provisions of Ordinance 3-14-95. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to, and be approved in writing by, the District.

Pretreatment facilities (including sampling and flow monitoring facilities) shall be maintained in good working order and shall be operated so as to ensure continuous compliance with District ordinances, resolutions, rules and regulations, and any applicable permits by the permittee at the permittee's own cost and expense. Pretreatment facilities are at all times subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws. Intermittent operation of pretreatment facilities, except as provided for in writing by the District, during discharge to the sewerage system is prohibited.

All solids, sludge, filter backwash or other pollutants removed by pretreatment facilities shall not be discharged to the sewerage system, but shall be stored, treated and/or disposed of in accordance with applicable State and Federal regulations.

7. Right of Entry

The permittee shall allow District personnel, upon the presentation of credentials, to enter upon any property or premises at all reasonable times for the purposes of:

- (a) reviewing and copying any records required to be kept under the provisions of Ord. 3-14-95;
- (b) inspecting any monitoring equipment, pretreatment facility or discharge-producing process; or
- (c) inspecting and/or sampling any discharge of wastewater to the wastewater facilities.

District personnel may enter upon the property at any hour under emergency circumstances. In the event of such emergency entry, District personnel shall make every effort to immediately notify the permittee's designated agent.

8. Duration

The terms and conditions of this permit shall remain in effect until either:

- (a) the permit is modified;
- (b) the permit is revoked;
- (c) the permit expires and cause is determined for non-renewal of the permit.

Failure of the District to act upon a valid permit application or renewal application shall allow for automatic extension of operations under existing permit conditions until such District action is complete.

9. Severability

The provisions of this permit are severable, and if any provisions of this permit or the application of any provision of this permit to any circumstances is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected hereby.

10. Transferability

This permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or to a new or changed operation.

11. Enforcement and Penalties

Failure to comply with any of the provisions of this permit, Ordinance 3-14-95, or applicable State or Federal laws or regulations may result in any or all of the following actions:

- (a) administrative actions including but not limited to Notices of Violation, Administrative Orders, Administrative Hearings, Governing Board Hearings, Compliance Orders, and civil penalties;
- (b) legal actions including but not limited to preliminary or permanent injunctions, or both;
- (c) civil and/or criminal penalties;
- (d) permit revocation;
- (e) temporary or permanent disconnection from the District's sewerage system.
- (f) water supply severance

12. Appeals

Any permittee affected by any decision, action, or determination, including Administrative Orders, issued by the Manager, interpreting or implementing the provisions of Ordinance 3-14-95 or any permit issued therein, may file with the District a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the permittee's request for reconsideration.

If the ruling made by the Manager is unsatisfactory to the person requesting reconsideration, this person may, within ten (10) days after notification of District action, file a written appeal to the District's Board of Directors. The written appeal shall be heard by the body within sixty (60) days from the date of filing. The District's Board of Directors shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

Any permittee aggrieved by a final order issued by the Board of Directors may obtain review of the order of the Board in the Superior Court by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of a decision and order issued by the Board.

If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the Board shall not be subject to review by any court or agency, except that the Board may grant review on its own motion after the expiration of the time limits.

13. Maintenance Fee

A permittee may apply for a permit to maintain availability of allocated sewer units. A determination will be made by the District of applicable fixed costs associated with said sewer units. The District may issue a permit to maintain the allocated sewer units for a specific time frame. Terms and conditions of such a permit are determined on a case by case basis.

PART 2 DISCHARGE PROHIBITIONS AND LIMITATIONS

1. Standard Discharge Prohibitions

The permittee shall comply with all discharge prohibitions and limitations specified in Ordinance 3-14-95, Chapter II. Prohibited materials include but are not necessarily limited to:

- (a) any materials which may cause interference or pass-through;
- (b) oils and grease in any concentration or quantity which may cause or contribute to obstruction;
- (c) explosive mixtures;
- (d) noxious material;
- (e) improperly shredded garbage;
- (f) solid or viscous wastes which may cause obstruction;
- (g) slug loads;
- (h) toxic or hazardous substances;
- (i) unpolluted waters;
- (j) wastes with objectionable color not removed by the treatment process;
- (k) corrosive wastes;
- (l) trucked or hauled waste;
- (m) any other materials which may cause or contribute to a detrimental environmental impact or nuisance, interfere with District opportunities to reclaim or recycle products of the treatment process, or may otherwise be incompatible with the wastewater facilities.

2. Specific Discharge Prohibitions

pH	acceptable range = 6.0 - 9.0
E.C. (conductivity)	950 μ mhos/cm maximum
B.O.D.	1,000 mg/l,
Suspended Solids	1,000 mg/l,
Oils and Greases	100 mg/l

Metals (with associated maximum allowable discharge):

iron	2ppm	copper	5ppm
arsenic	5ppm	mercury	0.2ppm
		selenium	1ppm
chromium	5ppm	silver	5ppm
		phenols	1ppm
nickel	5ppm	zinc	5ppm
lead	5ppm	aluminum	5ppm
benzene	0.02ppm	barium	10ppm
cadmium	0.1ppm	boron	8ppm

Screening size 20 mesh/inch

Temperature - maximum of 150°F

PART 3 MONITORING AND REPORTING REQUIREMENTS

1. General Monitoring Requirements

- (a) The Manager may require any permittee to monitor wastewater discharge and to submit monitoring reports to the Manager, at a frequency specified by the Manager. The permittee shall comply with all monitoring requirements specified in this permit or otherwise required, in writing, by the District.
- (b) Flow monitoring and sampling facilities shall comply with all applicable provisions of this permit and Ordinance 3-14-95.
- (c) Laboratory analysis of industrial wastewater samples shall be performed in accordance with the approved test procedures specified in 40CFR136 unless otherwise authorized, in writing, by District staff.

2. Specific Monitoring Requirements

- (a) One flow-proportional 24-hour composite sample every month. The timing of obtaining samples shall be spaced by approximately 4 weeks. The sampler shall be maintained in accordance with manufacturer's recommendations, shall be cleaned once per month when in use, and samples shall be maintained at 4.0°C ($\pm 2.0^\circ\text{C}$).
- (c) Operate and maintain flowmeter, have it electronically calibrated annually and hydraulically calibrated every three years by a recognized professional in flowmeter testing and repair, and provide proof of calibration to the District prior to July 31 annually. The flowmeter shall record instantaneous and cumulative flow discharged from the facility.

3. General Reporting Requirements

- (a) The Manager may require any permittee to submit monitoring reports to the Manager, in a format and at a frequency specified by the Manager. The permittee shall comply with all reporting requirements specified in this permit or otherwise required, in writing, by the District.
- (b) All permittees subject to Federal categorical pretreatment standards shall comply with all applicable reporting requirements specified in 40CFR403.12.
- (c) The permittee shall notify the District prior to any new or changed discharge, and shall immediately notify the District (phone 559-485-7353) of any wastewater discharge which is not in compliance with this permit or Ordinance 3-14-95, or which might be reasonably judged to constitute a hazard to District personnel, the wastewater treatment system, or the environment.

4. Specific Reporting Requirements

- (a) Provide a site plan showing the location of all wastewater treatment facilities (grease traps, sand separators, etc.)
- (b) As per Part 1 Section 4, maintain a log of all wastewater and solids removed from the premises. Submit copies of the log on an annual basis. This log shall be submitted by July 31 of each year.
- (c) Submit to the District on a monthly basis a record of daily flow discharge from the site. The information shall be submitted to the District by the 28th of the month following.
- (d) Submit to the District the results of the composite sample of , Ec, Iron, Copper, BOD, TSS taken each quarter. Submit to the District the results of a grab sample taken the same day as the composite sample for pH. The information shall be submitted to the District by the 28th of the month following.

PART 4 SPECIAL CONDITIONS

No special conditions.

TAB 1J

2014 PCA Final Summary Report
Paragraph 7, p. 35

or other means. During initial conversations with the District representative, the Fresno Truck Wash facility was discussed. The District representative provided the audit team with a list of facilities that were monitored daily for electrical conductivity (EC), conducted, ultimately, for billing purposes. The District representative stated that the EC monitoring results indicated that the Fresno Truck Wash was discharging wastewater with high EC values to the sanitary sewer. This facility was not covered by a permit. As a component of the 2014 audit, the audit team visited the facility and verified that the facility was discharging wastewaters with significant pollutant loading to the sanitary sewer without a permit. The District is required to develop and implement procedures to identify and locate all possible IUs which might be subject to the pretreatment program as stated in the federal regulations at 40 CFR 403.8(f)(2)(i). The District is also required to control through permit, order, or similar means the contribution to the POTW by each IU to ensure compliance with applicable pretreatment standards and requirements as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii). (Section 6, Nondomestic Discharger Characterization)

7. According to the federal regulations at 40 CFR 403.8(f)(1)(iii), the District is to control, through permit, order, or similar means, the contribution to the POTW by each IU to ensure compliance with pretreatment standards and requirements. As a component of the 2014 audit, the IU permits were discussed. The District representative stated that SIU permits are renewed annually and other permits are renewed every two to three years. The District's Contract Engineer stated that the SIU permits were renewed annually so the permits and information stayed current and so the District is actively aware of their expiration date. At the time of the 2014 audit, the District representative stated that the SIU permits were expired. Therefore, the District's significant nondomestic dischargers were discharging to the District's sanitary sewer with expired (invalid) permits. The District representative stated that the recent retirement of the previous general manager had precluded the SIU permits from being renewed. The District representative and the Contract Engineer stated that the Board of Directors were meeting a week after the audit and would review and sign the new permits at that time. The District is required to ensure that IU permits do not expire before issuing updated permits in order to control the contribution to the POTW from each industrial user to ensure compliance with applicable pretreatment standard and requirements as stated at the federal regulations at 40 CFR 403.8(f)(1)(iii). (Section 7.1, Reissuance of SIU Permits)
8. As required at 40 CFR 403.8(f)(1)(iii)(B)(1), permits must contain a statement of duration, not to exceed five years. During the 2014 audit, it was determined that the permits reviewed had an issuance date and an expiration date but did not have an effective date. Permits should be issued before their effective dates so that permittees are aware of their limitations, obligations, and requirements before they are held responsible for upholding those permit conditions. From the information provided on the permits, the audit team could not determine if permits were issued prior to becoming effective. Therefore, the District is

TAB 1K

2010 PCI Summary Report, p. 5

6.3 Self-Monitoring Requirements

The permits reviewed contain inconsistent self-monitoring requirements. For example, Part 3.2(a) of Calpine's permit specifies that the discharger is required to collect a minimum of one flow-proportional 24-hour composite each month processing occurs. The permit does not specify which pollutants are subject to composite sampling requirements. Then section 3.4(d) and (e) of the permit specifies that the discharger is required to conduct monthly monitoring of biochemical oxygen demand (BOD), total suspended solids (TSS), and iron and biannual sampling of aluminum, arsenic, barium, boron, cadmium, chromium, copper, and zinc. According to Part 3.2(a) of the permit, if the discharger conducts processing every month, the discharge could be subject to monthly composite sampling requirements. But according to section 3.4(d) and (e), the discharger is subject to different monitoring requirements. Therefore, the District is required to review all monitoring requirements to ensure that they are consistent throughout the permit.

Furthermore, the District's permits do not clearly specify what types of samples must be collected for each pollutant. For example, the Calpine permit does not specify what types of sampling techniques must be used for aluminum, arsenic, barium, boron, cadmium, chromium, copper, zinc and iron. Therefore, the District is required to review all SIU permits to ensure that the appropriate sampling technique is clearly identified for each pollutant that the discharger is required to self-monitor.

The permits reviewed do not specify the appropriate sampling point. Therefore, the District is required to revise all SIU permit to include a specific description of where the sampling point is located.

6.4 Reporting and Notification Requirements

The permits reviewed do not clearly specify all reporting requirements (i.e., signature requirements, certification requirements). The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require that all permits include all federal reporting requirements, specifically outlined in each SIU permit. Therefore, the District is required to review all SIU permits to ensure that all federal reporting requirements are clearly outlined in them.

The permits reviewed do not include the requirement to notify the District within 24 hours or the requirement to resample and submit the results of the resampling event within 30 days of becoming aware of a violation. Furthermore, the permits do not include the requirement to report slug loadings, spills, or bypasses. The permits only references ordinance 3-14-95 for all notification requirements. The federal regulations at 40 CFR 403.8(f)(2) require that all notification requirements be specifically included in the permit. These notification requirements include all reporting requirements outlined at 40 CFR 403.12. Incorporating the requirements by reference is not acceptable. Therefore, the District is required to review all SIU permit to ensure that each permit specifically outlines the notification and resampling requirements after becoming aware of a violation.

TAB 1L

2014 PCA Final Summary Report

p. 36

- required to implement the appropriate changes to ensure and document that the permits are issued before their effective date. (Section 7.2, Permit Effective Date)
9. The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require POTWs to identify the sampling locations in control mechanisms (permits). As a component of the 2014 audit, the sampling locations listed in the permits were reviewed. Each of the permits reviewed stated that the permittee must monitor outfall 001. In addition, part 3.2(a) of the permits lists the measurement location as "001." However, this measurement location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the District is required to include an adequate descriptions of the sampling locations in the permits as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4). The audit team also recommends that the District develop diagrams or include photographs of the sampling locations in the permits to avoid any confusion. (Section 7.3, Sampling Location)
 10. As a component of the 2014 audit, the permits were reviewed to determine if the appropriate modifications had been completed regarding the civil and criminal penalties statement. According to part 1.14 of the permit, "Failure to comply with any provisions of this permit, Ordinance 01-13-2004, or applicable State or Federal laws or regulations may result in ... (c) civil and/or criminal penalties." However, the draft version of the SUO provided to the audit team by the District was Ordinance No. 2013-1. The District is required to update the SUO reference in the permits to the most recent version of the SUO. (Section 7.4, Statement of Civil and Criminal Penalties)
 11. According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2014 audit, RockTenn CP, LLC permit was reviewed. It was determined that the effluent limit for iron is not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn is required to collect a grab sample for iron in June from measurement location 001. The District is required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3). (Section 7.5, Effluent Limits)
 12. According to the 2010 inspection report, the permits reviewed did not include the requirement to notify the District of a violation within 24 hours of becoming aware of the violation or the requirement to resample and submit the results of the resampling event within 30 days of becoming aware of a violation. Furthermore, the permits did not include the requirements to report slug loadings, spills, or bypasses. Therefore, the District was required to review all SIU permits to ensure that each permit specifically outlines the notification and resampling requirements upon becoming aware of a violation. In response to this requirement, the District stated that the required slug control and resampling requirements were now part of SIU permits in Part 4–Special Conditions. The 2014 audit team found that part

TAB 1M

2015 PCI Final Summary Report

p. 15

changes to ensure and document that permits are issued before their effective date. The permits must state an issue date and an effective date, accordingly.

6.3 Sampling Location

The 2014 audit report stated that the District's wastewater discharge permits required that the permittees monitor outfall 001. However, this sampling location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the District was required to include a unique and specific description of the sampling locations in the permits as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4).

As a component of the 2015 inspection, the Kinder Morgan permit was reviewed, and the permit did not include a location where samples are required to be collected for compliance purposes. The 2015 Kinder Morgan permit and other SIU permits reviewed as a component of the inspection referred to "measurement location 001." However, this measurement location was not described or explained in detail in the permits reviewed. Therefore, the District is required to include the sampling locations in the control mechanisms as required by 40 CFR 403.8(f)(1)(iii)(B)(4).

6.4 Statement of Civil and Criminal Penalties

The 2014 audit report describes that Part 1.14 of the District's wastewater discharge permits states, "Failure to comply with any provisions of this permit, Ordinance 01-13-2004, or applicable State or Federal laws or regulations may result in ... (c) civil and/or criminal penalties." However, the draft 2014 SUO provided to the audit team by the District was Ordinance No. 2013-1. The District was required to update the SUO reference in the permits to the most recent version of the SUO.

During the 2015 inspection it was observed that Section 13(c) of the Standard Conditions of the wastewater discharge permits contained a statement of the civil and/or criminal penalties. Therefore, according to the information reviewed during the 2015 inspection, the District had appropriately modified the SIU permits to include the statement of civil and criminal penalties.

6.5 Effluent Limits

According to the 2014 audit report, 'The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3) state, permits are required to include effluent limits.' As a component of the 2014 audit, the RockTenn CP, LLC permit was reviewed. It was identified that the effluent limit for iron was not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn was required to collect a grab sample for iron in June from measurement location 001. The District was required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3)."

As stated previously, the local limits included in the 2004 SUO were still in effect at the time of the 2015 inspection. The local limits provided in the 2004 SUO were inconsistent with the local limits/effluent limits included in the 2014 and 2015 SIU wastewater

TAB 1N
2010 PCI Checklist
Section II, p. 14

Class IA = 25,000 gpd and/or
type of pretreatment
required.

SECTION II: SUPPLEMENTAL DATA REVIEW/INTERVIEW (Continued)

C. CONTROL MECHANISM EVALUATION [403.8(f)(1)(iii)]

1. a. How many SIUs (as defined by the CA) are required to be covered by an individual control mechanism? 5

List SIUs:

b. How many SIUs (as defined by the CA) are required to be covered by a general control Mechanism? []

List SIUs:

c. How many SIUs are not covered by an existing, unexpired permit or other control mechanism? [WENDB - NOCM] [RNC - II] []

If any, explain.

Class IA permits are 1 yr. duration

2. How many control mechanisms were not issued within 180 days of the expiration date of the previous control mechanism? [RNC - II] []

If any, explain.

TAB 10
2015 PCI Summary Report
pp. 17-18

Parameter	Local Limits per the 2004 SUO (ppm)	Local Limits per the 2014 Permit (ppm)*	Local Limits per the 2015 Permit (mg/L)
<i>(O&G)</i>			
<i>Polar oil and grease</i>	N/A	N/A	300
Chloride	N/A	N/A	No limit listed
Cyanide	N/A	N/A	No limit listed
Ammonia, as N	N/A	N/A	No limit listed
Nitrite+Nitrate, as N	N/A	N/A	No limit listed
Phosphorous	N/A	N/A	No limit listed
Fluoride	N/A	N/A	No limit listed
Diazinon	N/A	N/A	No limit listed
Calcium	N/A	N/A	No limit listed
Magnesium	N/A	N/A	No limit listed

*Monthly average, unless stated otherwise.

**The 2004 SUO refers to the parameter as "Benene." The Inspection Team assumed this was a typographical error, and the parameter should be "Benzene," which is the parameter stated in the 2015 permit.

***The 2004 SUO refers to the units for pH as "pH units." The 2014 and 2015 permits do not include units for pH.

****The Kinder Morgan and Rio Bravo Permits had an O&G limit of 100 mg/L. However, the Air Products, PPG, RockTenn, and Stratas Foods permits have an O&G limit of 200 mg/L.

It was unclear to the Inspection Team why the limits for the various parameters included in the 2004 SUO, 2014 SIU permits, and 2015 SIU permits were inconsistent. In addition, it was unclear to the Inspection Team if these modified limits had a technical basis. It was also unclear why the parameters in the bold-face type were listed in the 2015 permits without associated limits. Finally, it was unclear how the District had developed limits for the parameters in the italicized font. Although these limits were provided in the 2015 nonresidential permits, no technical basis for their development was provided to the Inspection Team. The District is required to amend the permits to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3). The District is reminded that local limits must be technically based and adopted by the District before they can be applied to the industrial users. The District is also reminded that in the event that local limits are relaxed or removed, the District must receive approval from the Central Valley Regional Water Board prior to adopting and implementing the relaxed or removed limits.

6.5.1 Sampling Type and Frequency

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4), individual control mechanisms must be enforceable and contain self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type. As a component of the 2015 inspection, the 2014 Rio Bravo Fresno and 2015 Kinder Morgan

permits were reviewed. The Inspection Team observed that the sample type required for flow was not listed in the 2014 Rio Bravo Fresno permit and was listed as “grab” in the 2015 Kinder Morgan permit. It was unclear to the Inspection Team how flow was to be measured. The District’s General Manager stated that the permits should be amended to state that samples for flow are to be measured using a flow meter.

The 2015 Kinder Morgan permit also stated that the sampling frequency was “per slug discharge.” The Inspection Team discussed the definition of “slug discharge” with the District representatives and observed that the District representatives were confusing the term “batch discharge” with “slug discharge” and that the intent of the sampling frequency in the permit was for “batch discharges.” The District and Inspection Team had in-depth conversations about the meaning and applicability of each term. The District is required to include the correct measurement method for flow and the appropriate sampling frequency for each parameter in the SIU permits in accordance with the regulations at 40 CFR 403.8(f)(1)(iii)(B)(4).

6.5.2 Application of Local Limits

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2015 inspection, the 2014 Rio Bravo Fresno permit and the 2015 Kinder Morgan permit were reviewed. The 2014 Rio Bravo Fresno permit included a list of local limits but did not state how these limits were to be applied (daily maximum, monthly average, etc.) Therefore, it was unclear if the District intended to evaluate the results submitted with self-monitoring data against the local limits as daily maximum or monthly average limits. Furthermore, it was unclear if the District intended to take enforcement action against the industries for effluent discharges that were outside of the permitted limits (as daily maximums, monthly averages, or both). For more information regarding the District’s process for requesting, receiving, and analyzing results, in addition to potential permit violations, refer to section 8.4, *Requesting, Receiving, and Analyzing Reports* and Section 9, *Enforcement*.

Section 2(c) of the 2015 Kinder Morgan permit states that the local limits are to be applied as monthly average limits. The 2004 SUO does not state how the local limits are to be applied. Therefore, the technical basis for applying the local limits as monthly averages was unclear to the Inspection Team. The District is required to ensure that the local limits are technically based and that the method in which they are applied is also technically derived. The District is required to include the frequency with which the local limits are to be applied in the SIU permits so that the industrial users are aware of applicable effluent limitations in accordance with the regulations at 40 CFR 403.8(f)(1)(iii)(B)(3).

6.6 Reporting and Notification Requirements

According to the 2014 audit report, the permits did not include a statement requiring the permittees to notify the District in the event of a bypass. The District was required to modify the permits to include the notification of bypass statement located at 40 CFR 403.17(a–c) of the federal regulations.

TAB 1P

2009 Kinder Morgan Permit (included in
2009 Annual Pretreatment Report)

(2 pages total)

PART 3 MONITORING AND REPORTING REQUIREMENTS

1. General Monitoring Requirements

- (a) The Manager may require any permittee to monitor wastewater discharge and to submit monitoring reports to the Manager, at a frequency specified by the Manager. The permittee shall comply with all monitoring requirements specified in this permit or otherwise required, in writing, by the District.
- (b) Flow monitoring and sampling facilities shall comply with all applicable provisions of this permit and ordinance 3-14-95.
- (c) Laboratory analysis of industrial wastewater samples shall be performed in accordance with the approved test procedures specified in 40CFR136 unless otherwise authorized, in writing, by District staff.

2. Specific Monitoring Requirements

- (a) Compile for the District one flow-proportional 24-hour composite sample for the months of November through March. The composite sample shall be taken during a day that is representative of the discharge operations for the month. The sample location may be from the sample port identified in the Application for Non-Residential Discharge Permit. The analysis shall include BOD, pH, TSS, conductivity, TPH as diesel, and TPH as gasoline.
- (b) The sampler shall be maintained in accordance with manufacture's recommendations, shall be cleaned once per month when in use, and samples shall be maintained at 4.0°C ($\pm 2.0^{\circ}\text{C}$).
- (c) Operate and maintain flowmeter, have it electronically calibrated annually and hydraulically calibrated every three years by a recognized professional in flowmeter testing and repair, and provide proof of calibration to the District prior to July 31 annually.

3. General Reporting Requirements

- (a) Submit to the District on a monthly basis the daily flow discharge to the sewer. Submit to the District on a monthly basis the results of composite sampling as described above. The permittee shall comply with all reporting requirements specified in this permit or otherwise required, in writing, by the District.
- (b) All permittees subject to Federal categorical pretreatment standards shall comply with all applicable reporting requirements specified in 40CFR403.12.

- (c) The permittee shall notify the District prior to any new or changed discharge, and shall immediately notify the District (phone 559-485-7353) of any wastewater discharge which is not in compliance with the permit or Ordinance 3-14-95, or which might be reasonably judged to constitute a hazard to District personnel, the wastewater treatment system, or the environment.

4. Specific Reporting Requirements

- (a) Monitor grease traps weekly (record scum and solids level)
- (b) As per Part 1 Section 4, maintain a log of all wastewater and solids removed from the premise. Submit copies of the log on a quarterly basis to MCWD for the first year and annually thereafter.

TAB 1Q

2013 Stratas Foods Permit (included in
2013 Annual Pretreatment Report)

(3 pages total)

PART 3 MONITORING AND REPORTING REQUIREMENTS

1. General Monitoring Requirements

- (a) The Manager may require any permittee to monitor wastewater discharge and to submit monitoring reports to the Manager, at a frequency specified by the Manager. The permittee shall comply with all monitoring requirements specified in this permit or otherwise required, in writing, by the District.
- (b) Flow monitoring and sampling facilities shall comply with all applicable provisions of this permit and ordinance 01-13-2004.
- (c) Laboratory analysis of industrial wastewater samples shall be performed in accordance with the approved test procedures specified in 40CFR136 unless otherwise authorized, in writing, by District staff.
- (d) All samples must be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR Part 136, and amendments.

2. Specific Monitoring Requirements

- (a) From the period beginning on the effective date of the permit, the permittee must monitor outfall 001 for the following parameters, at the indicated frequency:

Sample Parameter (units)	Measurement Location	Frequency	Sample Type
Flow (gpd)	001	Daily ¹	
BOD (mg/L)	001	Weekly	Grab ³
TSS(mg/L)	001	Weekly	Grab ³
pH (s.u.)	001	Weekly	Grab ³
Electroconductivity (µmhos/cm)	001	Weekly (Normal business days ²)	Grab ³
Oils and Greases (mg/l)	001	2 times/ week	Grab ³

(meter)¹ ¹Daily flows are to be recorded from the permittee's flow meter.

²Typically Monday through Friday. Not performed on holidays.

(grab) ³A single grab sample of daily discharge.

- (b) For open channel flowmeters, operate and maintain flowmeter, have it electronically calibrated annually and hydraulically calibrated every three years by a recognized professional in flowmeter testing and repair, and provide proof of calibration to the District prior to July 31 annually. For magnetic flowmeters, have the flowmeter reviewed and certified as to proper operating order by a recognized professional in magnetic flowmeter testing and repair every three years and provide proof of the review and certification of proper operating performance prior to July 31 on a three year interval.
- (c) In addition to the weekly grab sample that will be used to demonstrate compliance with the E.C. (conductivity) discharge limitation of 950 µmhos/cm maximum (monthly average), a continuous conductivity meter will be installed, maintained, and calibrated, according to manufacturer's recommendations, to monitor the instantaneous conductivity of the discharge. Data trend records from the conductivity meter output will be electronically maintained and made available for inspection by District staff upon request.

3. Reporting Requirements

- (a) The Manager may require any permittee to submit monitoring reports to the Manager, in a format and at a frequency specified by the Manager. The permittee shall comply with all reporting requirements specified in this permit or otherwise required, in writing, by the District.
- (b) All permittees subject to Federal categorical pretreatment standards shall comply with all applicable reporting requirements specified in 40CFR403.12.
- (c) The permittee shall notify the District prior to any new or changed discharge, and shall immediately notify the District (phone 559-485-7353) of any wastewater discharge which is not in compliance with the permit or Ordinance 01-13-2004, or which might be reasonably judges to constitute a hazard to District personnel, the wastewater treatment system, or the environment.
- (d) Provide a site plan showing the location of all wastewater treatment facilities (grease traps, sand separators, etc.)
- (e) As per Part 1 Section 4, maintain a log of all wastewater and solids removed from the premises. Include the location of the hauled materials. Submit the information monthly.
- (f) Reports for parameter with a continuous monitoring frequency must be submitted monthly. The reports are due within 20 days after the end of each calendar month.

All monitoring reports must indicate the nature and concentration of all pollutants in the effluent for which sampling and analysis were performed during the reporting period preceding the submission of each report.

(g) Certification Statements

The permittee is required to sign and submit the following certification statement with all monitoring reports:

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 ensure 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 signification penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

All reports required by this permit must be submitted to the **Malaga County Water District** at the following address:

Malaga County Water District
Attention: Manager
3580 S. Frank Street
Fresno, CA 93725

TAB 2
(Violation 1.B)

TAB 2A

2009 Annual Pretreatment Report

§307(a) of Clean Water Act

Analytical results for pollutants identified in §307(a) of the Clean Water Act and 40 CFR 401.15 are limited. The industries served by the Malaga County Water District are generally not identified as dischargers of these pollutants

Upset, Interference of Pass-Through Incidents

The District has not experienced upset, interference or pass-through incidents directly associated with industrial users of the treatment plant. The District continues with increased monitoring, education of industrial dischargers, surcharges, and consideration of reduced electroconductivity limits to address this issue.

Baseline Monitoring Report Notification

The District contacts all Class 1A dischargers a minimum of once per year. The information acquired during the contact is used to update any conditions or the status of the Non-Residential Wastewater Discharge Permit.

Inspection and Sampling Activities

Many of the industrial and commercial dischargers have been subjects of independent sampling by the Malaga County Water District. Results of the testing are reviewed for consistency with self-monitoring reporting of the industrial dischargers. Facilities that required permit renewal were contacted and inspected prior to issuance of an updated permit. Description of facilities, contact names, and relevant monitoring and reporting requirements were updated pursuant to the inspections. A copy of the typical Inspection Form template is included in Exhibit B.

Several individual dischargers have been identified as the primary sources of electroconductivity to the collection system based on the activities at each site and monitoring information received. The District has performed specific monitoring of said dischargers and has educated the dischargers regarding the pretreatment ordinance and limitations.

Compliance and Enforcement Activities

The District does have in place a schedule of surcharges that are directed to penalize non-compliance with the limits incorporated in the pretreatment ordinance. The District has not been required to issue surcharges or Notices of Violation in the past year.

Warning Letters

Fresno Truck Wash

TAB 2B

2010 PCI Checklist

Section I and Section III, p. 22

(2 pages total)

SECTION I: IU EVALUATION (Continued)

File	File	File	File	File	IU FILE REVIEW	Reg. Cite
					D. CA COMPLIANCE MONITORING	
					Sampling	
					1. Sampling (once a year, except as otherwise specified)	403.8(f)(2)(v)
					a. If a POTW has waived monitoring for CIU	
					• Sample waived pollutant(s) at least once during the term of the control mechanism	403.8(f)(2)(v)(5)
					b. If a POTW has reduced an IU's reporting requirements	403.8(f)(2)(v)(C)
					• Sample and analyze IU discharge at least once every 2 years	
					2. Sampling at frequency specified in approved program	
					3. Documentation of sampling activities	403.8(f)(2)(vi)
					4. Analysis for all regulated parameters	
					5. Appropriate analytical methods (40 CFR Part 136)	403.8(f)(2)(vi)
					Inspection	
					6. Inspection (once a year, except as otherwise specified)	403.8(f)(2)(v)
					a. If a POTW has determined a discharger to be a NSCIU	403.8(f)(2)(v)(B)
					• Evaluation of discharger with the definition of NSCIU once per year (verification of certification forms submitted by NSCIUs, compliance with pretreatment standards and requirements)	
					b. If a POTW has reduced an IU's reporting requirements	403.8(f)(2)(v)(C)
					• Inspect at least once every 2 years	
					7. Inspection at frequency specified in approved program	
					8. Documentation of inspection activities	403.8(f)(2)(vi)
					9. Evaluation of need for slug discharge control plan	403.8(f)(2)(vi)
Comments						
1) District has not been conducting annual compliance monitoring. District will take EC samples.						
2) No documented annual inspection						

SECTION III: EVALUATION AND SUMMARY (Continued)

Description	Regulatory Citation	Checklist Question(s)	Action	
			Rec.	Req.
E. COMPLIANCE MONITORING (Continued)				
2. Inspect and sample each SIU once a year	403.8(f)(2)(v)	I.D.1 & 6; II.E.1 & 2		✓
<i>no inspection or sample found.</i>				
3. Use proper sampling analysis (40 CFR Part 136) and inspection procedures	403.8(f)(2)(vii)	I.D.3, 5 & 8		
4. Require, receive, and analyze reports from SIUs	403.8(f)(2)(iv)	I.B.2.d; I.F.1-12; II.E.1		✓
<p>① District has failed to identify reporting violations (missing ^{measure} signature & certification from Calpine).</p> <p>② Failure to identify discharge violations PPG (6/2/09; Fe @ 3.8), Calpine EC & Fe</p>				
5. Monitor to demonstrate continued compliance and resampling after violation(s)	403.8(f)(2)(vii)	I.F.3, 4 & 9		
<p>③ Failure to</p> <p><i>No PPG resample after 6/2/09 Fe violation</i></p>				
6. Ensure CIUs report on all regulated pollutants at least once every 6 months	403.12(g)(1)&(2)	I.F.2 & 5		

TAB 2C

6 September 2013 Notice of Violation,
pp. 1-2

and

2012 Facilities Inspection Form



Central Valley Regional Water Quality Control Board

FILE

6 September 2013

CERTIFIED MAIL
7012 2920 0000 1430 1844

NOTICE OF VIOLATION

Russ Holcomb
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

PRETREATMENT COMPLIANCE INSPECTION, MALAGA COUNTY WATER DISTRICT, WASTEWATER TREATMENT FACILITY, (NPDES CA0084239, RM 389604), FRESNO COUNTY

On 12 July 2012, Central Valley Water Quality Control Board staff and State Water Resources Control Board staff (Water Board staff) conducted a follow-up inspection to the Pretreatment Compliance Inspection (PCI) of Malaga County Water District (District) conducted by Tetra Tech, Inc., a contractor of the United States Environmental Protection Agency on 18 February 2010. The 2010 PCI Summary Report and the 2012 Facilities Inspection Form are enclosed. The PCI Summary Report lists several pretreatment program deficiencies Tetra Tech identified during the inspection, which are listed in Section 10.1, Requirements (pp 9-11) and includes a number of recommended actions in Section 10.2.

On 5 December 2012, Tetra Tech staff confirmed to Water Board staff that at the end of the District's 2010 PCI, the inspector conducted an exit interview and went over a checklist identifying each deficiency with the District. However, the District's 2010, 2011, and 2012 Annual Pretreatment Reports indicate that it has not made any changes recommended or corrected any deficiencies identified as it is waiting for a formal copy of the PCI. Water Board staff has reviewed the PCI, agrees with the identified deficiencies (which are violations of the District's approved Pretreatment Program) and agrees with the recommendations listed in Section 10.2, Recommendations (pp 11-12).

During the 12 July 2012 follow-up, pretreatment records and files were not available onsite for review, and District staff in charge of the Pretreatment Program were unable to answer basic questions about the Pretreatment Program. District staff referred the inspectors to the Chief Plant Operator in charge of the wastewater treatment facility, who, when contacted via telephone, referred the inspectors to the Pretreatment staff. District staff stated that they frequently test the industries' wastewater discharged to the WWTF for electrical conductivity.

Water Board staff visited three of the District's industrial dischargers; Rocktenn, Stratas Foods, and PPG. Stratas Foods and PPG are significant industrial users and are required to be inspected at least once a year by the District pursuant to 40 CFR403.8(f)(2)(v). Travis Johnson, Safety and

KARL E. LONGLEY SCD, P.E., CHAIR | PAMELA C. CREEDON P.E., BOEE, EXECUTIVE OFFICER

1685 E Street, Fresno, CA 93705 | www.waterboards.ca.gov/centralvalley

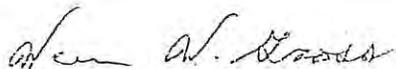


Environmental Coordinator for Rocktenn, stated that he is not aware of a pretreatment inspection of the facility ever being conducted by the District. He stated that District staff only comes by to test the electrical conductivity of the facility's wastewater. Roger Metzler, Plant Manager, Joe Anderton, Plant Superintendent, and Veronica Perez, Environmental Compliance Specialist for Stratas Foods stated that a pretreatment inspection of the facility had never been conducted by the District. Matthew Fidel, Environmental Engineer and Gary Rosenberg, Safety Operator for PPG Industries stated that a pretreatment inspection of the facility had never been conducted by the District. Each industry presented its industrial user permit issued by the District; however each permit was signed by Michael Taylor of Provost and Pritchard, who is not a District employee.

Tetra-tech findings and Water Board staff findings support the concern that the District is not implementing its Pretreatment Program as required. Additionally, the District reported in its 2012 Annual Biosolids Report that in July 2012 biosolids laboratory results showed hazardous waste concentrations for copper and chromium. These results are another indicator to support the concern that the Pretreatment Program is not being properly implemented.

By **28 February 2014** in its Annual Pretreatment Report, the District is to have addressed and documented all the identified deficiencies in Requirements and Recommendations Section 10.1 (items 1 – 17) and 10.2 (items 1-3) of the PCI, including having conducted the required inspections with documentation showing the inspections have been completed. In the interim, please submit monthly progress reports to the Central Valley Water Board by the **30th of each month**, documenting the District's progress towards compliance with its Pretreatment Program - along with a description of additional efforts in-progress or planned. Specified dates herein and the District's response to this request does not limit the Central Valley Water Board's ability to pursue formal enforcement.

If you have any questions regarding this matter, please contact Jill Walsh at (559) 445-5130 or at jwalsh@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist
CEG 1528, CHG 681

Enclosures: 2010 PCI Summary Report
2012 Facilities Inspection Form

cc via email: Anna Yen USEPA Region IX, WTR-7, San Francisco
Russell Norman, State Water Board, Sacramento
Chuck Durham, Tetra Tech, Inc.
Hsin Lee, Tetra Tech, Inc.

cc: Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno

Malaga County Water District	Malaga Wastewater Treatment Facility
DISCHARGER NAME	FACILITY NAME
3580 South Frank Street	3749 South Maple Avenue
STREET ADDRESS	STREET ADDRESS
Fresno, CA 93725	Fresno, CA 93725
CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE
Russ Holcomb, General Manager	Frank Cruz, Operator
DISCHARGER CONTACT PERSON	FACILITY CONTACT PERSON
559-485-7353	--
rholcomb@malagacwd.org	fcruz@malagacwd.org
TELEPHONE NO	E-MAIL ADDRESS

GENERAL INSPECTION INFORMATION

Inspection Type: <u>Pretreatment Follow-up, non-sampling</u>	Lead Inspector: <u>Melissa Hall SWRCB</u>
07/12/2012 to 07/12/2012	11:00 Sunny, no recent precipitation
INSPECTION DATE(S)	INSPECTION TIME GENERAL WEATHER CONDITIONS

INSPECTION ATTENDEE(S)			
Melissa Hall	SWRCB	916-341-5773--	mhall@waterboards.ca.gov
NAME	COMPANY/AGENCY	TELEPHONE NO.	E-MAIL ADDRESS
Alvina Prakash	RWQCB		
NAME	COMPANY/AGENCY	TELEPHONE NO.	E-MAIL ADDRESS
See below in summary		--	--
NAME	COMPANY/AGENCY	TELEPHONE NO.	E-MAIL ADDRESS

INSPECTION SUMMARY

As part of the 12 July 2012 State and Regional Water Board (Water Board) joint inspection of Malaga County Water District (District) WWTF, State Water Board staff, Melissa Hall and Regional Water Board Engineering Student Assistant, Alvina Prakash conducted a follow-up Pretreatment Inspection. This inspection report summarizes the observations for the pretreatment portion of the inspection. Water Board staff were told by Frank Cruz that pretreatment records were kept at the District office, Chris Lopes is in charge of the Pretreatment Program, and Jesse Alvarez assists Lopes – they were not available during the inspection. Water Board staff visited the following industrial users: Rocktenn, Stratus Foods, and PPG. Each industry representative stated that District staff frequently samples the wastewater for EC, but that they were not aware of the District having ever conducted a pretreatment inspection. Water Board staff requested to see each industry's industrial discharge permit and noted that each permit was signed by the District's consulting engineer, Michael Taylor, rather than by authorized District staff.

On 18 July 2012, Alvina Prakash followed-up with a phone call to Chris Lopes to inquire about the District's 2004 sewer ordinance and permitting questions. He stated that he just does sampling for the District's industrial users and was not familiar with permitting. He referred Alvina to the WWTF operators who also could not answer the questions and referred staff to the District office.

Prepared by: <u>Jill Walsh</u>	Signature:	Date: <u>8/29/13</u>
Filename: <u>Malaga CWD WWTF</u>	CIWQS Entry Date: _____	CIWQS Inspection ID: <u>10265093</u>

TAB 2D

2014 Annual Pretreatment Report

Table 2: SIU Inspections in 2014

- e. Rock Tenn
- f. Kinder Morgan
- g. Fresno Truck Wash
- h. Fifth Wheel Truck Wash
- i. Imperial Truck Wash
- j. Speedy (formerly Moga) Truck Wash

5. Inspection and Sampling Activities

- a. All Significant Industrial Users (SIUs) had multiple inspections and numerous site visits in 2014. Table 2 below lists the frequency of inspections and the frequency of samples taken from SIUs. With the exception of Fifth Wheel Truck Wash, all SIUs were found to be in compliance with their discharge permit.

Table 2: SIU Inspections in 2014

mit #	Account #	Permit Holder	Address	Frequency Inspected	Frequen Sample
3	024	Stratas Foods	3390 S. Chestnut Ave. Fresno, CA 93725	2	0
01	020	RockTenn CP, LLC	3366 E. Muscat Ave. Fresno, CA 93725	2	0
05	005	Rio Bravo	3350 S. Willow Ave. Fresno, CA 93725	2	0
38	008	PPG Industries	3333 S. Peach Ave. Fresno, CA 93725	2	0
40	008	Air Products & Chemical Inc.	3333 S. Peach Ave. Fresno, CA 93725	2	0
05	022-4	Imperial Truck Wash	2635 E. North Ave. Fresno, CA 93725	2	1
50	122-2	Fifth Wheel Truck Wash	3767 S. Golden State Blvd. Fresno, CA 93725	6	3
08	029-1/033	Speedy Truck Wash (formerly Moga Truck Wash)	3846 S. Front Ave. Fresno, CA 93725	2	1
05	046	Lester Lube Inc. dba Fresno Truck Wash	4170 S. Bagley Ave. Fresno, CA 93725	2	1
25	055/055-1	SFPP, L.P. (Kinder Morgan)	4149 S. Maple Ave. Fresno, CA 93725	2	0

TAB 2E

2014 PCA Final Summary Report

pp. 38-39

process was reported to be contracted out to subcontractors. The subcontracts are responsible for management of all wastes generated (wastes are not disposed of onsite). The District is required to formally evaluate the re-packing operations to ensure that waste generated from the re-packing process are properly managed and not discharged to the sewer system. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)

17. The PPG Industries facility representatives stated that self-monitoring samples were collected at the facility's effluent lift station/discharge location. Samples are collected downstream of where the facility's wastewater comeslingles with wastewater generated at the onsite Air Products and Chemicals, Inc. plant. In addition, the facility representatives stated that the facility's domestic wastewater is tied into the facility's discharge line upstream of the effluent lift station/sampling point. Therefore, samples collected by the facility and District are not representative solely of the facility's industrial wastewater discharge. Furthermore, the facility representatives stated that the facility was unable to collect a representative sample of the facility's industrial wastewater discharge because the only accessible location to the discharge is considered as a confined space, and the facility does not allow its employees to enter confined spaces. However, 40 CFR 403.12(b)(ii) states that samples should be representative of daily operations. Furthermore, the federal regulations at 40 CFR 403.12(b)(iv) state that samples should be taken immediately downstream from pretreatment facilities. The District is required to reevaluate the facility's discharge monitoring location to ensure that self-monitoring samples are representative solely of the facility's industrial wastewater discharge. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)
18. After the site inspection at the PPG Industries facility, the EPA audit team along with the District code enforcement inspector visited the District's compliance sample collection location. The District collects compliance samples of the facility's discharge at a manhole located west of the facility at the intersection of South Willow Avenue and a railroad track. The manhole was downstream (and west) of the facility's effluent lift station and discharge location. As noted above in note 5, the facility's domestic wastewater along with industrial wastewater from the Air Products and Chemicals, Inc. plant are tied into the facility's discharge line, upstream of the effluent lift station and the District's sampling manhole. However, 40 CFR 403.12(b)(ii) state that samples should be representative of daily operations. Furthermore, the federal regulations at 40 CFR 403.12(b)(iv) state that samples should be taken immediately downstream from pretreatment facilities. It is required that the District reevaluate the District's compliance sampling monitoring location to ensure samples are representative solely of the facility's industrial wastewater discharge. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)
19. The District was collecting compliance samples from the Stratas Foods facility's discharge line downstream of where the facility's domestic wastewater was

introduced. Therefore, the facility's domestic wastewater was diluting the facility's industrial wastewater flow that was being sampled by the District. Self-monitoring samples were being collected from a sample port located after the CAF unit weir, but prior to the effluent discharge pipe. However, 40 CFR 403.12(b)(ii) states that samples should be representative of daily operations. Furthermore, the federal regulations at 40 CFR 403.12(b)(iv) state that samples should be taken immediately downstream from pretreatment facilities. The District is required to ensure that compliance samples collected at the facility are representative of the facility's industrial wastewater discharge for daily operations. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)

20. According to the federal regulations at 40 CFR 403.8(f)(2)(iv), the POTW is required to receive and analyze self-monitoring reports and other notices submitted by IUs in accordance with the self-monitoring requirements in 40 CFR 403.12. From the files reviewed as a component of the 2014 audit, it was determined that 2013 self-monitoring data for the RockTenn CP, LLC facility was not included in the facility file. The District is required to adequately request, receive, and analyze reports submitted by SIUs as stated in the federal regulations at 40 CFR 403.8(f)(2)(iv). (Section 9.4, Requesting, Receiving, and Analyzing Reports)
21. The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. During initial conversations with the District, the District representative was unsure if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District's Contract Engineer who stated that the District's ERP was a component in the District's SUO. A cursory review of the District's draft SUO determined that the ERP was located in section 3.08.010. This section states that the District shall develop and implement an ERP which should include a description of how the District will investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District's primary responsibility to enforce all applicable pretreatment requirements and standards. However, section 3.08.010 of the District's SUO does not specifically identify how the District will investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District is required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5). (Section 10, Enforcement)
22. Documentation in the Stratas Foods file indicated the facility notified the District, via a letter, of a monthly average O&G exceedance on October 17, 2012. According to the September 2012 self-monitoring report, the facility's monthly average sampling result for O&G was 166 mg/L; the permitted limit for O&G is 100 mg/L. However, the District did not take enforcement action against the facility upon receipt of letter. Additionally, documentation was not provided in

TAB 2F

2011 Annual Pretreatment Report

(3 pages total)

monitoring and reporting programs for each of these facilities are included with this report. (Exhibit B)

Class I dischargers include:

<u>Dischargers</u>	<u>Permit No.</u>
RockTenn	1001
Air Products and Chemicals, Inc.	1140
PPG Industries	1038
Rio Bravo Fresno	1005
Stratas Foods	1008

Compliance with Permit Conditions

All dischargers are determined to be in compliance with the permit conditions with the exception of:

<u>Discharger</u>	<u>Permit No.</u>
Fresno Truck Wash	(1095)

Official notices to the respective dischargers regarding non-compliance and the respective requirements to return to compliance are attached.

§307(a) of Clean Water Act

Analytical results for pollutants identified in §307(a) of the Clean Water Act and 40 CFR 401.15 are limited. The industries served by the Malaga County Water District are generally not identified as dischargers of these pollutants.

Upset, Interference of Pass-Through Incidents

The District has experienced upset, interference or pass-through incidents that may be directly associated with industrial users of the treatment plant. The District continues with increased monitoring, education of industrial dischargers, surcharges, and consideration of reduced electroconductivity limits to address this issue.

Examples of interference incidents include foaming that may have been initiated from a truck wash and could have directly impacted TSS and turbidity of the WWTP effluent.

Baseline Monitoring Report Notification

The District contacts all Class I dischargers a minimum of once per year. The information acquired during the contact is used to update any conditions or the status of the Non-Residential Wastewater Discharge Permit.

Inspection and Sampling Activities

Many of the industrial and commercial dischargers have been subjects of independent sampling by the Malaga County Water District. Results of the testing are reviewed for consistency with self-monitoring reporting of the industrial dischargers. Facilities that required permit renewal were contacted and inspected prior to issuance of an updated permit. Description of facilities, contact names, and relevant monitoring and reporting requirements were updated pursuant to the inspections. A copy of the typical Inspection Form template is included in Exhibit C.

Several individual dischargers have been identified as the primary sources of electroconductivity to the collection system based on the activities at each site and monitoring information received. The District has performed specific monitoring of said dischargers and has educated the dischargers regarding the pretreatment ordinance and limitations.

Compliance and Enforcement Activities

The District does have in place a schedule of surcharges that are directed to penalize non-compliance with the limits incorporated in the pretreatment ordinance. The District has not been required to issue surcharges or Notices of Violation in the past year.

Administrative Complaint (Exhibit D)

Fresno Truck Wash

Civil Actions

None

Criminal Actions

None

Assessment of Monetary Penalties

None in 2011.

Restriction of Flow to POTW

None

Disconnection from POTW

None

Public Participation Activities

None

Sludge Disposal Method Alterations

None

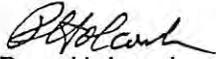
Pretreatment Program Alterations

The District will make modifications to the Program as directed by input and direction received from the audit conducted by the EPA in early 2010. The District has not yet received a formal report from the USEPA.

Annual Pretreatment Budget

The pretreatment program budget a part of the overall sewer budget for the Malaga County Water District.

Respectfully,



Russ Holcomb
General Manager

MGT/LEQ

c: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

Provost & Pritchard Engineering Group, Michael Taylor
286 W. Cromwell Ave.
Fresno, CA 93711

TAB 2G

2010 PCI Summary Report

p. 6

6.5 Statement of Civil and/or Criminal Penalties

The permits reviewed do not contain a statement of applicable civil and/or criminal penalties. The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(5) require that all permits include a specific statement of applicable civil and/or criminal penalties. Therefore, the District is required to review all SIU permit to ensure that each SIU permit includes a statement of applicable civil and/or criminal penalties.

7. Compliance Monitoring

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require that a POTW develop and implement an inspection and monitoring program to determine, independent of information supplied by nondomestic dischargers, compliance or noncompliance with applicable pretreatment standards and requirements. Furthermore, 40 CFR 403.8(f)(2)(vii) requires POTWs to investigate instances of noncompliance and enforce the regulations as necessary.

7.1 Compliance Sampling

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be sampled at least once a year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. In such a case, the POTW must sample for the waived pollutant(s) at least once during the nondomestic discharger's permit term [40 CFR 403.8(f)(2)(v)(A)].

The Tetra Tech inspector did not find any documented sampling events conducted by the District. District personnel indicated that the District only monitors for electrical conductivity (EC) at each of the SIUs and does not sample for any of the other pollutants of concern at the SIUs. The District is required to revise its compliance monitoring procedures to ensure that it monitors each of the pollutants of concern listed in each SIU's permit at least once a year.

7.2 Compliance Inspections

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be inspected at least once a year unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3). In such a case, the POTW must inspect the discharger at least once every 2 years [40 CFR 403.8(f)(2)(v)(C)].

Even though District personnel indicated that annual compliance inspections are conducted at each of the SIUs, the Tetra Tech inspector did not find any documented inspection reports in the SIU files. Without proper documentation of the District's inspections, the Tetra Tech inspector could not affirm that the District has actually conducted the required compliance inspections. Therefore, the District is required to revise its compliance inspection procedures to ensure that all compliance inspections are properly documented. The Tetra Tech inspector recommends that the District create an inspection checklist that can be used during compliance inspections as well as to document the inspection event.

TAB 2H

2014 PCA Final Summary Report

pp. 18-19

inconsistencies were identified with the District's draft SUO during the 2014 audit. Refer to section 5, Legal Authority, for further information.

9. Compliance Monitoring

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require a POTW to develop and implement an inspection and monitoring program to determine, independent of information supplied by nondomestic dischargers, compliance or noncompliance with applicable pretreatment standards and requirements. Furthermore, 40 CFR 403.8(f)(2)(vii) requires POTWs to investigate instances of noncompliance and to enforce the regulations as necessary.

9.1 Compliance Sampling

The regulations at 40 CFR 403.8(f)(2)(v) require all SIUs to be sampled at least once each year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. In that case, the POTW must sample for the waived pollutant(s) at least once during the permit term [40 CFR 403.8(f)(2)(v)(A)]. The District representative stated that monthly EC samples are collected by the District at the SIUs.

According to the 2010 inspection report, the inspector did not find any documented sampling events conducted by the District. The District was required to revise its compliance monitoring procedures to ensure that it monitors each of the pollutants of concern listed in each SIU's permit at least once each year. In response to this requirement, the District stated that there is one primary pollutant of concern to the District, EC. As such, the District regularly monitors the EC levels from the SIUs. In addition, the District stated that details of the District's sampling activities were documented in the *Annual Pretreatment Report* for 2012 which was submitted to the Central Valley Water Board on February 28, 2013.

The regulations at 40 CFR 403.8(f)(2)(v) require all SIUs to be sampled at least once each year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. As a component of the 2014 audit, the Contract Engineer's files for the SIUs were reviewed for documentation of annual compliance sampling activities. The files reviewed during the audit showed that compliance sampling events for 2013 were not documented in the Rio Bravo, Stratas Foods, Air Products and Chemicals, or PPG Industries files. Therefore, it was determined that the District failed to conduct annual compliance sampling events at these facilities. The District is required to ensure that compliance sampling activities are conducted at SIUs a minimum of once each year as stated in the federal regulations at 40 CFR 403.8(f)(2)(v).

9.2 Compliance Inspections

The regulations at 40 CFR 403.8(f)(2)(v) require all SIUs to be inspected at least once each year, unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3). The POTW must inspect those dischargers at least once every two years [40 CFR 403.8(f)(2)(v)(C)].

According to the 2010 inspection report, even though District personnel indicated that annual compliance inspections were conducted at each of the SIUs, the inspector did not find any documented inspection reports in the SIU files. Therefore, the District was required to revise its compliance inspections procedures to ensure that all compliance inspections are properly documented. In response to this requirement, the District stated that it has developed a "Facility Inspection Record" for documenting the results of any inspections. The documentation should be kept in the files associated with the permittee. The District completed annual inspections of the SIUs in October and November 2013 and the documentation of inspections was included in the submittal to the Central Valley Water Board in November 2013.

As a component of the 2014 audit, annual SIU compliance inspections were discussed. During initial conversations, the District representative was unsure who was conducting the inspections, but guessed that the District's Contract Engineer was performing the inspections with occasional assistance from the Code Enforcement Inspector. In later conversations, the Contract Engineer stated that the Contract Engineer, with assistance from the Code Enforcement Inspector, conducted annual inspections at the five SIUs for 2013. Inspection reports were provided in the SIU files; however, the inspection reports were inadequate. The inspection forms were sparsely completed and lacked detail. For example, the inspection forms did not document process operations reviewed at the facilities, information about the sampling locations, or other pertinent information.

It is strongly recommended that the District include more detail about the facility inspections in the inspection reports. Details should include specific manufacturing processes, condition of the pretreatment system, discussions held, calibration details, and characteristics of facility effluent. The District's inspection reports should capture the uniqueness of what was reviewed and discussed during each facility inspection.

9.3 Nondomestic Discharger Site Inspections Conducted during the Audit

Six of the permitted nondomestic discharger facilities and one unpermitted facility were inspected as part of the audit. The following was noted during the nondomestic discharger site visits:

- *Air Products and Chemicals, Inc.* The facility produces pure oxygen and pure nitrogen through cryogenic air separation. The facility is located on the property of the adjacent PPG Industries facility and is contracted by PPG Industries to produce and provide oxygen and nitrogen for PPG Industries manufacturing processes.

Due to the complexity of the air separation processes, a brief inspection of the process area and wastewater generating practices was conducted. The production processes at the facility consisted of filtering and compressing ambient air; separating oxygen, nitrogen, and particulates; and re-vaporizing the oxygen and nitrogen for delivery to the adjacent PPG Industries facility.

TAB 2I

2015 PCI Summary Report

pp. 20-21

8.1 Compliance Sampling

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be sampled at least once each year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. Then the POTW must sample for the waived pollutant(s) at least once during the permit term [40 CFR 403.8(f)(2)(v)(A)].

During the 2014 audit, the Contract Engineer's files for the SIUs were reviewed for documentation of annual compliance sampling activities, since the District did not maintain its own industrial user files. It was found that compliance sampling events for 2013 were not documented in the Rio Bravo, Stratas Foods, Air Products and Chemicals, or PPG Industries SIU files. Therefore, it could not be determined if the District performed annual compliance sampling events at these facilities. The District was required to ensure that compliance sampling activities are conducted at SIUs a minimum of once each year as stated in the federal regulations at 40 CFR 403.8(f)(2)(v).

The District's General Manager stated that the District conducts compliance sampling at the SIUs at least once per year. However, according to information provided in the District's *2014 Annual Pretreatment Report*, the District did not sample Stratas Foods, RockTenn, Rio Bravo, PPG Industries, Air Products and Chemicals, or Kinder Morgan. The Inspection Team requested documentation for sampling events from the District representatives. The District representatives provided access to the electronic copies of sampling data from the SIUs collected in 2014 and the beginning of 2015. The sampling data on file included self-monitoring results from the SIUs but did not include documentation of compliance samples collected at the SIUs by the District. Therefore, the District is required to ensure that it collects and analyzes samples at each of the SIUs at least annually in accordance with the federal regulations at 40 CFR 403.8(f)(2)(v). The District should also maintain documentation of compliance sampling events it conducts.

The site inspections conducted as a component of the 2015 inspection revealed several instances in which the District and the SIUs were not collecting samples from the same location. For more information regarding these inconsistencies, refer to Section 8.3, *Nondomestic Discharger Site Inspections Conducted during the Inspection*.

8.2 Compliance Inspections

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be inspected at least once each year, unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3); then the POTW must inspect these dischargers at least once every 2 years [40 CFR 403.8(f)(2)(v)(C)].

According to the information provided in the District's *2014 Annual Pretreatment Report*, each of the SIUs was inspected twice, with the exception of Fifth Wheel Truck Stop, which was reported to have been inspected six times. As a component of the 2015 inspection, the Inspection Team reviewed a number of the District's inspection reports for Kinder Morgan and Speedy Truck Wash.

The Kinder Morgan inspection report was detailed and the District representative conducting the inspection recorded information for most of the sections of the District's

inspection checklist. However, the inspection report was not dated or signed, therefore it was unclear to the Inspection Team who conducted the facility inspection and when it was conducted. An undated and unsigned inspection report for the Speedy Truck Wash facility was also reviewed. The information recorded on the facility inspection checklist was incomplete and lacked detail regarding wastewater generating processes, facility operations, discharge practices, sampling locations, chemical storage, and overall treatment of wastewater. Since the inspection reports were not dated, the Inspection Team could not confirm that all SIUs had been inspected at least once in 2014. Therefore, the District is required to inspect each SIU at least once a year as stated at 40 CFR 403.8(f)(2)(v).

It is also strongly recommended that the District thoroughly document the SIU inspections. Specifically, the inspection reports should capture the uniqueness of each inspection and include information related to the processes reviewed, discussions held, change in process, and other information pertaining to wastewater generation, treatment, and discharge.

8.3 Nondomestic Discharger Site Inspections Conducted during the Inspection

Five of the permitted nondomestic dischargers were inspected as part of the 2015 inspection. The dischargers were selected to represent facilities of varying size and classification. The full site visit data sheets completed as a result of these site visits are included in Attachment A of the report. The following was observed during the nondomestic discharger site visits:

- *Fifth Wheel Truck Stop.* The facility is a truck wash for large semi-trailer vehicles. Tanker trucks were not observed at the facility at the time of the inspection. The District has taken various enforcement actions against the facility for discharging high concentrations of detergents, which caused foaming at the WWTF, ultimately resulting in an upset of the operations at the WWTF. The District classified the facility as an SIU because of its reasonable potential for adversely affecting the POTW's operations.

The facility discharged wastewater, which was pretreated by an oil/water separator, from its truck washing operations to the District's POTW. A storm water issue was observed during the facility site inspection (described below).

The facility consisted of a building with three wash bays. One of the wash bays was used for maintenance operations. Two of the wash bays were used for truck washing and were in use at the time of the inspection. The facility also had an office space in a small shed.

The facility has two in-ground oil/water separators that treat the truck wash waters before they are discharged to the District's POTW.

The Inspection Team arrived at the facility and attempted to find and inform a facility representative of the purpose of the site inspection. The Inspection Team

TAB 2J
2014 2nd Quarterly
Pretreatment Report
(2 pages total)



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET FRESNO, CALIFORNIA 93725
PHONE: 559-485-7353 FAX: 559-485-7319

BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR. PRESIDENT SALVADOR CERRILLO VICE-PRESIDENT IRMA CASTANEDA DIRECTOR FRANK CERRILLO JR. DIRECTOR CARLOS TOVAR JR. DIRECTOR

James D. Anderson, General Manager

7 August 2014

State Water Resources Control Board
Central Valley Region
1685 E Street
Fresno, Ca 93706

Subject: e-SMR Pretreatment Report for Q2 2014
Order No. R5-2008-0033
NPDES No. CA0084239

Dear Ladies and Gentlemen,

MCWD began its present effort to develop a pretreatment program in accordance with the NPDES permit and EPA 403 requirements in the second quarter of this year. Our pretreatment program is the MCWD Pretreatment Management Program (PMP). We submitted portions of the PMP to you in April and for the remainder of this quarter researched the requirements for a thorough and complete PMP.

In late April, I terminated the position of Code Inspector and employment of the person who held that position. There was a complete lack of knowledge as to what the position required and the employee was unwilling to accept the duties that were required of the position. During May a hiring announcement was published for an Environmental Compliance Inspector and a selection was made in June.

Also in April, we contacted the Rural Community Assistance Corporation (RCAC) to request expert assistance to develop a PMP. An engineer was appointed and visited with us in July, but it was determined that he could not assist us with developing local limits which was what we requested. We asked RCAC to cancel his contract and consider hiring someone who could help us with developing local limits. In the meantime, we hired an independent contractor to help train our new ECI and assist with developing our PMP.

Q2 2014 was a period of learning and research as to what the PMP must contain. MCWD understands the basics of what a PMP must include to have an operational pretreatment program in effect. For the purposes of this report, it can only be said that as industrial user discharge permits are presently worded, there were no permit violations for Q2 2014. That is not to say, however, that adequate monitoring of industrial wastewater was accomplished because the pretreatment plan as it has existed requires revision to include all the requirements of a PMP.

All significant industrial user (SIU) facilities were visited monthly in Q2 2014 to evaluate compliance and discuss with the SIU's permit requirements not presently included in their permits. All SIU's were very helpful and understanding of the need for MCWD to re-evaluate the pretreatment program and submitted the attached discharge reports.

MCWD continues to develop the PMP to address all necessary requirements. A draft copy of the MCWD PMP will be submitted to you later this month for review and comment. We are presently conducting initial site reviews of all industrial users to identify dischargers by category and class according to our PMP. We are making permit changes as necessary when we identify dischargers whose permits are inadequate.

We have determined that we need more data to identify the needs of a local limits plan. We are revising sampling and monitoring requirements in permits to give us the data base we will need to readdress local limits.

I certify under penalty of law that this document and all attachments were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel properly gather and validate 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.

Respectfully,

J. D. Anderson
General Manager

TAB 3
(Violation 1.C)

TAB 3A

RockTenn Compliance Log

(included in 2011 Annual

Pretreatment Report)

TAB 3B

Stratas Foods Compliance Log
(included in 2012 Annual
Pretreatment Report)

Report	Monthly Reports						Oils and Greases Max 100 mg/l	TSS Max 1,000 mg/l	BOD Max 1,000 mg/l	pH Max 9.0 Min 6.0	Ec Ave 950 umhos/cm	Log of Solids Removed lbs	Proof of Flowmeter Calibration
	Flow	GPD	Flow	GPD	Flow	GPD							
January - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
January - MCWD results	8,984	8,984	8,984	8,984	8,984	8,984	8,984	8,984	8,984	8,984	8,984	8,984	
February - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
February - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
March - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
March - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
April - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
April - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
May - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
May - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
June - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
June - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
July - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
July - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
August - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
August - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
September - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
September - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
October - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
October - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
November - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
November - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
December - Stratas results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
December - MCWD results	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	10,157	
Annual													

TAB 3C

Laboratory Report Excerpts for

PPG Samples

(included in 2012 Annual

Pretreatment Report)

(7 pages total)



2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/07/2012

Analytical Report for Work Order 2G31002

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
P.P.G. 3333 S. Peach Ave. Fresno, Ca 93725										
Sampled: 07/31/12 10:15 2G31002-01 (Waste Water)										
Turbidity		6.2	0.10	0.020	NTU	1	T2H0111	08/01/12	08/01/12	EPA 180.1
Specific Conductance (EC)		14000	1.0	1.0	µS/cm	1	T2H0112	08/01/12	08/01/12	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2H0111 - EPA 180.1

Blank (T2H0111-BLK1) Prepared & Analyzed: 08/01/12										
Turbidity	J	0.0600	0.10	NTU						
LCS (T2H0111-BS1) Prepared & Analyzed: 08/01/12										
Turbidity		9.79	0.10	NTU	10.0		97.9	80-120		20
LCS Dup (T2H0111-BSD1) Prepared & Analyzed: 08/01/12										
Turbidity		9.77	0.10	NTU	10.0		97.7	80-120	0.204	20
Duplicate (T2H0111-DUP1) Source: 2G31002-01 Prepared & Analyzed: 08/01/12										
Turbidity		6.28	0.10	NTU		6.20			1.28	20

Batch T2H0112 - SM2510B

LCS (T2H0112-BS1) Prepared & Analyzed: 08/01/12										
Specific Conductance (EC)		511	1.0	µS/cm	500		102	80-120		20
LCS Dup (T2H0112-BSD1) Prepared & Analyzed: 08/01/12										
Specific Conductance (EC)		513	1.0	µS/cm	500		103	80-120	0.391	20
Duplicate (T2H0112-DUP1) Source: 2G31002-01 Prepared & Analyzed: 08/01/12										
Specific Conductance (EC)		13500	1.0	µS/cm		13500			0.0739	20
Duplicate (T2H0112-DUP2) Source: 2G31040-02 Prepared & Analyzed: 08/01/12										
Specific Conductance (EC)		1250	1.0	µS/cm		1250			0.0800	20



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 09/10/2012

Analytical Report for Work Order 2H31006

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
P.P.G. 3333 S. Peach Ave. Fresno, CA 93725										
Sampled: 08/30/12 10:15 2H31006-01 (Waste Water)										
Turbidity		16	0.10	0.020	NTU	1	T2H3117	08/31/12	08/31/12	EPA 180.1
Specific Conductance (EC)		750	1.0	1.0	µS/cm	1	T2I0404	09/04/12	09/04/12	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - µg/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
---------	-------	--------	-----------------	-------	-------------	---------------	------	-------------	-----	-----------

Batch T2H3117 - EPA 180.1

Blank (T2H3117-BLK1) Prepared & Analyzed: 08/31/12										
Turbidity	J	0.0400	0.10	NTU						
LCS (T2H3117-BS1) Prepared & Analyzed: 08/31/12										
Turbidity		9.42	0.10	NTU	10.0		94.2	80-120		20
LCS Dup (T2H3117-BSD1) Prepared & Analyzed: 08/31/12										
Turbidity		9.41	0.10	NTU	10.0		94.1	80-120	0.106	20
Duplicate (T2H3117-DUP1) Source: 2H31005-01 Prepared & Analyzed: 08/31/12										
Turbidity		0.130	0.10	NTU		0.140			7.41	20

Batch T2I0404 - SM2510B

LCS (T2I0404-BS1) Prepared & Analyzed: 09/04/12										
Specific Conductance (EC)		505	1.0	µS/cm	500		101	80-120		20
LCS Dup (T2I0404-BSD1) Prepared & Analyzed: 09/04/12										
Specific Conductance (EC)		503	1.0	µS/cm	500		101	80-120	0.397	20
Duplicate (T2I0404-DUP1) Source: 2H31005-01 Prepared & Analyzed: 09/04/12										
Specific Conductance (EC)		540	1.0	µS/cm		539			0.185	20
Duplicate (T2I0404-DUP2) Source: 2I04010-01 Prepared & Analyzed: 09/04/12										
Specific Conductance (EC)		534	1.0	µS/cm		533			0.187	20



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 10/11/2012

Analytical Report for Work Order 2J09020

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
PPG 3333 S. Peach Ave Fresno CA 93725							Sampled: 10/09/12 11:00 2J09020-01 (Water)				
Turbidity		16	0.10	0.020	NTU	1	T2J0907	10/09/12	10/09/12	EPA 180.1	
Specific Conductance (EC)		1000	1.0	1.0	µS/cm	1	T2J0912	10/09/12	10/10/12	SM2510B	

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - µg/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2J0907 - EPA 180.1

Blank (T2J0907-BLK1)		Prepared & Analyzed: 10/09/12								
Turbidity	J	0.0200	0.10	NTU						
LCS (T2J0907-BS1)		Prepared & Analyzed: 10/09/12								
Turbidity		9.23	0.10	NTU	10.0		92.3	80-120		20
LCS Dup (T2J0907-BSD1)		Prepared & Analyzed: 10/09/12								
Turbidity		9.22	0.10	NTU	10.0		92.2	80-120	0.108	20
Duplicate (T2J0907-DUP1)		Source: 2J09008-01		Prepared & Analyzed: 10/09/12						
Turbidity		6.34	0.10	NTU		6.32			0.316	20

Batch T2J0912 - SM2510B

LCS (T2J0912-BS1)		Prepared: 10/09/12 Analyzed: 10/10/12								
Specific Conductance (EC)		519	1.0	µS/cm	500		104	80-120		20
LCS Dup (T2J0912-BSD1)		Prepared: 10/09/12 Analyzed: 10/10/12								
Specific Conductance (EC)		522	1.0	µS/cm	500		104	80-120	0.576	20
Duplicate (T2J0912-DUP1)		Source: 2J08029-06		Prepared: 10/09/12 Analyzed: 10/10/12						
Specific Conductance (EC)		433	1.0	µS/cm		435			0.461	20
Duplicate (T2J0912-DUP2)		Source: 2J09021-01		Prepared: 10/09/12 Analyzed: 10/10/12						
Specific Conductance (EC)		1540	1.0	µS/cm		1540			0.00	20



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 10/17/2012

Analytical Report for Work Order 2J11042

Analyte	Qual	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
PPG 333 S. Peach Ave Fresno CA 93725							Sampled: 10/11/12 14:30 2J11042-01 (Water)				
Turbidity		11	0.10	0.020	NTU	1	T2J1113	10/11/12	10/11/12	EPA 180.1	
Specific Conductance (EC)		7900	1.0	1.0	µS/cm	1	T2J1605	10/16/12	10/16/12	SM2510B	

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2J1113 - EPA 180.1

Blank (T2J1113-BLK1)		Prepared & Analyzed: 10/11/12								
Turbidity	J	0.0200	0.10	NTU						
LCS (T2J1113-BS1)		Prepared & Analyzed: 10/11/12								
Turbidity		9.91	0.10	NTU	10.0		99.1	80-120		20
LCS Dup (T2J1113-BSD1)		Prepared & Analyzed: 10/11/12								
Turbidity		9.90	0.10	NTU	10.0		99.0	80-120	0.101	20
Duplicate (T2J1113-DUP1)		Source: 2J11024-01 Prepared & Analyzed: 10/11/12								
Turbidity		0.150	0.10	NTU		0.160			6.45	20

Batch T2J1605 - SM2510B

LCS (T2J1605-BS1)		Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		513	1.0	µS/cm	500		103	80-120		20
LCS Dup (T2J1605-BSD1)		Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		514	1.0	µS/cm	500		103	80-120	0.195	20
Duplicate (T2J1605-DUP1)		Source: 2J11005-01 Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		107000	1.0	µS/cm		107000			0.00	20
Duplicate (T2J1605-DUP2)		Source: 2J11005-11 Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		115000	1.0	µS/cm		115000			0.00	20



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: PPG
 Project Manager: Chris Lopes

Reported:
 10/24/2012

Analytical Report for Work Order 2J19004

Analyte	Qual	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
PPG 3333 S. Peach Ave Fresno CA 93725							Sampled: 10/18/12 16:00 2J19004-01 (Water)			
Turbidity		39	0.20	0.040	NTU	2	T2J1909	10/19/12	10/19/12	EPA 180.1
Specific Conductance (EC)		15000	1.0	1.0	µS/cm	1	T2J1907	10/19/12	10/19/12	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - µg/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2J1907 - SM2510B

LCS (T2J1907-BS1)		Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		518	1.0	µS/cm	500		104	80-120		20
LCS Dup (T2J1907-BSD1)		Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		519	1.0	µS/cm	500		104	80-120	0.193	20
Duplicate (T2J1907-DUP1)		Source: 2J18002-01 Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		2780	1.0	µS/cm		2780			0.108	20
Duplicate (T2J1907-DUP2)		Source: 2J18003-09 Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		116000	1.0	µS/cm		116000			0.0864	20

Batch T2J1909 - EPA 180.1

Blank (T2J1909-BLK1)		Prepared & Analyzed: 10/19/12								
Turbidity	J	0.0300	0.10	NTU						
LCS (T2J1909-BS1)		Prepared & Analyzed: 10/19/12								
Turbidity		9.63	0.10	NTU	10.0		96.3	80-120		20
LCS Dup (T2J1909-BSD1)		Prepared & Analyzed: 10/19/12								
Turbidity		9.62	0.10	NTU	10.0		96.2	80-120	0.104	20
Duplicate (T2J1909-DUP1)		Source: 2J18037-01 Prepared & Analyzed: 10/19/12								
Turbidity		2.62	0.10	NTU		2.61			0.382	20

Moore Twining Associates, Inc.

Juliane Adams, Director of Analytical Chemistry

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 11/15/2012

Analytical Report for Work Order 2K06031

Analyte	Flag	Result	Reporting Limit	MDL	Units	Dilution	Batch	Analyst	Prepared	Analyzed	Method
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PPG 3333 S. Peach Ave Fresno CA 93725

Sampled: 11/06/12 10:00 2K06031-01 (Water)

Turbidity		12	0.10	0.020	NTU	1	T2K0711	FSz	11/7/12 10:37	11/7/12 12:26	EPA 180.1
Specific Conductance (EC)		760	1.0	1.0	µS/cm	1	T2K0626	DAR	11/6/12 19:56	11/7/12 2:31	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 12/05/2012

Analytical Report for Work Order 2L03056

Analyte	Flag	Result	Reporting Limit	MDL	Units	Dilution	Batch	Analyst	Prepared	Analyzed	Method
PPG 3333 S. Peach Ave Fresno CA 93725											
						Sampled: 12/03/12 09:30 2L03056-01 (Waste Water)					
Turbidity		12	0.10	0.020	NTU	1	T2L0404	FSz	12/4/12 9:35	12/4/12 9:35	EPA 180.1
Specific Conductance (EC)		760	1.0	0.26	µS/cm	1	T2L0405	DAR	12/4/12 18:41	12/4/12 18:41	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

TAB 3D

PPG 2010 Compliance Log

(included in 2010 Annual

Pretreatment Report)

MALAGA COUNTY WATER DISTRICT
 WASTEWATER TREATMENT PLANT
 MONITORING AND REPORTING PROGRAM NO. R5-2008-0033
 PPG Permit No. 1038
 2010

Report	Monthly Reports		Semi Annual Reports							Log of Solids Removed	Proof of Flowmeter Calibration
	Flow	Ec	Ave 950 umhos/cm	pH	BOD	TSS	Iron	Lead	Copper		
			Max 9.0 Min 6.0	Max 1,000 mg/l	Max 1,000 mg/l	Max 1 mg/l	Max 5 mg/l	Max 5 mg/l			
January - PPG results	15086										
January - MCWD results			540								
February - PPG results	15657										
February - MCWD results											
March - PPG results	23544										
March - MCWD results											
April - PPG results	24639										
April - MCWD results											
May - PPG results	19325										
May - MCWD results											
June - PPG results	24846										
June - MCWD results											
Semi Annual 1 - PPG results											
Semi Annual 1 - MCWD results			850.0	8.1	4.1	27.0	0.460	ND	0.025		
July - PPG results	37225										
July - MCWD results											
August - PPG results	29691										
August - MCWD results											
September - PPG results	15318										
September - MCWD results											
October - PPG results	74549										
October - MCWD results											
November - PPG results	56827										
November - MCWD results											
December - PPG results	60430										
December - MCWD results											
Semi Annual 2 - PPG results			630.0	8.3	15.0	13.0	210.0	ND	21		
Semi Annual 2 - MCWD results											
Annual											

TAB 3E

2010 PCI Checklist

Section III, p. 23

SECTION III: EVALUATION AND SUMMARY (Continued)

Description	Regulatory Citation	Checklist Question(s)	Action	
			Rec.	Req.
E. COMPLIANCE MONITORING (Continued)				
7. Ensure noncategorical SIUs self-monitor and report all regulated pollutants at least once every 6 months	403.12(h)	I.F.2 & 5		
8. Require self-monitoring reports from CIUs to be signed and certified and reports from SIUs to be signed	403.12(l); 403.6(a)(2)(ii)	I.F.6		
9. Receive notification of hazardous waste discharges	403.12(j)&(p)	I.F.10; II.D.3		
<i>NA</i>				
F. ENFORCEMENT				
1. Implement approved ERP	403.8(f)(5)	I.E.3; II.F.2		
<i>See previous.</i>				
2. Annually publish a list of IUs in SNC	403.8(f)(2)(viii)	I.E.5; II.F.4		
<i>No publication of Cal Pine of FE or PPG for FE violations</i>				

TAB 3F

2015 PCI Summary Report

p. 5 and pp. 36-37

Valley I Water Board prior to implementing significant changes to the SUO. Due to the District not receiving approval from the Central Valley Water Board, the District repealed some of the significant changes.

The Central Valley Water Board considered the sections concerning the pretreatment program, WWTF, and collection system of the District's 2004 SUO (the last one the Central Valley Water Board had approved) to be in effect for the pretreatment program at the time of the inspection. At the time of the inspection, the SUO on the District's Web site contained updates that were not in the 2004 version of the SUO. According to information provided on the District's Web site, the ordinance had been passed on December 9, 2014. Therefore, the SUO being implemented by the District differs from what the Central Valley Water Board has approved. Substantial modifications to the pretreatment program must meet the federal requirements at 40 CFR 403.18(c), which require the District to submit to the Central Valley Regional Water Board a statement of the basis for the desired program modification, a modified program description, or other documents the Central Valley Water Board determines necessary under the circumstances. The Central Valley Water Board approves or rejects the modifications. The District is required to have Central Valley Water Board's approval of its SUO prior to implementing the SUO.

2.3 Focus Topics

The following topics were discussed with the District representatives regarding other industrial pretreatment program activities.

2.3.1 Significant Non-Compliance

According to 40 CFR 403.8(f)(2)(viii), the District is required to provide annual public notification in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of industrial users which, at any time during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment requirements. The District's General Manager stated that calculations regarding SNC were not performed for the SIUs during 2014. The District's General Manager added that he was unaware of the federal definition of SNC and that calculations were required to determine SNC. He further added that these calculations would "probably" be performed by the District engineer. The District is required to perform calculations to determine if any of its industrial users are in SNC, upon receipt of its IU's self-monitoring reports (SMRs), using the criteria provided at 40CFR 403.8(f)(2)(viii)(A)–(H) for SIUs and 40 CFR 403.8(f)(2)(viii)(C), (D), and (H) for all industrial users. In the event that an SIU meets the criteria for SNC, the District is reminded that it must publish this industrial user(s) in a newspaper(s) of general circulation to provide meaningful public notice to the jurisdiction(s) served by the POTW in accordance with 40 CFR 403.8(f)(2)(viii). More information regarding SNC calculations can be found at this Web site:

<http://www2.epa.gov/sites/production/files/documents/SNCGuidance.pdf>.

The definition of SNC provided in the District's 2004 SUO was not the updated definition of SNC as promulgated by the streamlining regulations. However, the codified version of the District's SUO available on its Web site included the updated definition of

- Isolated Noncompliance—Generally, an isolated incident of non-compliance that does not threaten public health or the environment, damage public or private property, or threaten the integrity of the District’s Wastewater Control Program, can be met with an informal enforcement procedure response.
 - Examples of enforcement response for instances of isolated noncompliance: Inspection/observation notice, notice of violation, conference with IU, and compliance schedule.
- Significant Noncompliance—Any violation, even an isolated violation, should be met with formal enforcement procedures which include an order that requires a return to compliance by a specified deadline.
 - Examples of enforcement response for instances of significant noncompliance: administrative citation, compliance order, administrative complaint, show-cause hearing, cease and desist order, permit revocation or suspension, water supply severance, injunctive relief, and civil penalties.

The enforcement actions taken by the District in regard to the violations from the Fifth Wheel facility indicate the District considered these discharge exceedances to be “significant noncompliance.” Since the District’s General Manager did not officially issue an administrative citation, compliance order, or order-to-show-cause hearing to the facility for its permit violations, the District is not properly implementing its ERP. The Inspection Team noted that the District’s General Manager had specific reasons for deviating from the instructions of the ERP and used discretion in determining which enforcement actions should be taken in response to the instance of noncompliance. However, the District did not follow the ERP. Therefore, the District is required to develop and implement its response plan in accordance with the federal regulations at 40 CFR 403.8(f)(5).

The District is reminded that the federal regulations have a federal definition for the term “significant noncompliance” stated at 40 CFR 403.8(f)(2)(viii)(A–H). The District’s December 2014 SUO includes the federal definition for the term. It is strongly recommended that the District change its “significant noncompliance” violations terminology in its 2014 ERP in order not to confuse the meaning of the federal definition of “significant noncompliance” with a different meaning for the same term in the 2014 ERP.

Also according to the 2014 audit report, “As stated at 40 CFR 403.8(f)(2)(viii), the District is required to annually publish all facilities in SNC in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW. The District representative stated during the 2014 audit that the District does not publish notices regarding facilities in SNC in a newspaper of general circulation. The District was required to ensure that the names of SIUs in SNC are published in a newspaper of general circulation as stated in the federal regulations at 40 CFR 403.8(f)(2)(viii).”

During discussions with the District representatives as a component of the 2015 inspection, the District representatives stated that they had not performed calculations to determine if any of the District's SIUs were in SNC for the 2014/2015 year. Therefore, the District is required to evaluate if SIUs are in SNC and ensure that the names of SIUs in SNC are published in a newspaper of general circulation as stated in the federal regulations at 40 CFR 403.8(f)(2)(viii).

10. Summary of Requirements and Recommendations

Listed below are the primary requirements and recommendations resulting from the inspection of the District's pretreatment program. For more specific information pertaining to each comment, please refer to the cited sections of the report.

10.1 Requirements

1. The Central Valley Regional Water Board considered the District's 2004 SUO (the last version the board had approved) to be in effect for the pretreatment program at the time of the inspection. At the time of the inspection, the SUO on the District's Web site contained updates that were not in the 2004 version of the SUO. According to information provided on the District's Web site, the ordinance had been adopted on December 9, 2014. Therefore, the SUO being implemented by the District differs from what the Central Valley Regional Water Board has approved. Substantial modifications to the pretreatment program must meet the federal requirements at 40 CFR 403.18(c), which require the District to submit to the Central Valley Regional Water Board a statement of the basis for the desired program modification, a modified program description, or other documents the Central Valley Regional Water Board determines necessary under the circumstances. The District is required to have approval from the Central Valley Regional Water Board for substantial SUO modification prior to implementing the SUO. (Section 2.2, *Results and Status of the 2014 Pretreatment Compliance Audit*, Section 3.1, *Legal Authority*, and Section 4, *Local Limits*)
2. District representatives appeared unaware of how and when to perform SNC calculations. The District is required to perform calculations to determine if any of its SIUs are in SNC with the criteria provided at 40 CFR 403.8(f)(2)(viii)(A)–(H). In the event that an SIU meets the criteria for SNC, the District is reminded that it must publish this industrial user(s) in a newspaper(s) of general circulation to provide meaningful public notice to the jurisdiction(s) served by the POTW in accordance with 40 CFR 403.8(f)(2)(viii). (Section 2.3.1, *Significant Non-Compliance* and Section 9, *Enforcement*)
3. At the time of the 2015 inspection, the District was in the process of developing technically-based local limits, but had not completed the sampling phase for developing the local limits. The District's General Manager stated that the planned completion date for the local limits study was June 2015. However, the District has since extended that completion date, as CDO R5-2014-0146 allows the District until August 1, 2016 to complete its local limits study. Due to the lack of technically based local limits at the time of the inspection, the District is required to continue the process of developing technically based local limits and

TAB 3G

2010 PCI Summary Report

pp. 8-11

No deficiencies were noted during the site visit.

7.4 Requesting, Receiving, and Analyzing Reports

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(iv) require the District to request, receive, and analyze all reports submitted by SIUs. The inspector reminded the District during the course of the inspection that EPA has finalized the pretreatment streamlining provisions to include sampling requirements for all periodic reports as required at 40 CFR 403.12(e) and (h). The District is required to ensure that all reports submitted by SIUs comply with the provisions of 40 CFR 403.12.

The District has failed to identify all violations. The District did not notice that all of Calpine's self-monitoring reports failed to include the required certification and signature. In addition, the District did not notice PPG's iron violation (sample date on June 2, 2009) and Calpine's numerous EC and iron violations. Furthermore, there was no resampling event after PPG's June 2009 iron violation. The District is required to review its procedures for reviewing and analyzing reports submitted by SIUs. The District is required to ensure that all violations are identified and enforcement actions are taken as specified by the District's ERP.

7.5 Slug Discharge Control Plans

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(vi) require the District to evaluate each SIU, by October 14, 2006, or within 1 year of its becoming an SIU, to determine whether the SIU needs to develop and implement a slug discharge control plan. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or noncustomary batch discharge [40 CFR 403.8(f)(2)(vi)]. The regulations also require an SIU to notify the POTW immediately of any changes at the SIU's facility that affect the potential for a slug discharge.

The District has not performed slug discharge evaluations at any of its SIUs. Therefore, the District is required to evaluate each of its SIUs to determine whether any of the dischargers are required to develop and implement a slug discharge control plan. In addition, the District is required to document each of these evaluations.

8. Enforcement

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. The plan must contain detailed procedures indicating how the District will investigate and respond to instances of IU noncompliance.

The District has failed to identify all instances of noncompliance (Calpine's EC and iron violations and PPG's iron violation) and therefore has not taken appropriate enforcement action against SIUs in violation. The District is required to implement the enforcement actions outlined in its ERP for all instances of noncompliance.

The District failed to recognize that Calpine's and PPG's iron violations in 2009 caused the facilities to be in significant noncompliance. The District failed to publish these

dischargers in a newspaper of general circulation. The District is required to review all the SIU files to determine whether other SIUs are in SNC for 2009. In addition, the District is required to publish all SIUs in SNC for 2009 in a newspaper of general circulation.

9. Record-keeping

The Tetra Tech inspector found the District's record and files disorganized and incomplete. Because the District has a contractor assisting with the implementation of its pretreatment program, there were two sets of files—District files and contractor files. The contractor's files are kept off-site and were brought to the District for the purpose of this inspection. Some of the information needed for the inspection could be found in only the contractor files, while some of the information could not be found in either set of files. Furthermore, each SIU had one large file with all of the reports and information in it without any delineation, and the information in the files was not in chronological order.

The Tetra Tech inspector strongly recommends that the District revise its record-keeping procedures. Because the District is ultimately responsible for its pretreatment program, the District should have a complete set of all files on-site. In addition, the District's filing system should be clearly delineated so that files are separated into different folders for permits, correspondence, enforcement actions, discharger sampling reports, District compliance sampling events, and District inspection reports. Finally, all the information and documents should be filed chronologically.

10. Summary of Requirements and Recommendations

Listed below are the primary requirements and recommendations resulting from the inspection of the District's pretreatment programs. For more specific information pertaining to each comment, see the cited sections of the report.

10.1 Requirements

1. District personnel indicated that the District has not revised its SUO to incorporate the required streamlining provisions. Therefore, the District is required to review its SUO and incorporate the required streamlining provisions into its legal authority as soon as possible. (Section 4, Legal Authority)
2. The Tetra Tech inspector noted an inconsistency in how the District is applying the Class I SIU classification. Therefore, the District is required to review its legal authority and either revise its SUO to include the additional delineation of a Class IB user or reclassify all Class IB users as Class I users (SIUs). (Section 4, Legal Authority)
3. The Tetra Tech inspector conducted a cursory review of the District's SUO (Ordinance No. 01-13-2004) and noticed that its definition of *slug discharge* is inconsistent with the federal definition at 40 CFR 403.8(f)(2)(vi). Therefore, the District is required to review its SUO to ensure that all of its definitions are consistent with the respective federal definitions. (Section 4, Legal Authority)

4. The Tetra Tech inspector could not find the 2009 Calpine permit. Therefore, the District is required to ensure that all SIUs are issued signed and final permits prior to the expiration of the previous permits. (Section 6.1, Reissuance of SIU permits)
5. The iron limit in Calpine's permit is inconsistent with the limit established in the District's SUO. The iron limit in the permit is listed as 10 mg/L, but the SUO specifies that the local limit for iron is 1 mg/L. Therefore, the District is required to revise Calpine's permit to include the iron limit established in its SUO. (Section 6.2, Effluent Limits)
6. The permits reviewed contain inconsistent self-monitoring requirements. Therefore, the District is required to review all monitoring requirements to ensure that they are consistent throughout the permit. (Section 6.3, Self-Monitoring Requirements)
7. The permits do not clearly specify what types of samples must be collected for each pollutant. Therefore, the District is required to review all SIU permits to ensure that the appropriate sampling technique is clearly identified for each pollutant that the discharger is required to self-monitor. (Section 6.3, Self-Monitoring Requirements)
8. The permits reviewed do not specify the appropriate sampling point. Therefore, the District is required to revise all SIU permit to include a specific description of where the sampling point is located. (Section 6.3, Self-Monitoring Requirements)
9. The permits reviewed do not clearly specify all reporting requirements (i.e., signature requirements, certification requirements). Therefore, the District is required to review all SIU permits to ensure that all federal reporting requirements are clearly outlined in each SIU permit. (Section 6.4, Reporting and Notification Requirements)
10. The permits reviewed do not include the requirement to notify the District within 24 hours or the requirement to resample and submit the results of the resampling event within 30 days of becoming aware of a violation. Furthermore, the permits do not include the requirements to report slug loadings, spills, or bypasses. Therefore, the District is required to review all SIU permit to ensure that each permit specifically outlines the notification and resampling requirements after becoming aware of a violation. (Section 6.4, Reporting and Notification Requirements)
11. The permits reviewed do not contain a statement of applicable civil and/or criminal penalties. Therefore, the District is required to review all SIU permits to ensure that each SIU permit includes a statement of applicable civil and/or criminal penalties. (Section 6.5, Statement of Civil and/or Criminal Penalties)

12. The Tetra Tech inspector did not find any documented sampling events conducted by the District. The District is required to revise its compliance monitoring procedures to ensure that it monitors each of the pollutants of concern listed in each SIU's permit at least once of year. (Section 7.1, Compliance Sampling)
13. Even though District personnel indicated that annual compliance inspections are conducted at each of the SIUs, the Tetra Tech inspector did not find any documented inspection reports in the SIU files. Therefore, the District is required to revise its compliance inspections procedures to ensure that all compliance inspections are properly documented. (Section 7.2, Compliance Inspections)
14. The District has failed to identify all violations. The District is required to review its procedures for reviewing and analyzing reports submitted by its SIUs. The District is required to ensure that all violations are identified and enforcement actions are taken as specified in the District's ERP. (Section 7.4, Requesting, Receiving, and Analyzing Reports)
15. The District has not performed any slug discharge evaluations at any of its SIUs. Therefore, the District is required to evaluate each of its SIUs to determine whether any of the dischargers are required to develop and implement a slug discharge control plan. In addition, the District is required to document each of these evaluations. (Section 7.5, Slug Discharge Control Plans)
16. The District has failed to identify all instances of noncompliance and therefore has not taken appropriate enforcement action against SIUs in violation. The District is required to implement the enforcement actions outlined in its ERP for all instances of noncompliance. (Section 8, Enforcement)
17. The District failed to recognize that Calpine's and PPG's iron violations in 2009 caused the facilities to be in significant noncompliance. The District is required to review all the SIU files to determine whether other SIUs are in SNC for 2009. In addition, the District is required to publish all SIUs in SNC for 2009 in a newspaper of general circulation. (Section 8, Enforcement)

10.2 Recommendations

1. The Tetra Tech inspector conducted a cursory review of the District's SUO (Ordinance No. 01-13-2004) and noticed some inconsistencies between it and the EPA model SUO. The Tetra Tech inspector strongly recommends that the District evaluate its SUO with the EPA Model Ordinance and the EPA Legal Review Checklist to determine if any revisions are needed. (Section 4, Legal Authority)
2. Even though District personnel indicated that annual compliance inspections are conducted at each of the SIUs, the Tetra Tech inspector did not find any documented inspection reports in the SIU files. The Tetra Tech inspector recommends that the District create an inspection checklist that can be used

TAB 4
(Violation 1.D)

TAB 4A

2014 PCA Final Summary Report

pp. 29-30

9.4 Requesting, Receiving, and Analyzing Reports

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(iv) require the District to request, receive, and analyze all reports submitted by SIUs. In addition, the SIU reports must contain the information required at 40 CFR 403.12.

According to the 2010 inspection report, the District failed to identify all violations. The District was required to review its procedures for reviewing and analyzing reports submitted by its SIUs. The District was required to ensure that all violations are identified and enforcement actions are taken as specified in the District's enforcement response plan (ERP). In response to this requirement, the District stated that it documented details of its compliance and enforcement activities in the *Annual Pretreatment Report* for 2012, which was submitted to the Central Valley Water Board on February 28, 2013. In addition, the District stated that it had prepared an updated methodology to ensure that all violations are identified and enforcement actions are taken as specified in the ERP. The updated methodology was included in the draft SUO.

According to the federal regulations at 40 CFR 403.8(f)(2)(iv), the POTW is required to receive and analyze self-monitoring reports and other notices submitted by IUs in accordance with the self-monitoring requirements in 40 CFR 403.12. From the files reviewed as a component of the 2014 audit, it was determined that 2013 self-monitoring data for the RockTenn CP, LLC facility was not included in the facility file. The District is required to adequately request, receive, and analyze reports submitted by SIUs as stated in the federal regulations at 40 CFR 403.8(f)(2)(iv).

9.5 Slug Discharge Control Plans

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(vi) require the District to evaluate each SIU, either by October 14, 2006 or within one year of the facility's becoming an SIU, to determine whether the SIU needs to develop and implement a slug discharge control plan (SDCP). A slug discharge is any discharge of a non-routine, episodic nature, including an accidental spill or non-customary batch discharge [40 CFR 403.8(f)(2)(vi)]. The regulations also require an SIU to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

According to the 2010 inspection report, the District had not performed slug discharge evaluations at any of its SIUs. Therefore, the District was required to evaluate each of its SIUs to determine if any is required to develop and implement an SDPCP. In addition, the District was required to document each of these evaluations. In response to this requirement, the District stated that in 2010, the District developed an "Evaluation of SIUs [sic] Need for a Plan to Control Slug Discharge" form. Each SIU was evaluated and it was determined that none of the SIUs required an SDPCP at the time of the evaluation. These results were documented on the newly developed forms, which were filed in each SIU's folder. The District also stated that it had provided copies of the slug discharge evaluations for the SIUs in the September 2013 report submitted to the Central Valley Water Board.

During the 2014 audit, the District's Contract Engineer stated that in 2010 the District sent SDPCP surveys to its SIUs. The SIUs were required to complete the surveys in order

for the District to determine if any SIU needed to develop and implement an SDCP. The District's Contract Engineer stated that none of the District's SIUs were required to develop SDCPs at the time of the surveys were completed. The District should be aware that solely relying upon the completion of the SDCP survey by the IU is not an adequate method to determine the need for an SDCP. The District should take the SDCP survey into account, but it is strongly recommended that the District make its determination based on site inspections and practices observed at the facility.

The Stratas file reviewed contained a two-page document outlining the evaluation of the facility's need to develop an SDCP. The documentation provided indicates that the following information was reviewed: (1) did the facility have a slug discharge in the past year? (2) does the facility have spill containment? and (3) does the facility post notices providing information to contact the WWTP in the event that a slug discharge occurs? It is recommended that the facility or inspector include information on the "Evaluation of SIU's Need for a Plan to Control Slug Discharge" form that pertains to chemicals, chemical storage, and floor drain locations at the facility. The storage of chemicals in proximity to a floor drain may increase the potential for a slug discharge to occur at a facility and, thus, the facility's need to develop an SDCP.

10. Enforcement

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. During initial conversations with the District, the District representative was unsure if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District's Contract Engineer who stated that the District's ERP was a component in the District's SUO. A cursory review of the District's draft SUO determined that the ERP was located in section 3.08.010. This section states that the District shall develop and implement an ERP which should include a description of how the District will investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District's primary responsibility to enforce all applicable pretreatment requirements and standards. However, section 3.08.010 of the District's SUO does not specifically identify how the District will investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District is required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5).

According to the 2010 inspection report, the District had failed to identify all instances of noncompliance and therefore had not taken appropriate enforcement action against SIUs in violation. The District was required to implement the enforcement actions outlined in its ERP for all instances of noncompliance. In response to this requirement, the District stated that it was currently reviewing and identifying all instances of noncompliance. In addition, the District stated that details of its compliance and enforcement activities were documented in the *Annual Pretreatment Report* for 2012, which was submitted to the Central Valley Water Board on February 28, 2013.

TAB 4B

2013 Annual Pretreatment Report

“Class 1 Inspection & Sampling
Activities”

CLASS 1 INSPECTION AND SAMPLING ACTIVITIES

SIU Name	Address	Permit No.	SIU Facility Inspections	Slug Control Evaluation	District Sampling for Compliance Determination
Air Products	3333 S. Peach Ave	1140	1 11/13/2013	1	0
PPG	3333 S. Peach Ave	1038	1 10/29/2013	0	11
RockTenn	3366 E. Muscat Ave.	1001	1 10/29/2013	0	8
Rio Bravo	3350 S. Willow Ave.	1005	1 10/29/2013	0	11
Stratas	3390 S. Chestnut Ave.	1008	1 11/13/2013	0	11

TAB 4C

Kinder Morgan “Slug Discharge Plan”
(included in 2014 3rd Quarterly
Pretreatment Report)

Slug Discharge Plan

Date: 09/18/2014

Facility: Kinder Morgan

Facility Address: 4149 S. Maple Avenue Fresno, CA 93725

Permit No: 1025 MCWD Account No: 055

Environmental Rep: Patricia Julianne Finkelnburg Office Phone: (714) 560-4972

Email: Julianne_Finkelnburg@kindermorgan.com

Slug Characteristics:

- Volume: 8000 gallons
- pH: 4.1
- Electric Conductivity: 1630 umhos/cm
- The slug does not meet the acceptable pH range of 5.5 of their permit
- BOD was not tested for

Plan:

Kinder Morgan will discharge the 8000 gallon slug over a 5 day period starting on September 23, 2014 and ending September 27, 2014. Each day, there will be 4 separate discharges lasting 15 minutes each. They will take place at 10:00 am, 1:00 pm, 4:00 pm, and 7:00 pm. The rate of discharge will be 30 gallons/minute. This would mean 1800 gallons would be discharged in a day.

The low pH of the slug will remain as it is. It will not be adjusted because adjusting it will only cause an increase in EC.

The wastewater operator will monitor the influent starting at 10:00 am. Monitoring will be done every 2 hours to measure the impact of the slug. The wastewater operator will contact Kinder Morgan should there be a need for any adjustments to the rate of discharge of the slug.

Kinder Morgan will have to take a BOD test of the slug and report the results to the district. They will be charged a surcharge for any excess BOD.

This plan is approved by the district manager



Date: 09/22/2014

TAB 4D
2010 PCI Checklist
Section II, p. 15

TAB 4E

2015 PCI Summary Report

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micromhos per centimeter ($\mu\text{mhos/cm}$) and the pH was measured as 5.73 s.u. at approximately 10:30 a.m.

According to Part 1.8 of the facility's permit, "Pretreatment facilities (including sampling and flow monitoring facilities) shall be maintained in good working order and shall be operated so as to ensure continuous compliance with District ordinances, resolutions, rules and regulations, and any applicable permits by the User at the User's own cost and expense." Due to the large variation of the pH and electrical conductivity measurements recorded in the facility's log sheet, it was unclear if the facility was properly maintaining its wastewater sampling equipment to obtain accurate readings.

Due to the facility's lack of maintenance records, (including probe cleaning and calibration, solids removal from the clarifier, etc.) for the Water Maze system, and lack of flow to the Water Maze system, the District is required to ensure that the permittee properly maintains its pretreatment system in accordance with Part 1. 8 of the facility's permit. It is also recommended that the facility keep detailed records regarding maintenance activities conducted at the facility.

The wash bays had six mobile power spray washers and numerous 200-gallon totes and 55-gallon drums positioned around the perimeter of the bays. The facility's wash solution and water delivery systems had a lot of cross connections, "jerry rigged" assets, and unlabeled lines/hoses. The "jerry rigging" was not limited to the water and cleanser delivery systems. The Inspection Team observed an old plumbing line and faucet being used as an electrical conduit line.

8.4 Requesting, Receiving, and Analyzing Reports

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(iv) require the City to request, receive, and analyze all reports submitted by SIUs. The SIU reports must contain the information required at 40 CFR 403.12.

According to the 2014 audit report, the 2013 self-monitoring data for the RockTenn CP, LLC facility was not included in the facility file. The District was required to adequately request, receive, and analyze reports submitted by SIUs as stated in the federal regulations at 40 CFR 403.8(f)(2)(iv).

As a component of the 2015 inspection, the self-monitoring data submitted by Air Products, RockTenn, and Stratas Foods were reviewed.

The self-monitoring reports submitted to the District by Air Products dated January 12, 2015 included a discharge monitoring report form with sampling results for the parameters that were required to be sampled and submitted by the facility. However, analytical data and chain-of-custody forms were not included with the self-monitoring report submitted by the industry. According to 40 CFR 403.8(f)(2)(iv), the District is required to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the 40 CFR 403.12. According to 40 CFR

403.12(g)(3), sampling must be conducted using the protocols specified in 40 CFR 136. Since the analytical data and chain-of-custody forms were not provided with the self-monitoring report submitted by Air Products, the Inspection Team could not confirm that the samples were collected and analyzed in accordance with the regulations at 40 CFR 136. The District is required to receive and analyze self-monitoring reports and other notices submitted by Industrial users in accordance with the 40 CFR 403.12 as stated at 40 CFR 403.8(f)(2)(iv).

The following additional deficiencies were identified regarding the self-monitoring data submitted by the Air Products, RockTenn, and Stratas Foods facility; and ultimately with the District's process of requesting receiving and analyzing reports.

- The Inspection Team reviewed the data on the Environmental Compliance Inspector's computer (the location identified as housing all relevant SIU data) and identified that the following self-monitoring reports were not included in the SIU files reviewed.

- Air Products—The 2014 permit required the facility to monitor and record flow on a daily basis and to monitor and submit sampling results for BOD, TSS, copper, lead, and pH semiannually (June and December). According to the information provided in the District's files, the facility did not submit flow monitoring data for January, February, or March 2014.

Also, according to the 2015 permit, the facility is required to monitor and record flow on a daily basis and submit sampling results for BOD, TSS, pH and EC on a monthly basis. According to the information provided in the facility's file, the facility did not submit the monthly self-monitoring data for BOD, TSS, pH, and EC for the first two months of 2015.

- RockTenn—According to the 2014 permit, the facility was required to collect continuous EC samples, daily flow samples, monthly BOD and TSS samples, and weekly pH samples. The facility was also required to collect annual samples for aluminum, arsenic, barium, boron, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc during the month of June. According to the information provided in the District's file, the facility did not collect and analyze samples for lead, mercury, nickel, selenium, or silver during 2014 as required by its permit. It should also be noted that the facility provided sampling results for the parameters that were sampled in 2014 in an Excel spreadsheet. The spreadsheet did not include analytical data or a chain-of-custody forms.
- According to the 2014 permit, the Stratas Foods facility was required to sample flow on a daily basis; BOD, TSS, pH, and EC on a weekly basis; and oil and grease twice per week. The 2014 Stratas Foods permit does not state how the local limits were to be applied. Therefore, several potential effluent violations were identified, as described in Table 3.

Table 3. Potential Permit Exceedances According to the Self-Monitoring Reports Submitted by Stratas Foods for August 2014

Parameter	Average Monthly Reported Sampling Result	Instantaneous Reported Sampling Result (date)	2014 Permit Limit
BOD	365	No exceedance	1,000 mg/L
TSS	34	No exceedance	1,000 mg/L
EC	714	962 μmhos/cm (8/21/2014)	950 μ mhos/cm
pH	7.7	9.3 s.u. (8/21/2014)	6.0–9.0 s.u.
O&G	56	190 mg/L (8/7/2014)	100 mg/L

The information provided in the District’s file for the facility did not indicate the District had identified these potential violations or had taken enforcement action for the instantaneous sample results that exceeded the facility’s permitted limits. Again, the facility’s permit did not specify if the limits should be applied as monthly averages or instantaneous maximums.

The District should review the reports and inform the facilities that pH values cannot be averaged. pH is a logarithmic function used to measure the concentration of hydronium ions in an aqueous solution, it cannot be averaged due to its logarithmic characteristics.

Due to the aforementioned deficiencies, the District is required to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the 40 CFR 403.12 as stated at 40 CFR 403.8(f)(2)(iv).

8.5 Slug Discharge Control Plans

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(vi) require the District to evaluate each SIU, either by October 14, 2006 or within 1 year of its becoming an SIU, to determine whether the SIU needs to develop and implement a slug discharge control plan. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or noncustomary batch discharge [40 CFR 403.8(f)(2)(vi)]. The regulations also require an SIU to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

As previously stated, at the beginning of the 2015 inspection, the District representatives were referring to facilities that batch discharge wastewater as facilities with “slug discharges.” The Inspection Team asked specifically about the District’s process for inspecting facilities and evaluating the need for those facilities to develop and implement slug discharge control plans. The District provided to the Inspection Team a slug discharge control plan for the Kinder Morgan facility. The Inspection Team reviewed a document titled “Slug Discharge Plan” dated November 4, 2014 stating the “slug characteristics” and the plan to discharge the slug. The plan states, “The low pH of the slug will remain as it is. It will not be adjusted because adjusting it will only cause an increase in EC.”

The Inspection Team thoroughly discussed with the District representatives the difference between a “slug discharge” and a “batch discharge.” The Inspection Team also expressed the importance of preventing the discharge of slugs to the POTW. Additionally, the inspection reports reviewed did not include a section for evaluating the potential for a slug discharge to occur or documentation that the District had evaluated the facility’s need to develop and implement a slug discharge control plan. The District was unable to provide other documentation indicating that the SIUs had been evaluated for the need to develop and implement a slug discharge control plan. Therefore, the District is required to evaluate whether each SIU needs a plan or other action to control slug discharges in accordance with 40 CFR 403.8(f)(2)(vi).

The District is reminded that if SIUs are required to develop and implement slug discharge control plans, those plans must meet the federal requirements at 40 CFR 403.8(f)(2)(vi)(A–D).

9. Enforcement

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance.

According to the 2014 audit report, the District representative did not know if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District’s Contract Engineer, who stated that the District’s ERP was a component of its SUO. The audit team performed a cursory review of the District’s draft 2014 SUO and determined that the ERP was located in Section 3.08.010. This section stated that the District should develop and implement an ERP, which should include a description of how the District would investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District’s primary responsibility to enforce all applicable pretreatment requirements and standards. However, Section 3.08.010 of the District’s draft 2014 SUO did not specifically identify how the District would investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District was required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5).

Also, according to the 2014 audit report, documentation in the Stratas Foods file indicated the facility had notified the District, via a letter, of a monthly average O&G exceedance on October 17, 2012. According to the September 2012 self-monitoring report, the facility’s monthly average sampling result for O&G was 166 mg/L; the permitted limit for O&G was 100 mg/L. However, the District did not take enforcement action against the facility upon receipt of the letter. The District was required to ensure that the facility notify the District within 24 hours of becoming aware of a violation, as stated in the federal regulations at 40 CFR 403.12(g)(2).

During the 2015 inspection, the District representatives stated that the District had updated its ERP as a component of the SUO review that had occurred in February 2014. The Inspection Team reviewed the District’s response to the Fifth-Wheel Truck Wash

TAB 4F

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the truck washing operations, thereby providing consistency in the nature and characteristic of the wastewater generated and discharged from the facility. It is also recommended that the facility develop and implement SOPs for maintaining its oil/water separators.

During the site visit, the Inspection Team also observed a facility employee washing under the hood of one of the tractor trailer trucks. Although the wash waters generated at the facility are treated by an oil/water separator prior to being discharged to the POTW, it is recommended that the District evaluate this practice for how it may impact the quality of the wastewater discharged to the POTW.

- *Kinder Morgan SFPP, L.P.* The facility is a fuel distribution facility. The facility's operations include the storage, distribution, and modification of various types of fuels. The fuels are modified by the injection of various additives. The District had permitted the facility as a Class 1 SIU due to the potential of the discharges from the facility to negatively impact the POTW.

The facility discharges pretreated rain and wash waters, as well as minor spills from the facility's process areas to the POTW. The facility stored and transferred fuel products to tanker trailers. Additives were injected to various fuels as the fuel was transferred into the tanker trailers. The facility's process operations and tank farm areas were not inspected as a component of the inspection.

The facility's pretreatment system is comprised of a rock trap, an oil water separator, two 10,000-gallon holding tanks, two 25-micron sock filters, and two 2,000-gallon liquid granular activated carbon (GAC) filters, arranged in series.

The facility representatives were asked for an operational sketch of the facility wastewater process. The facility representatives provided a sketch to the Inspection Team. Three modifications were made to the sketch based on conversations during the 2014 inspection. These modifications included: 1) a rock trap had been installed prior to the oil/water separator; 2) waste oil collected in the oil water separator was hauled offsite to a refinery for processing; and 3) the pretreatment system has the ability to recycle effluent back to the holding tanks for retreatment prior to discharge. It is strongly recommended that the District request the facility to modify its process area schematic and obtain a current version of the schematic to keep on file.

A majority of the discussions during this inspection focused on the facility's activities associated with identifying the sources of high EC in the facility's wastewaters discharged to the District. Facility representatives stated that a product sampling program had been implemented to document EC concentrations of products onsite and to further evaluate possible EC sources in the facility's wastewater.

District representatives stated they had experienced a number of issues with high EC loading discharged from the facility to the POTW in the past. As a result, the District issued the facility a Class 1 IU permit. In response to the high EC loading

issues from the facility, it is strongly recommended that the District formally conduct an in-depth evaluation of the sources of the EC loading. As a component of the evaluation, the District shall inspect the operations associated with fuel transfer and cleanup operations. The District should also review the facility's SOPs for fuel loading/offloading, fuel additive injection, general cleanup, spill response, and pretreatment system operation. It is further recommended that the District thoroughly document these findings in an investigation report.

As previously mentioned, the District representatives had confused the terms "slug discharge" and "batch discharge." Specifically, the District had required the facility to develop and implement a "slug discharge plan." However, upon further review of the document, the Inspection Team identified that the District was describing batch discharge practices instead of slug discharge prevention. Therefore, it is strongly recommended that the facility's discharge practices be described as a "batch" discharge instead of as a "slug" discharge. It is further recommended that the District require the facility keep a batch discharge log to document the date, time, and volume of batch discharges from the facility to the POTW.

- *PPG Industries.* The facility produces flat and tempered glass products for various industries. The purpose of the inspection was to evaluate the exterior perimeter of the facility. Specifically, the Inspection Team reviewed the outdoor emergency spill and discharge ponds due to recent power outages at the facility. According to District representatives, a power outage had recently occurred at the facility in 2015. The facility sampling location was also inspected as a component of the site visit. The process operations were not discussed or inspected during the facility inspection. The City had permitted the facility as a Class 1 SIU due to the potential for the facility's discharges to adversely impact the POTW.

The facility had recently experienced a power outage that caused the primary and secondary power systems at the facility to fail. The power failure caused the electrical power-driven process operations to shut down, which included the control movement of molten glass and cooling systems. Due to the extreme temperature of the molten glass, the system was designed with an emergency system to provide protection in the event of a power failure. For instance, during the power outage, the molten glass and cooling waters were gravity fed to the facility's "Frit Pit" (located outside the back of the facility).

The facility's pretreatment system was not inspected as a component of the site visit. The site visit focused on the inspection of the facility's emergency spill and discharge ponds, in addition to the sampling location.

During power outages, wastewaters were not discharged to the District's POTW. The facility representatives were asked to describe the general events associated with the facility's recent power failure. *The following is a very general overview of the discussions with facility representatives:*

TAB 5
(Violation 1.E)

TAB 5A
2010 Annual Pretreatment Report
(8 pages total)



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO CALIFORNIA 93725

BOARD OF DIRECTORS

CHARLES H. GARABEDIAN JR.
PRESIDENT

JOHN R. LEVVA
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DIRECTOR

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February 22, 2011

FEB 24 2011

California Regional Water Quality Control Board
Attn: Mr. Dale Harvey
1685 E Street
Fresno, CA 93706

MONITORING REPORT REVIEW

Engineer _____

Compliance _____
Yes No

Date Reviewed _____

Re: Malaga County Water District
Annual Pretreatment Report

Dear Mr. Harvey:

This annual report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

The District was the subject of an audit of the Pretreatment Program in February, 2010. Several updates and corrections to the present Pretreatment Program were identified during the audit. The District prepared several updates to the program based on the audit meeting. It is anticipated that the District will complete a formal response and verification of compliance with the comments, subsequent to receiving the official audit report.

List of Industrial Users

Attached (see Exhibit A) is a listing of each Industrial and Commercial User within the Malaga County Water District. These records are updated as required to reflect changes in permit holders. The dischargers are categorized in three classes as described below:

Class II

Most of the non-residential wastewater dischargers are warehouse or office commercial enterprises. Those facilities generally include administration staff and possible warehousing of products. Minimal specific monitoring or reporting requirements have been identified for those sites.

Several dischargers have facilities that require grease traps, sediment separators, or oil/water separators as pretreatment improvements. Examples of these facilities include a car wash, truck wash, and a trucking operation. Monitoring and

reporting includes inspection of the pretreatment facilities approximately one time per year and reporting of waste hauling activities by the discharger.

Class I

The remaining facilities are industrial in nature and require more comprehensive monitoring and reporting programs. These facilities include a plate glass production plant, biomass cogeneration plant, and oil products processor. Copies of the specific monitoring and reporting programs for each of these facilities are included with this report. (Exhibit B)

Class I dischargers include:

<u>Dischargers</u>	<u>Permit No.</u>
Smurfit	1001
Air Products and Chemicals, Inc.	1140
PPG Industries	1038
Rio Bravo Fresno	1005
Stratas Foods	1008

Compliance with Permit Conditions

All dischargers are determined to be in compliance with the permit conditions with the exception of:

<u>Discharger</u>	<u>Permit No.</u>
Fresno Truck Wash	(1095)

Official notices to the respective dischargers regarding non-compliance and the respective requirements to return to compliance are attached.

§307(a) of Clean Water Act

Analytical results for pollutants identified in §307(a) of the Clean Water Act and 40 CFR 401.15 are limited. The industries served by the Malaga County Water District are generally not identified as dischargers of these pollutants

Upset, Interference of Pass-Through Incidents

The District has experienced upset, interference or pass-through incidents that may be directly associated with industrial users of the treatment plant. The District continues with increased monitoring, education of industrial dischargers, surcharges, and consideration of reduced electroconductivity limits to address this issue.

Examples of interference incidents include foaming that may have been initiated from a truck wash and could have directly impacted TSS and turbidity of the WWTP effluent.

Baseline Monitoring Report Notification

The District contacts all Class I dischargers a minimum of once per year. The information acquired during the contact is used to update any conditions or the status of the Non-Residential Wastewater Discharge Permit.

Inspection and Sampling Activities

Many of the industrial and commercial dischargers have been subjects of independent sampling by the Malaga County Water District. Results of the testing are reviewed for consistency with self-monitoring reporting of the industrial dischargers. Facilities that required permit renewal were contacted and inspected prior to issuance of an updated permit. Description of facilities, contact names, and relevant monitoring and reporting requirements were updated pursuant to the inspections. A copy of the typical Inspection Form template is included in Exhibit C.

Several individual dischargers have been identified as the primary sources of electroconductivity to the collection system based on the activities at each site and monitoring information received. The District has performed specific monitoring of said dischargers and has educated the dischargers regarding the pretreatment ordinance and limitations.

Compliance and Enforcement Activities

The District does have in place a schedule of surcharges that are directed to penalize non-compliance with the limits incorporated in the pretreatment ordinance. The District has not been required to issue surcharges or Notices of Violation in the past year.

Administrative Complaint (Exhibit D)

Fresno Truck Wash

Civil Actions

None

Criminal Actions

None

Assessment of Monetary Penalties

None in 2010.

Restriction of Flow to POTW

None

Disconnection from POTW

None

Public Participation Activities

None

Sludge Disposal Method Alterations

None

Pretreatment Program Alterations

The District modified Conditions for permits in 2010.

Additional modifications will be completed in 2011 based on the input and direction received from the audit conducted by the EPA in early 2010.

Annual Pretreatment Budget

The pretreatment program budget a part of the overall sewer budget for the Malaga County Water District.

Respectfully,



Russ Holcomb
General Manager

MGT/LEQ

c: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

Provost & Pritchard Engineering Group, Michael Taylor
286 W. Cromwell Ave.
Fresno, CA 93711

Malaga County Water District

**Exhibit A
List of Industrial Users**

Malaga County Water District

**Exhibit B
Monitoring and Reporting Conditions
For Class I Dischargers**

Malaga County Water District

**Exhibit C
Inspection Form**

Malaga County Water District

**Exhibit D
Administrative Complaint**

TAB 5B

2014 PCA Final Summary Report

pp. 40-41

the file which showed that the facility notified the District for each of the violations listed above in Table 1. The District is required to ensure that the facility notifies the District within 24 hours of becoming aware of a violation as stated in the federal regulations at 40 CFR 403.12(g)(2). In addition, the District is required to ensure that it is taking the appropriate actions to enforce the discharge limits stated in the facility permit in order to protect the District's POTW. (Section 10, Enforcement)

23. As stated at 40 CFR 403.8(f)(2)(viii), the District is required to annually publish all facilities in SNC in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW. The District representative stated during the 2014 audit that the District does not publish notices regarding facilities in SNC in a newspaper of general circulation. The District is required to ensure that the names of SIUs in SNC are published in a newspaper of general circulation as stated in the federal regulations at 40 CFR 403.8(f)(2)(viii). As noted in section 2.3.1, the District was unaware if any of the SIUs were in SNC in 2013. (Section 10, Enforcement)
24. As a component of the 2014 audit, the District's data management system for implementation of the pretreatment program was reviewed. When the audit team requested to review the District's files, the District representative was able to produce some of the IU permits in hardcopy form but was unable to provide the full IU files to the audit team. The audit team reviewed files that were maintained by the Contract Engineer, but not by the District. These files were not kept for regulatory purposes but for tracking the Contract Engineer's work products. The District's Contract Engineer stated that they were not contracted to maintain the District's official files. The documentation for each SIU was located in individual files. However, some SIU reports were stored in other SIU's files. The files at the District's Contract Engineer's office were unorganized, incomplete, and did not constitute pretreatment files on the District's behalf. The District is required to maintain records of monitoring activities as stated in the federal regulations at 40 CFR 403.12(o). It is strongly recommended that the District develop a system of documenting and filing information for implementation of the pretreatment program and that the District maintain records of the pretreatment program separate from that of its Contract Engineer. (Section 11, Data Management)
25. As a component of the 2014 audit, the District's pretreatment program budget was requested. During the initial discussion of the budget, the District representative stated that the budget was not specifically broken down by program (i.e., there was not a specific line item identifying resources strictly dedicated to the pretreatment program). The District representative provided the audit team with a list that included the budget for water, sewer, solid waste disposal services, recreational services, and administration and general services. The federal regulations at 40 CFR 403.8(f)(3) require the District to have sufficient resources and qualified personnel to carry out the authorities and procedures of the industrial pretreatment program. The District is required to evaluate its resources,

including personnel, to ensure that the industrial pretreatment program is adequately managed. In addition, it is strongly recommended that the District reorganize the budget to break down specific programs in order to determine if the pretreatment program resources are adequate for the operation of a successful program. (Section 13, Pretreatment Program Resources)

14.2 Recommendations

1. It is recommended that the District develop a pharmaceutical take-back program and expand its outreach to senior care centers, hospitals, and pharmacies. Successful take-back programs have been implemented in California's San Francisco Bay Area by the Bay Area Pollution Prevention Group (BAPPG); the U.S. Environmental Protection Agency (EPA) considers the BAPPG programs to be model systems. (Section 2.2.3, Pharmaceutical Recovery)
2. The District did not provide data or information to the audit team regarding the mercury concentrations of the WWTP's influent, effluent, or sludge. It is recommended that the District review data pertaining to mercury concentrations of the WWTP's influent, effluent, and sludge in order to determine if these concentrations are decreasing, increasing, or remaining unchanged. Furthermore, it is recommended that the District develop a dental mercury program. The District should begin by identifying the dental facilities in its service area, followed by investigating dental practices pertaining to their handling of dental mercury and amalgam. The American Dental Association serves as an informational resource and provides best management practices pertaining to the management and disposal of dental mercury and amalgam (Section 2.3.3, Dental Mercury)
3. The District representative stated that the District does not have industrial laundry facilities within its service area. It is recommended that the District discuss and review the EPA's Safer Detergents Stewardship Initiative (SDSI) program with any industrial laundries that come into the District's jurisdiction in the future. SDSI is a voluntary program to commit to the use of safer surfactants. Safer surfactants are those which break down quickly to non-polluting compounds, therefore helping to protect aquatic life in both freshwater and salt water. Nonylphenol ethoxylates (NPEs) are an example of a surfactant class that does not meet the definition of a safer surfactant. (Section 2.3.4, Industrial Laundries)
4. In addition, according to the State Water Board Order WQ No. 2006-0003, there is a requirement that POTWs enrolled under the General Order evaluate its service area to determine if a FOG program is needed. Therefore, it is recommended that the District continue to develop and implement its FOG control program and provide public outreach about the proper disposal of FOG waste. A component of the FOG program should also include working with FSEs to ensure that FSEs have adequate grease removal devices that are properly maintained in order to protect the District' POTW. In addition, it is recommended

TAB 5C

2008 Annual Pretreatment Report

Public Participation Activities

None

Sludge Disposal Method Alterations

None

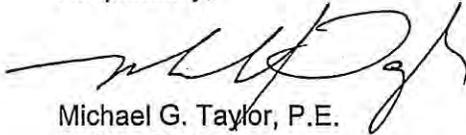
Pretreatment Program Alterations

The District reduced the limit for electroconductivity from 1,000 to 950 micromhos/cm for all dischargers.

Annual Pretreatment Budget

The pretreatment program budget a part of the overall sewer budget for the Malaga County Water District.

Respectfully,



Michael G. Taylor, P.E.
District Engineer

MGT/HEB

c: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

Provost & Pritchard Engineering Group, Michael Taylor
286 W. Cromwell Ave.
Fresno, CA 93711

TAB 5D

12 April 2012 Notice of Violation

pp. 1-4

Central Valley Regional Water Quality Control Board

12 April 2012

CERTIFIED MAIL

7011200000117692463

NOTICE OF VIOLATION

Mr. Russ Holcomb
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

VIOLATION OF WASTE DISCHARGE REQUIREMENTS WDR ORDER R5-2008-0033 AND CEASE AND DESIST ORDER R5-2008-0032, MALAGA COUNTY WATER DISTRICT WASTEWATER TREATMENT FACILITY (NPDES CA0084239, RM 384386), FRESNO COUNTY

Central Valley Water Board staff (staff) reviewed Malaga County Water District (District) WWTF Waste Discharge Requirements Order (WDR) R5-2008-0033, Cease and Desist Order (CDO) R5-2008-0032 (both adopted on 14 March 2008) and evaluated the District's compliance. The District violated, is in violation of, or threatens to violate the WDR and CDO as follows:

REPORT REQUIREMENTS

WDR R5-2008-0033 requires the following reports:

- 1) By 12 June 2008, Provision VI. C. 2.a.i required a Toxicity Reduction Evaluation (TRE) work plan that included procedures for accelerated chronic toxicity monitoring and TRE initiation. On 19 June 2008, the District submitted its initial TRE work plan. By 5 August 2008 letter Central Valley Water Board staff (staff) deemed the TRE work plan incomplete.
 - 9 September 2008 – revised report received – report complete - 89 days late.
- 2) By 14 September 2008, Provision VI. C. 2.b required the District to submit a work plan and schedule for providing best practicable treatment or control (BPTC) as required by Resolution 68-16. On 24 July 2008, the District submitted its BPTC evaluation and submitted supplemental information on 9 September 2008 and 1 May 2009. By 24 September 2009 letter, staff deemed the BPTC evaluation incomplete.
 - 23 October 2009 – revised report received – 404 days late
- 3) By 15 September 2008, Provision VI. C. 2.d requires the District to submit a technical report evaluating the groundwater monitoring system. On 15 July 2008, the District submitted the report with supplemental information submitted on 3 November 2008.

By 24 September 2009 letter, staff deemed the report incomplete. On 23 October 2009, the District submitted an updated evaluation.

- 23 October 2009 – revised report received - 403 days late
- 4) Within 21 days of the end of the quarter, Monitoring and Reporting Requirements No. R5-2008-0033 D. 4. Pretreatment Reporting Requirements require the District to submit quarterly reports (the 4th quarter monitoring is to be included with the annual report).
- 2nd Quarter 2008 Pretreatment – not received – due 21 July 2008
 - 3rd Quarter 2008 Pretreatment – not received – due 21 October 2008
 - 2nd Quarter 2009 Pretreatment – not received – due 21 July 2009
 - 3rd Quarter 2009 Pretreatment – not received – due 21 October 2009
 - 1st Quarter 2010 Pretreatment – not received – due 21 April 2010
 - 2nd Quarter 2010 Pretreatment – not received – due 21 July 2010
 - 3rd Quarter 2010 Pretreatment – not received – due 21 October 2010
 - 1st Quarter 2011 Pretreatment – not received – due 21 April 2011
 - 3rd Quarter 2011 Pretreatment - received 10/31/2011-10 days late
- 5) By 28 February each year, Monitoring and Reporting Requirements R5-2008-0033, D. 4 Pretreatment Reporting Requirements, require the District to submit annual pretreatment reports.
- 2008 Annual Pretreatment - received 3 April 2009 - report 34 days late
 - 2009 Annual Pretreatment – not received – due 28 February 2010
 - 2011 Annual Pretreatment - received 1 March 2012 – report 2 days late
- 6) By 19 February each year, Provision VI. C. 5.b.iv Sludge/Biosolids Discharge Specifications require the District to comply with existing federal and state biosolids laws and regulations, including permitting requirements and technical standards included in 40 CFR 503, which requires an annual biosolids report due to USEPA. On 13 March 2012, staff contacted USEPA and was told that the District has never submitted an annual biosolids report.
- 2008 Annual Biosolids – not received – due 19 February 2009
 - 2009 Annual Biosolids – not received – due 19 February 2010
 - 2010 Annual Biosolids – not received – due 19 February 2011
 - 2011 Annual Biosolids – received 15 March 2012, deemed incomplete by USEPA (see attached 20 March 2012 email)
- 7) By 14 July 2008, Provision VI. C. 7.a.ii Treatment Feasibility Study required the District to submit a work plan and time schedule to perform an engineering treatment feasibility study.
- 9 December 2009 - report received - 513 days late.

CDO R5-2008- 0032 requires the following reports:

- 8) By 14 April 2008, Ordered item 2.a. required the District to submit a work plan and proposed implementation schedule for improvement of WWTF influent flow metering.
 - 21 April 2008 report received – 7 days late
- 9) By 14 March 2008, Ordered item 2.b. required the District is to submit a technical report certifying the influent flow modifications are complete and meter is properly calibrated. On 6 August 2009 the District submitted flow meter calibration certificate.
 - 9 December 2009 – report received – 635 days late
- 10) By 13 June 2008, Ordered item 3.a required the District to submit the results of a study evaluating the WWTF treatment and disposal capacity with a work plan and time schedule to implement short-term and long-term measures to meet WWTF treatment and disposal needs through at least 2028. On 28 July 2008, the District submitted the report. On 24 September 2009, staff deemed report incomplete and inadequate and required a revised report. A revised report was never received.
 - Treatment and Disposal Capacity – not received – due 13 June 2008
- 11) By 14 March 2011, Ordered item 3.d requires the District complete short-term measures and to submit a technical report certifying modifications were completed as designed. On 29 April 2011, the District submitted report indicating that not all short-term measures were complete.
 - Short-term Measures – all measures not completed – due 14 March 2011

As stipulated in the WDR, and CDO, the District is required to submit technical and monitoring reports pursuant to section 13267 and 13383 of the California Water Code. To date, the reports cited above do not meet the requirements of the WDR and CDO. Please be advised that section 13268 of the California Water Code authorizes assessment of civil administrative liability of up to \$1000 per day a report is late

Many of the above referenced reports have not been submitted or were found to be incomplete. Submit any available reports identified as not submitted forthwith. Potential civil liability continues to accrue for late and incomplete reports.

SELF-MONITORING REPORTS REVIEW

Staff reviewed the District's self-monitoring reports for non-mandatory minimum penalty violations for the period of 14 March 2008 to 31 January 2012. The District violated, is in violation of, or threatens to violate WDR R5-2008-0033 as follows:

- 12) Facility Effluent Limitations IV.A.2 for exceeding the EC limit at Discharge Point 002 - one violation.
- 13) Receiving Water Limitations V.B.1 for exceeding the EC ground water limitation of 900 umhos/cm - 24 violations
- 14) Receiving Water Limitations V.B.2 for exceeding the nitrogen ground water limitation of 10 mg/L – two violations
- 15) Provision VI. B. for failure to comply with the Monitoring and Reporting Program by submitting deficient self-monitoring reports. From 14 March 2008 to 31 January 2012 there were 65 deficient monitoring violations.
- 16) Provision VI. B. for failure to comply with the Monitoring and Reporting Program by submitting deficient self-monitoring reports. From 14 March 2008 to 31 January 2012 there were 87 deficient reporting violations.
- 17) Provision VI. C.4. iv for failure to maintain two feet of operating freeboard in the ponds- 272 violations in 2008 and 2009.
- 18) Provision VI. C. 5.c Sludge/Biosolids Disposal Requirements for failing to dispose of biosolids as authorized by the WDR. The District states in its 2011 pretreatment and annual report that it is composting biosolids onsite, contrary to the WDR.

If you have any questions regarding this matter, please contact Jill Walsh at (559) 445-5130 or at jwalsh@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist
CEG 1528, CHG 681

Attachment: 20 March 2012 email from USEPA

cc: Ellen Howard, Office of Enforcement, State Water Board, Sacramento
Dan Radulescu, Central Valley Water Board, Rancho Cordova
Charles Garabedian, Jr., Malaga County Water District, Fresno
Michael Taylor, Provost & Pritchard, Fresno
Neal E. Costanzo, Costanzo & Associates, Fresno

TAB 5E

2010 Calpine Permit

(included in 2010 Annual

Pretreatment Report) (4 pages total)

PART 2 DISCHARGE PROHIBITIONS AND LIMITATIONS

1. Standard Discharge Prohibitions

The permittee shall comply with all discharge prohibitions and limitations specified in Ordinance 01-13-2004. Prohibited materials include but are not necessarily limited to:

- (a) Any materials which may cause interference or pass-through;
- (b) Oils and grease in any concentration or quantity which may contribute to an obstruction;
- (c) Explosive mixtures;
- (d) Noxious material;
- (e) Improperly shredded garbage;
- (f) Solid or viscous wastes which may cause obstruction;
- (g) Slug loads;
- (h) Toxic or hazardous substances;
- (i) Unpolluted waters
- (j) wastes with objectionable color not removed by the treatment process;
- (k) Corrosive wastes;
- (l) Trucked or hauled waste;
- (m) Any other materials which may cause or contribute to a detrimental environmental impact or nuisance, interfere with District opportunities to reclaim or recycle products of the treatment process, or may otherwise be incompatible with the wastewater facilities.

2. Specific Discharge Prohibitions

pH acceptable range = 6.0 - 9.0

E.C. (conductivity) 950 µmhos/cm maximum

B.O.D. 1,000 mg/l, (Surcharge above 300mg/l)

Suspended Solids 1,000 mg/l, (Surcharge above 270mg/l)

C.O.D. 1,000 mg/l,

Oils and Greases 100 mg/l,

Metals (with associated maximum allowable discharge):

lead	5ppm	silver	5ppm		
arsenic	5ppm	benene	0.02ppm	phenols	1ppm
cadmium	0.1ppm	zinc	5ppm		
chromium	5ppm	copper	5ppm	aluminum	5ppm
mercury	0.2ppm	barium	10ppm		
nickel	5ppm	selenium	1ppm	boron	8ppm

Malaga County Water District - Non-Residential Water Discharge Permits - Smurfit

Total Toxic Organics (TTO)

Acenaphthene	Bis(2-chloroethoxy) methane	Toluene
Acrolein	Methylene chloride	Trichloroethylene
Acrylonitrile	Methyl chloride	Vinyl chloride
Benzene	Methyl bromide	Aldrin
Benzidine	Bromoform	Dieldrin
Carbon tetrachloride	Dichlorobromomethane	Chlordane
Chlorobenzene	Chlorodibromomethane	4,4-DDT
1,2,4 - Trichlorobenzene	Hexachlorobutadiene	4,4-DDE(p,p-DDX)
Hexachlorobenzene	Hexachlorocyclopentadiene	4,4-DDD(p,p-TDE)
1,2, - Dichloroethane	Isophorone	Alpha-endosulfan
1,1,1 - Trichloroethane	Naphthalene	Beta-endosulfan
Hexachloroethane	Nitrobenzene	Endosulfan sulfate
1,1 - Dichloroethane	2-Nitrophenol	Endrin
1,1,2 - Trichloroethane	4-Nitrophenol	Endrin aldehyde
1,1,2,2- Tetrachloroethane	2,4-Dinitrophenol	Heptachlor
Chloroethane	4,6-Dinitro-o-cresol	Heptachlor epoxide
Bis (2-chloroethyl) ether	N-nitrosodimethylamine	Alpha-BHC
2-Chloroethyl vinyl ether	N-nitrosodiphenylamine	Beta-BHC
2-Chloronaphthathene	N-nitrosodi-n-propylamine	Gamma-BHC
2,4,6 - Trichlorophenol	Pentachlorophenol	Delta-BHC
Parachlorometa cresol	Phenol	PCB-1242 (Arochlor 1242)
Chloroform	Bis (2-ethyhexyl) phthalate	PCB-1254 (Arochlor 1254)
2-Chlorophenol	Butyl benzyl phthalate	PCB-1221 (Arochlor 1221)
1,2-Dichlorobenzene	Di-n-butyl phthalate	PCB-1232 (Arochlor 1232)
1,3-Dichlorobenzene	Di-n-octyl phthalate	PCB-1248 (Arochlor 1248)
1,4-Dichlorobenzidine	Diethyl phthalate	PCB-1260 (Arochlor 1260)
3,3-Dichlorobenzidine	Dimethyl phthalate	PCB-1016 (Arochlor 1016)
1,1-Dichloroethylene	Benzo(a)Anthracene	Toxaphene
1,2- Trans-dichloroethylene	Benzo(a)pyrene	2,3,7,8-Tetrachlorodibenzo-p-dioxin
2,4-Dichloropropane	Benzo(b)fluoranthene	
1,3-Dichlorophenol	Benzo(k)fluoranthene	
1,2-Dichloropropane	Chrysene	
1,3-Dichloropropylene	Acenaphthylene	
2,4-Dimethylphenol	Anthracene	
2,4-Dinitrotoluene	Benzo(ghi)perylene	
2,6-Dinitrotoluene	Fluorene	
1,2-Diphenylhydrazine	Phenanthrene	
Ethylbenzene	Dibenzo(a,h)anthracene	
Fluoranthene	Indeno(1,2,3-cd)pyrene	
4-Chlorophenyl phenyl ether	Pyrene	
4-Bromophenyl phenyl ether	Tetrachloroethylene	
Bis(2-chloroisopropyl) ether		

Note: Due to the nature of the discharge the TTO limits are not applicable.

Screening size 20 mesh/inch

Maximum Temperature - 150 °F

Gallons per day: 50,000 gpd peak (not to exceed 40gpm). 35,000 gpd average for any given week.

PART 3 MONITORING AND REPORTING REQUIREMENTS

1. General Monitoring Requirements

- (a) The Manager may require any permittee to monitor wastewater discharge and to submit monitoring reports to the Manager, at a frequency specified by the Manager. The permittee shall comply with all monitoring requirements specified in this permit or otherwise required, in writing, by the District.
- (b) Flow monitoring and sampling facilities shall comply with all applicable provisions of this permit and ordinance 01-13-2004.
- (c) Laboratory analysis of industrial wastewater samples shall be performed in accordance with the approved test procedures specified in 40CFR136 unless otherwise authorized, in writing, by District staff.
- (d) All samples must be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR Part 136, and amendments.

2. Specific Monitoring Requirements

- (a) From the period beginning on the effective date of the permit, the permittee must monitor outfall 001 for the following parameters, at the indicated frequency:

Sample Parameter (units)	Measurement Location	Frequency	Sample Type
Flow (gpd)	001	Daily ¹	
BOD (mg/L)	001	Monthly	24hr Flow proportional composite
TSS(mg/L)	001	Monthly	24hr Flow proportional composite
Aluminum(mg/L)	001	June, December	24hr Flow proportional composite
Arsenic (mg/L)	001	June, December	24hr Flow proportional composite
Cadmium (mg/L)	001	June, December	24hr Flow proportional composite
Chromium ⁵ (mg/L)	001	June, December	24hr Flow proportional composite

Malaga County Water District – Non-Residential Water Discharge Permits- Smurfit

Barium (mg/L)		June, December	24hr Flow proportional composite
Boron (mg/L)		June, December	24hr Flow proportional composite
Copper (mg/L)	001	June, December	24hr Flow proportional composite
Iron (mg/L)	001	June, December	24hr Flow proportional composite
Zinc (mg/L)	001	June, December	24hr Flow proportional composite
pH (s.u.)	001	Weekly	Grab
Electroconductivity (µmhos/cm)	001	Continuous	Continuous

(meter)¹ ¹Daily flows are to be recorded from the permittee's flow meter.

(grab) ³A single grab sample of daily discharge.

⁴Flow-proportional composite sample over daily duration of discharge.

(b) The sampler shall be maintained in accordance with manufacturer's recommendations, shall be cleaned once per month when in use, and samples shall be maintained at 4.0°C (±2.0°C).

(c) Operate and maintain flowmeter, have it electronically calibrated annually and hydraulically calibrated every three years by a recognized professional in flowmeter testing and repair, and provide proof of calibration to the District prior to July 31 annually.

3. Reporting Requirements

(a) The Manager may require any permittee to submit monitoring reports to the Manager, in a format and at a frequency specified by the Manager. The permittee shall comply with all reporting requirements specified in this permit or otherwise required, in writing, by the District.

TAB 6
(Violation 1.F)

TAB 6A
2011 1st Quarterly
Pretreatment Report
(2 pages total)



MALAGA COUNTY WATER DISTRICT
3580 SOUTH FRANK STREET – FRESNO CALIFORNIA 93725

CHARLES E. GARABEDIAN JR.
PRESIDENT

JOHN R. LEYVA
VICE-PRESIDENT

SALVADOR CERRILLO
DIRECTOR

IRMA CASTANEDA
DIRECTOR

FRANK SOTO
DIRECTOR

RUSS HOLCOOMB – GENERAL MANAGER

May 17, 2011

RECEIVED

MAY 20 2011

RWQCB-CVR
FRESNO, CALIF.

California Regional Water Quality Control Board
Attn: Mr. Dale Harvey
1685 E Street
Fresno, CA 93706

Re: Malaga County Water District
2011 First Quarter Pretreatment Report

Dear Mr. Harvey:

This quarterly report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

MONITORING REPORT REVIEW

Engineer _____

Compliance _____
Yes no

Date Reviewed _____

Commercial/Industrial Users

Class II

Most of the non-residential wastewater dischargers are warehouse or office commercial enterprises. Those facilities generally include administration staff and possible warehousing of products. Minimal specific monitoring or reporting requirements have been identified for those sites.

Several dischargers have facilities that require grease traps, sediment separators, or oil/water separators as pretreatment improvements. Examples of these facilities include a car wash, truck wash, and a trucking operation. Monitoring and reporting includes inspection of the pretreatment facilities approximately one time per year and reporting of waste hauling activities by the discharger.

Class I

The remaining facilities are industrial in nature and require more comprehensive monitoring and reporting programs. These facilities include a plate glass production plant, biomass cogeneration plant, and oil products processor.

Class I dischargers include:

<u>Dischargers</u>	<u>Permit No.</u>
Smurfit	1001
Air Products and Chemicals, Inc.	1140
PPG Industries	1038
Rio Bravo Fresno	1005
Stratas Foods	1008

Industrial users inconsistently achieving compliance:

Fresno Truck Wash. The District has issued an Administrative Complaint. Fresno Truck Wash has constructed improvements and is in the process of testing the facilities for performance.

Industrial users with significant violations to applicable pretreatment requirements as defined in 40 CFR 403.8 (f) (2) (vii):

Fresno Truck Wash. The District has issued an Administrative Complaint. Fresno Truck Wash has constructed improvements and is in the process of testing the facilities for performance.

Industrial users that complied with a schedule to achieve compliance (include the date final compliance is required):

Fresno Truck Wash. The District has issued an Administrative Complaint. Fresno Truck Wash has constructed improvements and is in the process of testing the facilities for performance.

Industrial users that did not achieve compliance and are not on a compliance schedule:

N/A

Industrial users with an unknown compliance status:

N/A

TAB 6B

Industrial User Sample Results
(included in 2012-2014 Annual
Pretreatment Reports)

(11 pages total)



2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/09/2012

Analytical Report for Work Order 2H06010

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
Cemex 3427 S. Chestnut Ave. Fresno, CA 93725								Sampled: 08/06/12 08:30 2H06010-01 (Water)			
Turbidity		860	4.0	0.80	NTU	40	T2H0716	08/07/12	08/07/12	EPA 180.1	
Specific Conductance (EC)		9400	1.0	1.0	µS/cm	1	T2H0606	08/07/12	08/07/12	SM2510B	

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.



2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Water Department
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/29/12 09:18

Peterlrit 4390 S. Bagley Fresno, Ca 93725

2H17007-01 (Water)

Sampled:08/17/12 00:00

Analyte	Notes	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method
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Semi-Volatile Organics

Total Oil & Grease (HEM)		1400	1.0	mg/L	1	T2H2304	08/23/12	08/28/12	EPA 1664A
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Notes and Definitions

- ug/L micrograms per liter (parts per billion concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - mg/L milligrams per Liter (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.



2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Water Department
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/29/12 09:20

Regers Truck 4321 S. Chestnut Fresno, Ca 93725

2H17008-01 (Water)

Sampled:08/17/12 00:00

Analyte	Notes	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method
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Semi-Volatile Organics

Total Oil & Grease (HEM)		1100	12	mg/L	1	T2H2304	08/23/12	08/28/12	EPA 1664A
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Notes and Definitions

- ug/L micrograms per liter (parts per billion concentration units)
- mg/kg milligrams per kilogram (parts per million concentration units)
- mg/L milligrams per Liter (parts per million concentration units)
- ND Analyte NOT DETECTED at or above the reporting limit
- RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

MALAGA COUNTY WATER DISTRICT
 WASTEWATER TREATMENT PLANT
 MONITORING AND REPORTING PROGRAM NO. R5-2008-0033
 Kinder Morgan #1025
 2014

MONTHLY REPORT	Discharge Volume	Date(s) of Discharge(s)	E.C.	pH	BOD	TPH	TPHg	TPHd	Log of Solids Removed
specific discharge prohibitions with units	15,000 gallons/day		950 umhos/cm max typical**	Min 5.5 Max 9.0	1,000 mg/l	monitor only mg/L	monitor only µg/L	monitor only µg/L	
January	0	--	--	--	--	--	--	--	--
February	3300	6	1400	4.1	8500	5.7	11000	21000	--
	3300	7	--	--	--	--	--	--	--
	3300	8	--	--	--	--	--	--	--
	3500	12	--	--	--	--	--	--	--
	3900	13	--	--	--	--	--	--	--
	4600	27	--	--	--	--	--	--	--
	10510	28	--	--	--	--	--	--	--
March	2490	11	430	4.7	2700	ND (<5)	1400	7700	--
	3000	12	--	--	--	--	--	--	--
	3000	13	--	--	--	--	--	--	--
	3000	14	--	--	--	--	--	--	--
April	2480	30	760	4.1	5800	ND (<5)	2800	13000	--
May	2620	5	750	4.2	5700	ND (<5)	1700	4200	--
	3000	6	--	--	--	--	--	--	--
	3000	7	--	--	--	--	--	--	--
	2900	8	--	--	--	--	--	--	--
June	0	--	--	--	--	--	--	--	--
July	0	--	--	--	--	--	--	--	--
August	0	--	--	--	--	--	--	--	--
September	1800	23	1700	4.1	330	ND (<5)	6400	11000	--
	1800	24	--	--	--	--	--	--	--
	1800	25	--	--	--	--	--	--	--
	1800	26	--	--	--	--	--	--	--
	800	27	--	--	--	--	--	--	--
October									
November									
December									
Annual	65,900								

**4,000 umhos/cm allowed per week for batches that do not exceed 10,000 gallons



2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Burt Siverling

Reported:
 10/14/2014

Analytical Report for Work Order AI24064

Analyte	Flag	Result	Reporting Limit	MDL	Units	Dilution	Batch	Analyst	Prepared	Analyzed	Method
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Fifth Wheel

Sampled: 09/24/14 10:53 AI24064-01 (Waste Water)

Turbidity		220	0.10	0.020	NTU	1	U412506	MVY	9/26/14 10:53	9/26/14 10:53	EPA 180.1
Total Suspended Solids		950	100	28	mg/L	25	U412602	MVY	9/26/14 7:57	9/26/14 12:35	SM 2540D
Color (Apparent)		6900	200		Color Units	200	U412506	MVY	9/26/14 10:53	9/26/14 10:53	SM2120B
Specific Conductance (EC)		4800	1.0	0.26	µS/cm	1	U412619	CMG	9/26/14 17:44	9/26/14 20:21	SM2510B
Biochemical Oxygen Demand		9300	3000	3000	mg/L	3000	U412521	CMG	9/25/14 12:56	9/30/14 14:03	SM5210B

Fifth Wheel

Sampled: 09/24/14 15:13 AI24064-02 (Waste Water)

Turbidity		330	0.10	0.020	NTU	1	U412506	MVY	9/26/14 10:55	9/26/14 10:55	EPA 180.1
Total Suspended Solids		350	40	11	mg/L	10	U412602	MVY	9/26/14 7:57	9/26/14 12:35	SM 2540D
Color (Apparent)		1000	200		Color Units	200	U412506	MVY	9/26/14 10:55	9/26/14 10:55	SM2120B
Specific Conductance (EC)		1500	1.0	0.26	µS/cm	1	U412619	CMG	9/26/14 17:44	9/26/14 20:23	SM2510B
Biochemical Oxygen Demand		880	300	300	mg/L	300	U412521	CMG	9/25/14 12:56	9/30/14 14:03	SM5210B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded. (for aqueous matrices only)

Moore Twining Associates, Inc.

Juliane Adams, Director of Analytical Chemistry

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.



2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/16/2012

Analytical Report for Work Order 2H03005

Analyte	Qual	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
Coca Cola											
								Sampled: 08/03/12 09:00 2H03005-01 (Water)			
Total Oil & Grease (HEM)		2100	9.8	1.6	mg/L	1	T2H1402	08/14/12	08/16/12	EPA 1664A	

Notes and Definitions

- ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.

Semi-Volatile Organics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC Limits	%REC Limits	RPD	RPD Limit
Batch T2H1402 - EPA 1664A										
Blank (T2H1402-BLK1)										
Prepared: 08/14/12 Analyzed: 08/16/12										
Total Oil & Grease (HEM)		ND	1.0	mg/L						
LCS (T2H1402-BS1)										
Prepared: 08/14/12 Analyzed: 08/16/12										
Total Oil & Grease (HEM)		38.4	1.0	mg/L	40.0		96.0	78-114		20
LCS Dup (T2H1402-BSD1)										
Prepared: 08/14/12 Analyzed: 08/16/12										
Total Oil & Grease (HEM)		36.3	1.0	mg/L	40.0		90.8	78-114	5.62	20



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 05/31/2012

Analytical Report for the Following Samples

Sample ID	Laboratory ID	Matrix	Date Sampled	Date Received
Western State Glass	2E25011-01	Water	05/24/12 00:00	05/25/12 12:32

Analytical Report for Work Order 2E25011

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
Western State Glass										
							Sampled: 05/24/12 00:00 2E25011-01 (Water)			
Turbidity		4200	100	20	NTU	1000	T2E2513	05/25/12	05/25/12	EPA 180.1
Specific Conductance (EC)		1900	1.0	1.0	µS/cm	1	T2E3014	05/30/12	05/30/12	SM2510B

Notes and Definitions

- ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Jesse Alvarez

Reported:
 03/23/2012

Analytical Report for Work Order 2C15003

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
Green Tec. 3396 E. Malaga										
Sampled: 03/14/12 16:45 2C15003-01 (Waste Water)										
Turbidity		68	0.10	0.020	NTU	1	T2C1608	03/16/12	03/16/12	EPA 180.1
Specific Conductance (EC)		14000	1.0	1.0	µS/cm	1	T2C1601	03/16/12	03/16/12	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

Moore Twining Associates, Inc.
 Juliane Adams, Director of Analytical Chemistry

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/23/2012

Analytical Report for Work Order 2H20030

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
Fresno Truck Cental, 2727 E. Cental, Fresno, CA 93777							Sampled: 08/20/12 10:00 2H20030-01 (Water)			
Turbidity		180	0.50	0.10	NTU	5	T2H2114	08/21/12	08/21/12	EPA 180.1
Specific Conductance (EC)		6400	1.0	1.0	µS/cm	1	T2H2106	08/21/12	08/21/12	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2H2106 - SM2510B

LCS (T2H2106-BS1)		Prepared & Analyzed: 08/21/12								
Specific Conductance (EC)		510	1.0	µS/cm	500		102	80-120		20
LCS Dup (T2H2106-BSD1)		Prepared & Analyzed: 08/21/12								
Specific Conductance (EC)		507	1.0	µS/cm	500		101	80-120	0.590	20
Duplicate (T2H2106-DUP1)		Source: 2H20010-02		Prepared & Analyzed: 08/21/12						
Specific Conductance (EC)		1190	1.0	µS/cm		1190			0.0841	20
Duplicate (T2H2106-DUP2)		Source: 2H20030-01		Prepared & Analyzed: 08/21/12						
Specific Conductance (EC)		6570	1.0	µS/cm		6350			3.41	20

Batch T2H2114 - EPA 180.1

Blank (T2H2114-BLK1)		Prepared & Analyzed: 08/21/12								
Turbidity	J	0.0700	0.10	NTU						
LCS (T2H2114-BS1)		Prepared & Analyzed: 08/21/12								
Turbidity		9.50	0.10	NTU	10.0		95.0	80-120		20
LCS Dup (T2H2114-BSD1)		Prepared & Analyzed: 08/21/12								
Turbidity		9.47	0.10	NTU	10.0		94.7	80-120	0.316	20
Duplicate (T2H2114-DUP1)		Source: 2H20030-01		Prepared & Analyzed: 08/21/12						
Turbidity		182	0.50	NTU		184			0.819	20



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Water Department
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 08/29/12 09:21

Penske 3080 E. Malaga Fresno, Ca 93725

2H17010-01 (Water)

Sampled: 08/17/12 00:00

Analyte	Notes	Result	Reporting		Units	Dilution	Batch	Prepared	Analyzed	Method
			Limit							

Semi-Volatile Organics

Total Oil & Grease (HEM)		210000	10	mg/L	1	T2H2304	08/23/12	08/28/12	EPA 1664A
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Notes and Definitions

- ug/L micrograms per liter (parts per billion concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - mg/L milligrams per Liter (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.



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California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: Analytical Services
 Project Manager: Chris Lopes

Reported:
 09/27/2012

Analytical Report for Work Order 2107041

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
3146 S. Chesnut Fresno CA 93725								Sampled: 09/07/12 16:30 2107041-01 (Water)			
Turbidity	HT	120	0.30	0.060	NTU	3	T211014	09/10/12	09/10/12	EPA 180.1	
Total Suspended Solids		200	20	5.7	mg/L	5	T211312	09/13/12	09/14/12	SM 2540D	
Specific Conductance (EC)		1300	1.0	1.0	µS/cm	1	T211305	09/13/12	09/13/12	SM2510B	
Biochemical Oxygen Demand		22	10	10	mg/L	10	T210801	09/08/12	09/13/12	SM5210B	

Notes and Definitions

- HT This result was analyzed outside of the EPA recommended holding time due to laboratory error.
 - DUP2 RPD for duplicate analysis exceeded limits due to matrix interference.
 - ug/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

TAB 6C

Administrative Complaint for Fresno
Truck Wash, pp. 1-5 (included in 2010
Annual Pretreatment Report)

1 Malaga County Water District
2 3580 S. Frank Street
3 Fresno, CA 93725
4 Telephone: (559) 485-7353
5 Facsimile: (559) 485-7319
6
7

8 **MALAGA COUNTY WATER DISTRICT**
9 **ADMINISTRATIVE COMPLAINT**

10 In re)
11) Complaint No. 2010-01
12 FRESNO TRUCK WASH)
13) ADMINISTRATIVE COMPLAINT
14) [Gov't. Code §54740.5]
15)
16) Hearing Date: January 12, 2011
17) Hearing Time: 10:00 a.m.
18) Location: Malaga County Water Dist.
19) 3580 S. Frank Street
20) Fresno, CA 93725

21 **I. NOTICE**

22 1. NOTICE IS HEREBY GIVEN that an administrative hearing shall be
23 conducted on January 10, 2011, at the Malaga County Water District office, 3580 S. Frank
24 Street, Fresno, California 93725, in the Boardroom, at 10:00 a.m. to determine if Fresno
25 Truck Wash ("FTW") has: 1) had waste water discharges in violation of discharge limits;
26 2) has failed or refused to comply with a compliance schedule established by the Malaga
27 County Water District ("MCWD"); and 3) has failed or refused to furnish technical or
28 monitoring reports. After the hearing, the hearing officer shall issue a statement of
decision. The statement of decision may be issued immediately after the hearing or in
writing to the address of FTW on file with the MCWD or as otherwise requested by FTW
within 30 days after the hearing.

2. NOTICE IS FURTHER GIVEN that FTW may waive its right to a hearing by
notifying the MCWD in writing that FTW is waiving its right to a hearing. A waiver of right

1 to hearing form, for convenience, is attached hereto and incorporated by this reference
2 herein as Exhibit A. If you choose to waive your right to a hearing, the attached form must
3 be filled out, signed, and delivered to the MCWD on or before the date of the hearing. If
4 you waive your right to a hearing, the hearing officer shall issue a notice of decision within
5 30 days of receipt of the hearing waiver.

6 3. NOTICE IS FURTHER GIVEN that if you are dissatisfied with the decision
7 of the hearing officer, whether or not a hearing was conducted, you may appeal the
8 decision of the hearing officer to the Board of Directors by giving notice to the secretary of
9 the Board of Directors, in writing, delivered to the MCWD office located at 3580 S. Frank
10 Street, Fresno, California 93725. Said notice of appeal must be received on or before the
11 30th day after the date of service of the hearing officer's statement of decision.

12 4. The notice of and statement of decision shall be served by United States
13 mail, first-class postage prepaid to the address provided on the waiver form and shall be
14 effective upon being deposited in a sealed envelope with the United States postage
15 service with postage fully prepaid.

16 II. ACTS OR FAILURES TO ACT CONSTITUTING A VIOLATION

17 A. VIOLATION OF MALAGA COUNTY WATER DISTRICT EFFLUENT
18 DISCHARGE LIMITS. [MCWD ORD. 1-13-2004; MCWD NON-
RESIDENTIAL WASTE WATER DISCHARGE PERMIT NO. 1095.]

19 5. On or about May 5, 2009, MCWD issued a Notice of Violation ("Notice")
20 giving FTW notice that it was in violation of MCWD Non-residential Discharge Permit No.
21 1095 by exceeding multiple waste water discharge limits.

22 6. FTW failed to correct said discharge violations and has continuously violated
23 said discharge limits. Each day FTW is (or has been) in violation of discharge limits is a
24 separate violation of MCWD Ordinance 1-13-2004 and MCWD Non-residential Waste
25 Water Discharge Permit No. 1095.

26 B. FAILING OR REFUSING TO COMPLY WITH COMPLIANCE SCHEDULE.
27 [MCWD ORD. 1-13-2004; MCWD NON-RESIDENTIAL WASTE WATER
DISCHARGE PERMIT NO. 1095.]

28 7. Said Notice also required FTW to install a monitoring manhole with a

1 continuous monitoring probe for electroconductivity. The monitoring manhole was also
2 required to have a portable sampler to sample the discharge. The monitoring manhole and
3 monitoring devices were to be installed and in use within 45 days of the date of the Notice.

4 8. Said Notice further required FTW to submit an analysis ("Technical Report")
5 performed by an engineer licensed in the State of California to determine whether the
6 existing pre-treatment facilities are sufficient to meet current standards.

7 9. FTW did not, within the time to comply, and has not to this date installed a
8 monitoring manhole as required or provide an analysis of the pre-treatment facilities.

9 C. FAILURE OR REFUSAL TO FURNISH TECHNICAL OR MONITORING
10 REPORTS. [MCWD ORD. 1-13-2004; MCWD NON-RESIDENTIAL WASTE
11 WATER DISCHARGE PERMIT NO. 1095.]

12 10. FTW has failed to monitor its discharge as required by the Notice, Non-
13 residential Waste Water Discharge Permit No. 1095 Ord. 1-13-2004, and/or applicable
14 state or federal requirements.

15 11. FTW has failed to provide monitoring reports as required by Non-residential
16 Waste Water Discharge Permit No. 1095 Ord. 1-13-2004, and/or applicable state or federal
17 requirements.

18 III. PROPOSED PENALTY

19 12. The penalty proposed to be assessed following the aforementioned hearing
20 for violations of MCWD discharge limits are as follows:

- 21 a. May 5, 2009, pH limit exceeded, penalty - \$5,000;
- 22 b. May 5, 2009, electroconductivity limit exceeded, penalty - \$5,000;
- 23 c. May 5, 2009, oils and greases limit exceeded, penalty - \$5,000;
- 24 d. December 21, 2009, electroconductivity limit exceeded, penalty -
25 \$5,000;
- 26 e. January 29, 2010, electroconductivity limit exceeded, penalty - \$5,000;
- 27 f. February 26, 2010, electroconductivity limit exceeded, penalty -
28 \$5,000; and
- g. October 28, 2010, oils and greases limit exceeded, penalty - \$5,000.

1 For a total penalty of \$35,000 for the above-listed effluent discharge violations.

2 13. The maximum of penalties for failure or refusal to comply with the compliance
3 schedule established by the notice is \$3,000 for each day FTW has failed to comply from
4 45 days from the date of the notice until December 22, 2010, would be ¹ (\$3,000 x 545
5 days) for a total maximum penalty of \$1,635,000.

6 14. The maximum penalties for failure or refusal to furnish technical or monitoring
7 reports for the same period of time is \$2,000 per day ² (\$2,000 x 545 days) for a total of
8 \$1,090,000.

9 15. The total maximum penalty for failure to comply with the notice and for failure
10 to monitor is \$2,725,000.

11 16. The District proposes to assess five percent (5%) of the total of the maximum
12 penalty, or \$136,250.

13
14 Dated: _____, 20__.

Russ Holcomb, General Manager
Malaga County Water District

15
16
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23
24
25
26

27 ¹Government Code §54740.5(d)(2).

28 ²Government Code §54740.5(d)(1).

EXHIBIT A

WAIVER OF HEARING ON ADMINISTRATIVE COMPLAINT

1. Name of Customer: _____

2. Name of Representative: _____ and

Title: _____

3. Address Customer desires notices to be sent:

_____ (name of Customer), pursuant to Government Code §54740.5(b) hereby waives its right to a hearing before the hearing officer for the Malaga County Water District on Administrative Complaint No. _____. I understand that by waiving the right to a hearing, a hearing will not be conducted, and the hearing officer for Malaga County Water District shall make a decision. I further understand that if I am dissatisfied with the decision of the hearing officer, I may appeal the decision of the hearing officer to the Board of Directors by giving notice to the Secretary to the Board of Directors, in writing, delivered to the Malaga County Water District office located at 3580 S. Frank Street, Fresno, California 93725, on or before the 30th day after the date of service of the hearing officer's statement of decision.

I have read and understand the foregoing waiver and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am a duly authorized representative of the Customer and am authorized to make this waiver.

Dated: _____, 20__

Name: _____

Title: _____

TAB 6D
2009 3rd Quarterly
Pretreatment Report
(4 pages total)



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO, CALIFORNIA 93725
PHONE (559) 485-7353 - FAX (559) 485-7319

BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR SALVADOR CERRILLO IRMA CASTANEDA FRANK CERRILLO JR. FRANK SOTO
PRESIDENT VICE PRESIDENT DIRECTOR DIRECTOR DIRECTOR

RUSS HOLCOMB-GENERAL MANAGER

May 2, 2012

California Regional Water Quality Control Board

Attn: Warren Gross
1685 E Street
Fresno, CA 93706

Re: Malaga County Water District
2009 Second Quarter Pretreatment Report

Dear Mr. Gross:

This quarterly report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

List of Industrial Users not achieving Compliance

For the purposes of this report, industrial users are described as those users categorized as Class 1A dischargers.

Smurfit-Stone, Air Products, Rio Bravo, PPG, Stratas

RECEIVED

MAY 07 2012

RWQCB-CVR
FRESNO, CALIF.

Industrial users inconsistency achieving compliance:

N/A

Industrial users with significant violations to applicable pretreatment requirements as defined in 40 CFR 403.8 (f) (2) (vii):

N/A

Industrial users that complied with a schedule to achieve compliance (include the date final compliance is required):

N/A

Industrial users that did not achieve compliance and are not on a compliance schedule:

N/A

Industrial users with an unknown compliance status:

N/A

Respectfully,



Russ Holcomb
District Manager

Enclosures: Number

c: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO, CALIFORNIA 93725
PHONE (559) 485-7353 - FAX (559) 485-7319

BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR. SALVADOR CERRILLO IRMA CASTANEDA FRANK CERRILLO JR. FRANK SOTO
PRESIDENT VICE PRESIDENT DIRECTOR DIRECTOR DIRECTOR

RUSS HOLCOMB-GENERAL MANAGER

May 2, 2012

California Regional Water Quality Control Board

Attn: Warren Gross

1685 E Street

Fresno, CA 93706

Re: Malaga County Water District
2009 Third Quarter Pretreatment Report

Dear Mr. Gross:

This quarterly report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

List of Industrial Users not achieving Compliance

For the purposes of this report, industrial users are described as those users categorized as Class 1A dischargers.

Smurfit-Stone, Air Products, Rio Bravo, PPG, Stratas

Industrial users inconsistency achieving compliance:

N/A

Industrial users with significant violations to applicable pretreatment requirements as defined in 40 CFR 403.8 (f) (2) (vii):

N/A

Industrial users that complied with a schedule to achieve compliance (include the date final compliance is required):

N/A

RECEIVED

MAY 07 2012

RWQCB-CVR
FRESNO, CALIF.

Industrial users that did not achieve compliance and are not on a compliance schedule:

N/A

Industrial users with an unknown compliance status:

N/A

Respectfully,



Russ Holcomb
District Manager

c: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

TAB 6E

2010 Quarterly Pretreatment Reports

(6 pages total)



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO, CALIFORNIA 93725

PHONE (559) 485-7353 - FAX (559) 485-7319

BOARD OF DIRECTORS

CHARLES E. GARABEDIAN
PRESIDENT

JR SALVADOR CERRILLO
VICE PRESIDENT

IRMA CASTANEDA
DIRECTOR

FRANK CERRILLO JR
DIRECTOR

FRANK SOTO
DIRECTOR

RUSS HOLCOMB-GENERAL MANAGER

May 2, 2012

California Regional Water Quality Control Board

Attn: Warren Gross

1685 E Street

Fresno, CA 93706

Re: Malaga County Water District
2010 First Quarter Pretreatment Report

Dear Mr. Gross:

This quarterly report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

List of Industrial Users not achieving Compliance

For the purposes of this report, industrial users are described as those users categorized as Class 1 dischargers. (SIU's)

Smurfit-Stone, Air Products, Rio Bravo, PPG, Stratas

Industrial users inconsistently achieving compliance:

N/A

Industrial users with significant violations to applicable pretreatment requirements as defined in 40 CFR 403.8 (f) (2) (vii):

N/A

Industrial users that complied with a schedule to achieve compliance (include the date final compliance is required):

N/A

RECEIVED

MAY 07 2012

RWQCB-CVR
FRESNO, CALIF.

Industrial users that did not achieve compliance and are not on a compliance schedule:

N/A

Industrial users with an unknown compliance status:

N/A

Respectfully,



Russ Holcomb
District Manager

cc: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105



WATER & WASTEWATER
MUNICIPAL INFRASTRUCTURE
LAND DEVELOPMENT
AGRICULTURAL SERVICES
DAIRY SERVICES
LAND SURVEYING & GIS
PLANNING & ENVIRONMENTAL
DISTRICT MANAGEMENT

FRESNO • CLOVIS • VISALIA • BAKERSFIELD

286 W. Cromwell Avenue
Fresno, CA 93711-6168
559 449-2700
FAX 559 449-2715

SEP 20 2010
FRESNO, CALIF.

September 16, 2010

California Regional Water Quality Control Board
Attn: Dale Harvey
1685 E Street
Fresno, CA 93706

Re: Malaga County Water District
2010 Second Quarter Pretreatment Report

MONITORING REPORT REVIEW
Engineer _____
Compliance _____ Yes _____ no
Date Reviewed _____

Dear Mr. Harvey:

This quarterly report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

List of Industrial Users not achieving Compliance

For the purposes of this report, industrial users are described as those users categorized as Class 1 dischargers. (SIU's)

Smurfit-Stone, Air Products, Rio Bravo, PPG, Stratas

Industrial users inconsistently achieving compliance:

N/A

Industrial users with significant violations to applicable pretreatment requirements as defined in 40 CFR 403.8 (f) (2) (vii):

N/A

Industrial users that complied with a schedule to achieve compliance (include the date final compliance is required):

N/A

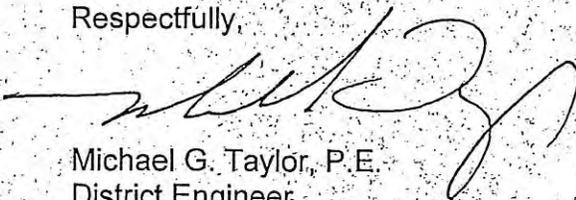
Industrial users that did not achieve compliance and are not on a compliance schedule:

N/A

Industrial users with an unknown compliance status:

N/A

Respectfully,



Michael G. Taylor, P.E.
District Engineer

MGT/HEB

Malaga County Water District, General Manager

cc: State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105



WATER & WASTEWATER
MUNICIPAL INFRASTRUCTURE
LAND DEVELOPMENT
AGRICULTURAL SERVICES
DAIRY SERVICES
LAND SURVEYING & GIS
PLANNING & ENVIRONMENTAL
DISTRICT MANAGEMENT

FRESNO · CLOVIS · VISALIA · BAKERSFIELD

2505 Alluvial Avenue
Clovis, CA 93611-9166
559 326-1100
FAX 559 326-1090

NOV 18 2010

FRESNO, CALIF.

November 16, 2010

California Regional Water Quality Control Board
Attn: Mr. Dale Harvey
1685 E Street
Fresno, CA 93706

Re: Malaga County Water District
2010 Third Quarter Pretreatment Report

MONITORING REPORT REVIEW

Engineer _____

Compliance Yes no

Date Reviewed _____

Dear Mr. Harvey:

This quarterly report is submitted in accordance with Waste Discharge Requirements R5-2008-0033.

List of Industrial Users not achieving Compliance

For the purposes of this report, industrial users are described as those users categorized as Class 1 dischargers. (SIU's)

Smurfit-Stone, Air Products, Rio Bravo, PPG, Stratas

Industrial users inconsistently achieving compliance.

N/A

Industrial users with significant violations to applicable pretreatment requirements as defined in 40 CFR 403.8 (f) (2) (vii):

N/A

Industrial users that complied with a schedule to achieve compliance (include the date final compliance is required):

N/A

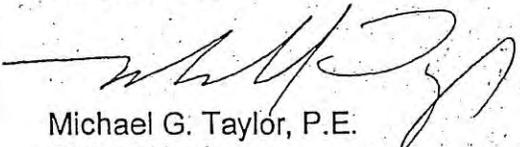
Industrial users that did not achieve compliance and are not on a compliance schedule:

N/A

Industrial users with an unknown compliance status:

N/A

Respectfully,



Michael G. Taylor, P.E.
District Engineer

cc: Malaga County Water District, General Manager

State Water Resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, CA 9424-2130

Regional Administrator
US Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

TAB 7
(Violation 1.G)

TAB 7A
2014 3rd Quarterly
Pretreatment Report
(3 pages total)



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET FRESNO, CALIFORNIA 93725
PHONE: 559-485-7353 FAX: 559-485-7319

BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR. PRESIDENT SALVADOR CERRILLO VICE-PRESIDENT IRMA CASTANEDA DIRECTOR FRANK CERRILLO JR. DIRECTOR CARLOS TOVAR JR. DIRECTOR

James D. Anderson, General Manager

29 October 2014

Central Valley Regional Water Resources Control Board
Aide Ortiz, Water Resource Control Engineer
1685 E Street
Fresno, Ca 93706

Subject: **e-SMR Pretreatment Report for Q3 2014**
 Order No. R5-2008-0033
 NPDES No. CA0084239

Greetings Aide,

The District is still in the process of re-developing and implementing a better pretreatment program that meets the requirements of EPA regulations, the Clean Water Act and our NPDES permit. We are making substantial progress. In accordance with existing industrial user wastewater discharge permits, there were no compliance violations in the third quarter 2014 for all SIU's.

The District has now identified the following dischargers as SIU's:

Air Products:	Liquid Oxygen Service to PPG
PPG:	Plate Glass Manufacturer
Kinder Morgan:	Petroleum Product Distributor
Rio Bravo:	Biomass Energy Producer
Stratas Foods:	Vegetable Oil Re-Packager
Rock Tenn:	Manufacture of Corrugated Boxes and Direct Printing
Moga Truck Wash:	Commercial Truck Wash
Fresno Truck Wash:	Commercial Truck Wash
Fifth Wheel Truck Wash:	Commercial Truck Wash
Imperial Truck Wash:	Commercial Truck Wash

The District evaluated the potential for EPA designated categorical dischargers, considering Air Products, PPG, and Rock Tenn as potential categorical dischargers. This evaluation was made by the District's Engineer, Brian Shoener on behalf of Provost and Pritchard Engineering, and determined that these nor any other dischargers in the District meet categorical discharger requirements by EPA 403 and 415 standards. Those engineer reports are attached and identified.

The District added four commercial truck washes as SIU's, based upon the potential for their discharge to have significant impact on the WWTF. On 24 September 2014, WWTF staff reported plant influent was foaming due to detergents. An investigation was conducted which determined that Fifth Wheel Truck Wash was discharging wastewater that caused the foaming. Two samples of Fifth Wheel's discharge were collected and sent to Moore Twining Laboratory for analysis of BOD, turbidity, color, Total Suspended Solids, specific conductance (EC), and MBAS. The MBAS test did not meet minimum detection limit QA/QC controls due to expired test reagents and was not reported. The other constituents were reported and are attached and identified. At the time of this incident, the District had not yet designated any truck washes as SIU's. As a result of this incident, facility inspections of all truck washes, and in conjunction with all considerations of the pretreatment program, the District has now identified four commercial truck washes as SIU's. Any subsequent violations of discharge permits by any of the four identified truck washes will be reported as SIU violations.

Enforcement action for the Fifth Wheel Truck Wash discharge resulted in a calculation of surcharges for exceeding standard discharge permit limits, and a "letter of final warning" to all truck wash facilities. The surcharge calculation and letter are attached and identified. The District is making due diligent effort to establish and enforce its Pretreatment Program with industry to gain industry's trust and confidence to comply with the program. We do not want to encourage industry to conceal violations. For that purpose we did not take stronger enforcement action in this case, believing that the surcharge will serve to deter further violations. We have however informed industry of enforcement policy during a recent pretreatment program public workshop, and will use enforcement to mandate compliance.

Kinder Morgan is also now designated as an SIU due to the typical strength of their wastewater discharge. Kinder Morgan stores wastewater and delivers it as a slug discharge. As such, the strength and quantity of discharge is used to develop a slug discharge control plan. Each discharge is handled separately as a slug load. Kinder Morgan notifies the District when they anticipate the need to discharge, and the District develops a plan to accept that load. The slug discharge plan is reviewed by the District Engineer prior to approval. The slug discharge plan for Kinder Morgan's September discharge is attached.

The District visited all industrial users (IU's) in the 3rd Quarter 2014 and finished those inspections last week. This report is delayed for that reason to include that information in the report. The main effort of the list was to identify classes of permits for all IU's so that permit renewal notices could be sent out with October's billing. The list of all IU's is attached and identified. All IU discharge permits will be renewed in December.

The District's draft Pretreatment Program was submitted to the CVRWQCB on 26 September 2014 for review. Work is still being done on the program. Monitoring and reporting requirements for individual dischargers need to be determined, and a local limits evaluation needs to be done. Both efforts continue. Monitoring and reporting requirements for IU's requiring such will be finished before the end of this year to be attachments to their new discharge permits. A sampling plan has been developed for local limits and the results of the study are expected to be completed in February 2015.

Other pretreatment program efforts that continue are:

1. Rewrite Significant Industrial User (SIU) permits in accordance with the results of the Local Limits Study.
2. Develop permit conditions for cooling towers that will eliminate the violations of electro-conductivity (EC) at the treatment plant.
3. Develop a truck wash ordinance
4. Conduct a study of the treatment effectiveness of the WWTF in light of new permit requirements.
5. Renew industrial permits
6. Implement Emergency Response Plan

This concludes the pretreatment report for the 3rd Quarter of 2014. Please contact me if you have any questions or require any other information related to pretreatment, this report, or any other matter.

I certify under penalty of law that this document and all attachments were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel properly gather and validate 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.

Respectfully,

J. D. Anderson
General Manager

TAB 8
(Violation 2)

TAB 8A

25 July 2008

Study Evaluating Treatment and
Disposal Facilities



WATER & WASTEWATER
MUNICIPAL INFRASTRUCTURE
LAND DEVELOPMENT
AGRICULTURAL SERVICES
DAIRY SERVICES
LAND SURVEYING & GIS
PLANNING & ENVIRONMENTAL
DISTRICT MANAGEMENT

JUL 28 2008

July 25, 2008

California Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, CA 93706-2020

Attention: W. Dale Harvey, P.E., Senior Engineer

Subject: Malaga County Water District (MCWD)
Order No. R5-2008-0033, NPDES No. CA 0084239
Treatment and Disposal Capacity Study

Dear Mr. Harvey:

As required, please find attached an evaluation of the Treatment and Disposal Capacity of the facilities as required by Section 3.a. of the Cease and Desist Order.

Please contact me if you have any questions or if you require additional information.

Sincerely,

Michael G. Taylor, P.E.

MGT

Enclosure

cc: Malaga County Water District, Russ Holcomb, General Manager
Fresno Irrigation District (FID), Lawrence Kimura
2008 MCWD – RWQCB Correspondence File

Tech Rpt copy

TAB 8B

19 August 2009

Central Valley Water Board
Memorandum, pp. 1-5



California Regional Water Quality Control Board
Central Valley Region

Karl E. Longley, ScD, P.E., Chair

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



Arnold Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental
Protection

TO: Lonnie M Wass
Supervising Engineer

FROM: W Dale Harvey
Senior WRC Engineer
RCE No. 55628

SIGNATURE:

Debra Bates
Water Resource Control Engineer

DATE: 19 August 2009

SIGNATURE:

SUBJECT: STUDY EVALUATING TREATMENT AND DISPOSAL FACILITIES, MALAGA COUNTY WATER DISTRICT, FRESNO COUNTY

BACKGROUND

Malaga County Water District (District) owns and operates a wastewater treatment facility (WWTF) that serves the unincorporated community of Malaga and provides sewerage services to its approximately 1000 residents and various light industries. The WWTF consists of a 1.2 mgd activated sludge secondary treatment system with dissolved air flotation/primary clarification, aeration basins, and three secondary clarifiers, and a tertiary treatment component.

Waste Discharge Requirements Order No. R5-2008-0033 authorizes discharge of up to 0.45 mgd of disinfected tertiary treated wastewater to the Central Canal. The portion of the 1.2 mgd not further treated to tertiary levels is discharged to evaporation/percolation ponds (ponds). Self Monitoring Reports submitted by the District indicate the average monthly influent flow for the first eight months of 2007 was 0.87 mgd, and in September was 1.02 mgd.

Cease and Desist Order (CDO) No. R5-2008-0032, Item 3, requires the District to submit a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The required technical report is to include actions to generate appropriate population and WWTF flow projections and their rationale.

The CDO cites California Code of Regulations (CCR), Title 23, section 2232 (d), which states that whenever a regional board finds that a publicly owned wastewater treatment plant will reach capacity within four years and that adequate steps are not being taken to address the capacity problem, it shall adopt a time schedule or other enforcement order.

The CDO does not specifically address other sections of CCR, Title 23, section 2232, which state that whenever a regional board finds that a publicly owned wastewater treatment plant will reach capacity within four years, the discharger is required to submit a technical report

California Environmental Protection Agency

showing how flow volumes will be prevented from exceeding existing capacity or how capacity will be increased. The technical report is to include appropriate population and WWTF flow projections and their rationale. Additionally, the technical report is to be reviewed, approved, and jointly submitted by all planning and building departments having jurisdiction in the area served by the waste collection, treatment, and disposal facility; and public participation is required during preparation of the technical report.

On 28 July 2008, Provost and Pritchard Engineering Group (P&P) submitted a technical report entitled "Study Evaluating Treatment and Disposal Facilities" (P&P Report), to fulfill the CDO requirement. Below is a summary of information provided in the P&P Report, followed by our comments.

Flow Rate and Characteristics

P&P reviewed influent monthly average metered flow rates from 1990 to 2007. The flow rates varied up to 0.2 mgd from month to month and the District was unable to account for the fluctuation in flow. The metered flow rates were discovered to be inaccurate during a facility inspection, as they include grit wash tank recirculation.

The P&P report states the anticipated annual increase in flow for the next 20 years is 0.011 mgd, based on the review of monthly flow rate increases. Table 3, based on this number, projects the 2013 flow rate at 0.926 mgd and the 2028 flow rate to be 1.091 mgd.

Table 2 identifies vacant land use according to zoning type and estimates that the future potential sewage contribution from undeveloped land within the District could be 2.9 mgd. According to minutes from the District board meetings, the District has been annexing property into the District, which would further increase potential sewage contribution.

Information from SMRs for 2008 indicates average monthly influent flows, deducting an estimated 0.1 mgd for the grit wash recirculation, for May through December at 0.909, 0.98, 0.956, 1.12, 0.91, 0.63, 0.90, and 0.87, respectively.

Treatment Facilities

Based on the projected flow rate discussed above of 1.091 mgd, the P&P Report indicates the barminutor, dissolved air flotation (DAF) clarifier, activated sludge tanks, and sludge digesters have adequate treatment capacity (all units have a design capacity of 1.2 mgd). The DAF clarifier is currently out of service and has been out of service for four years. The submitted timeline indicates the unit will be back in service by January 2009. P&P now indicates the completion date for the DAF repair is 30 September 2009. The total capacity of all three of the secondary clarifiers is given as 1.65 mgd, accounting for redundancy and the ability to meet periodic high influent flow rates. Currently only one secondary clarifier is operational, providing a capacity of 0.823 mgd. The remaining two secondary clarifiers have been out of service for two and twenty years, respectively. The repair completion date for the clarifiers is also 30 September 2009.

The P&P Report indicates the activated sludge tanks have a current capacity of 1.2 mgd. The P&P Report indicates the District was evaluating the existing activated sludge units to improve ammonia treatment and would recommend improvements or modification to the present operation by September 2008. The District is required by WDR Order No. R5-2008-0033 to

conduct a treatment feasibility study for removal of ammonia. A work plan for the treatment feasibility study was due by 14 July 2008 and to date has not been submitted.

According to the P&P Report, the sludge digestion system has a current capacity of 1.2 mgd. The sludge thickener is out of service with repairs scheduled for September 2008, but not yet completed. Sludge bed capacity is not included in the Study. It indicates that soil-cement lining of the third sludge bed is scheduled for 2009. The District indicated on 3 August 2009 that it has obtained funding to line the third bed.

The tertiary treatment system has a reported capacity of 0.45 mgd. Tertiary treated water is discharged to the Fresno Irrigation District. The Fresno Irrigation District has asked the District to find another disposal option, making additional tertiary capacity unnecessary.

Disposal Facilities

The P&P Report indicates that the District does not currently have adequate disposal capacity. The P&P Report refers to previously submitted water balances which show that an additional 13.26 acres of ponds are needed to accommodate current flow rates. An additional 27.26 acres of ponds would be necessary to accommodate the design capacity of 1.2 mgd, which would be needed if disposal to Fresno Irrigation District is discontinued. Disposal alternatives discussed in the P&P Report include District purchase of additional land for additional disposal ponds and a statement that the District, within 45 days from the date of the P&P Report submittal, would be evaluating options for reclamation for irrigation of landscaping or for agricultural purposes. No additional disposal studies have been submitted by the District to date.

The P&P Report indicates there was a November 2007 contact with Caltrans and Caltrans indicated a willingness to receive treated effluent. The P&P Report does not provide any evidence of follow-up with Caltrans.

The P&P Report contends that agricultural property owners in the vicinity of the treatment plant are not interested in using recycled water. The P&P Report does not include documentation of any proposals made to the property owners regarding water reclamation for irrigation or other evidence to support this conclusion.

The submitted work plan in the P&P Report indicates that within 30 days from the date of the submittal, the District will be conducting additional property research, contacting property owners and considering a moratorium on new connections until additional capacity is secured. The District indicates that within 60 days of the submittal, it will be entering negotiations for purchase or long-term lease of a property for disposal ponds. The District has not submitted any information regarding these negotiations.

Planning and Department Review

The P&P Report does not provide any indications of involvement by the District's Board of Directors or the planning and building departments having jurisdiction in the area, in preparation of the P&P Report.

Public Participation

The P&P Report does not provide any indication of public participation in preparation of the P&P Report.

COMMENTS

Flow Rate and Characteristics

The P&P Report estimates future flow rate based on several different methods: past flow data, potential use of vacant lands, previous growth rate, etc. The P&P Report also indicates that the District has not identified the cause for periodic high flows and that the current flow is an estimate because of the recirculated flow. P&P's final effluent flow projected for 2028 is 1.091mgd. This projection is below the flow currently reported for some monthly averages in current SMRs. It is far below that necessary to accommodate a flow of an additional 2.9 mgd that would be needed for the projected build-out of vacant property in the District. For these reasons, the flows and projections need to be revised.

Treatment Facilities

The information provided in the P&P Report appears adequate to address the current permitted flow provided the repairs to out of service components are completed. As of the date of this memorandum, the repairs have not been completed. Recent history indicates the District does not have the resources to properly maintain its WWTF. Expansion beyond 1.2 mgd will require additional treatment capacity. Revision of the flow projection may require revision of short-term and long-term measures for some treatment components.

Soil cement lined sludge beds tend to crack which would lead to the sludge decant percolating to underlying groundwater. The P&P Report needs to demonstrate that soil cement lined sludge beds will be protective of water quality.

Disposal Facilities

The P&P Report concludes that action to enhance disposal capacity is critical and proposes purchase of acreage to add additional ponds. Before additional acreage is secured, the District needs to consider other disposal options and provide evidence that adding additional disposal ponds is the best alternative. The *Water Quality Control Plan for the Tulare Lake Basin, Second Edition* (Basin Plan) requires dischargers of municipal wastewater to maximize reclamation. In February 2009, the State Water Resources Control Board adopted a recycled water policy including the goals for increasing the use of recycled water. A proposal for recycling water, including all options for agriculture and landscaping, needs to be presented and the District needs to provide evidence that it is infeasible before it pursues other options. Additionally, the Basin Plan notes that proliferation of small treatment plants in developed areas is undesirable and most small communities do not have adequate resources to properly manage, treat, and dispose of wastewater in an urban environment. The Basin Plan encourages treatment plant consolidation as "the rule, rather than the exception." Board Resolution No. R5-2009-0028 *In Support of Regionalization, Reclamation, Recycling and Conservation for Wastewater Treatment Plants*, reiterates the commitment to regionalization.

The District needs to provide a proposal for consolidation with the Fresno-Clovis Regional Wastewater Treatment Facility. Only if consolidation is shown to be infeasible will other options be acceptable.

The District submitted the P&P Report in July 2008. The short-term measures and time schedule regarding land acquisition, pond maintenance, and securing financing should have already occurred and the current status of those measures needs to be updated.

Planning and Department Review

Documentation of review and approval by the appropriate agencies needs to be included in a revised report, to comply with CCR Title 23, section 2232.

Public Participation

Documentation of public participation in the preparation of the report needs to be included in a revised report, to comply with CCR Title 23, section 2232.

SUMMARY

The P&P Report needs to be revised to include the following items:

1. Revision of the short-term and long-term flow projections.
2. Revision of the work plan for short-term and long-term expansion of design capacity, based on the projected flow rate that is justified by additional analysis, as discussed above.
3. Reclamation proposals, including documentation of a proposal to Caltrans, and evidence that reclamation is infeasible before other disposal options are pursued.
4. Review consolidation with the Fresno-Clovis Regional Wastewater Treatment Facility.
5. An updated work plan and time schedule for implementation of short-term and long term measures to insure compliance with waste discharge requirements.
6. A demonstration that soil cement lined sludge beds will be protective of groundwater quality.
7. Documentation of review and approval by the District Board of Directors and the planning and building departments having jurisdiction in the area, in accordance with CCR Title 23.
8. Documentation of public participation in the report preparation, in accordance with CCR Title 23.

TAB 8C

24 September 2009

Central Valley Water Board Letter

pp. 1-2



California Regional Water Quality Control Board

Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
Secretary for
Environmental
Protection

1685 E Street, Fresno, California 93706
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<http://www.waterboards.ca.gov/centralvalley>

FILE

Arnold
Schwarzenegger
Governor

Mr. Russ Holcomb, General Manager
Malaga County Water District
3580 S. Frank St.
Fresno, CA 93725

24 September 2009

SPECIAL STUDIES AND TECHNICAL REPORTS, MALAGA COUNTY WATER DISTRICT, WASTEWATER TREATMENT FACILITY, FRESNO COUNTY

We have reviewed the following technical reports and studies submitted by Provost and Pritchard Engineering Group on behalf of Malaga County Water District, to fulfill requirements in Waste Discharge Requirements (WDRs) No. R5-2008-0033 and Cease and Desist Order (CDO) No. R5-2008-0032:

1. *Evaluation of Groundwater Monitoring*, submitted 10 July 2008 and supplemental information submitted 3 November 2008,
2. *Engineering Work Plan for Best Practicable Treatment or Control Study*, submitted on 24 July 2008 and amended on 9 September 2008, and supplemental information submitted on 11 May 2008, and
3. *Study Evaluating Treatment and Disposal Facilities*, submitted 28 July 2008.

The enclosed memorandums, as summarized below, describe why the submitted reports do not fulfill the requirements of the WDRs and CDO and are incomplete.

The *Evaluation of Groundwater Monitoring* needs to be revised to include a proper evaluation of the groundwater gradient and flow direction, a reevaluation of the upgradient monitoring well, an assessment of the Wastewater Treatment Facility's potential impacts to all groundwater designated beneficial uses, and a proposal for modifications to the groundwater network.

The *Work Plan for the Best Practicable Treatment and Control Study* needs to be revised to include assessment of the potential impacts to all beneficial uses and an evaluation of the pretreatment program. It needs to include a demonstration that soil cement lined sludgebeds are protective of underlying groundwater quality. Additionally, the evaluation of treatment components needs to be based on constituents identified in the finalized list.

The *Study Evaluating Treatment and Disposal Facilities* needs to be revised to include reassessment of flow projections and the additional items noted in the memorandum. In particular, the proposed long-term disposal alternatives need to be reevaluated. As described in more detail below, before the District considers additional disposal ponds, it needs to provide evidence demonstrating that consolidation and/or reclamation is economically infeasible.

The technical reports discussed above were included as requirements of the WDRs and CDO based on information in the report of waste discharge and the application for permit renewal submitted by the District in 2003. Since then, there have been significant developments that the District must consider carefully.

On 3 February 2009, the State Water Resource Control Board adopted Resolution No. 2009-0011, a Policy for Water Quality Control for Recycled Water. The purpose of this Policy is to effect an increase in the use of recycled water from municipal wastewater sources.

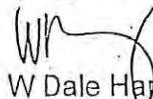
On 23 April 2009, the Central Valley Regional Water Quality Control Board adopted Resolution No. R5-2009-0028, a Policy in Support of Regionalization, Reclamation, Recycling, and Conservation for Wastewater Treatment Plants. The resolution states that dischargers that own or operate wastewater treatment plants shall provide, upon request, in their Reports of Waste Discharge, a report regarding efforts that have been taken to promote new or expanded wastewater recycling and reclamation opportunities and programs; water conservation measures; and regional wastewater management opportunities and solutions.

We are concerned the District's ongoing compliance issues demonstrate the District does not have the resources to adequately operate and maintain its WWTF and treat and dispose of its current permitted flow volume. Additionally, the WWTF location is now surrounded by development that is reportedly inhibiting reclamation opportunities. Finally, it is our understanding that the Fresno-Clovis Regional Wastewater Treatment Plant has the capacity to accept the District's flow volume and has a trunk line that terminates at the District boundary.

Given the above, the District needs to include detailed analyses of reclamation and consolidation opportunities in its revised reports. Any options proposed by the District that do not include consolidation with the Fresno-Clovis Regional Wastewater Treatment Plant must provide detailed evidence demonstrating why consolidation is infeasible. If consolidation is infeasible, then the District must provide detailed evidence demonstrating that reclamation of all or a part of its effluent is infeasible before it explores other options. The District must submit a revised report of waste discharge and request to revise its WDRs and CDO if it proposes a change in its disposal methods.

By 27 October 2009, submit revised reports and documentation to satisfy the deficiencies as summarized above and in the enclosed memorandums. This date is for administrative tracking purposes only and does not supersede the dates in the applicable orders.

You may direct any questions regarding this matter to Debra Bates by phone at (559) 445-6281, or by email at dbates@waterboards.ca.gov.


W Dale Harvey
Senior WRC Engineer
RCE No, 55628



Enclosures: Groundwater Monitoring Evaluation
Review of Engineering Work Plan for Best Practicable Treatment or Control
Study Evaluating Treatment and Disposal Facilities

cc: Michael G. Taylor, Provost and Pritchard Engineering Group, Fresno

TAB 8D

28 April 2011 Cover Letter

WWS



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET – FRESNO CALIFORNIA 93725

BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR.
PRESIDENT

JOHN R. LEYVA
VICE-PRESIDENT

SALVADOR CERRILLO
DIRECTOR

IRMA CASTANEDA
DIRECTOR

FRANK SOTO
DIRECTOR

RUSS HOLCOOMB – GENERAL MANAGER

APR 29 2011

April 28, 2011

California Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, CA 93706-2020

Attention: Mr. Warren Gross

Subject: Malaga County Water District (MCWD)
Order No. R5-2008-0033, NPDES No. CA 0084239
Cease and Desist Order No. R5-2008-0032
Technical Report on Short Term Improvements

Dear Mr. Gross:

As required, please find attached a report certifying the completion of Short Term Improvements and a workplan for remaining identified improvements, as required by Section 3.d. of the Cease and Desist Order.

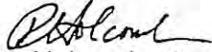
Although the District does not have records of receiving comments or approval from the RWQCB on the Treatment and Disposal Capacity Study submitted July 25, 2008, the District regrets that it did not submit the required report by the deadline of March 14, 2011. This failure to submit was an oversight.

The District requests the RWQCB consider allowing an extension beyond the deadline of March, 2011 for completion of the improvements to the headworks self cleaning screen and the improvements to Clarifier No. 1. As noted in the attached report, the District is in the process of completing design documents for said improvements and has secured funds for the construction.

California Regional Water Quality Control Board
Warren Gross
April 28, 2011
Page 2

Please contact me if you have any questions or if you require additional information.

Sincerely,



Russ Holcomb, General Manager

Enclosure

cc: Provost & Pritchard Engineering Group, Michael Taylor
Costanzo & Associates, Neal Costanzo

TAB 8E

19 August 2013 Central Valley Water
Board Letter, pp. 1-2



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

19 August 2013

Russ Holcomb, General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

DISPOSAL CAPACITY ISSUES, MALAGA COUNTY WATER DISTRICT, MALAGA WASTEWATER TREATMENT FACILITY (NPDES NO. CA0084239), FRESNO COUNTY

Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff is in the process of renewing Waste Discharge Requirements (WDRs) Order R5-2008-0033 (NPDES Permit No. CA0084239). Information provided by the Malaga County Water District (District) regarding disposal capacity issues, as required by subtask 3.a. in Cease and Desist Order (CDO) R5-2008-0032, indicates there are still outstanding disposal capacity issues for which staff requires more information to continue with the permit renewal.

On 28 July 2008, Provost and Pritchard Consulting Group, on behalf of the District, submitted the *Treatment and Disposal Capacity Study* (Study) to fulfill the requirements of subtask 3.a. Central Valley Water Board staff provided a review of the Study by letter and memorandum dated 24 September 2009 and 19 August 2009, respectively. Our records indicate that the District did not submit a revised study addressing Central Valley Water Board staff's concerns, as requested in the review letter. However, on 29 April 2011, the District submitted *Short Term Improvements Implementation Report* (Report), which summarized short-term improvements completed as part of the Study. The Report included a list of improvements made to treatment components that had been out of service for many years. The Report also included a list of items the District completed to address disposal capacity issues. These include maintenance of three disposal ponds to increase percolation rates, adoption of a moratorium on new or expanding sewer connections until disposal capacity is expanded, and initiation of discussions with City of Fresno regarding consolidation of sewer treatment and disposal. The District also indicated that it contacted property owners and companies to determine if they were willing to sell their property or accept treated effluent for recycling/reclamation, but none were willing to do so.

The 28 July 2008 report indicated that Fresno Irrigation District requested the District to eliminate its discharge to Central Canal, which puts the District at increased risk of reaching and exceeding pond disposal capacity. Assuming the discharge to the Canal will no longer be available, the information provided by the District indicates that the Facility does not have enough disposal capacity to handle current influent flows.

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

1685 E Street, Fresno, CA 93706 | www.waterboards.ca.gov/centralvalley

By **3 October 2013**, provide the following information, which is necessary to allow Central Valley Water Board staff to determine appropriate requirements for inclusion in the NPDES permit renewal:

1. Address whether the discharge to Central Canal will cease, as requested by Fresno Irrigation District. If it will, provide a time schedule for eliminating discharge to the Canal.
2. An estimate of the disposal capacity of the on-site ponds after pond maintenance was performed in 2008 and thereafter. Additionally, include a list of which ponds were maintained.
3. Revised influent flow projections based on influent flow data collected after the District began metering grit return flows and after the moratorium was adopted. If the District has established new or expanded sewer connections since the moratorium was adopted, it shall include the flows from those connections in its revised flow projections.
4. Status of land acquisition for additional disposal ponds, including a list of action items completed and dates they were completed.
5. Status of alternative disposal measures the District has looked into, including a list of action items completed and dates they were completed.

To the extent the above information was required by the CDO, the due date in this letter does not extend or supersede due dates in the CDO and is for administrative tracking purposes only. This letter does not relieve the District from submitting information requested in previous letters or required by the CDO that has not been submitted.

If you have any questions regarding this matter, please contact Aide Ortiz at (559) 445-6083 or at aortiz@waterboards.ca.gov.



MATTHEW S. SCROGGINS
Senior Engineer
RCE No. 67491

cc: Charles Garabedian Jr., 3580 S. Frank St., Fresno, CA 93725

TAB 8F

10 October 2013

Record of Communication

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

RECORD OF COMMUNICATION

Phone Call Other (specify): _____
 Meeting

PARTIES

Charles Garabedian
Malaga County Water District

*Matt Scroggins, Aide Ortiz
RWQCB

DATE: 10 October 2013

TIME: ~1330

* Party Initiating Communication

SUBJECT: Regarding the District's response to 19 August 2013
Disposal Capacity Issues letter

FILE: R5-2008-0033

SUMMARY OF COMMUNICATION:

We contacted Mr. Garabedian to request an update on the District's response to our letter dated 19 August 2013 regarding the disposal capacity issues at the wastewater treatment facility. The letter requested the District provide certain information by 3 October 2013. As of 10 October, the District had not contacted our office either requesting an extension or providing an update, and a check of their meeting minutes posted on their website did not show any acknowledgement of ever receiving the letter. Mr. Garabedian informed us that the District's contract engineer, Mr. Michael Taylor from Provost & Pritchard, prepared a memorandum for Mr. Russ Holcomb, the District's general manager. Mr. Garabedian also informed us that he spoke with Gary Serrato at the Fresno Irrigation District regarding item #1 in the letter. According to Mr. Garabedian, Fresno Irrigation District would like to continue accepting the District's tertiary-treated effluent but only during irrigation season, and he indicated that the discharge to the Central Canal will not cease. Mr. Garabedian also indicated that Mr. Taylor's memorandum answered items #2-5 in the letter, and offered to email us a copy of the memorandum. We asked Mr. Garabedian if this memorandum would be the District's official response, to which Mr. Garabedian said no. We requested that the District provide an official response, such as a cover letter to the memorandum, or a separate letter addressing all the items our August letter. Mr. Garabedian indicated that the District does not have funds to proceed with upgrades to address the disposal capacity issues and that the District recently acquired new property, which he indicated is not enough. We informed Mr. Garabedian that if the District cannot show that they have adequate disposal capacity, we may have to reduce flow limits. Mr. Garabedian expressed that he does not want to stop development in the area, and mentioned that it is difficult to obtain funding. We informed Mr. Garabedian that the August letter is not requesting that the District have adequate disposal capacity by a specific date, but rather is requesting information on whether or not the District did, or did not do, things it said it was going to do. We informed Mr. Garabedian that if the District does not provide a prompt response, we may have to issue a 13267 Order, and that the purpose of the August letter was to request information in a friendly manner.

CONCLUSIONS, ACTION TAKEN OR REQUIRED:

Mr. Garabedian sent Mr. Taylor's memorandum, which only addresses one item we requested for information, and is primarily a request for the District to provide information to Provost & Pritchard.

REVIEWED BY:

[Handwritten signatures]

WRITTEN BY:

Aide Ortiz
AMO

TAB 8G

10 October 2013

email from Discharger with

23 September 2010 Memorandum

(4 pages total)

Ortiz, Aide@Waterboards

From: Garabedian Jr, Charles E@DOT
Sent: Thursday, October 10, 2013 1:52 PM
To: Scroggins, Matt@Waterboards
Cc: Ortiz, Aide@Waterboards
Subject: Malaga County Water District
Attachments: AR-M455N_20131010_015015.pdf

13A1.



286 W. Cromwell Avenue • Fresno, CA 93711-6162
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MEMORANDUM

To: Malaga County Water District

From: Michael Taylor

Subject: Correspondence from the Regional Water Quality Control Board dated August 19, 2013

Date: September 23, 2013

The correspondence requests the specific information listed below. A response is due to the Regional Water Quality Control Board by October 3, 2013.

1. Address whether the discharge to Central Canal will cease, as requested by Fresno Irrigation District. If it will, provide a time schedule for eliminating discharge to the Canal.

To my understanding, discharge to the Central Canal is intended to continue, however, the Malaga County Water District attempts to discharge during the Fresno Irrigation District water run. I am not aware of any recent communications from the Fresno Irrigation District on the issue. The District had investigated the potential of property acquisition for the purpose of constructing disposal ponds near Maple Avenue south of Central Avenue.

I was made aware last week that the District had acquired a parcel of approximately 4 acres. Please forward the information regarding the District's acquisition of property so that I can incorporate the information with future evaluations of disposal capacity.

It is recommended that the District contact the Fresno Irrigation District to discuss the issue and determine the Fresno Irrigation District perspective on the subject.

2. An estimate of the disposal capacity of the on-site ponds after pond maintenance was performed in 2008 and thereafter. Additionally, include a list of which ponds were maintained.

Please provide an updated list of which ponds have been scraped and ripped. I was recently at the WWTP and noticed that Pond 6 had been scraped. It is understood that it had not been ripped yet.

The best method to determine disposal capacity is to monitor ponds periodically for drawdown when there is no inflow or outflow from the ponds. It is suggested that District staff isolate a pond so that we can assist in determining the actual percolation rate from the pond.

I will review the recent annual reports to see if there is information that will supplement the disposal capacity estimate.

3. Revised influent flow projections based on influent flow data collected after the District began metering grit return flows and after the moratorium was adopted. If the District has established new or expanded sewer connections since the moratorium was adopted, it shall include the flows from those connections in its revised flow projections.

Please find attached a summary of recent and projected flow data for the WWTP, assuming a 2 percent growth rate, which greatly exceeds recent trends at the WWTP.

4. Status of land acquisition for additional disposal ponds, including a list of action items completed and dates they were completed.

I was made aware last week that the District had acquired a parcel of approximately 4 acres. Please forward the information regarding the District's acquisition of property so that I can incorporate the information with future evaluations of disposal capacity.

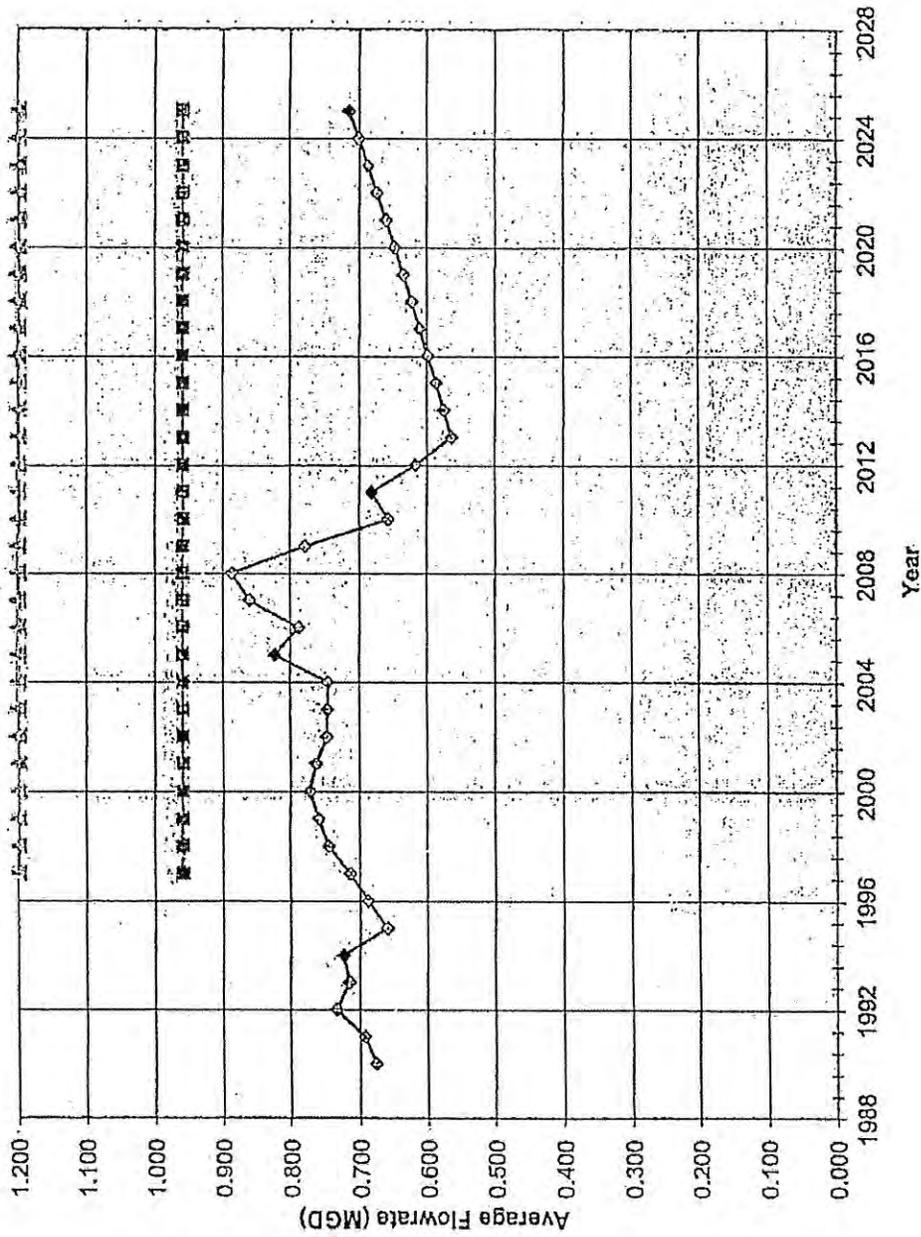
I am not aware of any actions the District has been able to take regarding property acquisition.

5. Status of alternative disposal measures the District has looked into, including a list of action items completed and dates they were completed.

I am not aware of any actions the District has been able to take regarding alternative disposal measures.

It is suggested the District may want to meet to discuss alternatives regarding disposal measures.

**Malaga County Water District
Wastewater Treatment Plant Flowrates**



● Average Flowrate
 ■ 80% of Permit Limit
 □ Permit Flow

TAB 8H

21 October 2013

Central Valley Water Board email

Ortiz, Aide@Waterboards

From: Ortiz, Aide@Waterboards
Sent: Monday, October 21, 2013 12:57 PM
To: Holcomb, Russ (rholcomb@malagacwd.org)
Subject: Disposal Capacity Issues

Good Afternoon Russ,

On 19 August 2013, our office sent the Malaga County Water District a letter inquiring about the status of the wastewater treatment facility's disposal capacity issues. The letter requested certain information to help us in renewing the NPDES permit and possibly assessing compliance with the Cease and Desist Order. A response was due on 3 October 2013. By 10 October, we had not received any communication from the District regarding the letter. Matt Scroggins and I communicated with Charles Garabedian by telephone to ascertain whether the District had received the letter and if it planned on responding. According to Mr. Garabedian, Michael Taylor prepared a memorandum that answered items 2-5 in our letter. We asked Mr. Garabedian that the District send something in writing to our office that addressed all five items in the letter, and if the District wished to attach Mr. Taylor's memorandum that it include a statement indicating it agreed with the items in the memorandum. As of yet, we have not received anything. As it stands now, the information in the case file indicates the District does not have enough disposal capacity and that the Fresno Irrigation District wants the Malaga County Water District to cease discharge to the Canal. It's our understanding this may no longer be the case, but we have not received written confirmation from the Malaga County Water District indicating so.

Generally, when we renew NPDES permits we use all information available to develop new requirements. If the District wishes to update its case file with new information prior to permit renewal, it is imperative that the information requested in our 19 August 2013 letter be submitted as soon as possible given the NPDES permit renewal process is in the preliminary stages.

Please contact me so we may discuss the District's response to our letter, as well as Mr. Taylor's memorandum.

Thank you,
-Aide

Aidé Ortiz, PE
Water Resource Control Engineer
Central Valley Water Board – Fresno
1685 "E" Street
Fresno, CA 93706
Phone: (559) 445-6083
Fax: (559) 445-5910

TAB 8I

29 October 2013

email from Discharger with response

(17 pages total)

Ortiz, Aide@Waterboards

From: Russ Holcomb <rholcomb@malagacwd.org>
Sent: Tuesday, October 29, 2013 5:53 PM
To: Scroggins, Matt@Waterboards
Cc: Ortiz, Aide@Waterboards; Garabedian Jr, Charles E@DOT; 'Michael Taylor'; 'Neal Costanzo'; 'Michael G Slater'
Subject: FW: Response Letter to Matthew S. Scroggins, Senior Engineer - Malaga County Water District Wastewater Treatment Facility (MPDES No. CA0084239) 08/19/2012 - Disposal Capacity
Attachments: 20131029162729893.pdf

DATE: October 29, 2013
TO: Mr. Matthew S. Scroggins, Senior Engineer, CVRWQCB
FROM: Russ Holcomb, General Manager, MCWD
Re: Malaga County Water District WWTF (MPDES No. CA0084239)

Mr. Scoggins:

Attached is the electronic copy of the MCWD Response to the 08/09/2013 letter related to the MCWD WWTF Disposal Capacity. The hard copy will be hand delivered to your office tomorrow, Wednesday, 10/30/2013. We are sorry for the delay in getting this response to you! Additional information will be sent to you when it becomes available.

Thanks, Russ Holcomb, GM



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO, CALIFORNIA 93725
PHONE (559) 485-7353 - FAX (559) 485-7319

BOARD OF DIRECTORS

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SALVADOR CERRILLO
VICE PRESIDENT

IRMA CASTANEDA
DIRECTOR

FRANK CERRILLO JR.
DIRECTOR

FRANK SOTO
DIRECTOR

RUSS HOLCOMB-GENERAL MANAGER

October 29, 2013

E-MAILED & HAND DELIVERED: Russ Holcomb, GM

Matthew S. Scroggins, Senior Engineer
Central Valley Regional Water Quality Control Board
1685 E. Street
Fresno, CA 93706-2007

**Re: Malaga County Water District Wastewater Treatment Facility
(MPDES No. CA0084239)**

Dear Mr. Scroggins:

This letter is in response to your August 19, 2013, letter regarding issues related to Malaga County Water District's ("Malaga" or the "District") disposal capacity. Below are responses to your five requests for information which the District anticipates may be changed or amended as the District continues to research the issues, analyze additional facts, and takes action to address said issues and will, as necessary, change, supplement, or add to the responses contained below.

1. Address whether the discharge to Central Canal will cease, as required by Fresno Irrigation District. If it will, provide a time-line schedule for eliminating discharge to the canal.

Response: The February 11, 2008, letter to Malaga from Fresno Irrigation District ("FID") referred to in your August 19, 2013; letter to Malaga does not require or request that Malaga cease all discharge into FID canals. In fact, the letter affirms that Malaga's discharge is beneficial to FID. What the letter requests is that FID and Malaga address FID concerns that, at specific times, the discharge from Malaga interferes with FID maintenance operations. Since the 2008 letter, Malaga and FID, through a series of meetings, have agreed that Malaga will continue beneficial discharge into FID canals but will not discharge in a manner that interferes with FID maintenance operations thereby resolving the issue addressed in the 2008 letter. (Attachment 1).

2. An estimate of the disposal capacity of the on-site ponds after pond maintenance was performed in 2008 and thereafter. Additionally, include a list of which ponds were maintained.

Response: Attached as Exhibit A to this letter please find a summary table of the estimated disposal capacity of the existing disposal ponds without discharge into the Central Canal. The District is well positioned for pond storage for the winter (2013-2014)

Response Continued: as two ponds were dry in September of 2013. The District's disposal capacity, as set forth in Exhibit A, is estimated to be 669,500 gallons per day. This estimate is based on an estimated percolation capacity of 1.00 inches per day. The District is currently in the process of reviewing pond maintenance information and anticipates providing the CVRWQCB with a summary report of pond maintenance performed between 2008 and 2013. Additionally, the District is in the planning process to develop a schedule to isolate one or more ponds to confirm and monitor percolation capacity. The District will provide the CVRWQCB with follow-up reports as the capacity tests are performed.

3. Revised influent flow projects based on influent flow data collected after the District began metering grit return flows and after the moratorium was adopted. The District has now established new or expanded sewer connections since the moratorium was adopted, it shall include the flows from those connections in its revised flow projections.

Response: A summary of recent and projected flow data for the District's WWTP is attached hereto as Exhibit B. The data assumes a two percent growth rate, which greatly exceeds recent trends at the wastewater treatment plant.

4. Status of land acquisition for additional disposal ponds, including a list of action items completed and dates when they were completed.

Response: On August 22, 2012, the District purchased plus or minus four acres of land to develop new percolation ponds. The District is currently in the process of obtaining financing to develop said percolation ponds. The deed for the property, which was recorded on August 24, 2012, is attached hereto as Exhibit C.

5. Status of alternative disposal measures the District has looked into; including a list of action items completed and dates they were completed.

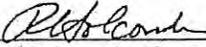
Response: The District considered a number of alternative disposal measures and after such consideration, determined that the most feasible way to increase disposal capacity at this time is to pursue the development/expansion of percolation ponds. Although the District continues to look for alternative disposal measures, the District currently is directing its resources and planning toward the expansion of ponds as evidenced by the purchase of the property described in Item 4. The District will update the CVRWQCB as it develops plans for alternative disposal measures.

As stated above, the District will provide the CVRWQCB with updated information as it becomes available.

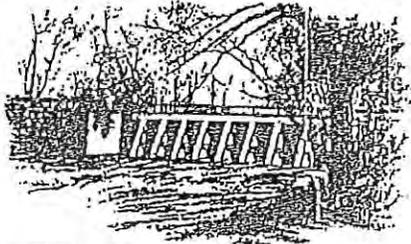
Matthew S. Scroggins, Senior Engineer
October 29, 2009
Page 3

If you have any questions regarding this matter, please contact the District.

MALAGA COUNTY WATER DISTRICT

Dated: 10/29/2013 By: 
Russ Holcomb, General Manager

cc: Charles Garabedian, Jr., President
of the Board of Directors
Michael Taylor, District Engineer
Neal E. Costanzo, Esq.

MCW
400.90

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OFFICE OF
FRESNO
 IRRIGATION DISTRICT

FEB 1 9 2008

TELEPHONE (559) 233-7161
 FAX (559) 233-8227
 2907 S. MAPLE AVENUE
 FRESNO, CALIFORNIA 93725-2218

February 11, 2008

Mr. Michael Taylor
 Provost & Pritchard Engineering Group, Inc.
 286 W. Cromwell Ave.
 Fresno, CA 93711

Re: Discharge from the Malaga County Water District Wastewater Treatment Facility

Dear Michael:

Thank you for the opportunity to meet with you and Charles Garabedian last Wednesday, February 6, 2008 to discuss the discharge from the Malaga County Water District's (MCWD) wastewater treatment facility (WWTF) to the Central Canal. Both Gary Serrato and I appreciate you and Mr. Garabedian making yourselves available.

As we discussed, the Fresno Irrigation District (FID) would like the MCWD to work towards eliminating the discharge to the Central Canal. While the discharge from the WWTF adds to our water supply, the discharge can be a significant nuisance. Some of our maintenance activities require the Canal to be dried out. This is currently not possible with your discharge. It is our understanding that the discharge from the WWTF to the Central Canal cannot be reduced or terminated currently without significant impacts to MCWD's operations. MCWD relies heavily, or almost exclusively, on this discharge to balance the system and avoid capacity issues. There may be periods when FID can continue to receive the water, however there are also periods when the discharges must be ceased.

It is FID's desire to have MCWD become self-sufficient in its operations without the discharge to the Central Canal or to develop other alternatives for discharge other than to FID. It is our understanding from our meeting that this would be an opportune time to address FID's issue because of the planning and implementation that MCWD must do to comply with the new permitting requirements of the Regional Water Quality Control Board. You also noted that it would be helpful to us if we reviewed MCWD's planning and implementation schedule to address the permitting requirements. We look forward to receiving from you the information showing us where on the schedule the discharge issue could potentially be addressed.

BOARD OF DIRECTORS
 President JEFFREY G. BOSWELL, Vice-President JEFF NEELY
 EDDIE NIEDERFRANK, STEVE BALLS, TOM E. STEFFEN, General Manager GARY R. SERRATO

Mr. Michael Taylor, P&P
Malaga County WD WWTF Discharge
February 11, 2008
Page 2 of 2

As we noted, we hope the discharge issue can be addressed within the next three to five years or sooner. Should you have any questions in regard to the subject matter, please do not hesitate to call me at (559) 233-07161, ext. 303.

Sincerely,



Laurence Kimura
Assistant General Manager

cc: Gary R. Serrato, Fresno Irrigation District
Russ Holcomb, Malaga County Water District

EXHIBIT

Malega County Water District
Wastewater Treatment & Disposal Facilities
Estimated Capacity Wastewater Disposal - 100 Year Rainfall Water Balance, Discharge and Storage

WWTP POND CALCULATIONS:

Month	Number of Days per Month	100 Yr. Rainfall ¹⁹ (in/month)	100 Yr. Evaporation ²⁰ (in/month)	Discharge to Canal	0	MCD	Effluent Produced (gal/month)	Effluent To Canal (gal/month)	Effluent to Ponds ¹⁶ (gal/month)	Surface Rainfall ¹⁸ (gal/month)	Surface Evaporation ¹⁷ (gal/month)	Pond Percolation ²¹ (gal/month)	Monthly Change in Storage ²² (gal)	Required Storage ²³ (gal)
January	31	5.14	0.50	Daily Effluent Production ¹⁵ = 23,273 gpd	23,273	gpd	18,748,000	0	20,754,500	3,243,077	507,038	19,863,033	3,887,183	8,164,111
February	28	3.70	1.60	Pond Storage = 1,225 ac-ft	1,225	ac-ft	20,764,600	0	20,764,600	2,639,727	4,318,027	18,603,030	2,489,740	10,643,660
March	31	4.63	2.00	Pond Percolation Rate = 1.00 in/day	1.00	in/day	20,085,000	0	20,085,000	1,741,741	3,341,264	18,831,800	633,618	13,928,643
April	30	2.70	3.71	Additional Pond Wet Area = 0.3 ac-ft	0.3	ac-ft	20,764,600	0	20,764,600	0	3,918,918	19,663,033	(2,721,142)	11,207,561
May	31	0.01	6.21	Additional Pond Storage = 1.73 ac-ft	1.73	ac-ft	20,085,000	0	20,085,000	884,172	2,853,397	18,031,869	(1,100,164)	0
June	30	0.33	8.14	Estimated Pond Percolation Rate = 1.73 in/day	1.73	in/day	20,764,600	0	20,764,600	0	5,130,874	19,563,035	(3,645,409)	4,287,033
July	31	0.00	6.92	Total Storage = 6,343,000 gal	6,343,000	gal	20,085,000	0	20,085,000	1,094,187	767,279	18,931,889	2,389,819	2,928,476
August	31	1.50	4.03	Total Area = 21.2 acres	21.2	acres	20,764,600	0	20,764,600	1,003,094	630,400	19,563,033	1,059,453	4,386,920
September	30	3.10	3.09	Total (gal)	749,000	gal	20,085,000	0	20,085,000	749,000	83.4	706.9	-37,915	13,028,643
October	31	1.20	0.55	Total (ac-ft)	749.0	ac-ft	20,764,600	0	20,764,600	83.4	83.4	706.9	60,692,262	60,692,262
November	30	3.10	0.55	Total (ac-ft)	749.0	ac-ft	20,085,000	0	20,085,000	83.4	83.4	706.9	48,833,888	48,833,888
December	31	1.70	46.17	Total Area = 21.2 acres	21.2	acres	20,764,600	0	20,764,600	83.4	83.4	706.9	1,293,660	1,293,660
Total	365	23.86	46.17	Total Area = 21.2 acres	21.2	acres	749,000	0	749,000	83.4	83.4	706.9	-37,915	13,028,643

1/ Rainfall Data per the Western Regional Climate Center.
 2/ Evaporation rate per WREC 10.75
 3/ Design Capacity Effluent Production
 4/ Total wetting volume of the existing hospital.
 5/ Surface Rainfall = Volume of rainfall and rain water impounding from the existing WWTP treatment and disposal ponds.
 6/ Surface Evaporation = Volume of effluent and rain water impounding from the existing WWTP treatment and disposal ponds.
 7/ Pond Percolation = Volume of effluent and rain water percolating into the ground for existing ponds 1 through 8 plus proposed additional ponds.
 8/ Required Storage = Theoretical storage point Sept. 1st where pond storage returns to zero with monthly contributions.
 9/ Maximum Storage Allowed = Total volume of available storage.
 10/ Storage Available from all ponds = Total volume of available storage.
 11/ Check Balance = Comparison of the value with 10.

Category	Value
Maximum Required Storage	13,028,643
Total Storage Available	60,692,262
Extra Storage	48,833,888
Total Effluent Production ¹⁵	244,767,800
Total Effluent Expected ¹⁶	0
Total Surface Rainfall ¹⁸	18,009,840
Total Surface Evaporation ¹⁷	22,134,002
Total Percolation ²¹	230,380,629
Effluent Applied to Crop ²⁴	0
Check Balance ²⁵	244,400,415

**Malaga County Water District
Wastewater Treatment & Disposal Facilities
Estimated Capacity Wastewater Disposal - 100 Year Rainfall Water Balances, Discharge and Storage**

WWTFF POND CALCULATIONS:

Month	Number of Days per Month	100 Yr. Rainfall (in/month)	100 Yr. Evaporation (in/month)	Discharge to Canal	MGD
January	31	5.14	0.00		0
February	29	3.70	1.68		0
March	31	4.83	2.09		0
April	30	2.78	3.71		0
May	31	0.01	6.21		0
June	30	0.00	8.51		0
July	31	0.00	8.09		0
August	31	1.19	4.88		0
September	30	1.29	3.02		0
October	31	3.16	1.29		0
November	30	1.09	0.85		0
December	31	23.98	46.17		0
Total	365	23.98	46.17	0.0	0.0

Effluent Produced (gal/month)	Effluent To Canal (gal/month)	Effluent to Ponds (gal/month)	Surface Rainfall (gal/month)	Surface Evaporation (gal/month)	Surface Percolation (gal/month)	Pond Percolation (gal/month)	Monthly Change in Storage (gal/month)	Required Storage Capacity (gal)
18,801,500	0	18,801,500	3,243,877	2,534,643	621,234	15,902,000	3,870,487	8,187,200
18,802,000	0	18,802,000	2,894,727	2,894,727	4,318,827	15,902,000	2,892,733	19,859,853
18,801,500	0	18,801,500	1,741,741	2,341,264	17,058,772	15,902,000	2,734,568	13,384,522
18,802,000	0	18,802,000	0	0	0	15,902,000	558,715	13,851,237
18,801,500	0	18,801,500	0	0	0	15,902,000	62,117,858	11,233,589
18,801,500	0	18,801,500	0	0	0	15,902,000	2,370,949	4,380,352
18,801,500	0	18,801,500	0	0	0	15,902,000	3,542,165	4,380,352
18,801,500	0	18,801,500	0	0	0	15,902,000	1,102,387	0
18,801,500	0	18,801,500	0	0	0	15,902,000	2,283,116	2,834,878
18,801,500	0	18,801,500	0	0	0	15,902,000	1,681,267	4,380,352
Total (gal)	670,4	670,4	670,4	40,2	80,4	630,2	985	13,951,237

Maximum Required Storage	Total Storage Available	Zone Storage	Total Effluent Production	Total Surface Rainfall	Total Evaporation	Total Percolation	Effluent Applied to Crop	Check Balance
13,951,237	60,522,392	48,851,068	271,377,530	0	15,000,840	29,134,322	207,306,639	221,377,515

1/ Rainfall Data per the Western Regional Climate Center.
 2/ Evaporation Data per WPCOC X-076
 3/ Design Capacity Effluent Production
 4/ Total inflow and outflow of the existing lagoons.
 5/ Surface Rainfall = Volume of 100 Year rainfall on the existing WWTFF treatment and storage ponds and proposed storage ponds.
 6/ Surface Evaporation = Volume of effluent and rain water evaporating from the existing WWTFF treatment and disposal ponds.
 7/ Pond Percolation = Volume of effluent and rain water percolating into the ground for existing ponds 1 through 5 (as proposed additional ponds).
 8/ Required Storage = Theoretical storage pond size, set where pond storage starts at zero with monthly contributions.
 9/ Maximum Storage Needed = Peak end of month pond storage volume needed (pounds & ac-ft).
 10/ Storage Available from all ponds = Total volume of available storage.
 11/ Check Balance = Comparison of 8th value with 10/.

Discharge to Canal: 0 MGD
 Pond Wet Area = 21.24 acres
 Pond Storage = 115.9 ac-ft
 Pond Percolation Rate = 0.50 in/day
 Additional Pond Volume = 0.0 ac-ft
 Additional Pond Percolation Rate = 1.00 in/day
 Estimated Pond Storage = 115.9 ac-ft
 Total Storage = 115.9 ac-ft
 Total Area = 23.2 acres
 Total (ac-ft) = 115.9 ac-ft

**Malaga County Water District
Wastewater Treatment & Disposal Facilities
Estimated Capacity Wastewater Disposal - 100 Year Rainfall Water Balance, Discharge and Storage**

WWTP POND CALCULATIONS:

Month	Number of Days per Month	100 Yr. Rainfall (in/month)	100 Yr. Evaporation (in/month)	Discharge to canal	MGD
January	31	6.14	0.60		0.00
February	28	3.70	1.46		0.00
March	31	4.83	2.09		0.00
April	30	2.78	3.71		0.00
May	31	0.01	6.21		0.00
June	30	0.31	6.25		0.00
July	31	0.00	6.14		0.00
August	31	0.00	6.00		0.00
September	30	1.10	4.63		0.00
October	31	1.68	3.00		0.00
November	30	3.16	1.20		0.00
December	31	4.83	0.85		0.00
Total	366	23.88	46.17		0.00

Month	Effluent Produced (gal/month)	Effluent To Canal (gal/month)	Effluent to Ponds (gal/month)	Surface Rainfall (gal/month)	Surface Evaporation (gal/month)	Pond Precipitation (gal/month)	Monthly Change in Storage (gal/month)	Required Storage Capacity (gal)
January	18,833,000	0	18,833,000	3,243,877	607,659	15,050,428	31,858,290	8,118,028
February	15,204,000	0	15,204,000	2,334,243	921,556	14,130,270	2,401,717	10,000,543
March	18,833,000	0	18,833,000	2,008,777	1,318,827	15,050,428	2,722,372	13,222,815
April	18,833,000	0	18,200,000	1,741,741	2,341,204	16,145,079	644,912	13,867,927
May	18,833,000	0	18,833,000	0.311	3,918,818	16,050,428	(2,790,056)	11,157,792
June	18,250,000	0	18,200,000	165,039	4,322,000	15,145,076	(2,982,745)	8,155,047
July	18,833,000	0	18,833,000	0	6,130,074	15,060,428	(3,294,952)	4,200,746
August	18,833,000	0	18,833,000	864,172	2,653,337	16,650,428	(3,220,877)	872,160
September	18,833,000	0	18,833,000	897,084	1,848,803	16,050,428	229,643	228,663
October	18,200,000	0	18,200,000	1,004,107	787,279	15,145,076	2,387,313	2,610,870
November	18,833,000	0	18,833,000	1,003,384	509,400	16,050,428	1,640,500	4,260,638
December	18,833,000	0	18,833,000	1,003,384	1,003,384	14,971,044	1,849,572	4,260,638
Total	188,133,000	0.0	188,133,000	18,142,202	46,170	143,711,044	-142,022	13,867,927

Maximum Required Storage	13,867,927
Total Storage Available	100,582,302 gal
Extra Storage	46,714,475 gal
Total Effluent Production	188,133,000 gal
Total Effluent Expended	0 gal
Total Surface Rainfall	16,049,046 gal
Total Evaporation	20,138,302 gal
Total Precipitation	164,271,158 gal
Effluent Applied to Crop	0 gal
Check Balance	160,337,022 gal

DATA:

1/ Rainfall Data per the Western Regional Climate Center
 2/ Evaporation Area per WPCCA 0.70
 3/ Design Capacity Effluent Production
 4/ Total existing wet area of the existing WWTW
 5/ Surface Rainfall = Volume of 100 Year rainfall on the existing WWTW treatment and storage ponds and proposed storage ponds.
 6/ Surface Evaporation = Volume of effluent and rain water evaporating from the existing WWTW treatment and disposal ponds.
 7/ Pond Precipitation = Volume of effluent and rain water ponding into the ground for existing ponds through existing proposed additional ponds.
 8/ Required Storage = Theoretical existing pond capacity plus where pond storage exists at zero with monthly contributions.
 9/ Maximum Storage Needed = Peak end of month pond storage volume needed (gal) & ac-ft.
 10/ Storage Available from all ponds = Total volume of available storage.
 11/ Check Balance = Comparison of the value with 10.

Effluent Produced (gal/month)	18,833,000
Effluent To Canal (gal/month)	0
Effluent to Ponds (gal/month)	18,833,000
Surface Rainfall (gal/month)	3,243,877
Surface Evaporation (gal/month)	607,659
Pond Precipitation (gal/month)	15,050,428
Monthly Change in Storage (gal/month)	31,858,290
Required Storage Capacity (gal)	8,118,028

WWTP POND CALCULATIONS:

1/ Effluent Produced (gal/month)

2/ Effluent To Canal (gal/month)

3/ Effluent to Ponds (gal/month)

4/ Surface Rainfall (gal/month)

5/ Surface Evaporation (gal/month)

6/ Pond Precipitation (gal/month)

7/ Monthly Change in Storage (gal/month)

8/ Required Storage Capacity (gal)



1/ Rainfall Data per the Western Regional Climate Center
 2/ Evaporation Area per WPCCA 0.70
 3/ Design Capacity Effluent Production
 4/ Total existing wet area of the existing WWTW
 5/ Surface Rainfall = Volume of 100 Year rainfall on the existing WWTW treatment and storage ponds and proposed storage ponds.
 6/ Surface Evaporation = Volume of effluent and rain water evaporating from the existing WWTW treatment and disposal ponds.
 7/ Pond Precipitation = Volume of effluent and rain water ponding into the ground for existing ponds through existing proposed additional ponds.
 8/ Required Storage = Theoretical existing pond capacity plus where pond storage exists at zero with monthly contributions.
 9/ Maximum Storage Needed = Peak end of month pond storage volume needed (gal) & ac-ft.
 10/ Storage Available from all ponds = Total volume of available storage.
 11/ Check Balance = Comparison of the value with 10.

1/ Effluent Produced (gal/month)

2/ Effluent To Canal (gal/month)

3/ Effluent to Ponds (gal/month)

4/ Surface Rainfall (gal/month)

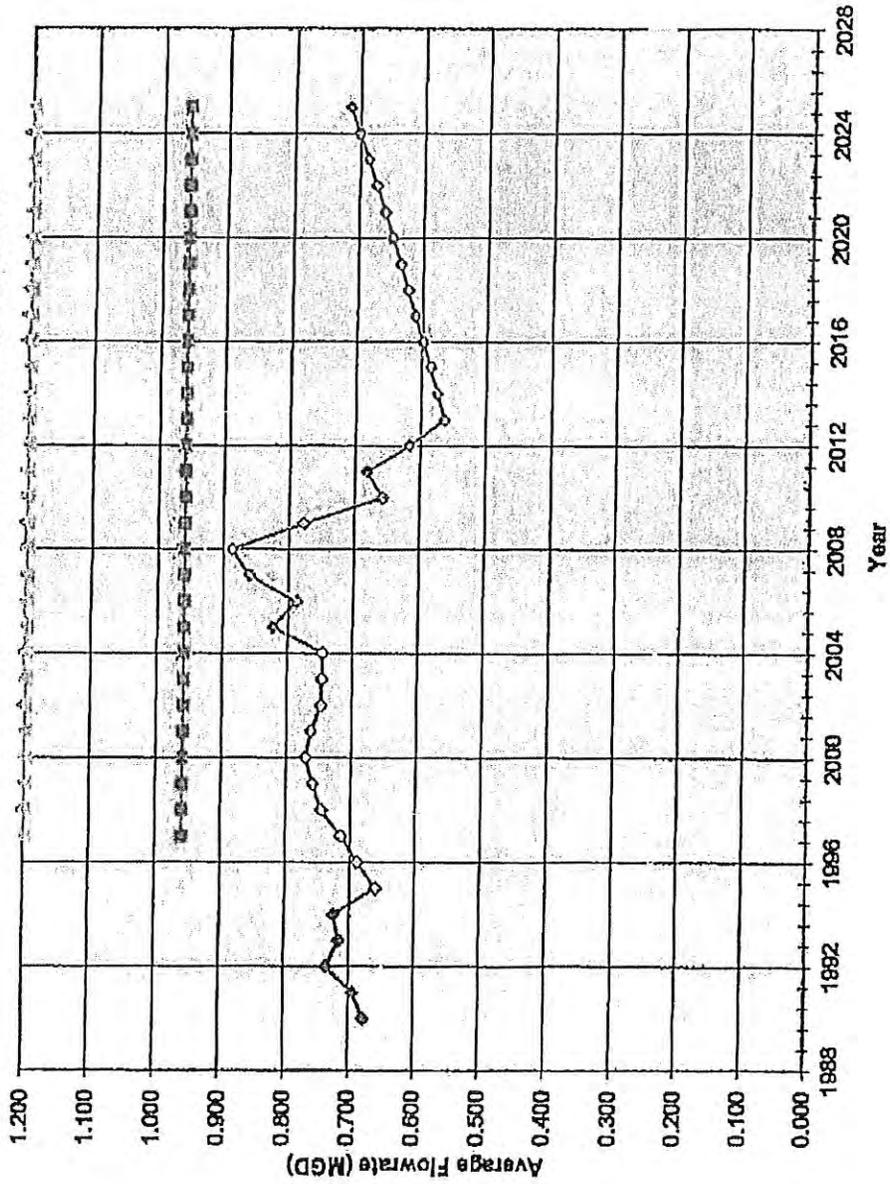
5/ Surface Evaporation (gal/month)

6/ Pond Precipitation (gal/month)

7/ Monthly Change in Storage (gal/month)

8/ Required Storage Capacity (gal)

Malaga County Water District Wastewater Treatment Plant Flowrates



4335 S. Maple

RECORDING REQUESTED BY:
Chicago Title Company
Escrow No.: 12-45039505-CRF
Locate No.: CACT17710-7710-4450-0045039505
Title No.: 12-45039505-CU

When Recorded Mail Document
and Tax Statement To:
Malaga County Water District
3580 S. Frank Street
Fresno, CA. 93725

FRESNO County Recorder
Paul Dicos, C.P.A.
DOC-
2012-0119448-00
Acct 1002-Chicago Title Ins Co ER
Friday, AUG 24, 2012 13:31:34
Til Pd \$0.00 Nbr-0003726188
JZG/R3/1-3

APN: 330-031-11

SPACE ABOVE THIS LINE FOR RECORDER'S
USE

GRANT DEED

The undersigned grantor(s) declare(s)
Documentary transfer tax is \$ exempt pursuant to section 27383 of the gov't. code
[X] computed on full value of property conveyed, or
[] computed on full value less value of liens or encumbrances remaining at time of sale,
[] Unincorporated Area (X) city of Fresno

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Marie Sargent, a single woman hereby GRANT(S) to Malaga County Water District the following described real property in the city of Fresno County of Fresno, State of California: SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: August 22, 2012

State of California }
County of Fresno }

Marie Sargent
Marie Sargent

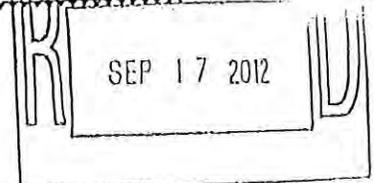
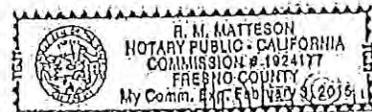
On 8-23-12 before me,
R. M. Matteson, Notary Public
(here insert name and title of the officer), personally appeared Marie Sargent

who, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



MAIL TAX STATEMENTS AS DIRECTED ABOVE

RECORDING REQUESTED BY:

Chicago Title Company
Escrow No.: 12-45039505-CRF
Locate No.: CACT17710-7710-4450-0045039505
Title No.: 12-45039505-CU

**When Recorded Mail Document
and Tax Statement To:**
Malaga County Water District
3580 S. Frank Street
Fresno, CA. 93725

This Document Was
Recorded Electronically

APN: 330-031-11

SPACE ABOVE THIS LINE FOR RECORDER'S
USE

GRANT DEED

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$ exempt pursuant to section 27383 of the govern. code
[X] computed on full value of property conveyed, or
[] computed on full value less value of liens or encumbrances remaining at time of sale,
[] Unincorporated Area (X) city of Fresno

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Marie Sargent, a single woman

hereby **GRANT(S)** to Malaga County Water District
the following described real property in the city of ^{fresno} County of Fresno, State of California:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: August 22, 2012

State of California }
County of Fresno }

Marie Sargent
Marie Sargent

On 8-23-12 before me,
N. M. Matteson, Notary Public
(here insert name and title of the officer), personally appeared
Marie Sargent

who provey to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies); and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Escrow No.: 12-45039505-CRF
Locate No.: CACTI7710-7710-4450-0045039505
Title No.: 12-45039505-CU

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

The South 650 feet of the East 335.10 feet of Lot 92 of Malaga Tract, In the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 2 Page 17 of Plats, in the office of the County Recorder of said County

APN: 330-031-11

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Malaga County Water District
c/o Costanzo & Associates
A Professional Corporation
575 E. Locust Avenue, Suite 115
Fresno, CA 93720

CERTIFICATE OF ACCEPTANCE

I, the undersigned, do hereby certify and declare that I am the President of the Board of Directors, duly qualified and acting as such, as of the date hereof, of the Malaga County Water District and am authorized to execute this Certificate of Acceptance pursuant to the authority duly conferred by the Board of Directors of the Malaga County Water District on August 22, 2012.

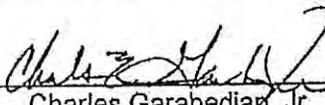
The Malaga County Water District hereby accepts transfer by Grant Deed of the real property from Marie Sargenti, a single woman, more particularly described as follows:

THE SOUTH 650 FEET OF THE EAST 335.10 FEET OF LOT 92 OF MALAGA TRACT, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 17 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 330-031-11

MALAGA COUNTY WATER DISTRICT

Dated: 8/23, 2012

By: 
Charles Garabedian, Jr., President of
the Board of Directors

RESOLUTION NO. 08-22-2012

A RESOLUTION OF THE MALAGA COUNTY WATER DISTRICT BOARD OF DIRECTORS AUTHORIZING THE PURCHASE AND ACQUISITION OF REAL PROPERTY AND AUTHORIZING THE PRESIDENT OF THE BOARD OF DIRECTORS AND THE GENERAL MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THE ACQUISITION

WHEREAS, Malaga County Water District (Malaga) is a County Water District organized and existing under the laws of the State of California and is statutorily authorized, among other things, to provide within its boundaries or service area prescribed by law, wastewater collection, treatment and disposal services; and

WHEREAS, wastewater treatment and/or disposal services provided by Malaga requires the use of ponds and the District is approaching its capacity to store and/or dispose of treated wastewater by use of ponds so that acquisition of suitable real property for the establishment of additional ponding basins in the future is necessary and in the interest of the District and the public it serves; and

WHEREAS, on August 14, 2012, at a regular meeting of the Board of Directors of Malaga, the Board authorized the purchase of specified real property at its fair market value as determined by the District Board of Directors, for future expansion of ponds necessary for treatment or disposal of treated wastewater, and authorized its General Manager to submit an offer for the acquisition of that real property at its fair market value, which the Board has determined to be \$300,000 (the "Purchase Price").

NOW, THEREFORE, it is hereby resolved by the Malaga County Water District Board of Directors as follows:

1. That each of the foregoing recitals is true and correct;
2. That the Board of Directors authorizes the purchase and acquisition by grant deed of the real property from Marie Sargenti, a single woman, commonly known as 4335 S. Maple, Fresno, California, 93725, and more particularly described as follows:

THE SOUTH 650 FEET OF THE EAST 335.10 FEET OF LOT 92 OF MALAGA TRACT, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 17 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 330-031-11

3. The President of the Board of Directors, or the General Manager of the Malaga County Water District are each authorized to execute on behalf of the Malaga County Water District all documents necessary to effectuate the purchase and acquisition, by grant deed of the real property described above in exchange for the Purchase Price specified in this resolution.

4. This Resolution passed and adopted this 22nd day of August 2012, by the following vote:

AYES: President Garabedian; Vice President Cerrillo, Directors Castaneda, Cerrillo and Soto

NOES:

ABSENT:

151

Charles Garabedian, Jr., President
of the Board of Directors of the
Malaga County Water District

ATTEST:

151

Russ Holcomb, General Manager/Secretary
to the Board of the Malaga County Water District

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Malaga County Water District
c/o Costanzo & Associates
A Professional Corporation
575 E. Locust Avenue, Suite 115
Fresno, CA 93720

CERTIFICATE OF ACCEPTANCE

I, the undersigned, do hereby certify and declare that I am the President of the Board of Directors, duly qualified and acting as such, as of the date hereof, of the Malaga County Water District and am authorized to execute this Certificate of Acceptance pursuant to the authority duly conferred by the Board of Directors of the Malaga County Water District on August 22, 2012.

The Malaga County Water District hereby accepts transfer by Grant Deed of the real property from Marie Sargenti, a single woman, more particularly described as follows:

THE SOUTH 650 FEET OF THE EAST 335.10 FEET OF LOT 92 OF MALAGA TRACT, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 17 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 330-031-11

MALAGA COUNTY WATER DISTRICT

Dated: 8/23, 2012

By: CS
Charles Garabedian, Jr., President of
the Board of Directors

TAB 8J

7 July 2014 Notice of Violation

pp. 1-3



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

7 July 2014

NOTICE OF VIOLATION

James D. Anderson
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

CERTIFIED MAIL
7013 2250 0002 0464 4086

**VIOLATIONS OF CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD
ORDER NO. R5-2008-0033 AND CEASE AND DESIST ORDER R5-2008-0032, (NPDES
CA0084239, RM 396746), FRESNO COUNTY**

This Notice of Violation (NOV) is issued to Malaga County Water District (Malaga) pursuant to California Water Code sections 13260, 13263, 13376, 13385, and 13350 for violations of Waste Discharge Requirements (WDRs) Order No. R5-2008-0033 (NPDES Permit No. CA0084239) and Cease and Desist Order (CDO) R5-2008-0032 adopted by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 14 March 2008.

Central Valley Water Board staff has identified three broad categories of violations of Order Nos. R5-2008-0033 and R5-2008-0032 by Malaga.

1. Violation of Pretreatment Standards

Order No R5-2008-0033 Section VI C 5: Special Provisions for Municipal Facilities (POTWs Only), subsection (a)(ii) states, in part, "The Discharger shall perform the pretreatment functions required by 40 CFR Part 403." The Central Valley Water Board staff has determined that Malaga violated the following terms of 40 CRF 403:

- Failure to adopt adequate legal authority as required by 403.8(f)(1).
- Failure to adopt adequate permits as required by 403.8(f)(1)(iii)(B).
- Failure to obtain Board approval for modification of local limits as required by 403.18(c).
- Failure to sample Significant Industrial Users at least once a year, as required by 403.8(f)(2)(v).

KARL E. LONGLEY SCD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

1685 E Street, Fresno, CA 93706 | www.waterboards.ca.gov/centralvalley

- Failure to publish a list of users in significant non-compliance as required by section 403.8 (f)(2)(viii).
- Failure to develop an enforcement response plan as required by 403.8(f)(5).
- Failure to evaluate whether a slug control plan is needed as required by 403.8(f)(2)(vi).

2. Violation of Monitoring and Reporting Requirements

Malaga is required to comply with the Monitoring and Reporting requirements established in R5-2008-0033 - MRP (X)(D)(4). Central Valley Water Board staff has determined that Malaga has violated these requirements by:

- Failure to file adequate annual pretreatment reports in violation of MRP (X)(D)(4) for the years 2008-2013.
- Failure to file an adequate quarterly reports in violation of MRP (X)(D)(4)(d) for the quarters Q1-Q3 2008, Q1-Q3 2009, Q1-Q3 2010, Q1-Q3 2011, Q1-Q3 2012, and Q1-Q3 2013.

3. Violation of Cease and Desist Order R5-2008-0032

Lastly, the Central Valley Water Board issued Malaga CDO R5-2008-0032, which required Malaga, in part, to:

“Submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. Study results shall include evaluations of, but not limited to, short-term measures necessary to comply with Order No. R5-2008-0033, implementation of appropriate ongoing operations and maintenance, and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The time schedule for short-term measures shall not exceed 14 March 2011. The technical report shall include actions to generate appropriate population and WWTF flow projections and their rationale.”

On 28 July 2008, Malaga submitted a technical report in response to CDO R5-2008-0032 requirement. On at least five occasions; including a 24 September 2009 letter, 19 August 2013 letter, 10 October 2013 documented phone call, 21 October 2013 e-mail, and 24 October 2013 documented phone call; Central Valley Water Board staff informed Malaga that its response to this requirement was inadequate. To date, Malaga has failed to produce an adequate report.

Failure to comply with WDRs Order No. R5-2008-0033 subjects Malaga to civil liability of up to \$10,000 per day pursuant to Water Code Section 13385 for each violation. Failure to comply with Cease and Desist Order R5-2008-0032 subjects Malaga to administrative civil liability of up to \$5,000 per day per Water Code Section 133350.

The Central Valley Water Board will pursue formal enforcement regarding these violations. Central Valley Water Board staff requests a meeting with Malaga by 28 July 2014 to discuss resolution of these matters.

James D. Anderson
Malaga County Water District

- 3 -

7 July 2014

For questions regarding this NOV and to schedule a meeting, please contact Jill Walsh at (559) 445-5130 or jill.walsh@waterboards.ca.gov or Warren Gross at (559) 445-5128 or warren.gross@waterboards.ca.gov.



Clay Rodgers
Assistant Executive Officer

cc: Amelia Whitson, USEPA Region IX, WTR-7, San Francisco
Ken Greenberg, USEPA Region IX, WTR-7, San Francisco
Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno
James M. Ralph, Staff Counsel, Office of Enforcement, State Water Resources
Control Board

TAB 8K

18 August 2014

Supplemental Notice of Violation

pp. 1-15

Central Valley Regional Water Quality Control Board AUG 22 2014

18 August 2014

Office of Enforcement

SUPPLEMENTAL NOTICE OF VIOLATION

James D. Anderson
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

CERTIFIED MAIL
7013 2250 0002 0661 7897

VIOLATIONS OF CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD ORDER NO. R5-2008-0033; AND CEASE AND DESIST ORDER R5-2008-0032

Background

On 7 July 2014, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) issued a Notice of Violation (NOV) to Malaga County Water District (Malaga or District). Malaga has requested clarification of the violations alleged in the 7 July 2014 NOV. Malaga has received notification of these violations previously; however, in response to Malaga's request, the Central Valley Water Board provides this supplemental NOV to clarify the factual basis for each violation.

Please read this Supplemental Notice of Violation carefully. The Central Valley Water Board plans to pursue formal enforcement regarding these violations. Malaga is invited to contact the Central Valley Water Board staff by **2 September 2014** if Malaga seeks to discuss resolution of these violations.

Violations

1. Violation of Pretreatment Standards

Order No R5-2008-0033, Section 5: Special Provisions for Municipal Facilities (POTWs Only), subsection (a)(ii) states "The Discharger shall perform the pretreatment functions required by 40 CFR Part 403." The Central Valley Regional Water Board staff has determined that Malaga violated the following sections of 40 CRF 403.

- a. Failure to adopt adequate legal authority as required by 40 CFR 403.8(f)(1).

40 CFR 403.8(f) requires Malaga to operate its Publicly Owned Treatment Works (POTW) pursuant to legal authority that enables it to do enumerated actions. Specifically:

(f) *POTW pretreatment requirements.* A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(1) *Legal authority.* The POTW shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority shall enable the POTW to:

(iv) Require (A) the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and (B) the submission of all notices and self-monitoring reports from Industrial Users as are necessary to assess and assure compliance by Industrial Users with Pretreatment Standards and Requirements, including but not limited to the reports required in § 403.12. [Emphasis added].

On 13 January 2004, Malaga adopted Ordinance No. 01-13-2004 (2004 Ordinance). The 2004 Ordinance does not enable Malaga to require the development of a compliance schedule by each industrial user (IU) for the installation of technology required to meet applicable pretreatment standards and requirements.

On 18 February 2010, a Pretreatment Compliance Inspection (2010 PCI) of Malaga's approved Pretreatment Program was performed. Malaga was informed of the lack of a compliance schedule during the 18 February 2010 PCI and received the checklist identifying the deficiency during the exit interview on that date. The resulting Report (2010 PCI Report) noted that Malaga was required to have such compliance schedules (2010 PCI Report, pg. 4). Yet, on 25 February 2014, Malaga adopted a new ordinance (2014 Ordinance) that did not correct this inadequacy (this ordinance is misleadingly titled "Ordinance No. 2013-1," when in fact it was adopted in 2014).

Malaga has been non-compliant with the requirement of 40 CFR 403.8(f)(1)(iv) from 14 March 2008, when Order No R5-2008-0033 was issued to present.

b. Failure to adopt adequate permits as required by 40 CFR 403.8(f)(1)(iii)(B).

40 CFR 403.8(f)(1)(iii) requires Malaga to issue permits to its IUs. Specifically:

(iii) Control through Permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under § 403.3(v), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User...

40 CFR 403.8(f)(1)(iii)(B) identifies the conditions the IU permits must contain. Specifically:

Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

- (1) Statement of duration (in no case more than five years);
- (2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with §403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;
- (5) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
- (6) Requirements to control Slug Discharges, if determined by the POTW to be necessary. [Emphasis added]

From 2008 to 2013, Malaga's IU permits have not satisfied the requirements of 40 CFR 403.8(f)(1)(iii)(B), by failing to include local limits and/or relevant sampling requirements.¹

Malaga's 2008 and 2009 IU permits failed to identify sample locations and did not indicate sample type for all pollutants.

During the 2010 PCI, Malaga was informed of the sampling deficiencies and received the checklist identifying the deficiencies at the exit interview on that date. The 2010 PCI Report also noted that some permits did not specify a local limit for:

The iron limit in Calpine's permit is inconsistent with the limit established in Malaga's 2004 Ordinance. The iron limit in the permit is listed as 10 parts per million (milligrams per liter, mg/L), but the 2004 Ordinance specifies that the local limit for iron is 1 part per million. Therefore, Malaga is required to revise Calpine's permit to include the iron limit established in the 2004 Ordinance. See PCI Report, Section 6.2, Pg. 4.

After the 2010 PCI, Malaga added sample types and a sample location to its IU permits; however, the sample location is not defined or depicted in the permits.

¹ Malaga's IU permits, from 2008 to 2013, did not include a process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with 40 CFR 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism.

On 6-7 January 2014, a Pretreatment Compliance Audit (2014 PCA) of Malaga's approved pretreatment program was performed. As a component of the 2014 PCA, the sampling locations listed in the permits were reviewed. According to the resulting report (2014 PCA Report):

Each of the permits reviewed stated that the permittee must monitor outfall 001. In addition, part 3.2(a) of the permits lists the measurement location as "001." However, this measurement location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the Malaga is required to include an adequate description of the sampling locations in the permits. For more information about the sampling locations at the facilities inspected as part of the audit, refer to section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit. PCA Report, Section 7.3, Pg. 15. [Emphasis added].

Some permits did not include local limits as required by 40 CFR 403.8(f)(1)(iii)(B)(3). The 2010 PCI Report and 2014 PCA Report also noted where local limits were absent:

According to the 2010 inspection report, the iron limit in Calpine's permit was inconsistent with the limit established in Malaga's 2004 Ordinance. The iron limit in the permit was listed as 10 mg/L, but the 2004 Ordinance specified that the local limit for iron was 1 mg/L. Therefore, Malaga was required to revise Calpine's permit to include the iron limit established in its 2004 Ordinance. In response to this requirement, Malaga stated that the District legal counsel and Contract Engineer will review the limits identified in the 2004 Ordinance [sic] and the individual significant industrial user (SIU) permits. If exceptions to the 2004 Ordinance [sic] are not allowed, the necessary modifications to limits will be incorporated into the updated sewer use ordinance (SUO) [sic].

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2014 PCA, the RockTenn CP, LLC (formerly Calpine Corrugated, LLC) permit was reviewed. The audit team determined that the effluent limit for iron is not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn is required to collect a grab sample for iron in June from measurement location 001. Malaga is required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3). See section 7.5, pg. 16.

In addition, in 2010, Malaga removed the local limit for iron and several metals in all five significant industrial users (SIU): PPG, Rio Bravo, Air Products, Statas Foods, and Smurfit.

Malaga has been non-complaint with the requirement of 40 CFR 403.8(f)(1)(iii) since 2008, when Malaga first issued non-compliant permits.

c. Failure to obtain Board approval for modification of local limits as required by 40 CFR 403.18.

40 CFR 403.18 provides procedures for substantial modifications of POTW pretreatment programs. 40 CFR 403.18(b)(2) defines "substantial modifications" as:

(2) Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of the section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users Identified by the POTW) may discharge pursuant to limits developed under §403.5(c). [Emphasis added].

40 CFR 403.18(c) outlines the approval procedures for substantial modifications. Specifically:

- (1) the POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description, or such other documents the Approval Authority determines to be necessary under the circumstances.
- (2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority. [Emphasis added].

Malaga relaxed or eliminated numerous local limits for its SIUs without obtaining approval from the Central Valley Water Board. For example:

- **2008 and 2009:** Malaga relaxed the local limit for iron from 1 ppm to 2 ppm for Air Products.
- **2009:** Malaga relaxed the local limit for Iron for Calpine from 1 ppm to 10 ppm.
- **2010:** Malaga removed the local limit for iron and several metals in all SIUs; PPG, Rio Bravo, Air Products, Statas Foods, and Smurfit.
- **2012:** Malaga changed the local limit for oil/grease from 100 mg/L to 200 mg/L for Statas (Stratas proceeded to violate the original limit in 2013).

Malaga violated the requirement of 40 CFR 403.18 in each of the instances identified above.

d. Failure to sample Significant Industrial Users once per year as required by 40 CFR 403.8(f)(2)(v).

40 CFR 403.8(f)(2)(v) requires Malaga to “[i]nspect and sample the effluent from each Significant Industrial User at least once a year.”

Malaga identified the following SIUs:

- **2008:** Kinder Morgan Energy, PPG, Rio Bravo, ADM, Air Products, Calpine, Wholesale Equipment of Fresno.
- **2009:** PPG, Rio Bravo, Air Products, Calpine, Statas Foods.
- **2010:** PPG, Rio Bravo, Air Products, Statas Foods, Smurfit.
- **2011:** PPG, Rio Bravo, Air Products, Statas Foods, Rock Tenn.

Malaga failed to sample its SIUs' effluent from 2008 to 2011 for all pollutants of concern. Malaga's representatives stated in the 2010 PCI and the 2014 PCA that the SIUs are regularly sampled for electrical conductivity (EC); however, Malaga did not have any data or reports to support this statement.

Malaga sampled its IUs in 2012. However, Malaga did not sample its SIUs to satisfy 40 CFR 403.8(f)(2)(v), but rather was required to conduct a Toxicity Reduction Evaluation (TRE) because Malaga exceeded its chronic toxicity limits in 2012. This exceedance triggered sampling of all IUs that discharge industrial waste to the WWTF per R5-2008-0033, VI.C.2.a. i. – iv. However, this data was not included in Malaga's 2012 Annual Pretreatment Report.

The Annual Pretreatment Reports require the sampling results to be included, but Malaga did not include any such data in its 2008-2012 Annual Pretreatment Reports. 40 CFR 403.8(f)(2)(v) provides an exception for the sampling requirement; however, Malaga's SIUs do not qualify for it.

Malaga violated the requirement of 40 CFR 403.8(f)(2)(v) from 2008-2011.

e. Failure to publish list of users in significant non-compliance as required by 40 CFR section 403.8 (f)(2)(viii).

40 CFR 403.8(f)(2) states:

(2) Procedures. The POTW shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall enable the POTW to:

(vii) Comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users which, at any time during the previous 12 months, were in significant noncompliance with applicable Pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard)

that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

Malaga and its IUs have submitted laboratory reports, which identifies significant non-compliance as defined in 40 CFR 403.8(f)(2)(vii)(A)-(H) from at least one IU or SIU for the following years:

- 2009: Fresno Truck Wash.
- 2010: Fresno Truck Wash, Fifth Wheel.
- 2011: Fresno Truck Wash.
- 2012: Fresno Truck Wash, Fifth Wheel, ADM/Stratas, Kinder Morgan, Inland Star, GreenTec, Western State Glass.
- 2013: Fresno Truck Wash, Fifth Wheel, ADM/Stratas, Inland Star, Moga, Western State Glass.

The requirement to publish a list of significant non-compliant users was triggered in each of these years, yet Malaga did not publish reports in these years as required by 40 CFR 403.8 (f)(2)(viii).

f. Failure to develop an enforcement response plan as required by 40 CFR 403.8(f)(5).

40 CFR 403.8(f)(5) states:

The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:(i) Describe how the POTW will investigate instances of noncompliance;(ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;(iii) Identify (by title) the official(s) responsible for each type of response;(iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8 (f)(1) and (f)(2). [Emphasis Added].

The 2004 Ordinance adopted by Malaga is silent regarding an enforcement response plan (ERP). The 2014 PCA Report noted that Malaga did not have an enforcement response plan in the 2004 Ordinance. Furthermore, the audit noted the deficiency in Malaga's draft 2013 Ordinance. Specifically, the 2014 PCA Report noted that:

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. During initial conversations with the District, the District representative was unsure if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District's Contract Engineer who stated that the District's ERP was a component in the District's 2013 draft sewer use ordinance. A cursory review of the District's 2013 draft sewer use ordinance determined that the ERP was located in section 3.08.010. This section states that the District shall develop and implement an ERP which should include a description of how the District will investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District's primary responsibility to enforce all applicable pretreatment requirements and standards. However, section 3.08.010 of the District's 2013 draft sewer use ordinance does not specifically identify how the District will investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District is required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5). PCA Report, Pg. 30. [Emphasis added].

Despite the audit, on 25 February 2014, Malaga adopted the 2014 Ordinance which does not contain an enforcement response plan. Specifically, the 2014 Ordinance states:

3.08.010 ENFORCEMENT RESPONSE PLAN.

In addition to all other enforcement procedures provided in this District Code, the District shall develop and implement an enforcement response plan (ERP). The ERP shall contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. The ERP may be adopted and amended by resolution of the Board of Directors and shall contain, at a minimum, the following:

1. A description of how the District will investigate instances of noncompliance;
2. Describe the types of escalating enforcement responses the District will take in response to all anticipated types of Industrial User violations and the time periods within which response will take place;
3. Identify (by title) the official(s) responsible for each type of response; and
4. Adequately reflect the District's primary responsibility to enforce all applicable Pretreatment Requirements and Standards as detailed in 40 CFR 403.8(f)(1) and (f)(2).

The ERP, as adopted and amended by Resolution of the Board of Directors, shall be incorporated by this reference into this District Code. [emphasis added].

By Malaga's letter of 2 April 2014 to the Central Valley Water Board, Malaga asserted:

As part of the process of adopting a new SUO, the District developed an ERP which was approved by resolution of the Board of Directors immediately following adoption of the new SUO. (A copy of the ERP is attached hereto as Exhibit I, and incorporated by this reference).

There are two incorrect statements made in Malaga's above statement. First, at the time the letter was sent, Malaga had not adopted an ERP. Second, no ERP was attached to the letter, as stated.

By Malaga's letter of 1 May 2014 to the Central Valley Water Board, Malaga provided an enforcement response plan to Central Valley Water Board staff.

Malaga violated the requirement of 40 CFR 403.8(f)(5) from 2008 thru 30 April 2014. Moreover, Malaga's 1 April 2014 letter misled the Central Valley Water Board staff and falsely stated that it had complied with this requirement.

g. Failure to evaluate whether a Slug control plan is needed as required by 40 CFR 403.8(f)(2)(vi).

40 CFR 403.8(f)(2)(vi) requires Malaga to:

(vi) Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User.

Per the 2010 PCI Report and 2014 PCA Report, Malaga has not done this evaluation. In October 2013, Malaga sent an evaluation to its SIUs regarding slug discharges; however, this evaluation was dependent on the SIUs volunteering of information. In addition, it was not performed within one year of Malaga designating the user as an SIU, and thus not in compliance with 40 CFR 403.8(f)(2)(vi).

Malaga violated the requirement of 40 CFR 403.8(f)(2)(vi) from 2008 to present.

2. Violation of Monitoring and Reporting Requirements

Malaga is required to comply with the Monitoring and Reporting requirements established in R5-2008-0033 - MRP (X)(D)(4). Central Valley Regional Water Board staff has determined that Malaga has violated these requirements by:

a. Failure to file adequate Annual Pretreatment Reports in violation of MRP (X)(D)(4) for the years 2008-2013.

R5-2008-0033 - MRP (X)(D)(4) [Pg. E-17] states:

The Discharger shall submit annually a report describing the Discharger's pretreatment activities over the previous 12 months. In the event that the Discharger is not in compliance with any conditions or requirements of this Order, including noncompliance with pretreatment audit/compliance inspection requirements, then the Discharger shall also include the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements. [Emphasis added].

R5-2008-0033 - MRP (X)(D)(4) specifies the following annual reporting requirements for Malaga's Pretreatment Program (Pg. E-17 thru E-20). Specifically:

Annual Pretreatment Reporting Requirements. The Discharger shall submit annually a report to the Regional Water Board, with copies to US EPA Region 9 and the State Water Board, describing the Discharger's pretreatment activities over the previous 12 months. In the event that the Discharger is not in compliance with any conditions or requirements of this Order, including noncompliance with pretreatment audit/compliance inspection requirements, then the Discharger shall also include the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements.

An annual report shall be submitted by **28 February** and include at least the following items:

- a. A summary of analytical results from representative, flow proportioned, 24-hour composite sampling of the POTW's influent and effluent for those pollutants EPA has identified under Section 307(a) of the CWA which are known or suspected to be discharged by industrial users.

Sludge shall be sampled during the same 24-hour period and analyzed for the same pollutants as the influent and effluent sampling and analysis. The sludge analyzed shall be a composite sample of a minimum of 12 discrete samples taken at equal time intervals over the 24-hour period. Wastewater and sludge sampling and analysis shall be performed at least annually. The discharger shall also provide any influent, effluent or sludge monitoring data for non-priority pollutants which may be causing or contributing to Interference, Pass-Through or adversely impacting sludge quality. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto.

- b. A discussion of Upset, Interference, or Pass-Through incidents, if any, at the treatment plant, which the Discharger knows or suspects were caused by industrial users of the POTW. The discussion shall include the reasons why the incidents occurred, the corrective actions taken and, if known, the name and address of, the industrial user(s) responsible. The discussion shall also include a review of the applicable pollutant limitations to determine whether any additional limitations, or changes to existing requirements, may be necessary to prevent Pass-Through, Interference, or noncompliance with sludge disposal requirements.
- c. The cumulative number of industrial users that the Discharger has notified regarding Baseline Monitoring Reports and the cumulative number of industrial user responses.
- d. An updated list of the Discharger's industrial users including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The Discharger shall provide a brief explanation for each deletion. The list shall identify the industrial users subject to federal categorical standards by specifying which set(s) of standards are applicable. The list shall indicate which categorical industries, or specific pollutants from each industry, are subject to local limitations that are more stringent than the federal categorical standards. The Discharger shall also list the non-categorical industrial users that are subject only to local discharge limitations. The Discharger shall characterize the compliance status through the year of record of each industrial user by employing the following descriptions:
 - i. complied with baseline monitoring report requirements (where applicable);
 - ii. consistently achieved compliance;

- iii. inconsistently achieved compliance;
- iv. significantly violated applicable pretreatment requirements as defined by 40 CFR 403.8(f)(2)(vii);
- v. complied with schedule to achieve compliance (include the date final compliance is required);
- vi. did not achieve compliance and not on a compliance schedule; and
- vii. compliance status unknown.

A report describing the compliance status of each industrial user characterized by the descriptions in items iii. through vii. above shall be submitted for each calendar quarter **within 21 days of the end of the quarter**. The report shall identify the specific compliance status of each such industrial user and shall also identify the compliance status of the POTW with regards to audit/pretreatment compliance inspection requirements. If none of the aforementioned conditions exist, at a minimum, a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter must be submitted. The information required in the fourth quarter report shall be included as part of the annual report. This quarterly reporting requirement shall commence upon issuance of this Order.

- e. A summary of the inspection and sampling activities conducted by the Discharger during the past year to gather information and data regarding the industrial users. The summary shall include:
 - i. the names and addresses of the industrial users subjected to surveillance and an explanation of whether they were inspected, sampled, or both and the frequency of these activities at each user; and
 - ii. the conclusions or results from the inspection or sampling of each industrial user.
- f. A summary of the compliance and enforcement activities during the past year. The summary shall include the names and addresses of the industrial users affected by the following actions:
 - i. Warning letters or notices of violation regarding the industrial users' apparent noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the apparent violation concerned the federal categorical standards or local discharge limitations.
 - ii. Administrative orders regarding the industrial users noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - iii. Civil actions regarding the industrial users' noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - iv. Criminal actions regarding the industrial users noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - v. Assessment of monetary penalties. For each industrial user identify the amount of the penalties.
 - vi. Restriction of flow to the POTW.
 - vii. Disconnection from discharge to the POTW.
- g. A description of any significant changes in operating the pretreatment program which differ from the information in the Discharger's approved Pretreatment Program including, but not limited to, changes concerning: the program's administrative structure, local

industrial discharge limitations, monitoring program or monitoring frequencies, legal authority or enforcement policy, funding mechanisms, resource requirements, or staffing levels.

- h. A summary of the annual pretreatment budget, including the cost of pretreatment program functions and equipment purchases.

Malaga has consistently submitted deficient reports every year. The following are a few examples of Malaga's failure to satisfy the above requirement:

- Requirements 1.d. i-vii, and h. were not included in the 2008 - 2013 Annual Pretreatment Reports;
- Requirements 1. e. i.-ii were not included in the 2008-2012 Annual Pretreatment Reports, and the information included in the 2013 Annual Pretreatment Report to satisfy the same requirement was incomplete.
- Requirement 1.e.ii: the 2008 Annual Pretreatment Report did not contain any sampling data conducted by either Malaga or the IUs.

The list of all reporting deficiencies from 2008 to 2013 is quite extensive. The Central Valley Water Board has not requested that Malaga submit revised reports, because Malaga does not possess the missing information per the 2010 PCI and the 2014 PCA Reports.

Malaga's pretreatment program was inspected in 2010 and numerous instances of noncompliance were identified. Malaga was informed of the deficiencies during the 2010 PCI and received the checklist identifying the deficiencies during the exit interview on that same date. Per R5-2008-0033 - MRP (X)(D)(4), Malaga is required to include "the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements." Malaga did not provide that information in its 2011 Annual Pretreatment Report. Similar deficiencies were noted in the 2014 PCA Report. Again, per R5-2008-0033 - MRP (X)(D)(4), Malaga was required to include in its next report, due 28 February 2014, why it was not in compliance and the plan for achieving compliance. Malaga did not do so.

Lastly, Malaga has never certified its Annual Pretreatment Reports with the required certification statement per the Federal Standard Provisions, Attachment D, Section V.B of Malaga's NPDES permit. Malaga violated R5-2008-0033 – Attachment D-Standard Provisions, Section V.B.1-4. from 2008 to 2013 by submitting incomplete Annual Pretreatment Reports to the Central Valley Water Board without certification.

Malaga has violated the requirements of R5-2008-0033 - MRP (X)(D)(4) from 2008 to present.

- b. Failure to file adequate quarterly pretreatment reports in violation of MRP

(X)(D)(4)(d) for the quarters Q1-Q3 2008, Q1-Q3 2009,. Q1-Q3 2010, Q1-Q3 2011, Q1-Q3 2012, Q1-Q3 2013, and Q1-Q2 2014.

R5-2008-0033, MRP (X)(D)(4)(d) [p. E-18-19]: provides:

A report describing the compliance status of each industrial user characterized by the descriptions in items iii. through vii. above shall be submitted for each calendar quarter **within 21 days of the end of the quarter**. The report shall identify the specific compliance status of each such industrial user and shall also identify the compliance status of the POTW with regards to audit/pretreatment compliance inspection requirements. If none of the aforementioned conditions exist, at a minimum, a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter must be submitted. The information required in the fourth quarter report shall be included as part of the annual report. This quarterly reporting requirement shall commence upon issuance of this Order. Pg. E-18-19. [Emphasis added].

The Quarterly Pretreatment Reports submitted were all inadequate and Q1-Q2 2008, Q1-Q3- 2009, Q1-Q3 2010, Q1 and Q3 2011, Q2 2013, and Q1 -Q2 2014 reports were late (some up to 4 years past due).

With the exception of Fresno Truck Wash, Malaga's Quarterly Pretreatment Reports state that no IUs were in significant non-compliance. This is not true according to the data submitted by Malaga's IUs and by Malaga in its Annual and Quarterly Pretreatment Reports to the Central Valley Water Board. For example in 2012 and 2013, the data shows Malaga had IUs in significant non-compliance in all four quarters of 2012 and the first quarter of 2013. The IUs that were in significant non-compliance and not mentioned in the Quarterly Pretreatment Reports include Kinder Morgan, PPG, Western State Glass, Moga, GreenTec, and Inland Star. In addition, Malaga did not start reporting significant non-compliance for Fresno Truck Wash until the first quarter 2011. However, according to Administrative Complaint 2010-01 issued by Malaga to Fresno Truck Wash in 2010, Fresno Truck Wash had been in significant non-compliance since early 2009. Yet, Malaga did not start reporting Fresno Truck Wash in its Quarterly Pretreatment Reports until the first quarter 2011. The 2009 and 2010 Quarterly Pretreatment Reports erroneously state that all IUs were in compliance.

In addition, first and second quarter 2014 Quarterly Pretreatment Reports, which were due on April 21 and July 21, 2014, have not been submitted to the Central Valley Water Board, nor has a letter for either quarter been submitted by Malaga stating that a quarterly report was not needed. Malaga received notice of inadequate pretreatment reports in February 2010, April and July 2012, September 2013, January, February, and July 2014. Yet, to date, Malaga has not submitted its first and second Quarterly Pretreatment Reports for 2014.

Additionally, Malaga has never certified its Quarterly Pretreatment Reports with the required certification statement per the Federal Standard Provisions, Attachment D, Section V.B of Malaga's NPDES permit.

Malaga violated No R5-2008-0033, MRP (X)(D)(4)(d) from 2008 to 2013 by submitting incomplete reports to the Central Valley Water Board without certification.

3. Violation of Cease and Desist Order R5-2008-0032

CDO R5-2008-0032 Ordered item 3.a. required Malaga, by 13 June 2008, to:

Submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. Study results shall include evaluations of, but not limited to, short-term measures necessary to comply with Order No. R5-2008-0033, implementation of appropriate ongoing operations and maintenance, and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The time schedule for short-term measures shall not exceed **14 March 2011**. The technical report shall include actions to generate appropriate population and WWTF flow projections and their rationale.

On 24 July 2008, Malaga submitted a work plan for completing the disposal capacity evaluation. On 24 September 2009, Central Valley Water Board staff informed Malaga that the work plan was inadequate and requested a revised work plan by 27 October 2009.

In April 2011, Central Valley Water Board staff called Malaga's Consulting Engineer and informed him that the report was past due. On 29 April 2011, Malaga submitted a report, which included short-term measures, but not long-term measures or a revised work plan. In addition, the cover letter for this report incorrectly stated that Malaga had not received a response to the work plan submitted on 24 July 2008.

On 12 April 2012, Central Valley Water Board staff issued an NOV identifying the report as delinquent.

On 19 August 2013, Central Valley Water Board staff sent Malaga a letter again requesting, in part, technical information regarding disposal capacity with an administrative date of 3 October 2013.

On 10 October 2013, Central Valley Water Board staff called Malaga's Board President requesting an update on the response that was due by 3 October 2013. The President indicated that Malaga was in possession of a memorandum from its consulting engineer that addressed four of the five items requested by Central Valley Water Board staff in the 19 August 2013 letter. The President offered to send Water Board staff the memorandum while the Discharger worked on its response.

On 10 October 2013, Central Valley Water Board staff received the memorandum, which was essentially a memorandum from Malaga's consulting engineer to Malaga requesting additional information to prepare a response to

Central Valley Water Board's letter.

On 21 October 2013, Central Valley Water Board staff sent Malaga's General Manager an email to again inquire on the status of Malaga's response. On 22 and 24 October 2013 Malaga's General Manager e-mailed Central Valley Water Board staff stating Malaga would send a response soon.

On 29 October 2013, Malaga finally submitted a response, 26 days past the administrative deadline and incomplete. Of the five items listed in the Central Valley Water Board 19 August 2013 letter, Malaga only fully addressed one. The other items only included vague information, whereas the Central Valley Water Board letter requested information on specific actions Malaga had completed. The response did not contain the needed technical information regarding disposal capacity.

Malaga violated CDO R5-2008-0032 from 24 September 2009, the date of Central Valley Water Board's letter informing Malaga that it had not submitted a complete report, to present. The unavailability of this information has hindered Central Valley Water Board staff in assessing current disposal capacity for the renewal of Malaga's NPDES permit.

Conclusion

The Central Valley Water Board plans to pursue formal enforcement regarding the above violations. Central Valley Water Board staff invites a response by **2 September 2014** if Malaga would like to discuss resolution of these matters. For questions regarding this NOV, contact Jill Walsh at (559) 445-5130 or jill.walsh@Waterboards.ca.gov.



Clay Rodgers
Assistant Executive Officer

cc: Amelia Whitson, USEPA Region IX, WTR-7, San Francisco
Ken Greenberg, USEPA Region IX, WTR-7, San Francisco
Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno
James M. Ralph, Staff Counsel, Office of Enforcement, SWRCB
Naomi Kaplowitz, Staff Counsel, Office of Enforcement, SWRCB

TAB 8L

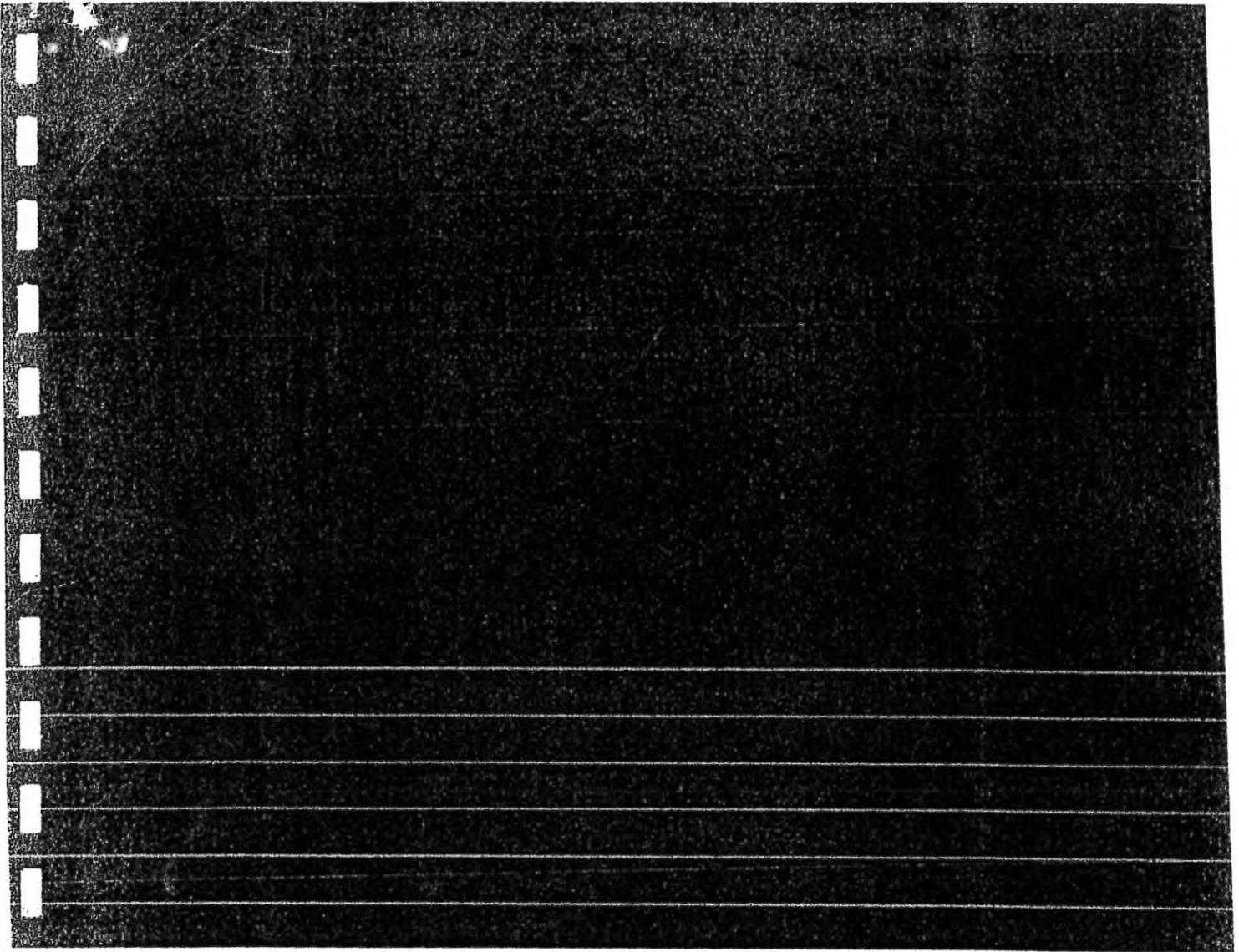
Excerpt from 2008 CDO, p. 3

8. The SMRs indicate a trend of increasing influent flow in 2007 that also exceeds the base flow used in the water balance of Finding 3. The average monthly influent flow rate for the first eight months of 2007 was 0.87 mgd, and in September it was 1.02 mgd.
9. Findings 6 through 8 indicate that influent flow to the WWTF is greater than what can be discharged to the Central Canal (0.45 mgd) and to the ponds consistent with the terms of the Order (0.42 mgd). Though this could be corrected over time based on the increased discharge to Central Canal, the increase will not likely accommodate greater influent flows as experienced in 2007. The Discharger's current total disposal capacity is about 0.87 mgd, which is less than the 1.2 mgd total specified in the effluent limitation and less than current total flow. This circumstance places the Discharger in violation or threatened violation of Provision VI.C.4.a.ii (lack of adequate pond capacity), Provision VI.C.4.a.iii (available seasonal storage capacity), and Provision VI.C.4.a.iv (a minimum of two feet of operating freeboard), and/or threatened violation of Effluent Limitation IV.A.1.a (0.45 mgd to Central Canal).
10. The situation in Finding 9 continues the failure to maintain adequate operating freeboard in ponds and the risk of overtopping or a breach of levees. The WWTF ponds are adjacent to the Central Canal, several businesses, and the main railroad line for the Santa Fe Railroad and Amtrak. Overflow of discharge of undisinfected secondary treated wastewater from the ponds to the Central Canal would adversely affect its beneficial use for unrestricted agricultural supply. Overflow to area businesses (as occurred in 2000) or to the railroad right-of-way would cause or threaten to create a nuisance condition. The Discharger is in threatened violation of Prohibitions III.A.(unauthorized discharge location), III.B. (bypass of treatment or overflow), and III.C. (nuisance).
11. Though most wastewater treatment facilities typically have some over-design and component redundancy, these are generally to provide a safety factor for emergencies and contingencies. In the case of Malaga, significant treatment components have been out of service for extended periods. Secondary clarifier No. 1 has been out of service for approximately one year. Secondary clarifier No. 3 has been out of service for approximately 20 years. The combination dissolved air floatation unit/primary clarifier has been out of service for three years. The current actual treatment capacity of the WWTF as reported by the Discharger's engineer is 0.863 mgd in the current configuration. In September, the average influent flow rate reported was 1.02 mgd, 85% of the WWTF design capacity and over the current actual capacity. In addition, the WWTF currently lacks buffer capacity for contingencies.
12. Finding No. 11 indicates that the Discharger is in violation or threatened violation of Standard Provision I.D (proper maintenance and operation).
13. Staff inspection of 31 October 2007 confirmed that flow metering included measurement of recirculated flow from the grit washer and thus is not representative of actual influent flow. This effects the water balance assumptions as well as influent flow records. Non-representative flow metering violates or threatens to violate Standard Provision III.A and Monitoring and Reporting Program, General Monitoring Provision I.A.

TAB 9
(Steps 6-9)

TAB 9A

2010 Water, Sewer, & Solid Waster
Rate Study, pp. 2-3



Malaga County Water District

Water, Sewer, & Solid Waster Rate Study Final Report

February 2010



- Recommended adjustments to water charges include:
 - A ten percent rate increase should be implemented on April 1, 2010, with an additional ten percent rate increase to take effect July 1, 2011. Beginning July 1, 2012, annual three percent rate increases may be needed to keep rates from falling behind inflationary cost increases. These future rate increases are only projections and may be lower or higher based on future District revenues and expenses.
 - The residential capacity fee should be raised to \$5,430 per residential unit based on current system value, expansion-related capital project costs, and capacities. The capacity fees for larger metered customers should be proportioned to this charge based on AWWA standards.
 - Fire-line service and capacity fees should be set at 20 percent of the normal water service and capacity fees for each meter size. Buildings in excess of a square footage allowance for each meter size should pay an additional surcharge per 1,000 square feet over the allowance.

Wastewater Enterprise

- The District's sewer enterprise serves about 502 sewer accounts representing about 2,337 equivalent sewer service units. Residential customers account for 8% (eight percent) of these 2,337 service units.
- The District's sewer enterprise has posted overall deficits of \$140,000 and \$60,000 in FYs 2007/08 and 2008/09 respectively due to debt service and capital outlays. BWA projects the sewer enterprise will require significant rate adjustments to meet budgetary requirements going forward.
- Recommended adjustments to sewer charges include:
 - Sewer rates need to be raised in order for current and future revenue requirements to be met. The District will be unable to shoulder the cost of necessary improvements on a pay-as-you-go basis. Should the District choose to issue debt to cover these facilities, detailed cash flow projections indicate a fifteen percent rate increase should be implemented effective April 2010, followed by additional fifteen, ten, and ten percent rate increases at the beginning of FYs 2011/12, 2012/13, 2013/14, and 2014/15, respectively. Foregoing the disposal facilities entirely necessitates fifteen percent rate increases in April 2010 and July 2011. In both cases, these increases would need to be followed in future years by inflationary increases of about three percent annually.
 - Sewer service unit assignments should be reviewed periodically to ensure the assignment accurately reflects wastewater discharge.



-
- The sewer capacity fee was recalculated based on the cost of buy-in to the current system for an equivalent residential service unit. A capacity fee of \$2,179 per service unit is recommended.

Solid Waste Enterprise

- The District's solid waste enterprise serves about 173 service units. The sole costs are contract payments and dumping fees.
- Annual solid waste rate increases of approximately one percent will be adequate to meet future operating needs.

TAB 9B

Visalia, Atwater, Selma-Kingsburg-
Fowler, Fresno-Clovis, and Merced
Annual Pretreatment Reports

(40 pages total)



PRETREATMENT PROGRAM



ANNUAL REPORT

AND

4TH QUARTER REPORT

2014

PART 4
UPDATED LIST OF INDUSTRIAL USERS

Table 4-1 is a list of Significant Industrial User compliance status for 2014, by quarter.

Table 4-2 is a tabulation by quarter of the number of Significant Industrial Users in each compliance status category.

Table 4-3 states the reasons why each Significant Industrial User is classified as such. The table also indicates any applicable Federal Categorical Pretreatment standards for each Significant Industrial User.

Table 4-4 lists categorically regulated industries with pollutants subject to local limits more stringent than categorical standards. The specific pollutants of concern are identified.

Table 4-5 indicates the range of average daily flow discharge rates for processing operations for each Significant Industrial User.

Table 4-6 is a count of permitted commercial Industrial Users segregated by business activity subcategories.

TABLE 4 - 5

**SIGNIFICANT INDUSTRIAL USER
AVERAGE DAILY DISCHARGE RATES**

<u>CODE</u>	<u>BUSINESS NAME</u>	<u>AVERAGE DAILY DISCHARGE RANGE FOR PROCESSING OPERATIONS</u>
F-2	ADVANCED FOOD PRODUCTS	D
F-2	ATC PLASTICS	A
F-2	CALIFORNIA DAIRIES	F
F-2	JM EAGLE	B
F-2	JOSTEN'S PRINTING AND PUBLISHING	A
F-1	KAWNEER	A
F-2	MILK SPECIALTIES GLOBAL	F
F-2	MISSION UNIFORM AND LINEN SERVICE	D
F-1	UNIVAR USA	A
F-1	VISALIA CUSTOM CHROME	A
F-1	VOLTAGE MULTIPLIERS	C

AVERAGE DAILY DISCHARGE RATE RANGES

<u>RANGE</u>	<u>DAILY FLOW IN GAL./DAY</u>	<u>RANGE</u>	<u>DAILY FLOW IN GAL./DAY</u>
A	LESS THAN 10,000	D	50,001 TO 100,000
B	10,001 TO 25,000	E	100,001 TO 250,000
C	25,001 TO 50,000	F	GREATER THAN 250,000

PART 8

PRETREATMENT PROGRAM

BUDGET SUMMARY



**2014 PRETREATMENT PROGRAM
ANNUAL REPORT
AND
4TH QUARTER REPORT**

PART 8

PRETREATMENT PROGRAM ANNUAL BUDGET SUMMARY

The operating budget for the Quality Assurance Division is developed on a fiscal year basis. As such, the amounts listed below are closely representative of what was budgeted for Pretreatment Program costs. The 2014-2015 Pretreatment Program budget represents a 9.3 % increase as compared to the 2013-2014 Pretreatment Program budget. The Pretreatment Program is funded by the sanitation fund, which is an enterprise fund, supported by rates and fees.

<u>ITEM</u>	<u>2014-15 BUDGETED AMOUNT</u>
Salaries Plus Benefits	269,300
EXPENSES	
Memberships	600
Conferences & Meetings	2,500
Training	100
Uniforms	900
Employee Certification	600
Office Supplies	4,000
Postage	1,000
Subscriptions	2,900
Equipment Supplies	10,000
Lab Chemicals	4,000
Special Dept. Supplies	2,000
Professional Services	250,000
Advertising	1,000
Telephone and Fax	2,300
VEHICLE EXPENSES	
Vehicle Operating Expenses	<u>3,500</u>
TOTAL PRETREATMENT COSTS	\$554,700

PERMIT INSPECTION STATUS –Significant Industrial Users
“SIU”

<u>NAME</u>	<u>NO.</u>	<u>EXP.</u>	<u>INSP.</u>	<u>CONTACT</u>
Bee Sweet Citrus, Inc. (South Ave) 416 E. South Fowler, CA 93625	436-2011	Mar-2012	Mar-2011	James Sherwood Martin Guzman 834-5345 MG Cell 240-5194
Boghosian Raisin Packing Co., Inc. P.O. Box 338 726 So. Eighth Fowler, CA 93625	444-2011	Sept-2012	Sep-2011	Tom Cassell Philip Boghosian 834-5348
Del Monte Foods P.O. Box 7 1101 Marion St. Kingsburg, CA 93631	437-2011	Jul-2012	Jul-2011	Brian Okland 897-2901 - x213 Norma Talamantes 891-4267
Guardian Industries Corp. 11535 Mountain View Kingsburg, CA 93631	438-2011	May-2012	May-2011	Phil Newell 896-6400 PN Cell 349-7227
KES Kingsburg, L.P. P.O. Box 217 11765 Mountain View Kingsburg, CA 93631	448-2011	Nov-2012	Nov-2011	Facility Mgr. Ryan Keefe (11/7/2011) 891-9040 Fax 891-1089
Lion Dehydrator P.O. Box 1350 9400 So. DeWolf Selma, CA 93662	443-2011	Sept-2012	Sept-2011	Alan Torosian 834-6677 Fax 834-3182 AT Cell 352-0373
Lion Raisins P.O. Box 1350 9500 So. DeWolf Selma, CA 93662	442-2011	Sept-2012	Sept-2011	Al Lion 834-6677
National Raisin Company P.O. Box 219 626 So. Fifth Fowler, CA 93625	441-2011	Aug-2012	Aug-2011	Ken Bedrosian John Minnazoli 834-5981 Fax 834-1756 JM Cell 351-8664
Sun Maid Growers 13525 So. Bethel Ave. Kingsburg, CA 93631	446-2011	Oct-2012	Oct-2011	Vaughn Koligian (559) 896-8000

VII. PRETREATMENT PROGRAM CHANGES

There were no major changes in the implementation of the District's pretreatment program in 2011.

A Pretreatment Compliance Inspection (PCI) was conducted January 13, 2010. The District received a report of the 2010 PCI findings in December of 2011. The District responded to any required and recommended actions in January 2012.

The most recent Pretreatment Compliance Inspection (PCI) was conducted in December of 2011. The District has not yet received a written report of the PCI's findings. The District will respond in a timely manner upon receipt of that PCI report as well.

The District has been modifying permits as required when the permits are renewed and Evaluations for slug discharge control plans are documented. In addition, "Fact Sheets" with pertinent information about each industry have been included in Industrial Files. We are improving the documentation of communication with the industries as well.

Currently, the District is in an agreement with a consultant group to perform a Waste Water Treatment Plant Facilities Plan Update. The scope of the project includes a review of the existing Industrial Pretreatment Program and a recommendation for specific updates to the existing program. The contract completion date of the update review and recommendations is before December 2012. The District will provide updates on the status of any recommendations or planned changes to the Pretreatment Program in subsequent Quarterly Pretreatment Program reports.

VIII. ANNUAL PRETREATMENT BUDGET

The following page is a breakdown of projected expenditures for implementation of the pretreatment program, taken from the S-K-F CSD Fiscal Plan for Fiscal Year 2011-2012. The total pretreatment program cost allocation for F.Y. 2011-2012 is \$116,500.00, an increase from the pretreatment cost allocation for Fiscal Year 2010-2011 of \$115,500.00.

**SKF CSD Pretreatment Program Cost Allocation
F. Y. 2011-2012**

SELMINGHAM-KINGSBURG-FOWLER COUNTY SANITATION DISTRICT

PRETREATMENT PROGRAM COST ALLOCATION (FY 2011-12)

<u>ACCT.</u>	<u>DESCRIPTION</u>		<u>DIV-01</u>	<u>DIV-02</u>	<u>TOTAL</u>
6000	SALARY - NONREP	\$	1,500	\$ 10,700	\$ 12,200
6100	SALARY - BARG UNIT		5,100	38,000	43,100
6400	FICA / MEDICARE		-	150	150
6500	RETIREMENT		600	800	1,400
6600	HEALTH-DENT-LIFE		1,700	10,600	12,300
6700	WORKERS COMP INSURANCE		400	3,300	3,700
7000	UNIFORMS		700	-	700
7010	SAFETY SUPPLIES		300	150	450
7100	GENERAL INSURANCE		7,500	-	7,500
7300	OFFICE SUPPLIES		-	1,600	1,600
7310	OFFICE EQUIPMENT		4,000	500	4,500
7320	INFORMATION SYSTEMS		-	3,000	3,000
7370	BOOKS & PUBLICATIONS		1,000	-	1,000
7380	COMMUNICATIONS		1,400	-	1,400
7400	TRAVEL & TRAINING		1,500	-	1,500
7500	LAB SUPPLIES		1,500	-	1,500
7510	EXTERNAL LAB SERVICES		16,300	-	16,300
7610	MAINTENANCE - AUTO		1,500	-	1,500
7670	FUEL - GASOLINE		2,200	-	2,200
7810	PROF SRVCS - ENGR		500	-	500
	TOTAL		47,700	68,800	116,500

NOTE: This page is a breakdown of projected expenditures for the implementation of the federally-mandated industrial pretreatment program. These expenditure amounts are accounted for in budgeted amounts on other pages in this budget.

PERMIT AND INSPECTION STATUS – SIU's (8)

<u>NAME</u>	<u>NO.</u>	<u>EXPIR.</u>	<u>INSPECTED</u>	<u>CONTACT</u>
Bee Sweet Citrus, Inc. (South Ave) 416 E. South Fowler, CA 93625	436-2012	Mar-2013	Mar-2012	James Sherwood Martin Guzman 834-5345
Boghosian Raisin Packing Co., Inc. P.O. Box 338 726 So. Eighth Fowler, CA 93625	444-2012	Sept-2013	Sept-2012	Tom Cassel Philip Boghosian 834-5348
*Del Monte Foods P.O. Box 7 1101 Marion St. Kingsburg, CA 93631	437-2012	Jul-2013	Jul-2012	Steve Heredia 897-2901 - x213 Norma Talamantes 891-4267
Guardian Industries Corp. 11535 Mountain View Kingsburg, CA 93631	438-2012	May-2013	May-2012	Phil Newell 896-6400
KES Kingsburg, L.P. P.O. Box 217 11765 Mountain View Kingsburg, CA 93631	448-2012	Nov-2013	Nov-2012	Ryan Keefe, Facility Mgr. 891-9040 Fax 891-1089
Lion Dehydrator P.O. Box 1350 9400 So. DeWolf Selma, CA 93662	443-2012	Sept-2013	Sept-2012	Alan Torosian 834-6677 Fax 834-3182
Lion Raisins P.O. Box 1350 9500 So. DeWolf Selma, CA 93662	442-2012	Sept-2013	Sept-2012	Al Lion 834-6677
National Raisin Company P.O. Box 219 626 So. Fifth Fowler, CA 93625	441-2012	Aug-2013	Aug-2012	Ken Bedrosian John Minnazoli 834-5981 Fax 834-1756
Sun Maid Growers 13525 So. Bethel Ave. Kingsburg, CA 93631	446-2012	Oct-2013	Oct-2012	Vaughn Koligian 896-8000

Del Monte Foods has ceased operations in the District as of September/October 2012.

VII. PRETREATMENT PROGRAM CHANGES

There were no major changes in the implementation of the District's pretreatment program in 2012.

A Pretreatment Compliance Inspection (PCI) was conducted January 13, 2010. The District received a report of the 2010 PCI findings in December of 2011. The District responded to any required and recommended actions in January 2012.

The most recent Pretreatment Compliance Inspection (PCI) was conducted in December of 2011. The District responded in a timely manner upon receipt of that PCI report as well.

The District has been modifying permits as required when the permits are renewed and Evaluations for slug discharge control plans are documented. In addition, "Fact Sheets" with pertinent information about each industry have been included in Industrial Files. We are improving the documentation of communication with the industries as well.

Currently, the District is in an agreement with a consultant group to perform a Waste Water Treatment Plant Facilities Plan Update. The scope of the project includes a review of the existing Industrial Pretreatment Program and a recommendation for specific updates to the existing program. The anticipated contract completion date of the update review and any changes will be before December 2013. The District will provide updates on the status of any recommendations or planned changes to the Pretreatment Program in subsequent Quarterly Pretreatment Program reports.

VIII. ANNUAL PRETREATMENT BUDGET

The following page is a breakdown of projected expenditures for implementation of the pretreatment program, taken from the S-K-F CSD Fiscal Plan for Fiscal Year 2012-2013. The total pretreatment program cost allocation for F.Y. 2012-2013 is \$118,000.00, an increase from the pretreatment cost allocation for Fiscal Year 2011-2012 of \$116,500.00.

**SKF CSD Pretreatment Program Cost Allocation
F. Y. 2012-2013**

SELMA-KINGSBURG-FOWLER COUNTY SANITATION DISTRICT
PRETREATMENT PROGRAM COST ALLOCATION (FY 2012-13)

<u>ACCT.</u>	<u>DESCRIPTION</u>		<u>DIV-01</u>	<u>DIV-02</u>	<u>TOTAL</u>
6000	SALARY - NONREP	\$	2,000	\$ 11,000	\$ 13,000
6100	SALARY - BARG UNIT		5,100	38,000	43,100
6400	FICA / MEDICARE		-	200	200
6500	RETIREMENT		600	800	1,400
6600	HEALTH-DENT-LIFE		1,700	10,600	12,300
6700	WORKERS COMP INSURANCE		400	3,300	3,700
7000	UNIFORMS		700	-	700
7010	SAFETY SUPPLIES		400	200	600
7100	GENERAL INSURANCE		8,000	-	8,000
7300	OFFICE SUPPLIES		-	1,600	1,600
7310	OFFICE EQUIPMENT		4,000	500	4,500
7320	INFORMATION SYSTEMS		-	3,000	3,000
7370	BOOKS & PUBLICATIONS		1,000	-	1,000
7380	COMMUNICATIONS		1,400	-	1,400
7400	TRAVEL & TRAINING		1,500	-	1,500
7500	LAB SUPPLIES		1,500	-	1,500
7510	EXTERNAL LAB SERVICES		16,300	-	16,300
7610	MAINTENANCE - AUTO		1,500	-	1,500
7670	FUEL - GASOLINE		2,200	-	2,200
7810	PROF SRVCS - ENGR		500	-	500
			48,800	69,200	118,000
	TOTAL		48,800	69,200	118,000

NOTE: This page is a breakdown of projected expenditures for the implementation of the federally-mandated industrial pretreatment program. These expenditure amounts are accounted for in budgeted amounts on other pages in this budget.

PERMIT AND INSPECTION STATUS – SIU's (8) updated 3/2015

<u>NAME</u>	<u>NO.</u>	<u>EXPIR.</u>	<u>INSPECTED</u>	<u>CONTACT</u>
Bee Sweet Citrus, Inc. (South Ave) 416 E. South Fowler, CA 93625	436-2014	Mar-2015	Mar-2014	James Sherwood Martin Guzman 834-5345
Boghosian Raisin Packing Co., Inc. P.O. Box 338 726 So. Eighth Fowler, CA 93625	444-2014	Sept-2015	Sept-2014	Tom Cassel Philip Boghosian 834-5348
Guardian Industries Corp. 11535 Mountain View Kingsburg, CA 93631	438-2014	May-2015	May-2014	Beserat Solomon 896-6400
KES Kingsburg, L.P. P.O. Box 217 11765 Mountain View Kingsburg, CA 93631	448-2014	Nov-2015	Nov-2014	Ryan Keefe, Facility Mgr. 891-9040 Fax 891-1089
Lion Dehydrator P.O. Box 1350 9400 So. DeWolf Selma, CA 93662	443-2014	Sept-2015	Sept-2014	Alan Torosian 834-6677 Fax 834-3182 Al Lion
Lion Raisins P.O. Box 1350 9500 So. DeWolf Selma, CA 93662	442-2014	Sept-2015	Sept-2014	Al Lion 834-6677
National Raisin Company P.O. Box 219 626 So. Fifth Fowler, CA 93625	441-2014	Aug-2015	Aug-2014	John Minnazoli 834-5981 Fax 834-1756
Sun Maid Growers 13525 So. Bethel Ave. Kingsburg, CA 93631	446-2014	Dec-2015	Dec-2014	Jason Sherrel 896-8000

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MAILING ADDRESS: P.O. Box 158, Kingsburg, CA 93631-0158 SHIP TO: 11301 E. Conejo Ave., Kingsburg, CA 93631-9511
PHONE (559) 897-6500 FAX (559) 897-1985
website: www.skfcsd.org

VII. PRETREATMENT PROGRAM CHANGES

There were no major changes in the implementation of the District's pretreatment program in 2014.

A Pretreatment Compliance Inspection (PCI) was conducted January 13, 2010. The District received a report of the 2010 PCI findings in December of 2011. The most recent Pretreatment Compliance Inspection (PCI) was conducted on December 14-15 of 2011, and the report was received after August 30, 2012 (dated August 20, 2012). The District responded to any required and recommended actions.

The District has been modifying permits as necessary when the permits are renewed. Evaluations for slug discharge control plans are documented. Communication between the District and industries has improved.

As part of a Waste Water Treatment Plant Facilities Plan Update that is anticipated to be completed in 2015, the suggested improvements of the district's pretreatment program are still being reviewed. The scope of the project includes a review of the existing Industrial Pretreatment Program and a recommendation for specific updates to the existing program.

Currently, District legal counsel is working with the Engineering department supervisor and lab supervisor for the revisions to its legal authority, required in the most recent PCI summary report of 2011. Also being reviewed and updated currently is the sewer use ordinance (SUO) and enforcement guidelines, and industrial permits. The permits will have all the language required in the previous PCI Summary Report incorporated instead of the attached version currently being included with each permit.

The District will provide updates on the status of any recommendations or planned changes to the Pretreatment Program.

VIII. ANNUAL PRETREATMENT BUDGET

The following pages are breakdowns of projected expenditures for implementation of the pretreatment program, taken from the S-K-F CSD Fiscal Plans for Fiscal Years 2013-2014 and 2014-2015. There were increases to the program cost allocations for F.Y. 2013-2014 (\$186,000.00) and for F.Y. 2014-2015 (\$188,000).

SKF CSD Pretreatment Program Cost Allocation
F. Y. 2013-2014
F. Y. 2014-2015

SELMA-KINGSBURG-FOWLER COUNTY SANITATION DISTRICT
PRETREATMENT PROGRAM COST ALLOCATION (FY 2013-14)

<u>ACCT.</u>	<u>DESCRIPTION</u>		<u>DIV-01</u>	<u>DIV-02</u>	<u>TOTAL</u>
6000	SALARY - NONREP	\$	3,000	\$ 15,000	\$ 18,000
6100	SALARY - BARG UNIT		6,000	40,000	46,000
6400	FICA / MEDICARE		-	1,000	1,000
6500	RETIREMENT		1,000	1,000	2,000
6600	HEALTH-DENT-LIFE		2,000	15,000	17,000
6700	WORKERS COMP INSURANCE		1,000	5,000	6,000
7000	UNIFORMS		1,500	-	1,500
7010	SAFETY SUPPLIES		1,000	1,000	2,000
7100	GENERAL INSURANCE		15,000	-	15,000
7300	OFFICE SUPPLIES		-	3,000	3,000
7310	OFFICE EQUIPMENT		5,000	15,000	20,000
7320	INFORMATION SYSTEMS		-	5,000	5,000
7370	BOOKS & PUBLICATIONS		2,000	-	2,000
7380	COMMUNICATIONS		2,000	-	2,000
7400	TRAVEL & TRAINING		3,000	-	3,000
7500	LAB SUPPLIES		2,500	-	2,500
7510	EXTERNAL LAB SERVICES		20,000	-	20,000
7610	MAINTENANCE - AUTO		2,000	-	2,000
7670	FUEL - GASOLINE		3,000	-	3,000
7810	PROF SRVCS - ENGR		<u>15,000</u>	<u>-</u>	<u>15,000</u>
	TOTAL		85,000	101,000	186,000

NOTE: This page is a breakdown of projected expenditures for the implementation of the federally-mandated industrial pretreatment program. These expenditure amounts are accounted for in budgeted amounts on other pages in this budget.

SELMA-KINGSBURG-FOWLER COUNTY SANITATION DISTRICT

PRETREATMENT PROGRAM COST ALLOCATION (FY 2014-15)

<u>ACCT.</u>	<u>DESCRIPTION</u>		<u>DIV-01</u>	<u>DIV-02</u>	<u>TOTAL</u>
6000	SALARY - NONREP	\$	3,500	\$ 15,000	\$ 18,500
6100	SALARY - BARG UNIT		6,000	40,000	46,000
6400	FICA / MEDICARE		-	1,000	1,000
6500	RETIREMENT		1,500	1,500	3,000
6600	HEALTH-DENT-LIFE		2,000	15,000	17,000
6700	WORKERS COMP INSURANCE		1,000	5,000	6,000
7000	UNIFORMS		1,500	-	1,500
7010	SAFETY SUPPLIES		1,500	1,000	2,500
7100	GENERAL INSURANCE		15,000	-	15,000
7300	OFFICE SUPPLIES		-	3,000	3,000
7310	OFFICE EQUIPMENT		5,000	15,000	20,000
7320	INFORMATION SYSTEMS		-	5,000	5,000
7370	BOOKS & PUBLICATIONS		2,000	-	2,000
7380	COMMUNICATIONS		2,000	-	2,000
7400	TRAVEL & TRAINING		3,000	-	3,000
7500	LAB SUPPLIES		2,500	-	2,500
7510	EXTERNAL LAB SERVICES		20,000	-	20,000
7610	MAINTENANCE - AUTO		2,000	-	2,000
7670	FUEL - GASOLINE		3,000	-	3,000
7810	PROF SRVCS - ENGNR		<u>15,000</u>	<u>-</u>	<u>15,000</u>
	TOTAL		86,500	101,500	188,000

NOTE: This page is a breakdown of projected expenditures for the implementation of the federally-mandated industrial pretreatment program. These expenditure amounts are accounted for in budgeted amounts on other pages in this budget.

SUBJECT: 2012 Annual Industrial Pretreatment Program Reporting Requirements governed by Reporting Program Order No. R5-2011-0082. Attachment E-Monitoring and Reporting Program X.5.a-h:

- a. A summary of influent and effluent analytical results is entered
- b. No upset or bypass was attributed or suspected to be caused by industrial users.
- c. No industrial users were notified of baseline monitoring report requirements.
- d. One Industrial discharger is currently discharging to the Atwater WWTF.

Jim's Farms Meats
5881 N. Winton Way
Winton, CA 95388

Jim's Farm Meats is a Swine slaughterhouse. The Winton Water and Sanitary District (WWSD) have adopted the Atwater Pretreatment Program and are monitoring Jim's Farm Meats. WWSD supplied monitoring data from JFM to discharger which demonstrate that JFM consistently achieved compliance.

- e. WWSD samples JFM for daily flow, BOD, TSS pH, and Oil & Grease. Sample were collected in January, March May, June, July September, October, November, and December. A sample was analyzed in December for Atwater local limits. Results did not exceed limits.
- f. No compliance or enforcement activities took place in 2012.
- g. Tetrattech Inc. performed a pretreatment compliance audit in May of 2009. A Notice of Violation (NOV) was issued on August 6, 2009. The City of Atwater has amended the Sewer Use Ordinance (SUO) to comply with NOV. New inter agency agreements to reflect amended Atwater SUO is anticipated to be complete by May 31, 2013.
- h. The City of Atwater had a budget of \$20,000.00 for pretreatment program implementation activities in 2011/12. In addition \$17,500 was budgeted for a local limit update if needed.

**CITY OF ATWATER CALIFORNIA
WASTEWATER TREATMENT PLANT**

**INDUSTRIAL PRETREATMENT
ANNUAL REPORT
JANUARY-DECEMBER 2013
NPDES # CA0085308 WDR Order #R5-2011-0082**

SUBJECT: 2013 Annual Industrial Pretreatment Program Reporting Requirements governed by Reporting Program Order No. R5-2011-0082. Attachment E-Monitoring and Reporting Program X.5.a-h:

INTRODUCTION

This report is submitted in accordance with the requirements of the City of Atwater Wastewater Treatment Plant NPDES Permit #CA0085308 and provides information on the status of the program and activities conducted during the calendar year 2013. The report lists the permitted industrial users and their compliance status and summarizes enforcement actions, inspections, site visits, and City monitoring activities.

The program currently has one Significant Industrial Users (SIU).

FACILITY DESCRIPTION

The Atwater Regional Wastewater Treatment Plant (RWWTP) is 6.0 MGD tertiary treatment plant. The facility includes grit and screenings removal at the plant headwork's, followed by secondary treatment in oxidations ditches and clarifiers. Tertiary treatment is provided by aquadisk cloth fiber filtration and disinfection with UV. Solids are aerobically digested, dewatered with rotary presses, and further dried on concrete drying bed. After drying and at least annually solids are land applied at Merced County permitted site.

DISCUSSION OF ORGANIC COMPOUND TESTING

A summary of influent and effluent analytical results is entered in CIWQS and attached.

UPSET, INTERFERENCE AND/OR PASS THOUGH

No upset or bypass was attributed or suspected to be caused by industrial users.

BASELINE MONITORING

No industrial users were notified of baseline monitoring report requirements.

INDUSTRIAL USER STATUS

One Industrial discharger is currently discharging to the Atwater Wastewater Treatment Plant.

Company Name: Jim's Farms Meats, 5881 N. Winton Way Winton, CA 95388

Jim's Farm Meats is a Swine slaughterhouse. The Winton Water and Sanitary District (WWSD) have adopted the Atwater Pretreatment Program and are monitoring Jim's Farm Meats. WWSD supplied monitoring data from JFM to discharger which demonstrate that JFM consistently achieved compliance.

INSPECTION AND SAMPLING PROGRAM

WWSD monitors JFM for flow, BOD, TSS pH, and Oil & Grease. Samples were collected in January, February, April, May, and July September, October, and December. A sample was analyzed in December 2012 for Atwater local limits. Results did not exceed limits.

City of Atwater and WWSD staff performed a scheduled inspection of Jim's Farms Meats (JFM) at 5881 N. Winton Way, Winton CA 95388 on December 13, 2013. Inspection found JFM in compliance with requirements and in good condition. No violations were found. Samples of wastewater were not taken at inspection. Inspections will proceed annually.

ENFORCEMENT ACTIONS

No compliance or enforcement activities took place in 2013.

PRETREATMENT PROGRAM AUDITING

Tetratech Inc. performed a pretreatment compliance audit in May of 2009. A Notice of Violation (NOV) was issued on August 6, 2009. The City of Atwater has amended the Sewer Use Ordinance (SUO) to comply with NOV. New inter agency agreement with Winton Water and Sanitary District that reflects amended Atwater SUO was completed on July 22, 2013.

PRETREATMENT BUDGET

The City of Atwater had a budget of \$20,000.00 for pretreatment program implementation activities in 2013/14. In addition \$17,500 was budgeted for a local limit update if needed.

PRETREATMENT PROGRAM UPDATES

In December 2013 a review of the local telephone directory was conducted for possible industrial users in the Atwater, CA service area. Surveys were mailed to the identified companies. A process has been established to follow up on these surveys in order to conduct a classification and/or inclusion in the pretreatment program.

REPORT SUBMISSION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.



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**CITY OF ATWATER CALIFORNIA
WASTEWATER TREATMENT PLANT**

**INDUSTRIAL PRETREATMENT
ANNUAL REPORT
JANUARY-DECEMBER 2014
NPDES # CA0085308 WDR Order #R5-2011-0082**

SUBJECT: 2014 Annual Industrial Pretreatment Program Reporting Requirements governed by Reporting Program Order No. R5-2011-0082. Attachment E-Monitoring and Reporting Program X.5.a-h:

INTRODUCTION

This report is submitted in accordance with the requirements of the City of Atwater Wastewater Treatment Plant NPDES Permit #CA0085308 and provides information on the status of the program and activities conducted during the calendar year 2014. The report lists the permitted industrial users and their compliance status and summarizes enforcement actions, inspections, site visits, and City monitoring activities.

The program currently has one Significant Industrial Users (SIU).

FACILITY DESCRIPTION

The Atwater Regional Wastewater Treatment Plant (RWWTP) is 6.0 MGD tertiary treatment plant. The facility includes grit and screenings removal at the plant headwork's, followed by secondary treatment in oxidations ditches and clarifiers. Tertiary treatment is provided by aquadisk cloth fiber filtration and disinfection with UV. Solids are aerobically digested, dewatered with rotary presses, and further dried on concrete drying bed. After drying and at least annually solids are land applied at Merced County permitted site.

DISCUSSION OF ORGANIC COMPOUND TESTING

A summary of Biosolids, influent and effluent analytical results are entered in CIWQS and attached.

UPSET, INTERFERENCE AND/OR PASS THOUGH

No upset or bypass was attributed or suspected to be caused by industrial users.

BASELINE MONITORING

No industrial users were notified of baseline monitoring report requirements.

INDUSTRIAL USER STATUS

One Industrial discharger is currently discharging to the Atwater Wastewater Treatment Plant.

Company Name: Jim's Farms Meats, 5881 N. Winton Way Winton, CA 95388

Jim's Farm Meats is a Swine slaughterhouse. The Winton Water and Sanitary District (WWSD) have adopted the Atwater Pretreatment Program and are monitoring Jim's Farm Meats. WWSD supplied monitoring data from JFM to discharger which demonstrate that JFM consistently achieved compliance.

INSPECTION AND SAMPLING PROGRAM

WWSD monitors JFM for flow, BOD, TSS pH, and Oil & Grease. Samples were collected in January, March, June, and September. A sample was analyzed in March for Atwater local limits. Results did not exceed limits.

City of Atwater and WWSD staff performed a scheduled inspection of Jim's Farms Meats (JFM) at 5881 N. Winton Way, Winton CA 95388 on December 13, 2013. Inspection found JFM in compliance with requirements and in good condition. No violations were found. In 2014 a scheduled inspection did not take place but staff visually observed operation while sampling wastewater discharges on three separate occasion which included discussions with the discharger and no changes in operation were observed. Scheduled inspection will take place in 2015.

ENFORCEMENT ACTIONS

No compliance or enforcement activities took place in 2014.

PRETREATMENT PROGRAM AUDITING

Tetrattech Inc. performed a pretreatment compliance audit in May of 2009. A Notice of Violation (NOV) was issued on August 6, 2009. The City of Atwater has amended the Sewer Use Ordinance (SUO) to comply with NOV. New inter agency agreement with Winton Water and Sanitary District that reflects amended Atwater SUO was completed on July 22, 2013.

PRETREATMENT BUDGET

The City of Atwater had a budget of \$20,000.00 for pretreatment program implementation activities in 2013/14. In addition \$17,500 was budgeted for a local limit update if needed.

PRETREATMENT PROGRAM UPDATES

In December 2013 a review of the local telephone directory was conducted for possible industrial users in the Atwater, CA service area. Surveys were mailed to the identified companies. In 2014 responses to December 2013 survey were received. No new industrial users were identified. A process has been established to follow up on these surveys in order to conduct a classification and/or inclusion in the pretreatment program.

REPORT SUBMISSION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.



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Compliance Samples

Samples are collected from Significant Industrial Users that are not in violation of either local or federal standards to verify that the industrial user is maintaining compliance, or for checking parameters other than those in violation.

Enforcement Samples

Samples are collected from Significant Industrial Users that have violated either local and/or federal standards. Enforcement samples are collected at an increased frequency in accordance with the enforcement levels established in the Enforcement Response Plan (ERP). These samples are subject to cost recovery. After a violating industry completes all planned corrective actions, as outlined in its compliance schedule, and has passed a compliance check by the POTW, enforcement sampling will continue as appropriate to the level of enforcement and in accordance with the ERP. An industrial user that has maintained compliance for six (6) consecutive months following a successful compliance check is transferred back to the continued compliance monitoring schedule.

The sampling columns – Planned, Compliance, and Enforcement – indicate the total number of sampling events that occurred in a particular quarter.

TOTALS

A comparison of inspection and monitoring activities from 2008 to 2014 is shown in the table below.

ACTIVITY	2008	2009	2010	2011	2012	2013	2014
Number of SIUs (beginning the first quarter)	42	43	41	40	38	38	38
Number of SIUs (ending fourth quarter)	43	41	41	38	38	38	37
Planned Inspections	44	43	140	137	126	152	145
Compliance Inspections	150	159	164	145	141	158	155
Enforcement Inspections	28	13	8	7	14	13	14
Total Inspections	178	172	172	152	155	171	169
Planned Samples	1172	1240	1387	1120	1122	1244	1104
Compliance Samples	1183	1245	1371	1114	1092	1222	1067
Enforcement Samples	57	38	23	23	22	26	46
Total Samples Collected	1240	1283	1394	1137	1114	1248	1113

SUMMARY OF SIGNIFICANT CHANGES

The following changes occurred in 2014.

ELECTRICAL CONDUCTIVITY POLICY DEVELOPMENT

Violations of the monthly discharge requirements for Electrical Conductivity (EC), as established in Waste Discharge Requirements Order No. 5-01-254, occurred each month during the calendar year 2014. All industrial users continue to be monitored for EC. Wastewater Management staff continues to work with industrial users to identify sources of salinity and to take the steps necessary to minimize the discharge of high EC wastestreams. Wastewater Management has design approval for an advanced/tertiary treatment system for the treatment of a portion of the final effluent.

The "Salt is Serious" campaign, initiated on May 10, 2007, continues. The campaign is designed to educate the general public on the use of products which contain fewer salts, and thereby reduce the need for advanced treatment at the POTW. The campaign is available to the public upon request in the form of brochures and in newsletter format which can be placed inside monthly billing statements.

CITY OF FRESNO PRETREATMENT PROGRAM

The City of Fresno is currently operating under the revised Pretreatment Program submitted to the CRWQCB 02 April 2009, effective May 18, 2009, as approved in accordance with 40 CFR 403.18(d)(3).

SIGNIFICANT INDUSTRIAL USERS

At the beginning of the first quarter 2014, there were thirty-eight (38) Significant Industrial Users (SIUs). One (1) Industrial User was reclassified as a commercial facility. At the end of the fourth quarter, there were thirty-seven (37) SIUs in the Fresno-Clovis metropolitan area with a Class I Wastewater Discharge Permit.

STAFFING – ENVIRONMENTAL SERVICES SECTION (ESS)

There were changes in staffing of the Environmental Services Section (ESS) during calendar year 2014. One Environmental Control Officer position was vacated, and has been filled by a Laboratory Technician. The vacated Laboratory Technician position has not been filled. One Laboratory Assistant position remains vacant.

In summary, at the end of the fourth quarter 2014 the Environmental Services Section staff includes one (1) Chief of Wastewater Environmental Services, one (1) Water Systems Telemetry and Distributed Control Specialist, one (1) Supervising Environmental Control Officer, six (6) Environmental Control Officers, one (1) Reclamation Coordinator, one (1) Senior Account Clerk, two (2) Senior Laboratory Technicians, two (2) Inorganic Chemists, seven (7) permanent, full-time Laboratory Technicians I/II, one (1) vacant Laboratory Technician, and one (1) vacant Laboratory Assistant, representing a staff of twenty-four (24) positions. The Collections Section consists of two (2) Collection System Maintenance Supervisors, four (4) Collection System Maintenance Operator (CSMO) III Lead-workers, twelve (12) CSMO III workers, and fifteen (15)

ANNUAL PRETREATMENT BUDGET

Total expenditures for 2014 represent all costs related to the execution of the pretreatment program and are grouped in the following areas:

- Total personnel costs associated within the Pretreatment subcategory of the treatment facility budget
- Personnel costs within the Laboratory subcategory for those activities associated with analyses of pretreatment samples
- Membership and activities in various pretreatment-based organizations
- Various equipment, supplies and services associated with the Pretreatment Program
- All interdepartmental charges associated with the Pretreatment Program
- Overhead costs, including fuel, vehicle maintenance, energy costs, etc.

The pretreatment program for 2014 incurred expenditures totaling \$571,045. Funding for these expenditures is partially offset by pretreatment surcharges, cost recovery charges and administrative penalties, which total \$436,521. The remainder of the funding comes from the Pretreatment section of the City of Fresno Wastewater Management Division annual budget.

SUMMARY OF SIGNIFICANT CHANGES

The following changes occurred in 2013.

ELECTRICAL CONDUCTIVITY POLICY DEVELOPMENT

Violations of the monthly discharge requirements for Electrical Conductivity (EC), as established in Waste Discharge Requirements Order No. 5-01-254, occurred each month during the calendar year 2013. All industrial users continue to be monitored for EC. Wastewater Management staff continues to work with industrial users to identify sources of salinity and to take the steps necessary to minimize the discharge of high EC wastestreams. Wastewater Management has design approval for an advanced/tertiary treatment system for the treatment of a portion of the final effluent.

The "Salt is Serious" campaign, initiated on May 10, 2007, continues. The campaign is designed to educate the general public on the use of products which contain fewer salts, and thereby reduce the need for advanced treatment at the POTW. The campaign is available to the public upon request in the form of brochures and in newsletter format which can be placed inside monthly billing statements.

CITY OF FRESNO PRETREATMENT PROGRAM

The City of Fresno is currently operating under the revised Pretreatment Program submitted to the CRWQCB 02 April 2009, effective May 18, 2009, as approved in accordance with 40 CFR 403.18(d)(3).

SIGNIFICANT INDUSTRIAL USERS

At the beginning of the first quarter 2013, there were thirty-eight (38) Significant Industrial Users (SIUs). There were no changes in status for any current Industrial Users, and no additional SIUs added or current SIUs ceasing operations, therefore the number of SIUs in the Fresno-Clovis metropolitan area with a Class I Wastewater Discharge Permit at the end of the fourth quarter remains at thirty-eight (38) industries.

STAFFING – ENVIRONMENTAL SERVICES SECTION (ESS)

There were changes in staffing of the Environmental Services Section (ESS) during calendar year 2013. The vacant Reclamation Coordinator position has been filled. One Laboratory Technician position was vacated, and has been filled through the interview process by the Laboratory Assistant, leaving the Laboratory Assistant position vacant.

In summary, at the end of the fourth quarter 2013 the Environmental Services Section staff includes one (1) Chief of Wastewater Environmental Services, one (1) Water Systems Telemetry and Distributed Control Specialist, one (1) Supervising Environmental Control Officer, six (6) Environmental Control Officers, one (1) Reclamation Coordinator, one (1) Senior Account Clerk, two (2) Senior Laboratory Technicians, two (2) Inorganic Chemists, seven (7) permanent, full-time Laboratory Technicians I/II, and one (1) vacant Laboratory Assistant, representing a staff of twenty-two (22) positions. The Collections Section consists of two (2) Collection System Maintenance Supervisors, four (4) Collection System Maintenance Operator (CSMO) III Lead-workers, twelve (12) CSMO III workers, and sixteen (16) CSMO II workers, for a staff of

ANNUAL PRETREATMENT BUDGET

Total expenditures for 2013 represent all costs related to the execution of the pretreatment program and are grouped in the following areas:

- Total personnel costs associated within the Pretreatment subcategory of the treatment facility budget
- Personnel costs within the Laboratory subcategory for those activities associated with analyses of pretreatment samples
- Membership and activities in various pretreatment-based organizations
- Various equipment, supplies and services associated with the Pretreatment Program
- All interdepartmental charges associated with the Pretreatment Program
- Overhead costs, including fuel, vehicle maintenance, energy costs, etc.

The pretreatment program for 2013 incurred expenditures totaling \$733,276. Funding for these expenditures is partially offset by pretreatment surcharges, cost recovery charges and administrative penalties, which total \$421,431. The remainder of the funding comes from the Pretreatment section of the City of Fresno Wastewater Management Division annual budget.

SUMMARY OF SIGNIFICANT CHANGES

The following changes occurred in 2012.

ELECTRICAL CONDUCTIVITY POLICY DEVELOPMENT

Violations of the monthly discharge requirements for electrical conductivity (EC), as established in Waste Discharge Requirements Order No. 5-01-254, occurred each month during the calendar year 2012. All industrial users continue to be monitored for EC. Wastewater Management staff continues to work with industrial users to identify sources of salinity and to take the steps necessary to minimize the discharge of high EC wastestreams. Wastewater Management staff is exploring options for advanced/tertiary treatment of final effluent.

The "Salt is Serious" campaign, initiated on 10 May 2007, continues. The campaign is designed to educate the general public on the use of products which contain fewer salts, and thereby reduce the need for advanced treatment at the POTW. The campaign is available to the public upon request in the form of brochures and in newsletter format which can be placed inside monthly billing statements.

CITY OF FRESNO PRETREATMENT PROGRAM

The City of Fresno is currently operating under the revised Pretreatment Program submitted to the CRWQCB 02 April 2009, effective 18 May 2009, as approved in accordance with 40 CFR 403.18(d)(3).

SIGNIFICANT INDUSTRIAL USERS

At the beginning of the first quarter 2012, there were thirty-eight (38) Significant Industrial Users (SIUs). During the calendar year 2012 one (1) SIU ceased operations, one (1) SIU was reclassified as a commercial user, and two (2) Class II Industrial Users were reclassified as Class I SIUs. As a result, there was no net gain or loss in SIUs; the number of SIUs in the Fresno-Clovis metropolitan area with a Class I Wastewater Discharge Permit at the end of the fourth quarter remains at thirty-eight (38) industries.

STAFFING – ENVIRONMENTAL SERVICES SECTION (ESS)

There were no significant changes in staffing of the Environmental Services Section (ESS) during calendar year 2012. The vacant Reclamation Coordinator position was filled briefly, and is once again vacant. One senior Account Clerk position was vacated due to retirement; the position was reassigned to another section. A temporary Laboratory Assistant position was filled briefly. Upon the resignation of the temporary employee, a permanent Laboratory Assistant position was added and has been filled. The six Collection System Maintenance Operator (CSMO) I workers were promoted through non-competitive testing to CSMO II.

In summary, at the end of the fourth quarter 2012 the Environmental Services Section staff includes one (1) Chief of Wastewater Environmental Services, one (1) Water Systems Telemetry and Distributed Control Specialist, one (1) Supervising Environmental Control Officer, six Environmental Control Officers, one (1) vacant Reclamation Coordinator, one (1) Senior Account Clerk, two (2) Senior Laboratory Technicians, two (2) Inorganic Chemists, seven (7) permanent, full-time Laboratory Technicians I/II, and one (1) Laboratory Assistant, representing

ANNUAL PRETREATMENT BUDGET

Total expenditures for 2012 represent all costs related to operating and maintaining the pretreatment program and are grouped in the following areas:

- Total personnel costs associated within the Pretreatment subcategory of the treatment facility budget
- Personnel costs within the Laboratory subcategory for those activities associated with analyses of pretreatment samples
- Membership and activities in various pretreatment-based organizations
- Various supplies and services associated with the Pretreatment Program
- All interdepartmental charges associated with the Pretreatment Program
- Overhead costs, including fuel, vehicle maintenance, energy costs, etc.

The pretreatment program for 2012 incurred expenditures totaling \$580,949. Funding for these expenditures are partially offset by pretreatment surcharges and enforcement charges, which total \$406,245. The remainder of the funding comes from the Pretreatment section of the City of Fresno Wastewater Management Division annual budget.

4.e – SUMMARY OF SAMPLING ACTIVITIES

In 2012, the City of Merced Environmental Control Division managed a pretreatment program that consisted of twenty-six (26) permitted dischargers. Two (2) dischargers were classified as categorical industrial users (CIUs). Two (2) were classified as significant industrial users (SIUs). Three (3) were classified as industrial users – dry cleaners. Nineteen (19) were classified as industrial users – septic tank cleanings.

During 2012, all permitted discharger compliance sampling was performed by the City of Merced.

Zero dischargers are monitored with a Quarterly Compliance Report certifying their compliance status. The Quarterly Compliance Report is due on the 10th day of the second month following the quarter. Zero Discharge Federal Categorical facilities are inspected once per year to verify that there is no discharge of regulated process wastewater to the sanitary sewer system.

Hauled wastewater discharged at the Wastewater Treatment Facility is monitored with a Waste Hauler Manifest form and is sampled prior to discharge.

See Attachment 4e.

4.f – SUMMARY OF COMPLIANCE AND ENFORCEMENT ACTIVITIES

Monitoring, Inspection, Violation, and Status: Federal Categorical & Significant Industrial Users:

Categorical Industrial Users - (C.I.U.)

Facility	Quarter ¹	Compliance Status ²	Inspections	No. Sampling Events	Enforcement				Comments
					No. of Violations	No. of NOV's	Violation Fees	Orders	
Greif IP&S, LLC	1st	C		12	0	0	0		
2400 Cooper Avenue	2nd	C		15	0	0	0		
Merced, CA 95340	3rd	C	1	13	0	0	0		
	4th	C		12	0	0	0		
Category: 40 CFR 433		Totals	1	52	0	0	\$0.00		
Permit No. 94143									
Expires: 12/31/12									
Wellmade Products	1st	C		1	0	0	0		
1715 Kibby Road	2nd	C		1	0	0	0		
Merced, CA 95340	3rd	C	1	1	0	0	0		
	4th	C		1	0	0	0		
Category: 40 CFR 433		Totals	1	4	0	0	\$0.00		
Permit No. 94177									
Expires: 12/31/12									

See Table endnotes

INDUSTRIAL USERS – SEPTIC TANK CLEANINGS (continued)

- 16) **Waste Management**, 730 Industrial Way, Atwater, CA 95301
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 17) **F.L.C. Portable Restrooms**, 466 Amy St., Merced, CA 95341
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 18) **Kalifornia Gold Ag. Services** 28777 Ave. 13 Madera, CA 93638
 - a. Subject to local limits only.
 - c. Consistently achieved compliance.

4.d (ii) – PRETREATMENT PROGRAM AUDIT COMPLIANCE STATUS

An Industrial Pretreatment Compliance Audit was performed, by Tetra Tech and Cannon & Cannon, Inc. on March 25 & 26, 2013. A report was written by CD Smith and submitted to the Regional Water Quality Control Board for review. The Pretreatment Compliance Audit report listed a few deficiencies that are in the process of being corrected. A timeline schedule was submitted to the Regional Water Quality Control Board listing the implementation and corrective action of the deficiencies.

On October 28, 2013, the Water Quality Control Staff realized that the industrial log book was missing, which contained monitoring information from January to October 2013. The book has never been recovered, fortunately two excel spreadsheets exist; one contains data of the weekly monitoring and the other contains quarterly sampling events. Data lost is from October 25th to 31st. A new monitoring log book has been established as of November 1, 2013.

4.e – SUMMARY OF SAMPLING ACTIVITIES

In 2013, the City of Merced Water Quality Division managed a pretreatment program that consisted of twenty-five (25) permitted dischargers. One (1) discharger is classified as categorical industrial users (CIUs). One (1) Zero discharger is classified as categorical industrial users (CIUs). Two (2) are classified as significant industrial users (SIUs). Three (3) are classified as industrial users – dry cleaners. Eighteen (18) are classified as industrial users – septic tank cleanings.

During 2013, all permitted discharger compliance sampling was performed by the City of Merced.

Zero dischargers are monitored with a Quarterly Compliance Report certifying their compliance status. The Quarterly Compliance Report is due on the 10th day of the second month following the quarter. Zero Discharge Federal Categorical facilities are inspected once per year to verify that there is no discharge of regulated process wastewater to the sanitary sewer system.

1. Hauled wastewater discharged at the Wastewater Treatment Facility is monitored with a pumping system, which will be the only means for discharging sludge. All septic hauler vehicles must be equipped with a 4” quick disconnect. An inline pH meter will control the valve, if pH falls out of range (outside of 6-10), the valve will automatically shut off, and discharger will not be able to dump. Each truck will receive an assigned septic card, and it must stay with the assigned truck. All haulers will be charged according to full tank capacity.

4.h SUMMARY OF ANNUAL PRETREATMENT BUDGET

Environmental Control					
	Actual 2010-11	Actual 2011-12	Final Budget 2012-13	City Council 2013-14	Council Approval 2013-14
EXPENSES					
Personnel Expenses	262,951	275,499	306,011	306,000	350,666
Supplies and Services	201,250	200,943	219,255	278,510	275,310
Lab Service	0	0	0	0	0
Amortizations	0	0	0	0	0
Capital Improvements	5,104	3,276	0	0	0
TOTAL	469,305	480,718	525,266	584,510	626,076

	Actual 2010-11	Actual 2011-12	Final Budget 2012-13	Estimated 2013-14
FINANCING SOURCES				
Industrial Pretreatment	123,188	125,367	176,580	124,000
Industrial Penalties	400	0	150	150
Monitoring Wells Insp Fees	675	0	600	675
Monitor Industrial Users	0	0	100	100
PERM Share 2.5% a/c	4,970	0,233	14,650	14,924
PERM Share 2% 0 u2	0	0	0	1,952
Unclassified	195	4,107	500	1,000
Intercept DSR-Refuse	0	0	0	500
Other Revenues	219,667	241,676	423,957	466,707
TOTAL	468,005	472,383	525,667	628,178

PERSONNEL			
Number of Positions			
Classification	Funded In Budget 2012-13	City Council 2013-14	Council Approval
P.M. Manager - Inbr	.10	.10	.10
P.M. Manager - Wastewater	.10	.10	.10
Environmental Control Ofc 1/11	3.00	3.00	3.00
Lab/Envir. Sci Svcr.	.35	.35	.35
TOTAL	3.55	3.55	3.55

INDUSTRIAL USERS – SEPTIC TANK CLEANINGS CONTINUED

- 14) **Central Valley Septic**, P.O. Box 544, Denair, CA 95316
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 15) **Silver Farm Inc. Portables**, 1120 Commerce Ave. #158, Atwater, CA 95301
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 16) **AmeriGuard Maintenance Svcs. LLC**, P.O. Box 12486, Fresno, CA 93778
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 17) **Windmill Septic**, P.O. Box 839, Ripon, CA 95366
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 18) **Andrade FLC Inc.**, P.O. Box 1327, Planada, CA 95365
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.
- 19) **Roto Rooter Plumbers**, 2141 Industrial Ct, Ste. B, Vista, CA 92081
 - a. Subject to local limits only.
 - b. Consistently achieved compliance.

4.f – FULL QUARTERLY REPORT

This section shall serve as a letter certifying all industries are in compliance and no violations or changes to the pretreatment program have occurred during the 4th quarter of 2014.

4.g – SUMMARY OF INSPECTION AND SAMPLING ACTIVITIES

In 2014, the City of Merced Water Quality Division managed a pretreatment program that consisted of thirty (30) permitted dischargers. One (1) discharger is classified as categorical industrial users (CIUs). One (1) is classified as categorical industrial user (CIUs) Zero Discharger. Four (4) are classified as significant industrial users (SIUs). Three (3) are classified as industrial users – dry cleaners. Two (2) are classified as Industrial Users – Zero Dischargers. Nineteen (19) are classified as industrial users – septic tank cleanings. All permitted discharger compliance sampling was performed by the City of Merced.

Zero dischargers are monitored with a Quarterly Compliance Report certifying their compliance status. The Quarterly Compliance Report is due on the 1st day of the second month following the quarter. Zero Discharge (All Industrial Dischargers) Federal Categorical facilities are inspected once per year to verify that there is no discharge of regulated process wastewater to the sanitary sewer system. See attachment 4.e for sampling and inspection results.

Hauled wastewater discharged at the Wastewater Treatment Facility is monitored with a pumping system. All septic hauler vehicles must be equipped with a 4” quick disconnect. An inline pH meter will control the valve, if pH falls out of range (outside of 6-10), the valve will automatically shut off.

