

California Regional Water Quality Control Board
North Coast Region

ORDER NO.R1-2002-0041
NPDES PERMIT NO. CA0005584
I.D. NO. 1B80185OHUM

WASTE DISCHARGE REQUIREMENTS

FOR

HUMBOLDT CREAMERY ASSOCIATION

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The Humboldt Creamery Association, 572 Highway 1, Fortuna, CA 95540 (hereinafter permittee) submitted a Report of Waste Discharge No. CA0005584 dated October 25, 2001, and applied for renewal of its Permit to discharge noncontact cooling water and condensation from the evaporated milk manufacturing process under the National Pollutant Discharge Elimination System (NPDES) from its dairy products processing plant at Fernbridge, California. The Report of Waste Discharge also describes process wastewater treatment and discharge to adjacent pastureland, including sanitary wastewater discharge to septic tanks and a subsurface leachfield system.
2. The permittee owns and operates a dairy products processing plant that produces fluid milk, dry milk, ice cream, and butter. The facility is located at Fernbridge, California in the NE1/4 of Section 29, T3N, R1W, HB&M (40° 36' 52" Latitude, 124° 12' 09" Longitude) as shown on Attachments "A," "B" and "C" incorporated herein and made part of this Order.
3. Industrial process water generated at the facility is treated in an aerated pond and irrigated on 140 acres of leased pastureland and ten acres of pastureland owned by the permittee. Prior to 1980, this wastewater effluent was discharged directly to the Eel River through NPDES Discharge Serial No. 001. Noncontact cooling water and condensate from the evaporated milk manufacturing process are discharged directly to the Eel River (NPDES Discharge Serial No. 002).

Domestic wastewater is treated in two, new onsite septic tanks having a total

capacity of 3,600 gallons and is then pumped to a leachfield on the adjoining 140-acre leased pasture.

<u>Description</u>	<u>Flow (gal/day)</u>		<u>Discharge</u>
	<u>Average</u>	<u>Maximum</u>	
Process wastewater	249,000	450,000	Pasture irrigation
SN 002 - Noncontact cooling water and condensate from evap. milk process	63,000	160,000	Eel River
Domestic wastewater	2,500	-	On-site septic tank/leachfield

4. The permittee is presently governed by Waste Discharge Requirements Order No. 96-95, adopted by the Regional Water Board on December 5, 1996. Order No. 96-95 expired on December 5, 2001; however, the terms of the Order remained in effect until the Regional Water Board could renew the expired Order.
5. This facility is a minor discharger as defined in 40 CFR 122.21(j). This facility has a 2B rating for threat to water quality and complexity, pursuant to California Code of Regulations (CCR), Title 23, Section 2200.
6. The "Water Quality Control Plan for the North Coast Region" (Basin Plan) includes water quality objectives, implementation plans for point source and nonpoint source discharges prohibitions and statewide plans and policies. The Basin Plan also includes a prohibition of wastewater discharges to the Eel River during the period May 15 through September 30 and all other periods when the waste discharge flow is greater than one percent of the receiving water's flow.
7. The Basin Plan contains a narrative objective (standard) for toxicity that requires:

All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective will be determined by use of indicator organisms, analyses of species diversity, population density, growth anomalies, bioassay of appropriate duration or other appropriate methods as specified by the Regional Water Board.

The survival of aquatic life in surface waters subjected to a waste discharge, or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge, or when necessary for other control water that is consistent with the requirements for "experimental water" as

described in Standard Methods for the Examination of Water and Wastewater 18th Edition (1992). At a minimum, compliance with this objective as stated in the previous sentence shall be evaluated with a 96-hour bioassay.

In addition, effluent limits based upon acute bioassays of effluent will be prescribed. Where appropriate, additional numerical receiving water objectives for specific toxicants will be established as sufficient data become available, and source control of toxic substances will be encouraged.

8. This facility falls under the Standard Industrial Codes of 2021 (creamery butter), 2023 (dry, condensed and evaporated products), 2024 (ice cream and frozen deserts), and 2026 (fluid milk) for which storm water regulations have been promulgated pursuant to 40 CFR Part 122.26(b)(14). Materials processed at this facility are not exposed to storm water; therefore, this facility is not subject to those storm water regulations. Storm water discharges from office buildings and accompanying parking lots are exempt from those storm water regulations.
9. The State Water Resources Control Board (State Water Board) adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (also known as the State Implementation Plan or SIP) on March 2, 2000. All provisions of the SIP became effective as of May 22, 2000. The SIP applies to discharges of toxic pollutants into the inland surface waters, enclosed bays, and estuaries of California subject to regulation under the state's Porter-Cologne Water Quality Control Act (Division 7 of the California Water Code) and the federal Clean Water Act (CWA). The SIP establishes: (1) implementation provisions for priority pollutant criteria promulgated by the United States Environmental Protection Agency (U.S. EPA) through the National Toxics Rule (NTR) and through the California Toxics Rule (CTR), and for priority pollutant objectives established by Regional Water Boards in their basin plans; (2) monitoring requirements for 2,3,7,8-TCDD equivalents; and (3) chronic toxicity control provisions.
10. Insufficient background and effluent data exist to determine whether any of the priority pollutants for which criteria have been established under provisions of the SIP are, or may be, discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard. In accordance with the SIP, the Regional Water Board has issued a 13267(b) Order to require the permittee to obtain the data. The 13267(b) Order requires sampling for NTR, CTR and additional priority pollutants to determine if the discharge has a reasonable potential to cause or contribute to water quality impacts. The requirements contained in the 13267(b) Order list specific constituents, detection levels, acceptable time frames and report requirements.

As required by the SIP, the time schedule from the 13267(b) letter is reproduced in this permit as Provision 24. After the data are gathered, the reasonable potential analysis (RPA) will be performed and the permit reopened to include additional numerical limitations, if necessary.

11. Beneficial uses of the Eel River include:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial service supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. noncontact water recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. preservation of rare and endangered species
 - n. migration of aquatic organisms
 - o. spawning, reproduction, and/or early development
 - p. estuarine habitat
 - q. aquaculture

12. Beneficial uses of areal groundwaters include:
 - a. municipal and domestic water supply
 - b. agricultural water supply
 - c. industrial service supply

13. Effluent limitations, and toxic and pretreatment effluent standards established pursuant to Sections 208(b), 301, 302, 303(d), 304, 306, and 307 of the Clean Water Act and amendments thereto are applicable to the permittee. Only noncontact cooling water and condensate from the evaporated milk process are discharged to the Eel River. They are not expected to contain toxic constituents. As described in Finding 10, however, if data gathered by the permittee indicate that the discharge contains priority pollutants in amounts that pose a reasonable potential to cause or contribute to an excursion above water quality standards, the Permit will be reopened to add effluent limitations for those constituents.

14. The Eel River is listed as an impaired water body for temperature and sediment pursuant to Section 303(d) of the CWA. A Total Maximum Daily Load has not been established to address temperature and sediment loadings. The discharge of noncontact cooling water and condensate from the evaporated milk process does not contain sediment at levels that will cause, have the reasonable potential to

cause, or contribute to increases in sediment levels in the Eel River. As indicated in the Report of Waste Discharge, the temperature of the discharge is 70 degrees Fahrenheit. Considering the volume of discharge and the flow in the Eel River during the permitted discharge period, the temperature of the discharge is not expected to cause, have the reasonable potential to cause, or contribute to significant increases in temperature in the Eel River.

15. The permitted discharge is consistent with the antidegradation provision of 40 CFR 131.12 and State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California*. The impact on existing water quality will be insignificant.
16. The action to renew an NPDES Permit is exempt from Chapter 3 of the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, et seq., in accordance with Section 13389 of the California Water Code, and is also exempt from CEQA pursuant to Title 14, California Code of Regulations, Section 15301.
17. The Regional Water Board has notified the permittee and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations.
18. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge.
19. This Order will serve as a National Pollutant Discharge Elimination System Permit pursuant to Section 402 of the Clean Water Act, or amendments thereto, and will take effect upon adoption by the Regional Water Board.

THEREFORE, IT IS HEREBY ORDERED that Waste Discharge Requirements Order No. 96-95 is rescinded and the permittee, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, shall comply with the following:

A. DISCHARGE PROHIBITIONS

1. The discharge of waste to land that is not owned by or under agreement to use by the permittee is prohibited, except as authorized under C. Solids Disposal.
2. The discharge of any waste not specifically regulated by this Permit is prohibited.
3. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC) is prohibited.
4. The discharge of domestic wastewater and/or process water to the Eel River or its

tributaries is prohibited. The discharge of noncontact cooling water and condensate from evaporated milk processing to the Eel River or its tributaries is prohibited during the period May 15 through September 30 and all other periods when the waste discharge flow is greater than one percent of the receiving water flow. For purposes of this Permit, the receiving water flow shall be the Eel River measured at Fernbridge.

5. The discharge of wastewater to the land disposal pasture in such a manner that results in ponding on the pasture or runoff to the Eel River or its tributaries is prohibited.
6. The discharge of pollutants other than heat in cooling water discharges is prohibited.
7. The discharge of domestic wastewater shall be kept underground at all times.
8. The mean daily waste flow of domestic wastewater shall not exceed 2,500 gallons per day averaged over a period of thirty days.
9. Leachfield replacement area equivalent to 100 percent of the leachfield area shall be available for future leachfield repair. Incompatible uses of the existing disposal area or the replacement area are prohibited.
10. Irrigation of industrial process water in the actively used leachfield area is prohibited.

B. RECEIVING WATER LIMITATIONS

1. The waste discharge shall not cause the dissolved oxygen concentration of the receiving waters to be depressed below 7.0 mg/l. In the event that the receiving waters are determined to have dissolved oxygen concentration of less than 7.0 mg/l, the discharge shall not depress the dissolved oxygen concentration below the existing level.
2. The discharge shall not cause the pH of the receiving waters to be depressed below 6.5 nor raised above 8.5. Within this range, the discharge shall not cause the pH of the receiving waters to be changed at any time more than 0.5 units from the naturally occurring background level.
3. The discharge shall not cause the turbidity of the receiving waters to be increased more than 20 percent above naturally occurring background levels.
4. The discharge shall not cause the receiving waters to contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.

5. The discharge shall not cause the receiving waters to contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, that cause nuisance, or that adversely affect beneficial uses.
6. The discharge of waste shall not cause esthetically undesirable discoloration of the receiving waters.
7. The discharge shall not cause bottom deposits in the receiving waters to the extent that such deposits cause nuisance or adversely affect beneficial uses.
8. The discharge shall not contain concentrations of biostimulants that promote objectionable aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses of the receiving waters.
9. The discharge shall not cause the receiving waters to contain toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective shall be determined according to **E. PROVISION 20**.
10. The discharge shall not cause a measurable temperature change in the receiving waters.
11. The discharge shall not cause an individual pesticide or combination of pesticides to be present in concentrations that adversely affect beneficial uses. There shall be no bioaccumulation of pesticide concentrations found in bottom sediments or aquatic life.
12. The discharge shall not cause the receiving waters to contain concentrations of pesticides or chemical constituents in excess of the limiting concentrations set forth in Table 3-2 of the Basin Plan.
13. The discharge shall not cause the receiving waters to contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance or that otherwise adversely affect beneficial uses.
14. The discharge shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Regional Water Board or the State Water Resources Control Board (State Water Board) as required by the Federal Clean Water Act, and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the Federal Clean Water Act, or amendments thereto, the Regional Water Board will revise and modify this Permit in accordance with such more stringent standards.

15. The discharge shall not cause concentrations of chemical constituents to occur in excess of limits specified in Table 3-2 of the Basin Plan.

C. SOLIDS DISPOSAL

1. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of at a legal point of disposal, and in accordance with the provisions of Title 27, CCR.

D. GROUNDWATER LIMITATIONS

1. The collection, storage, and use of wastewater or recycled water shall not degrade groundwater quality.
2. The collection, storage, and use of wastewater or recycled water shall not cause groundwaters to contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses.
3. The collection, storage, and use of wastewater or recycled water shall not cause concentrations of chemicals in groundwater to exceed limits set forth in CCR Title 22, Chapter 15, Articles 4 and 5, (or Table 3-2 of the Basin Plan).
4. The collection, storage, and use of wastewater or recycled water shall not cause concentrations of radionuclides in groundwater to exceed limits set forth in CCR Title 22, Chapter 15, Articles 4 and 5, (or Table 3-2 of the Basin Plan).
5. The collection, storage, and use of wastewater or recycled water shall not cause concentrations of chemicals in groundwater designated agricultural supply (AGR) in amounts that adversely affect such beneficial use.
6. In groundwater used for domestic or municipal supply, the collection, storage, and use of recycled water shall not cause the median of the most probable number of coliform organisms over any 7-day period to be greater than 1.1 MPN/100 ml or greater than 1 colony/100 ml.

E. PROVISIONS

1. Duty to Reapply

This permit expires on June 27, 2007. If the permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the permittee shall apply for and obtain a new permit. The application, including a report of waste discharge in accordance with Title 23, California Code of Regulations shall be received by the Regional Water Board no later than December 27, 2006. [40 CFR 122.41(b)]

The Regional Administrator of the U.S. EPA may grant permission to submit an application at a later date prior to the permit expiration date; and the Regional Administrator of the U.S. EPA may grant permission to submit the information required by paragraphs (g)(7), (9), and (10) of 40 CFR 122.21 after the permit expiration date. [40 CFR 122.21(d)(2)]

2. Duty to Comply

The permittee shall comply with all of the conditions of this Permit. Any permit noncompliance constitutes a violation of the CWA and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [40 CFR 122.41(a)]

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this Permit has not yet been modified to incorporate the requirement. [40 CFR 122.41(a)(1)]

3. Enforcement

The CWA provides that any person who violates a Permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA is subject to a civil penalty not to exceed \$25,000 per day of violation. Any person who negligently violates Permit conditions implementing Sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than one year, or both. Higher penalties may be imposed for knowing violations and for repeat offenders. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided under the CWA. [40 CFR 122.41 (a)(2)]

4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Permit which has a reasonable likelihood of adversely affecting human health or the environment. [40 CFR 122.41(d)]

5. Proper Operation and Maintenance

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

6. Permit Actions

This Permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this Permit; or
- b. Obtaining this Permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or
- d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant to this Permit, this Permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified. [40 CFR 122.44(b)]

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition. [40 CFR 122.41(f)]

7. Property Rights

This Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. [40 CFR 122.41(g)]

8. Duty to Provide Information

The permittee shall furnish the Regional Water Board, State Water Board, or U.S. EPA, within a reasonable time, any information which the Regional Water Board, State Water Board, or U.S. EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit or to determine compliance with this Permit. The permittee shall also furnish to the Regional Water Board, upon request, copies of records required to be kept by this Permit. [40 CFR 122.41(h)]

The permittee shall conduct analysis on any sample provided by U.S. EPA as part of the Discharge Monitoring Quality Assurance (DMQA) program. The results of any such analysis shall be submitted to U.S. EPA's DMQA manager.

9. Inspection and Entry

The permittee shall allow the Regional Water Board, State Water Board, U.S. EPA, and/or other authorized representatives upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any locations. [40 CFR 122.41(i)]

10. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. The permittee shall calibrate and perform maintenance procedures in accordance with manufacturer's specifications on all monitoring instruments and equipment to ensure accurate measurements. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, and records of all data used to complete the application for this Permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Water Board, State Water Board, or U.S. EPA at any time. All monitoring instruments and devices used by the permittee to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary, at least annually to ensure their continued accuracy.
- c. Records of monitoring information shall include:
 - i. The date, exact place, and time of sampling or measurements;
 - ii. The individual(s) who performed the sampling or measurements;
 - iii. The date(s) analyses were performed;
 - iv. The individual(s) who performed the analyses;
 - v. The analytical techniques or methods used; and
 - vi. The results of such analyses.
 - vii. The method detection limit (MDL); and
 - viii. The practical quantitation level (PQL) or the limit of quantitation (LOQ).
- d. Unless otherwise noted, all sampling and sample preservation shall be in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater" (American Public Health Association). All analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Permit. Unless otherwise specified, all metals shall be reported as total metals. Test fish for bioassays and test temperatures shall be specified by the Regional Water Board. Bioassays shall be performed in accordance with guidelines approved by the Regional Water Board and the Department of Fish and Game.

11. Signatory Requirements

- a. All permit applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or U.S. EPA shall be signed by a responsible corporate officer. For purposes of this provision, a responsible corporate officer means:
 - i. a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
 - ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- b. Reports required by this Permit, other information requested by the Regional Water Board, State Water Board, or U.S. EPA, and permit applications submitted for Group II storm water discharges under 40 CFR 122.26(b)(3) may be signed by a duly authorized representative provided:
 - i. the authorization is made in writing by a person described in paragraph (a) of this provision;
 - ii. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
 - iii. the written authorization is submitted to the Regional Water Board prior to or together with any reports, information, or applications signed by the authorized representative. [40 CFR 122.22(b)(c)]

- c. Any person signing a document under paragraph (a) or (b) of this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and

belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." [40 CFR 122.22(d)]

12. Reporting Requirements

- a. Planned changes: The permittee shall give notice to the Regional Water Board as soon as possible of any planned physical alteration or additions to the permitted facility. Notice is required under this provision only when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the Permit, nor the notification requirements under **E. PROVISIONS 12 (g)**
- b. Anticipated noncompliance: The permittee will give advance notice to the Regional Water Board of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c. Transfers: This Permit is not transferable.
- d. Monitoring reports: Monitoring results shall be reported at the intervals specified in the self monitoring program. By January 30 of each year, the permittee shall submit an annual report to the Regional Water Board. The report shall contain both tabular and graphical summaries of the monitoring data obtained during the previous year. In addition, the permittee shall discuss the compliance record and the corrective actions taken or planned which may be needed to bring the discharge into full compliance with the Permit. If the permittee monitors any pollutant more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- e. Compliance schedules: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Permit shall be submitted such that they are received by the Regional Water Board via fax, e-mail, or postal service no later than 14 days following each schedule date.
- f. Noncompliance reporting: The permittee shall report any noncompliance

at the time monitoring reports are submitted. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

In addition, the following events shall be reported orally as soon as possible, but no later than 24 hours from the time the permittee becomes aware of the circumstances, and the written report shall be submitted such that an original signed written report is received by the Regional Water Board no later than 14 days after the event:

- i. Any unanticipated bypass that violates any prohibition or exceeds any effluent limitation in this Permit;
- ii. Any upset that exceeds any effluent limitation in this Permit;
- iii. Any noncompliance that may endanger health or the environment. This shall include, but not be limited to, any release of untreated wastewater from the collection system that reaches, or has the potential to reach, surface waters or any release of untreated wastewater greater than 5 gallons to land.

The Executive Officer may waive the above-required written report.

- g. Other information: Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Water Board, the permittee shall promptly submit such facts or information. [40 CFR 122.41(1)]

13. Bypass

- a. Definitions:
 - i. Bypass [as defined in 40 CFR 122.41(m)] is the intentional diversion of waste streams from any portion of a treatment facility.
 - ii. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance or in accordance with an operating plan

approved by the Executive Officer to assure efficient operation. These bypasses are not subject to the requirements of parts c and d of this provision.

c. Notice

- i. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- ii. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in **E. PROVISIONS 12(f)(i)** of this permit.

d. Prohibition of bypass

- i. Bypass is prohibited, and the Regional Water Board may take enforcement action against a permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under part c of this provision.
- ii. The Executive Officer may approve an anticipated bypass, after considering its adverse effects, if the Executive Officer determines that it will meet the three conditions listed in part (d)(i) of this provision.

14. Upset

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

- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of part c of this provision are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - i. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - ii. The permitted facility was at the time being properly operated;
 - iii. The permittee submitted notice of the upset as required by **E. PROVISIONS 12(f)(ii)** of this permit; and
 - iv. The permittee complied with any remedial measures required under part d of this provision.
- d. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

15. Existing Manufacturing, Commercial, Mining, and Silvicultural permittees

All existing manufacturing, commercial, mining, and silvicultural permittees must notify the Regional Water Board as soon as they know or have reason to believe that any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this Permit, if that discharge will exceed one hundred micrograms per liter (100 ug/l).
[40 CFR 122.42(a)(2)]

16. Availability

A copy of this Permit shall be maintained at the discharge facility and be available at all times to operating personnel.

17. Change in Discharge

In the event of a material change in the character, location, or volume of a discharge, (including any point or nonpoint discharge to land or groundwater) the permittee shall file with this Regional Water Board a new report of waste discharge at least 180 days before making any such change. [CWC Section 13376]. A material change includes, but is not limited to, the following:

- a. Addition of a major industrial waste discharge to a discharge of essentially

- domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.
- b. Significant change in disposal method, e.g., change from a land disposal to a direct discharge to water, or change in the method of treatment which would significantly alter the characteristics of the waste.
 - c. Significant change in the disposal area, e.g., moving the discharge to another drainage area, to a different water body, or to a disposal area, significantly removed from the original area, potentially causing different water quality or nuisance problems.
 - d. Increase in area or depth to be used for solid waste disposal beyond that specified in the waste discharge requirements. [CCR Title 23 Section 2210]

18. Severability

Provisions of these waste discharge requirements are severable. If any provision of these requirements is found invalid, the remainder of these requirements shall not be affected.

19. Monitoring

The Regional Water Board or State Water Board may require the permittee to establish and maintain records, make reports, install, use, and maintain monitoring equipment or methods (including where appropriate biological monitoring methods), sample effluent as prescribed, and provide other information as may be reasonably required. [CWC Section 13267 and 13383].

The permittee shall comply with the Contingency Planning and Notification Requirements Order No. 74-151 and the Monitoring and Reporting Program No. R1-2002-0041 and any modifications to these documents as specified by the Executive Officer. Such documents are attached to this Permit and incorporated herein. The permittee shall file with the Regional Water Board technical reports on self monitoring work performed according to the detailed specifications contained in any monitoring and reporting program as directed by the Regional Water Board.

Chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. In the event that analyses for certain constituents by a certified laboratory is infeasible, analyses by a noncertified laboratory may be approved by the Executive Officer. Conditions that must be met for Executive Officer approval include: a quality assurance/quality control program conforming to U.S. EPA or State Department of Health Services guidelines is instituted by the laboratory, and a manual containing the steps followed in this program is kept in the laboratory and made available for review by staff of the Regional Water Board.

All Discharge Monitoring Reports shall be sent to:

California Regional Water Quality Control Board
North Coast Region
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

U.S. EPA, Region 9
Attn: WTR-7, NPDES/DMR
75 Hawthorne Street
San Francisco, CA 94105

20. Acute Toxicity Control Provision

Compliance with the Basin Plan narrative toxicity objective shall be achieved in accordance with the following:

- a. Testing procedures specified in *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (U.S. EPA Report No. EPA 600/4-90-027F, 4th edition or subsequent editions), or other methods approved by the Executive Officer, shall be used.
- b. If the result of any single acute toxicity test does not comply with the acute toxicity effluent limitation, the permittee shall take two more samples, one within 14 days, and one within 21 days of receiving the sample results. If two of the three samples do not comply with the acute toxicity limitation, the permittee shall initiate a Toxicity Identification Evaluation in accordance with **E. PROVISIONS 22**. If the two additional samples are in compliance with the acute toxicity requirement, then a TIE will not be required. If the discharge has ceased before the additional samples could be collected, the permittee shall contact the Executive Officer within 21 days with a plan to demonstrate compliance with the acute toxicity effluent limitation.

21. Chronic Toxicity Control Provision

Compliance with the Basin Plan narrative toxicity objective shall be achieved in accordance with the following:

- a. Testing procedures specified in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (U.S. EPA Report, EPA/600/4-91/003, 2nd Edition, July 1994 or subsequent editions), *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms* (U.S. EPA Report No. EPA-600-4-91-002, 3rd or subsequent editions), or

other methods approved by the Executive Officer, shall be used.

- b. If the result of any single chronic toxicity test does not comply with the chronic toxicity effluent limitation, the permittee shall take two more samples, one within 14 days, and one within 21 days of receiving the sample results. If two of the three samples do not comply with the chronic toxicity limitation, the permittee shall initiate a Toxicity Identification Evaluation (TIE) in accordance with **E. PROVISIONS 22**. If the two additional samples are in compliance with the chronic toxicity requirement, then a TIE will not be required. If the discharge has ceased before the additional samples could be collected, the permittee shall contact the Executive Officer within 21 days with a plan to demonstrate compliance with the chronic toxicity effluent limitation.
- c. Chronic Toxicity Screening Phase Requirements
 - i. The permittee shall perform screening phase monitoring at the start of its chronic toxicity monitoring program.
 - ii. Design of the screening phase shall, at a minimum, consist of the following elements:
 - (1) At least three test species with approved test protocols shall be used to measure compliance with the toxicity objective;
 - (2) If possible, the test species shall include a vertebrate, an invertebrate, and an aquatic plant;
 - (3) Use of test species specified in Tables 5 of the SIP and the list in Appendix II of the 1997 Ocean Plan, and use of the protocols referenced therein, or as approved by the Executive Officer;
 - (4) Appropriate controls; and
 - (5) Concurrent reference toxicant tests.
 - iii. After conducting the screening phase, the permittee may petition the Executive Officer to reduce the required testing to the most sensitive specie(s).

22. Toxicity Identification and Source Reduction Evaluations for Acute and Chronic Toxicity

The permittee shall take steps necessary to identify and reduce the source of the toxicity in the effluent, if the discharge consistently exceeds an acute limit or a chronic trigger. The Toxicity Identification Evaluation shall be conducted in

accordance with the *Methods for Aquatic Toxicity Identification Evaluations: Phases I-III* (EPA Publication 600/6-91/003, February 1991) or other methods approved by the Executive Officer. The Toxicity Reduction Evaluation shall be conducted in accordance with the *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA 600/2-88/070, April 1989) or the *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA 883-B-99-002, August 1999) or other methods approved by the Executive Officer. Once the source of toxicity is identified, the permittee shall take all reasonable steps necessary to reduce toxicity to the required level.

23. Pollutant Minimization Program

The permittee shall, as required by the Executive Officer, conduct a Pollutant Minimization Program in accordance with the SIP when there is evidence that the priority pollutant is present in the effluent above an effluent limitation, when a sample result is reported as detected and not quantified and the effluent limitation is less than the reported minimum level, or when a sample result is reported as not detected and the effluent limitation is less than the method detection limit.

24. Priority Pollutant Study.

The discharge may contain constituents that have a reasonable potential to cause or contribute to an exceedance of NTR, CTR, water quality objectives, or supplemental constituents that could exceed Basin Plan numeric or narrative water quality objectives. The constituents are specifically listed in a 13267(b) Order for submission of a technical report issued by the Executive Officer on April 27, 2001. The permittee shall comply with the time schedule from the 13267(b) Order, which is summarized below:

<u>Task</u>	<u>Compliance Date</u>
Submit Sampling Plan for Priority Pollutant and Dioxin Studies	September 28, 2001 (Completed)
Submit data gathered from priority pollutant study	April 28, 2003
Submit data gathered from dioxin study	April 28, 2004

This Provision is intended to be consistent with the requirements of the 13267(b) Order. The Permittee shall submit to the Executive Officer on or before each compliance due date, the specified document or a written report detailing compliance or noncompliance with the specific date and task. If noncompliance is reported, the permittee shall state the reasons for noncompliance and include an estimate of the date when the permittee will be in compliance. The permittee shall notify the Executive Officer by letter when it returns to compliance with the time schedule.

25. Reopener

The Regional Water Board may modify, or revoke and reissue, this Order if present or future investigations demonstrate that the permittee governed by this Order is causing or significantly contributing to, adverse impacts on water quality and/or beneficial uses of receiving waters.

In the event that the Regional Water Board's interpretation of the narrative toxicity objective is modified or invalidated by a State Water Board order, a court decision, or State or Federal statute or regulation, the effluent limitations for toxic pollutants contained in this Order may be revised to be consistent with the order, decision, statute or regulation.

In addition, the Regional Water Board may consider revising this Permit to make it consistent with the SIP and any State Water Board decisions arising from various petitions for rehearing, and litigation concerning the SIP, 303(d) list, and total maximum daily load (TMDL) program.

The Regional Water Board shall notice a reconsideration of this permit within 60 days of the date of the final judgment by the San Francisco Superior Court in *Water Keepers Northern California, et al.*, Case No. 312513, for the purpose of modifying the permit to make it consistent with the judgment of the Court in this matter where any term, limitation, or provision is inconsistent with the judgment. The permit will be modified within the time period established by the Court in this matter.

Certification

I, Susan A. Warner, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on June 27, 2002

Susan A. Warner
Executive Officer