CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

CENTRAL VALLEY REGION

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ORDER NO. R5-2007-XXXX
NPDES NO. CA0004804

WASTE DISCHARGE REQUIREMENTS FOR THE STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME MOCCASIN CREEK FISH HATCHERY TUOLUMNE COUNTY

The following Discharger is subject to waste discharge requirements as set forth in this Order:

Table 1. Discharger Information

Discharger	California Department of Fish & Game
Name of Facility	Moccasin Creek Fish Hatchery
Facility Address	Highway 49 &120
	Moccasin, CA, 95347
	Tuolumne
The U.S. Environmental Protection Agency (USEPA) and the Regional Water Quality Control Board have classified this discharge as a **minor** discharge.	

The discharge by the California Department of Fish & Game, Moccasin Creek Fish Hatchery from the discharge points identified below is subject to waste discharge requirements as set forth in this Order:

Table 2. Discharge Location

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
001	Aquaculture Wastewater	37º, 48', 49" N	120º, 18', 30" W	Moccasin Creek
002	Aquaculture Wastewater	37º, 48', 48" N	120º, 18', 27" W	Moccasin Creek

Table 3. Administrative Information

This Order was adopted by the Regional Water Quality Control Board on:	**<Adoption Date>**
This Order shall become effective on:	**<Effective Date>**
This Order shall expire on:	**<Expiration Date>**
The Discharger shall file a Report of Waste Discharge in accordance with title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than:	**180 days prior to the Order expiration date**

IT IS HEREBY ORDERED, that Order No. CA0004804 is rescinded upon the effective date of this Order except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA) and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Order.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on **<Adoption Date>**.

PAMELA C. CREEDON, Executive Officer

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I. FACILITY INFORMATION

The following Discharger is subject to waste discharge requirements as set forth in this Order:

Table 4. Facility Information

Discharger	California Department of Fish & Game
Name of Facility	Moccasin Creek Fish Hatchery
Facility Address	Highway 49 &120
	Moccasin, CA, 95347
	Tuolumne
Facility Contact, Title, and Phone	Tom Grove, Fish Hatchery Manager II, (209) 989-2312
Mailing Address	Department of Fish & Game, 1234 E. Shaw Avenue, Fresno, CA, 93710
Type of Facility	Concentrated Aquatic Animal Production/ Fish Hatchery (CAAP Facility)
Facility Design Flow	21.33 (in million gallons per day)

II. FINDINGS

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

A. Background. The California Department of Fish & Game (hereinafter Discharger) is currently discharging pursuant to Order No. 5-01-259 and National Pollutant Discharge Elimination System (NPDES) Permit No. CA0004804. The Discharger submitted a Report of Waste Discharge, dated May 30, 2006**,** and applied for a NPDES permit renewal to discharge up to 21.33 mgd of untreated wastewater from Moccasin Creek Fish Hatchery**,** hereinafter Facility. The application was deemed complete on May 30, 2006.

B. Facility Description. The Discharger owns and operates a concentrated aquatic animal production/ fish hatchery. Wastewater is discharged from Discharge Points 001 and 002 (see table on cover page) to Moccasin Creek, a water of the United States, and a tributary to Don Pedro Reservoir and the Tuolumne River. Discharges from the hatchery building and production ponds flow through the settling pond and out discharge point 002. Discharge 001 is used during the cleaning of the settling pond. The production ponds are not cleaned when discharge 001 is in use. Pipe flushing and hatchery wastewaters are also discharged through the settling ponds and outfall 002. Attachment B provides a map of the area around the Facility. Attachment C provides a flow schematic of the Facility.

C. Legal Authorities. This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from this facility to surface waters. This Order also serves as Waste

Discharge Requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the Water Code (commencing with section 13260).

D. **Background and Rationale for Requirements**. The Regional Water Board developed the requirements in this Order based on information submitted as part of the application, through monitoring and reporting programs, and other available information. The Fact Sheet (Attachment F), which contains background information and rationale for Order requirements, is hereby incorporated into this Order and constitutes part of the Findings for this Order. Attachments A through E are also incorporated into this Order.

E. **California Environmental Quality Act (CEQA).** Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code sections 21100-21177.

F. **Technology-based Effluent Limitations***.* Section 301(b) of the CWA and implementing USEPA permit regulations at section 122.44, title 40 of the Code of Federal Regulations (CFR)[1] require that permits include conditions meeting applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards. The discharge authorized by this Order must meet minimum federal technology-based requirements based on Effluent Limitations Guidelines and Standards for the Aquatic Animal Production Industry Category in 40 CFR Part 451. A detailed discussion of the technology-based effluent limitations development is included in the Fact Sheet (Attachment F).

G. **Water Quality-based Effluent Limitations.** Section 301(b) of the CWA and section 122.44(d) require that permits include limitations more stringent than applicable federal technology-based requirements where necessary to achieve applicable water quality standards.

Section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant, but there is no numeric criterion or objective for the pollutant, water quality-based effluent limitations (WQBELs) must be established using: (1) EPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed State criterion or policy interpreting the State's narrative criterion, supplemented with other relevant information, as provided in 40 CFR section 122.44(d)(1)(vi).

H. **Water Quality Control Plans.** The Regional Water Board adopted a Water Quality Control Plan, Fourth Edition (Revised August 2006), for the Sacramento and San Joaquin River Basins (hereinafter Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies

[1] All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.

to achieve those objectives for all waters addressed through the plan. The Basin Plan at page II-2.00 for Sac/SJ states that the "…beneficial uses of any specifically *identified water body generally apply to its tributary streams*." The Basin Plan does not specifically identify beneficial uses for Moccasin Creek, but does identify present and potential uses for Don Pedro Reservoir, to which Moccasin Creek, is tributary. These beneficial uses are as follows: municipal and domestic supply; hydropower generation; water contact recreation, including canoeing and rafting; non-contact water recreation, including aesthetic enjoyment; commercial and sport fishing; warm freshwater habitat; cold freshwater habitat and wildlife habitat.

In addition, the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply. Thus, as discussed in detail in the Fact Sheet, beneficial uses applicable to Moccasin Creek are as follows:

Table 5. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Use(s)
001, 002	Don Pedro Reservoir and Tuolumne River	Existing: Municipal and domestic water supply (MUN). Hydropower generation (POW); Contact (REC-1) and non-contact (REC-2) water recreation; Warm freshwater habitat (WARM); Cold freshwater habitat (COLD); Wildlife habitat (WILD).

I. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About forty criteria in the NTR applied in California. On May 18, 2000, USEPA adopted the CTR. The CTR promulgated new toxics criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the state. The CTR was amended on February 13, 2001. These rules contain water quality criteria for priority pollutants.

J. **State Implementation Policy.** On March 2, 2000, the State Water Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy or SIP). The SIP became effective on April 28, 2000 with respect to the priority pollutant criteria promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the Regional Water Board in the Basin Plan. The SIP became effective on May 18, 2000 with respect to the priority pollutant criteria promulgated by the USEPA through the CTR. The State Water Board adopted amendments to the SIP on February 24, 2005 that became effective on July 13, 2005. The SIP establishes implementation provisions for priority pollutant criteria and objectives and provisions for chronic toxicity control. Requirements of this Order implement the SIP.

K. Compliance Schedules and Interim Requirements. In general, an NPDES permit must include final effluent limitations that are consistent with Clean Water Act section 301 and with 40 CFR 122.44(d). There are exceptions to this general rule. The State Water Board has concluded that where the Regional Water Board's Basin Plan allows for schedules of compliance and the Regional Water Board is newly interpreting a narrative standard, it may include schedules of compliance in the permit to meet effluent limits that implement a narrative standard. See In the Matter of Waste Discharge Requirements for Avon Refinery (State Board Order WQ 2001-06 at pp. 53-55). See also Communities for a Better Environment et al. v. State Water Resources Control Board, 34 Cal.Rptr.3d 396, 410 (2005). The Basin Plan for the Sacramento and San Joaquin Rivers includes a provision that authorizes the use of compliance schedules in NPDES permits for water quality objectives that are adopted after the date of adoption of the Basin Plan, which was September 25, 1995 (See Basin Plan at page IV-16). Consistent with the State Water Board's Order in the CBE matter, the Regional Water Board has the discretion to include compliance schedules in NPDES permits when it is including an effluent limitation that is a "new interpretation" of a narrative water quality objective. This conclusion is also consistent with the United States Environmental Protection Agency policies and administrative decisions. See, e.g., Whole Effluent Toxicity (WET) Control Policy. The Regional Water Board, however, is not required to include a schedule of compliance, but may issue a Time Schedule Order pursuant to Water Code section 13300 or a Cease and Desist Order pursuant to Water Code section 13301 where it finds that the discharger is violating or threatening to violate the permit. The Regional Water Board will consider the merits of each case in determining whether it is appropriate to include a compliance schedule in a permit, and, consistent with the Basin Plan, should consider feasibility of achieving compliance, and must impose a schedule that is as short as practicable to achieve compliance with the objectives, criteria, or effluent limit based on the objective or criteria.

For CTR constituents, Section 2.1 of the SIP provides that, based on a Discharger's request and demonstration that it is infeasible for an existing Discharger to achieve immediate compliance with an effluent limitation derived from a CTR criterion, compliance schedules may be allowed in an NPDES permit. Unless an exception has been granted under section 5.3 of the SIP, a compliance schedule may not exceed 5 years from the date that the permit is issued or reissued, nor may it extend beyond 10 years from the effective date of the SIP (or May 18, 2010) to establish and comply with CTR criterion-based effluent limitations. Where a compliance schedule for a final effluent limitation that exceeds 1 year, the Order must include interim numeric limitations for that constituent or parameter. Where allowed by the Basin Plan, compliance schedules and interim effluent limitations or discharge specifications may also be granted to allow time to implement a new or revised water quality objective. This Order does not include compliance schedules and interim effluent limitations.

L. Alaska Rule. On March 30, 2000, USEPA revised its regulation that specifies when new and revised state and tribal water quality standards (WQS) become effective for CWA purposes. (40 C.F.R. § 131.21; 65 Fed. Reg. 24641 (April 27, 2000).) Under the revised regulation (also known as the Alaska rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being

used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000 may be used for CWA purposes, whether or not approved by USEPA.

M. Stringency of Requirements for Individual Pollutants. This Order contains both technology-based and water quality-based effluent limitations for individual pollutants. The water quality-based effluent limitations consist of restrictions on settleable matter. The technology-based effluent limitations consist of the requirements contained in 40 CFR Part 451 and restrictions on the flow rate and total suspended solids. This Order's technology-based pollutant restrictions implement the minimum, applicable federal technology-based requirements.

Water quality-based effluent limitations have been scientifically derived to implement water quality objectives that protect beneficial uses. Both the beneficial uses and the water quality objectives have been approved pursuant to federal law and are the applicable federal water quality standards. To the extent that toxic pollutant water quality-based effluent limitations were derived from the CTR, the CTR is the applicable standard pursuant to 40 CFR section 131.38. The scientific procedures for calculating the individual water quality-based effluent limitations are based on the CTR-SIP, which was approved by USEPA on May 1, 2001. All beneficial uses and water quality objectives contained in the Basin Plan were approved under state law and submitted to and approved by USEPA prior to May 30, 2000. Any water quality objectives and beneficial uses submitted to USEPA prior to May 30, 2000, but not approved by USEPA before that date, are nonetheless "*applicable water quality standards for purposes of the [Clean Water] Act*" pursuant to 40 CFR section 131.21(c)(1). Collectively, this Order's restrictions on individual pollutants are no more stringent than required to implement the technology-based requirements of the CWA and the applicable water quality standards for purposes of the CWA.

N. Antidegradation Policy. Section 131.12 requires that the state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 is consistent with the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. As discussed in detail in the Fact Sheet the permitted discharge is consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.

O. Anti-Backsliding Requirements. Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at title 40, Code of Federal Regulations section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in the previous Order.

P. Monitoring and Reporting. Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorizes the Regional Water Board to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements. This Monitoring and Reporting Program is provided in Attachment E.

Q. Standard and Special Provisions. Standard Provisions, which apply to all NPDES permits in accordance with section 122.41, and additional conditions applicable to specified categories of permits in accordance with section 122.42, are provided in Attachment D. The discharger must comply with all standard provisions and with those additional conditions that are applicable under section 122.42. The Regional Water Board has also included in this Order special provisions applicable to the Discharger. A rationale for the special provisions contained in this Order is provided in the attached Fact Sheet.

R. Provisions and Requirements Implementing State Law. The provisions/requirements in subsections V.B. and VI.C.4.a. of this Order are included to implement state law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations.

S. Notification of Interested Parties. The Regional Water Board has notified the Discharger 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. Details of notification are provided in the Fact Sheet of this Order.

T. Consideration of Public Comment. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet of this Order.

III. DISCHARGE PROHIBITIONS

A. Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited.

B. The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard Provisions I.G. and I.H. (Attachment D).

C. Neither the discharge nor its treatment shall create a nuisance as defined in Section 13050 of the California Water Code.

IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. Effluent Limitations – Discharge Points 001 and 002

1. Final Effluent Limitations – Discharge Points 001 and 002

a. The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001 and 002, with compliance measured at Monitoring Locations EFF-001 and EFF-002 as described in the attached MRP:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	standard units	--	--	6.5	8.5
Total Suspended Solids	mg/L	5	15	--	--
	lbs/day[1]	889	2668	--	--
Settleable Solids	ml/L	0.1	0.2	--	--
Copper (Total Recoverable)	µg/L		0.5	--	--
Formaldehyde	mg/L	0.65	1.3	--	--

1 Based on a design flow of 21.33 mgd.

b. **Average Daily Discharge Flow.** The Average Daily Discharge Flow shall not exceed 21.33 million gallons per day (mgd).

2. Intérim Effluent Limitations – Not Applicable

B. Land Discharge Specifications – Not Applicable

C. Reclamation Specifications – Not Applicable

V. RECEIVING WATER LIMITATIONS

A. Surface Water Limitations

Receiving water limitations are based on water quality objectives contained in the Basin Plan and are a required part of this Order. The discharge shall not cause the following in Moccasin Creek:

1. **Bacteria**. The fecal coliform concentration, based on a minimum of not less than five samples for any 30-day period, to exceed a geometric mean of 200 MPN/100 mL, nor more than ten percent of the total number of fecal coliform samples taken during any 30-day period to exceed 400 MPN/100 mL.

2. **Biostimulatory Substances**. Water to contain biostimulatory substances that promote aquatic growths in concentrations that cause nuisance or adversely affect beneficial uses.

3. **Chemical Constituents**. Chemical constituents to be present in concentrations that adversely affect beneficial uses.

4. **Color**. Discoloration that causes nuisance or adversely affects beneficial uses.

5. **Dissolved Oxygen**:

   a. The monthly median of the mean daily dissolved oxygen concentration to fall below 85 percent of saturation in the main water mass;
   b. The 95 percentile dissolved oxygen concentration to fall below 75 percent of saturation; nor
   c. The dissolved oxygen concentration to be reduced below 7.0 mg/L at any time.

6. **Floating Material**. Floating material to be present in amounts that cause nuisance or adversely affect beneficial uses.

7. **Oil and Grease**. Oils, greases, waxes, or other materials to be present in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.

8. **pH**. The pH to be depressed below 6.5, raised above 8.5, nor changed by more than 0.5units on a monthly average.

9. **Pesticides**:

   a. Pesticides to be present, individually or in combination, in concentrations that adversely affect beneficial uses;
   b. Pesticides to be present in bottom sediments or aquatic life in concentrations that adversely affect beneficial uses;
   c. Total identifiable persistent chlorinated hydrocarbon pesticides to be present in the water column at concentrations detectable within the accuracy of analytical methods approved by USEPA or the Executive Officer.
   d. Pesticide concentrations to exceed those allowable by applicable antidegradation policies (see State Water Board Resolution No. 68-16 and 40 CFR §131.12.).
   e. Pesticide concentrations to exceed the lowest levels technically and economically achievable.
   f. Pesticides to be present in concentration in excess of the maximum contaminant levels set forth in California Code of Regulations, Title 22, Division 4, Chapter 15.
   g. Thiobencarb to be present in excess of 1.0 µg/L.

10. **Radioactivity**:

   a. Radionuclides to be present in concentrations that are harmful to human, plant, animal, or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
   b. Radionuclides to be present in excess of the maximum contaminant levels specified in Table 4 (MCL Radioactivity) of Section 64443 of Title 22 of the

California Code of Regulations.

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

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

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

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

15. **Temperature**. The natural temperature to be increased by more than 5°F.

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

17. **Turbidity**. The turbidity to increase as follows:
    a. More than 1 Nephelometric Turbidity Unit (NTU) where natural turbidity is between 0 and 5 NTUs.
    b. More than 20 percent where natural turbidity is between 5 and 50 NTUs.
    c. More than 10 NTU where natural turbidity is between 50 and 100 NTUs.
    d. More than 10 percent where natural turbidity is greater than 100 NTUs.

18. Aquatic communities and populations, including vertebrate, invertebrate, and plant species, to be degraded.

B. Groundwater Limitations

1. The discharge shall not cause the underlying groundwater to be degraded.

VI. PROVISIONS

A. Standard Provisions

1. The Discharger shall comply with all Standard Provisions included in Attachment D of this Order.

2. The Discharger shall comply with the following provisions:

    a. If the Discharger's wastewater treatment plant is publicly owned or subject to regulation by California Public Utilities Commission, it shall be supervised and

operated by persons possessing certificates of appropriate grade according to Title 23, CCR, Division 3, Chapter 26.

b. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

   i. violation of any term or condition contained in this Order;

   ii. obtaining this Order by misrepresentation or by failing to disclose fully all relevant facts;

   iii. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and

   iv. a material change in the character, location, or volume of discharge.

   The causes for modification include:

   i. New regulations. New regulations have been promulgated under Section 405(d) of the Clean Water Act, or the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.

   ii. Land application plans. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

   iii. Change in sludge use or disposal practice. Under 40 Code of Federal Regulations (CFR) 122.62(a)(1), a change in the Discharger's sludge use or disposal practice is a cause for modification of the permit. It is cause for revocation and reissuance if the Discharger requests or agrees.

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

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

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

d. This Order shall be modified, or alternately revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections

301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the CWA, if the effluent standard or limitation so issued or approved:

i. contains different conditions or is otherwise more stringent than any effluent limitation in the Order; or

ii. controls any pollutant limited in the Order.

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

e. The provisions of this Order are severable. If any provision of this Order is found invalid, the remainder of this Order shall not be affected.

f. The Discharger shall take all reasonable steps to minimize any adverse effects to waters of the State or users of those waters resulting from any discharge or sludge use or disposal in violation of this Order. Reasonable steps shall include such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge or sludge use or disposal.

g. The Discharger shall ensure compliance with any existing or future pretreatment standard promulgated by USEPA under Section 307 of the CWA, or amendment thereto, for any discharge to the municipal system.

h. The discharge of any radiological, chemical or biological warfare agent or high-level, radiological waste is prohibited.

i. A copy of this Order shall be maintained at the discharge facility and be available at all times to operating personnel. Key operating personnel shall be familiar with its content.

j. Safeguard to electric power failure:

i. The Discharger shall provide safeguards to assure that, should there be reduction, loss, or failure of electric power, the discharge shall comply with the terms and conditions of this Order.

ii. Upon written request by the Regional Water Board the Discharger shall submit a written description of safeguards. Such safeguards may include alternate power sources, standby generators, retention capacity, operating procedures, or other means. A description of the safeguards provided shall include an analysis of the frequency, duration, and impact of power failures experienced over the past five years on effluent quality and on the capability of the Discharger to comply with the terms and conditions of the Order. The adequacy of the safeguards is subject to the approval of the Regional Water Board.

iii. Should the treatment works not include safeguards against reduction, loss, or failure of electric power, or should the Regional Water Board not approve the

existing safeguards, the Discharger shall, within ninety days of having been advised in writing by the Regional Water Board that the existing safeguards are inadequate, provide to the Regional Water Board and USEPA a schedule of compliance for providing safeguards such that in the event of reduction, loss, or failure of electric power, the Discharger shall comply with the terms and conditions of this Order. The schedule of compliance shall, upon approval of the Regional Water Board, become a condition of this Order.

k. The Discharger, upon written request of the Regional Water Board, shall file with the Board a technical report on its preventive (failsafe) and contingency (cleanup) plans for controlling accidental discharges, and for minimizing the effect of such events. This report may be combined with that required under Regional Water Board Standard Provision VI.A.2.m.

   The technical report shall:

   i. Identify the possible sources of spills, leaks, untreated waste by-pass, and contaminated drainage. Loading and storage areas, power outage, waste treatment unit outage, and failure of process equipment, tanks and pipes should be considered.

   ii. Evaluate the effectiveness of present facilities and procedures and state when they became operational.

   iii. Predict the effectiveness of the proposed facilities and procedures and provide an implementation schedule containing interim and final dates when they will be constructed, implemented, or operational.

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

l. A publicly owned treatment works (POTW) whose waste flow has been increasing, or is projected to increase, shall estimate when flows will reach hydraulic and treatment capacities of its treatment and disposal facilities. The projections shall be made in January, based on the last three years' average dry weather flows, peak wet weather flows and total annual flows, as appropriate. When any projection shows that capacity of any part of the facilities may be exceeded in four years, the Discharger shall notify the Regional Water Board by 31 January. A copy of the notification shall be sent to appropriate local elected officials, local permitting agencies and the press. Within 120 days of the notification, the Discharger shall submit a technical report showing how it will prevent flow volumes from exceeding capacity or how it will increase capacity to handle the larger flows. The Regional Water Board may extend the time for submitting the report.

m. The Discharger shall submit technical reports as directed by the Executive Officer. All technical reports required herein that involve planning, investigation,

evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code, sections 6735, 7835, and 7835.1. To demonstrate compliance with Title 16, CCR, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

n. Laboratories that perform sample analyses must be identified in all monitoring reports submitted to the Regional Water Board and USEPA.

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

p. Effluent samples shall be taken downstream of the last addition of wastes to the treatment or discharge works where a representative sample may be obtained prior to mixing with the receiving waters. Samples shall be collected at such a point and in such a manner to ensure a representative sample of the discharge.

q. All monitoring and analysis instruments and devices used by the Discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary, at least yearly, to ensure their continued accuracy.

r. The Discharger shall file with the Regional Water Board technical reports on self-monitoring performed according to the detailed specifications contained in the Monitoring and Reporting Program attached to this Order.

s. The results of all monitoring required by this Order shall be reported to the Regional Water Board, and shall be submitted in such a format as to allow direct comparison with the limitations and requirements of this Order. Unless otherwise specified, discharge flows shall be reported in terms of the monthly average and the daily maximum discharge flows.

t. The Regional Water Board is authorized to enforce the terms of this permit under several provisions of the CWC, including, but not limited to, sections 13385, 13386, and 13387.

u. In the event the Discharger does not comply or will be unable to comply for any reason, with any prohibition, maximum daily effluent limitation, 1-hour average effluent limitation, or receiving water limitation contained in this Order, the Discharger shall notify the Regional Water Board by telephone (916) 464-3291 within 24 hours of having knowledge of such noncompliance, and shall confirm this notification in writing within five days, unless the Regional Water Board waives confirmation. The written notification shall include the information required by Attachment D, Section V.E.1 [40 CFR section 122.41(l)(6)(i)].

B. Monitoring and Reporting Program (MRP) Requirements

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

C. Special Provisions

1. Reopener Provisions

a. This Order may be reopened for modification, or revocation and reissuance, as a result of the detection of a reportable priority pollutant generated by special conditions included in this Order. These special conditions may be, but are not limited to, fish tissue sampling, whole effluent toxicity, monitoring requirements on internal waste stream(s), and monitoring for surrogate parameters. Additional requirements may be included in this Order as a result of the special condition monitoring data.

b. Conditions that necessitate a major modification of a permit are described in 40 CFR section 122.62, including:

i. If new or amended applicable water quality standards are promulgated or approved pursuant to Section 303 of the CWA, or amendments thereto, this permit may be reopened and modified in accordance with the new or amended standards.

ii. When new information, that was not available at the time of permit issuance, would have justified different permit conditions at the time of issuance.

2. Special Studies, Technical Reports and Additional Monitoring Requirements

a. **Chemical and Aquaculture Drug Use.** This permit authorizes the discharge of oxytetracycline, penicillin G, florfenicol, amoxycillin trihydrate, erythromycin, Romet-30, MS-222, carbon dioxide gas, sodium bicarbonate, Aqui-S, PVP Iodine, Formalin, hydrogen peroxide, potassium permanganate, copper sulfate, sodium chloride, acetic acid, and chloramine-T to the Moccasin Creek in accordance with the effluent limitations, BMP plan requirements, Monitoring and Reporting requirements and other conditions of this permit. Other aquaculture chemicals or drugs that may enter the wastewater discharge can only be authorized if the Discharger submits a RWD to the Regional Water Board that contains the following supplemental information, and the Regional Water Board has issued waste discharge requirements or this Order has been opened and revised:

i. The common name(s) and active ingredient(s) of the drug or chemical proposed for use and discharge.

ii. The purpose for the proposed use of the drug or chemical (i.e. list the specific disease for treatment and specific species for treatment).
iii. The amount proposed for use and the resulting calculated concentration in the discharge.
iv. The duration and frequency of the proposed use.
v. Material Safety Data Sheets and available toxicity information.
vi. Any related Investigational New Animal Drug (INAD), New Animal Drug Application (NADA) information, extra-label use requirements and/or veterinarian prescriptions.

The Discharger shall also submit acute toxicity test information on any new chemical or drug in accordance with methods specified in EPA600/4-90/027, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, using Ceriodaphnia dubia to determine the NOAEL, and LOAEL.

3. Best Management Practices and Pollution Prevention

a. **Salinity Evaluation and Minimization Plan.** The Discharger shall prepare a salinity evaluation and minimization plan to address sources of salinity and shall provide annual reports demonstrating reasonable progress in the reduction of salinity in its discharge to Moccasin Creek. The plan shall be completed and submitted to the Regional Water Board **within 9 months of the effective date of this Order** for approval by the Executive Officer. The annual reports shall be submitted in accordance with the Monitoring and Reporting Program (Attachment E, Section X.D.).

b. **Best Management Practices and Pollution Prevention as Required in 40 CFR §451.11**

Within 60-days of adoption of this Order, the Discharger shall certify in writing to the Regional Water Board that it has developed a Best Management Practices (BMP) plan as required by 40 CFR Part 451. The Discharger shall develop and implement the BMP plan to prevent or minimize the generation and discharge of wastes and pollutants to the waters of the United States and waters of the State. The Discharger shall develop and implement a BMP plan consistent with the following objectives:

i. Solids control. The permittee must:

a) Employ efficient feed management and feeding strategies that limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth in order to minimize potential discharges of uneaten feed and waste products to waters of the U.S.

b) In order to minimize the discharge of accumulated solids from settling ponds and basins and production systems, identify and implement procedures for routine cleaning of rearing units and off-line settling basins, and procedures to minimize any discharge of accumulated solids during the inventorying, grading and harvesting of aquatic animals in the production system.

c) Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent discharge to waters of the U.S., except in cases where the permitting authority authorizes such discharge in order to benefit the aquatic environment.

ii. Materials storage. The permittee must:

a) Ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills that may result in the discharge of drugs, pesticides or feed to waters of the U.S.

b) Implement procedures for properly containing, cleaning, and disposing of any spilled material.

iii. Structural maintenance. The permittee must:

a) Inspect the production system and the wastewater treatment system on a routine basis in order to identify and promptly repair any damage.

b) Conduct regular maintenance of the production system and the wastewater treatment system in order to ensure that they are properly functioning.

iv. Recordkeeping. The permittee must:

a) In order to calculate representative feed conversion ratios, maintain records for aquatic animal rearing units documenting the feed amounts and estimates of the numbers and weight of aquatic animals.

b) Keep records documenting the frequency of cleaning, inspections, maintenance and repairs.

v. Training. The permittee must:

a) In order to ensure the proper clean-up and disposal of spilled material adequately train all relevant facility personnel in spill prevention and how to respond in the event of a spill.

b) Train staff on the proper operation and cleaning of production and wastewater treatment systems including training in feeding procedures and proper use of equipment.

The Discharger shall ensure that its operations staff are familiar with the BMP Plan and have been adequately trained in the specific procedures it requires.

4. Construction, Operation and Maintenance Specifications

a. Solids disposal specifications:

Collected screenings, sludge, and other solids, including fish carcasses, shall be disposed of in a manner approved by the Executive Officer and consistent *with Consolidated Regulations for Treatment, Storage, Processing, or Disposal of Solid Waste*, as set forth in Title 27, CCR, Division 2, Subdivision 1, Section 20005, et seq.

5. Special Provisions for Municipal Facilities (POTWs Only) – Not Applicable

6. Other Special Provisions

a. Prior to making any change in the discharge point, place of use, or purpose of use of the wastewater, the Discharger shall obtain approval of, or clearance from the State Water Resources Control Board (Division of Water Rights).

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

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

7. Compliance Schedules – Not Applicable

VII. COMPLIANCE DETERMINATION – NOT APPLICABLE

ATTACHMENT A – DEFINITIONS

Arithmetic Mean (μ), also called the average, is the sum of measured values divided by the number of samples. For ambient water concentrations, the arithmetic mean is calculated as follows:

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

Average Monthly Effluent Limitation (AMEL): the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

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

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

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

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

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

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

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

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

Detected, but Not Quantified (DNQ) are those sample results less than the RL, but greater than or equal to the laboratory's MDL.

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

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

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

Estimated Chemical Concentration is the estimated chemical concentration that results from the confirmed detection of the substance by the analytical method below the ML value.

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

Inland Surface Waters are all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

Instantaneous Maximum Effluent Limitation: the highest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous maximum limitation).

Instantaneous Minimum Effluent Limitation: the lowest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous minimum limitation).

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

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

Method Detection Limit (MDL) is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

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

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

Not Detected (ND) are those sample results less than the laboratory's MDL.

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

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

Pollutant Minimization Program (PMP) means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being

impacted. The Regional Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

Pollution Prevention means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to, input change, operational improvement, production process change, and product reformulation (as defined in Water Code section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State or Regional Water Board.

Reporting Level (RL) is the ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the Regional Water Board either from Appendix 4 of the SIP in accordance with section 2.4.2 of the SIP or established in accordance with section 2.4.3 of the SIP. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL.

Source of Drinking Water is any water designated as municipal or domestic supply (MUN) in a Regional Water Board Basin Plan.

Standard Deviation (σ) is a measure of variability that is calculated as follows:

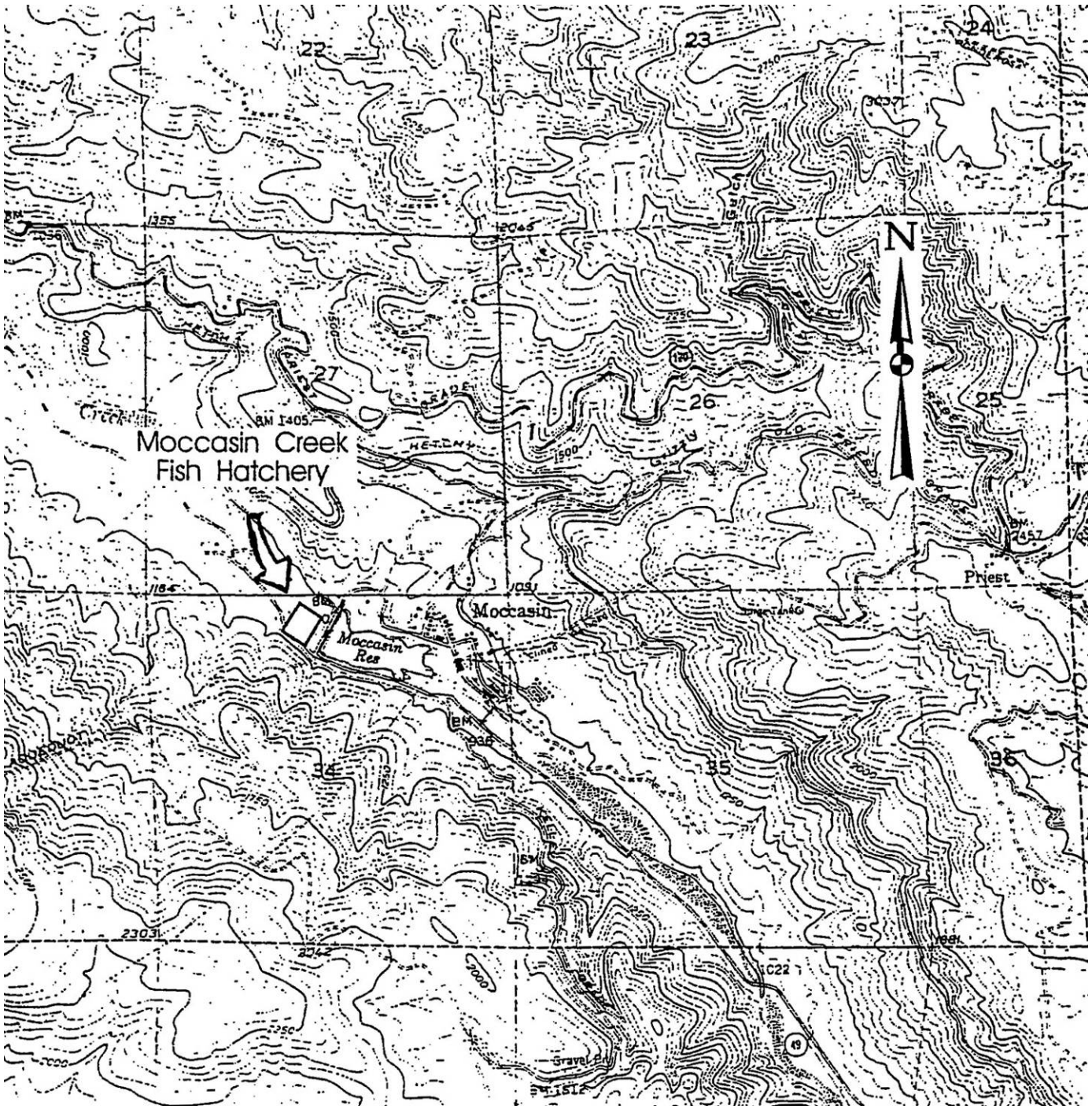
$$\sigma = (\sum[(x - \mu)^2]/(n - 1))^{0.5}$$

where:

x is the observed value;
μ is the arithmetic mean of the observed values; and
n is the number of samples.

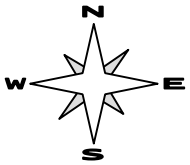
Toxicity Reduction Evaluation (TRE) is a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps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

ATTACHMENT B – MAP

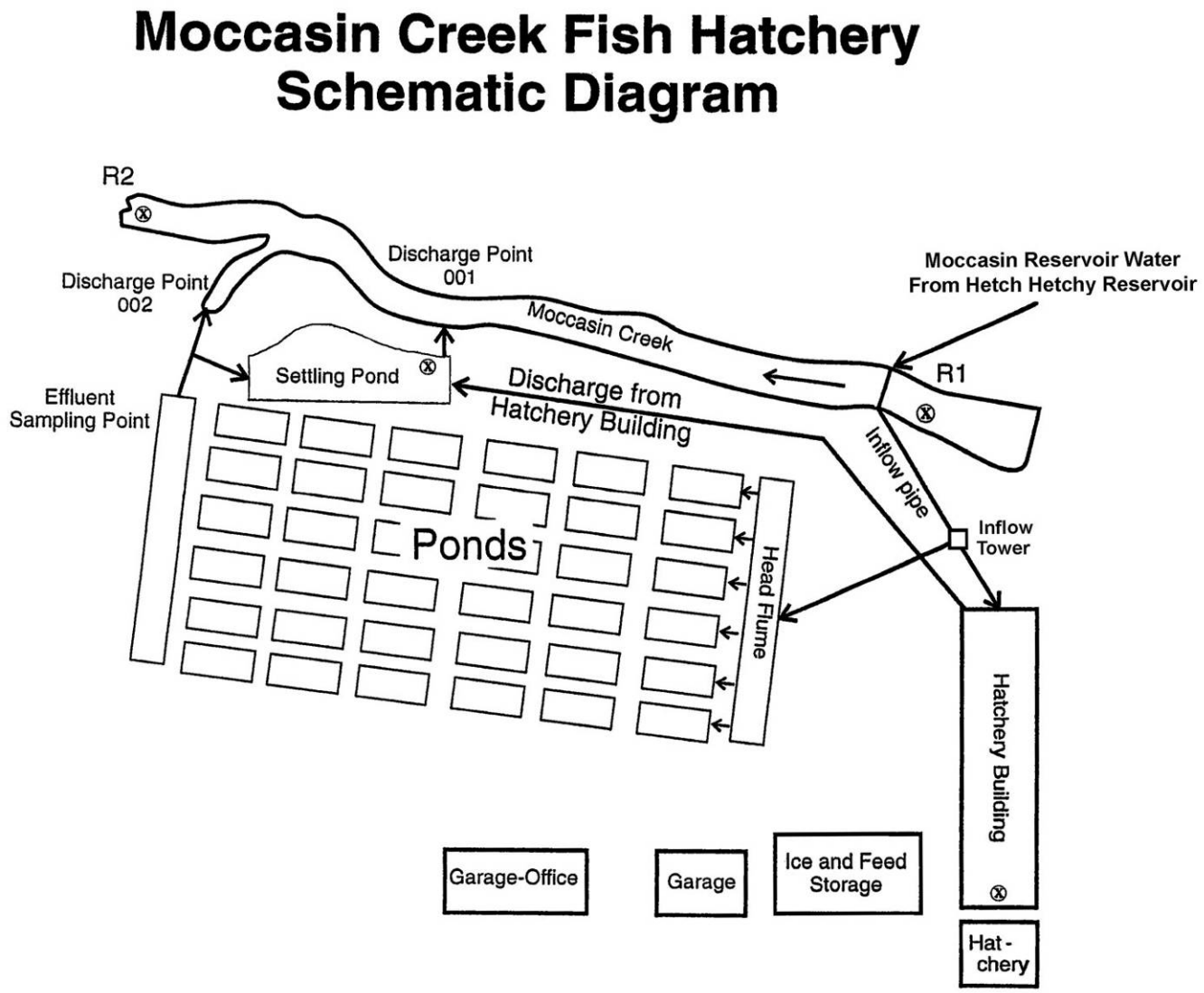


SITE LOCATION MAP

CALIFORNIA DEPARTMENT OF FISH & GAME
MOCCASIN CREEK FISH HATCHERY
TUOLUMNE COUNTY



ATTACHMENT C – FLOW SCHEMATIC



ATTACHMENT D –STANDARD PROVISIONS

I. STANDARD PROVISIONS – PERMIT COMPLIANCE

A. Duty to Comply

1. The Discharger must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. (40 C.F.R. § 122.41(a).)

2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement. (40 C.F.R. § 122.41(a)(1).)

B. Need to Halt or Reduce Activity Not a Defense

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

C. Duty to Mitigate

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

D. Proper Operation and Maintenance

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

E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges. (40 C.F.R. § 122.41(g).)

2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. (40 C.F.R. § 122.5(c).)

F. Inspection and Entry

The Discharger shall allow the Regional Water Board, State Water Board, United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to (40 C.F.R. § 122.41(i); Wat. Code, § 13383):

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order (40 C.F.R. § 122.41(i)(1));

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order (40 C.F.R. § 122.41(i)(2));

3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order (40 C.F.R. § 122.41(i)(3)); and

4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the Water Code, any substances or parameters at any location. (40 C.F.R. § 122.41(i)(4).)

G. Bypass

1. Definitions

   a. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility. (40 C.F.R. § 122.41(m)(1)(i).)

   b. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (40 C.F.R. § 122.41(m)(1)(ii).)

2. Bypass not exceeding limitations. The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance I.G.3, I.G.4, and I.G.5 below. (40 C.F.R. § 122.41(m)(2).)

3. Prohibition of bypass. Bypass is prohibited, and the Regional Water Board may take enforcement action against a Discharger for bypass, unless (40 C.F.R. § 122.41(m)(4)(i)):

   a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (40 C.F.R. § 122.41(m)(4)(i)(A));

   b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance (40 C.F.R. § 122.41(m)(4)(i)(B)); and

   c. The Discharger submitted notice to the Regional Water Board as required under Standard Provisions – Permit Compliance I.G.5 below. (40 C.F.R. § 122.41(m)(4)(i)(C).)

4. The Regional Water Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above. (40 C.F.R. § 122.41(m)(4)(ii).)

5. Notice

   a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass. (40 C.F.R. § 122.41(m)(3)(i).)

   b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below (24-hour notice). (40 C.F.R. § 122.41(m)(3)(ii).)

H. Upset

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

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance I.H.2 below are met. No determination made during administrative review of claims that noncompliance was

caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. (40 C.F.R. § 122.41(n)(2).).

2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that (40 C.F.R. § 122.41(n)(3)):

   a. An upset occurred and that the Discharger can identify the cause(s) of the upset (40 C.F.R. § 122.41(n)(3)(i));

   b. The permitted facility was, at the time, being properly operated (40 C.F.R. § 122.41(n)(3)(ii));

   c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) (40 C.F.R. § 122.41(n)(3)(iii)); and

   d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above. (40 C.F.R. § 122.41(n)(3)(iv).)

3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof. (40 C.F.R. § 122.41(n)(4).)

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

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

B. Duty to Reapply

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

C. Transfers

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

III. STANDARD PROVISIONS – MONITORING

A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. (40 C.F.R. § 122.41(j)(1).)

B. Monitoring results must be conducted according to test procedures under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503 unless other test procedures have been specified in this Order. (40 C.F.R. § 122.41(j)(4); § 122.44(i)(1)(iv).)

IV. STANDARD PROVISIONS – RECORDS

A. Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by Part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Regional Water Board Executive Officer at any time. (40 C.F.R. § 122.41(j)(2).)

B. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements (40 C.F.R. § 122.41(j)(3)(i));

2. The individual(s) who performed the sampling or measurements (40 C.F.R. § 122.41(j)(3)(ii));

3. The date(s) analyses were performed (40 C.F.R. § 122.41(j)(3)(iii));

4. The individual(s) who performed the analyses (40 C.F.R. § 122.41(j)(3)(iv));

5. The analytical techniques or methods used (40 C.F.R. § 122.41(j)(3)(v)); and

6. The results of such analyses. (40 C.F.R. § 122.41(j)(3)(vi).)

C. Claims of confidentiality for the following information will be denied (40 C.F.R. § 122.7(b)):

1. The name and address of any permit applicant or Discharger (40 C.F.R. § 122.7(b)(1)); and

2. Permit applications and attachments, permits and effluent data. (40 C.F.R. § 122.7(b)(2).)

V. STANDARD PROVISIONS – REPORTING

A. Duty to Provide Information

The Discharger shall furnish to the Regional Water Board, State Water Board, or USEPA within a reasonable time, any information which the Regional Water Board, State Water Board, or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Discharger shall also furnish to the Regional Water Board, State Water Board, or USEPA copies of records required to be kept by this Order. (40 C.F.R. § 122.41(h); Wat. Code, § 13267.)

B. Signatory and Certification Requirements

1. All applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below. (40 C.F.R. § 122.41(k).)

2. All permit applications shall be signed by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA). (40 C.F.R. § 122.22(a)(3).).

3. All reports required by this Order and other information requested by the Regional Water Board, State Water Board, or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

    a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above (40 C.F.R. § 122.22(b)(1));

    b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) (40 C.F.R. § 122.22(b)(2)); and

    c. The written authorization is submitted to the Regional Water Board and State Water Board. (40 C.F.R. § 122.22(b)(3).)

4. If an authorization under Standard Provisions – Reporting V.B.3 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard

Provisions – Reporting V.B.3 above must be submitted to the Regional Water Board and State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 C.F.R. § 122.22(c).)

5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above shall make the following certification:

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

C. Monitoring Reports

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this Order. (40 C.F.R. § 122.22(l)(4).)

2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. (40 C.F.R. § 122.41(l)(4)(i).)

3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Water Board. (40 C.F.R. § 122.41(l)(4)(ii).)

4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order. (40 C.F.R. § 122.41(l)(4)(iii).)

D. Compliance Schedules

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

E. Twenty-Four Hour Reporting

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time

the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. (40 C.F.R. § 122.41(l)(6)(i).)

2. The following shall be included as information that must be reported within 24 hours under this paragraph (40 C.F.R. § 122.41(l)(6)(ii)):

   a. Any unanticipated bypass that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(A).)

   b. Any upset that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(B).)

3. The Regional Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours. (40 C.F.R. § 122.41(l)(6)(iii).)

F. Planned Changes

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

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b) (40 C.F.R. § 122.41(l)(1)(i)); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in this Order nor to notification requirements under section 122.42(a)(1) (see Additional Provisions—Notification Levels VII.A.1). (40 C.F.R. § 122.41(l)(1)(ii).)

3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. (40 C.F.R.§ 122.41(l)(1)(iii).)

G. Anticipated Noncompliance

The Discharger shall give advance notice to the Regional Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements. (40 C.F.R. § 122.41(l)(2).)

H. Other Noncompliance

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

I. Other Information

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Water Board, State Water Board, or USEPA, the Discharger shall promptly submit such facts or information. (40 C.F.R. § 122.41(l)(8).)

VI. STANDARD PROVISIONS – ENFORCEMENT

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

VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS

A. Non-Municipal Facilities

Existing manufacturing, commercial, mining, and silvicultural Dischargers shall notify the Regional Water Board as soon as they know or have reason to believe (40 C.F.R. § 122.42(a)):

1. 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 Order, if that discharge will exceed the highest of the following "notification levels" (40 C.F.R. § 122.42(a)(1)):

    a. 100 micrograms per liter (µg/L) (40 C.F.R. § 122.42(a)(1)(i));

    b. 200 µg/L for acrolein and acrylonitrile; 500 µg/L for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and 1 milligram per liter (mg/L) for antimony (40 C.F.R. § 122.42(a)(1)(ii));

    c. Five (5) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge (40 C.F.R. § 122.42(a)(1)(iii)); or

d. The level established by the Regional Water Board in accordance with section 122.44(f). (40 C.F.R. § 122.42(a)(1)(iv).)

2. That any activity has occurred or will occur that would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in this Order, if that discharge will exceed the highest of the following “notification levels" (40 C.F.R. § 122.42(a)(2)):

   a. 500 micrograms per liter (µg/L) (40 C.F.R. § 122.42(a)(2)(i));

   b. 1 milligram per liter (mg/L) for antimony (40 C.F.R. § 122.42(a)(2)(ii));

   c. Ten (10) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge (40 C.F.R. § 122.42(a)(2)(iii)); or

   d. The level established by the Regional Water Board in accordance with section 122.44(f). (40 C.F.R. § 122.42(a)(2)(iv).)

ATTACHMENT E – MONITORING AND REPORTING PROGRAM

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ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)

The Code of Federal Regulations section 122.48 requires that all NPDES permits specify monitoring and reporting requirements. Water Code Sections 13267 and 13383 also authorize the Regional Water Quality Control Board (Regional Water Board) to require technical and monitoring reports. This MRP establishes monitoring and reporting requirements, which implement the federal and state regulations.

I. GENERAL MONITORING PROVISIONS

A. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring locations specified below and, unless otherwise specified, before the monitored flow joins or is diluted by any other waste stream, body of water, or substance. Monitoring locations shall not be changed without notification to and the approval of this Regional Water Board.

B. 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 a certified laboratory is not available to the Discharger, analyses performed by a noncertified laboratory will be accepted provided a Quality Assurance-Quality Control Program is instituted by the laboratory. A manual containing the steps followed in this program must be kept in the laboratory and shall be available for inspection by Regional Water Board staff. The Quality Assurance-Quality Control Program must conform to USEPA guidelines or to procedures approved by the Regional Water Board.

C. All analyses shall be performed in a laboratory certified to perform such analyses by the California Department of Health Services. Laboratories that perform sample analyses shall be identified in all monitoring reports.

D. Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. All monitoring instruments and devices used by the Discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy. All flow measurement devices shall be calibrated at least once per year to ensure continued accuracy of the devices.

E. Monitoring results, including noncompliance, shall be reported at intervals and in a manner specified in this Monitoring and Reporting Program.

II. MONITORING LOCATIONS

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

Table E-1. Monitoring Station Locations

Discharge Point Name	Monitoring Location Name	Monitoring Location Description (include Latitude and Longitude when available)
001	**EFF-001**	Effluent wastewater flow bypassing the settling pond prior to discharge from Discharge Point 001 (37º, 48', 49" N,120º, 18', 30" W).
002	**EFF-002**	Effluent wastewater flow out from the settling pond prior to discharge from Discharge Point 002 (37º, 48', 48" N,120º, 18', 27" W).
	RSW-001	100 feet upstream from the point of discharge in Moccasin Creek
	RSW-002	500 feet downstream from the point of discharge in Moccasin Creek

III. INFLUENT MONITORING REQUIREMENTS – NOT APPLICABLE

IV. EFFLUENT MONITORING REQUIREMENTS

A. Monitoring Location EFF-001 and EFF-002

1. The Discharger shall establish the following monitoring locations to demonstrate compliance with the effluent limitations, discharge specifications, and other requirements in this Order. If more than one analytical test method is listed for a given parameter, the Discharger must select from the listed methods and corresponding Minimum Level:

Table E-2. Effluent Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method and (Minimum Level, units), respectively
Flow	mgd	Meter	Continuous	
Temperature	ºF	Grab	1/week	
Dissolved Oxygen	mg/L	Grab	1/week	
Turbidity	ntu	Grab	1/week	
Settleable Solids	mL/L	Grab	1/month	[1]
Total Suspended Solids	mg/L	Grab	1/month	[1]
Hardness	mg/L	Grab	1/month	[1]
Oxytetracycline[7]	mg/L	Grab	1/month during use	[1]
Electrical Conductivity[2] @ 25°C	µmhos/cm	Grab	1/month	[1]
Chloride[2]	mg/L	Grab	1/month	[1]
Formaldehyde[3]	mg/L	Grab	1/month during use	[1]
Copper (Total Recoverable)[4,8]	µg/L	Grab	1/month during use	[1]
pH[4]	standard units	Grab	1/week[5]	[1]
Hardness[4]	mg/L	Grab	1/month	[1]
PVP Iodine[6]	mg/L	Grab	1/month during use	[1]
Hydrogen peroxide[6]	mg/L	Grab	1/month during use	[1]
Potassium permanganate[6]	mg/L	Grab	1/month during use	[1]
Chloramine-T[6]	mg/L	Grab	1/month during use	[1]
MS-222[6]	mg/L	Grab	1/month during use	[1]
Auis-S®[6]	mg/L	Grab	1/month during use	[1]
Priority Pollutants[8]	µg/L	Grab	1/5 years	[1]

[1] Pollutants shall be analyzed using the analytical methods described in 40 CFR sections 136; for priority pollutants meet the lowest minimum levels (MLs) specified in Attachment 4 of the SIP, where no methods are specified for a given pollutant, by methods approved by this Regional Water Board or the State Water Board.
[2] Monitoring of electrical conductivity and chloride shall be conducted daily during sodium chloride use.
[3] In months when Formalin is added to the waters of the Facility, formaldehyde concentration shall be measured during Formalin use.
[4] In months when copper sulfate is added to the waters of the Facility, total recoverable copper concentration shall be measured during copper sulfate use. The sample shall be collected during the time of peak discharge of copper, at least one hour after start of treatment. Effluent hardness and pH shall be measured at the same time as total recoverable copper.
[5] Daily during copper (e.g., copper sulfate) treatments only.
[6] The analytical method used for PVP iodine, hydrogen peroxide, potassium permanganate, MS-222, Aqui-S®, and Chloramine-T shall be approved by the Executive Officer. If no approved methods are available effluent concentrations may be determined by calculation as approved by the Executive Officer.
[7] In months where oxytetracycline is added to the waters of the Facility, oxytetracycline concentration shall be measured during use.
[8] For priority pollutant constituents with effluent limitations, detection limits shall be below the effluent limitations. If the lowest minimum level (ML) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Plan or SIP) is not below the effluent limitation, the detection limit shall be the lowest ML. For priority pollutant constituents without effluent limitations, the detection limits shall be equal to or less than the lowest ML published in Appendix 4 of the SIP.

V. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS – NOT APPLICABLE

VI. LAND DISCHARGE MONITORING REQUIREMENTS – NOT APPLICABLE

VII. RECLAMATION MONITORING REQUIREMENTS – NOT APPLICABLE

VIII. RECEIVING WATER MONITORING REQUIREMENTS – SURFACE WATER AND GROUNDWATER

A. Monitoring Location RSW-001 and RSW-002

1. The Discharger shall monitor Moccasin Creek at RSW-001 and RSW-002 as follows:

Table E-3. Receiving Water Monitoring Requirements

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Temperature	ºF	Grab	1/week	1
Dissolved Oxygen	mg/L	Grab	1/week	1
pH	Standard Units	Grab	1/week	1
Turbidity	NTU	Grab	1/week	1

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

In conducting the receiving water sampling, a log shall be kept of the receiving water conditions throughout the reach bounded by Stations RSW-00l and RSW-002. Attention shall be given to the presence or absence of:

a. Floating or suspended matter
b. Discoloration
c. Bottom deposits
d. Aquatic life
e. Visible films, sheens or coatings
f. Fungi, slimes, or objectionable growths
g. Potential nuisance conditions

Notes on receiving water conditions shall be summarized in the monitoring report.

IX. OTHER MONITORING REQUIREMENTS – NOT APPLICABLE

X. REPORTING REQUIREMENTS

A. General Monitoring and Reporting Requirements

1. The Discharger shall comply with all Standard Provisions (Attachment D) related to monitoring, reporting, and recordkeeping.

2. Upon written request of the Regional Water Board, the Discharger shall submit a summary monitoring report. The report shall contain both tabular and graphical summaries of the monitoring data obtained during the previous year(s).

3. **Compliance Time Schedules.** For compliance time schedules included in the Order, the Discharger shall submit to the Regional Water Board, 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 Discharger shall state the reasons for noncompliance and include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Regional Water Board by letter when it returns to compliance with the compliance time schedule.

4. The Discharger shall report to the Regional Water Board any toxic chemical release data it reports to the State Emergency Response Commission within 15 days of reporting the data to the Commission pursuant to section 313 of the "Emergency Planning and Community Right to Know Act of 1986.

5. **Reporting Protocols.** The Discharger shall report with each sample result the applicable Reporting Level (RL) and the current Method Detection Limit (MDL), as determined by the procedure in Part 136.

   The Discharger shall report the results of analytical determinations for the presence of chemical constituents in a sample using the following reporting protocols:

   a. Sample results greater than or equal to the RL shall be reported as measured by the laboratory (i.e., the measured chemical concentration in the sample).

   b. Sample results less than the RL, but greater than or equal to the laboratory's MDL, shall be reported as "Detected, but Not Quantified," or DNQ. The estimated chemical concentration of the sample shall also be reported.

      For the purposes of data collection, the laboratory shall write the estimated

chemical concentration next to DNQ as well as the words "Estimated Concentration" (may be shortened to "Est. Conc."). The laboratory may, if such information is available, include numerical estimates of the data quality for the reported result. Numerical estimates of data quality may be percent accuracy (± a percentage of the reported value), numerical ranges (low to high), or any other means considered appropriate by the laboratory.

c. Sample results less than the laboratory's MDL shall be reported as "Not Detected," or ND.

d. Dischargers are to instruct laboratories to establish calibration standards so that the ML value (or its equivalent if there is differential treatment of samples relative to calibration standards) is the lowest calibration standard. At no time is the Discharger to use analytical data derived from *extrapolation* beyond the lowest point of the calibration curve.

6. **Multiple Sample Data.** When determining compliance with an AMEL , AWEL, or MDEL for priority pollutants and more than one sample result is available, the Discharger shall compute the arithmetic mean unless the data set contains one or more reported determinations of "Detected, but Not Quantified" (DNQ) or "Not Detected" (ND). In those cases, the Discharger shall compute the median in place of the arithmetic mean in accordance with the following procedure:

   a. The data set shall be ranked from low to high, ranking the reported ND determinations lowest, DNQ determinations next, followed by quantified values (if any). The order of the individual ND or DNQ determinations is unimportant.

   b. The median value of the data set shall be determined. If the data set has an odd number of data points, then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of the points are ND or DNQ, in which case the median value shall be the lower of the two data points where DNQ is lower than a value and ND is lower than DNQ.

B. Self Monitoring Reports (SMRs)

1. At any time during the term of this permit, the State or Regional Water Board may notify the Discharger to electronically submit Self-Monitoring Reports (SMRs) using the State Water Board's California Integrated Water Quality System (CIWQS) Program Web site (http://www.waterboards.ca.gov/ciwqs/index.html). Until such notification is given, the Discharger shall submit hard copy SMRs. The CIWQS Web site will provide additional directions for SMR submittal in the event there will be service interruption for electronic submittal.

2. Monitoring results shall be submitted to the Regional Water Board by the **first day** of the second month following sample collection. Quarterly and annual monitoring results shall be submitted by the **first day of the second month following each calendar quarter, semi-annual period, and year**, respectively.

3. In reporting the monitoring data, the Discharger shall arrange the data in tabular form so that the date, the constituents, and the concentrations are readily

discernible. The data shall be summarized in such a manner to illustrate clearly whether the discharge complies with waste discharge requirements. The highest daily maximum for the month, monthly and weekly averages, and medians, and removal efficiencies (%) for BOD and Total Suspended Solids, shall be determined and recorded as needed to demonstrate compliance.

4. With the exception of flow, all constituents monitored on a continuous basis (metered), shall be reported as daily maximums, daily minimums, and daily averages; flow shall be reported as the total volume discharged per day for each day of discharge.

5. If the Discharger monitors any pollutant at the locations designated herein more frequently than is required by this Order, the results of such monitoring shall be included in the calculation and reporting of the values required in the discharge monitoring report form. Such increased frequency shall be indicated on the discharge monitoring report form.

6. A letter transmitting the self-monitoring reports shall accompany each report. Such a letter shall include a discussion of requirement violations found during the reporting period, and actions taken or planned for correcting noted violations, such as operation or facility modifications. If the Discharger has previously submitted a report describing corrective actions and/or a time schedule for implementing the corrective actions, reference to the previous correspondence will be satisfactory. The transmittal letter shall contain the penalty of perjury statement by the Discharger, or the Discharger's authorized agent, as described in the Standard Provisions.

7. SMRs must be submitted to the Regional Water Board, signed and certified as required by the Standard Provisions (Attachment D), to the address listed below:

   Regional Water Quality Control Board
   Central Valley Region
   11020 Sun Center Dr., Suite #200
   Rancho Cordova, CA 95670-6114

8. Monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

Table E-4. Monitoring Periods and Reporting Schedule

Sampling Frequency	Monitoring Period Begins On…	Monitoring Period	SMR Due Date
Continuous	**Day after permit effective date**	**All**	**Submit with monthly SMR**
1/day	**Day after permit effective date**	**(Midnight through 11:59 PM) or any 24-hour period that reasonably represents a calendar day for purposes of sampling.**	**Submit with monthly SMR**
1/month	**First day of calendar month following permit effective date or on permit effective date if that date is first day of the month**	**1st day of calendar month through last day of calendar month**	**Submit with monthly SMR**

1/year	**January 1 following (or on) permit effective date**	**January 1 through December 31**	**Submit with monthly SMR**
1 / 5 years	**Three years after effective date of the permit**	**During fourth year of permit**	**Submit with monthly SMR**

C. Discharge Monitoring Reports (DMRs) – Not Applicable

D. Other Reports

1. **Monthly Drug and Chemical Use Report.** The information listed below shall be submitted for all aquaculture drugs or chemicals used at the Facility. This information shall be reported at monthly intervals and submitted with the monthly self-monitoring reports using the drug and chemical usage report table found in Attachment H of this Order. At such time as the Discharger is required to begin submitting self-monitoring reports electronically, it shall continue to submit paper copies of the monthly drug and chemical use reports to the Regional Water Board.

    a. The name(s) and active ingredient(s) of the drug or chemical.
    b. The date(s) of application.
    c. The purpose(s) for the application.
    d. The method of application (e.g., immersion bath, administered in feed), duration of treatment, whether the treatment was static or flush (for drugs or chemicals applied directly to water), amount in gallons or pounds used, treatment concentration(s), and the flow in cubic feet per second (cfs) in the treatment units.
    e. The total flow through the facility in cubic feet per second (cfs) to the receiving water after mixing with the treated water.
    f. For drugs and chemicals applied directly to water (i.e., immersion bath, flush treatment) and for which effluent monitoring is not otherwise required, the estimated concentration in the effluent at the point of discharge.
    g. The method of disposal for drugs or chemicals used but not discharged in the effluent.

2. **Progress Reports.** As specified in the compliance time schedules required in Special Provisions VI, progress reports shall be submitted in accordance with the following reporting requirements. At minimum, the progress reports shall include a discussion of the status of final compliance, whether the Discharger is on schedule to meet the final compliance date, and the remaining tasks to meet the final compliance date.

Table E-5. Reporting Requirements for Special Provisions Progress Reports

Special Provision	Reporting Requirements
Salinity Evaluation and Minimization Plan.	**1 December**, annually, after approval of plan

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ATTACHMENT F – FACT SHEET

As described in section II of this Order, this Fact Sheet includes the legal requirements and technical rationale that serve as the basis for the requirements of this Order.

This Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for Dischargers in California. Only those sections or subsections of this Order that are specifically identified as "not applicable" have been determined not to apply to this Discharger. Sections or subsections of this Order not specifically identified as "not applicable" are fully applicable to this Discharger.

I. PERMIT INFORMATION

The following table summarizes administrative information related to the facility.

Table F-1. Facility Information

WDID	
Discharger	California Department of Fish & Game
Name of Facility	Moccasin Creek Fish Hatchery
Facility Address	Highway 49 &120
	Moccasin, CA, 95347
	Tuolumne
Facility Contact, Title and Phone	Tom Grove, Fish Hatchery Manager II, (209) 989-2312
Authorized Person to Sign and Submit Reports	Ms. Judy Urrutia, Senior Fish Hatchery Manager II, (559) 243-4017 ext.257
Mailing Address	Department of Fish & Game, 1234 E. Shaw Avenue, Fresno, CA, 93710
Billing Address	Department of Fish & Game, 1234 E. Shaw Avenue, Fresno, CA, 93710
Type of Facility	Concentrated Aquatic Animal Production/ Fish Hatchery (CAAP Facility)
Major or Minor Facility	Minor
Threat to Water Quality	
Complexity	
Pretreatment Program	N
Reclamation Requirements	N/A
Facility Permitted Flow	21.33 (in million gallons per day)
Facility Design Flow	21.33 (in million gallons per day)
Watershed	
Receiving Water	Moccasin Creek
Receiving Water Type	Inland Surface Water

A. California Department of Fish & Game (hereinafter Discharger) is the owner and operator of Moccasin Creek Fish Hatchery (hereinafter Facility), a concentrated aquatic animal production/ fish hatchery.

For the purposes of this Order, references to the "discharger" or "permittee" in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Discharger herein.

B. The Facility discharges wastewater to Moccasin Creek, a water of the United States, and is currently regulated by Order No. 5-01-259 which was adopted December 2001 and expires December 2006.

C. The Discharger filed a report of waste discharge and submitted an application for renewal of its Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permit on May 30, 2006. A site visit was conducted on September 13, 2006 to observe operations and collect additional data to develop permit limitations and conditions.

II. FACILITY DESCRIPTION

The Moccasin Creek Hatchery has 48 rearing ponds and eight raceways. Approximately 360,000 pounds of harvested trout fish (400,000 pounds maximum) are processed annually. The maximum feeding is 70,000 pounds of fish food during the month of April.

The Discharger uses Oxytetracycline to treat bacterial fish disease. California Department of Fish and Game has received permission from the Food and Drug Administration Center for Veterinary Medicine, to use Oxytetracycline to treat bacterial fish diseases at the hatchery.

In addition to the use of oxytetracycline, the Discharger requested the use of additional drugs and chemicals for the treatment of fish diseases in its application for renewal of NPDES permit submitted on September 2, 2004. The Discharger requested the use of penicillin G, florfenicol, amoxycillin trihydrate, erythromycin, Romet-30, MS-222, carbon dioxide gas, sodium bicarbonate, Aqui-S, PVP Iodine, formalin, hydrogen peroxide, potassium permanganate, copper sulfate, sodium chloride, acetic acid, and chloramine-T. These drugs and chemicals are to be used occasionally and in quantity directly relating to weight of fish and eggs treated. Antibiotics are typically milled into feed or top dressed onto feed and fed to sick fish. Forms of Iodine are used as disinfectants in small amounts, typically four to sixteen ounces per event (examples are egg shipment disinfection and tool disinfection). The Iodine is not released into discharge water, but contact with discharge is possible. Use events occur six to twelve times per year. Other chemicals listed are for the treatment of bacterial and microscopic parasites living on the gills and skin surface of fish.

A. Description of Wastewater and Biosolids Treatment or Controls

The source of water for the hatchery is Moccasin Reservoir. Tail water from the hatchery is discharged to a settling pond where it is mixed with tail water from the raceways and rearing ponds before discharge at Discharge Point 002. DFG has a contract with a tubifex worm farmer who salvages the worms every couple of months. When a salvage event is in operation the water to the settling pond is diverted through the bypass directly into the river at Discharge Point 001. During this process the

hatchery personnel take care to assure that no chemical treatment is implemented and that feeding is kept to a minimum level to prevent the discharge of total suspended solids, in the form of food, into the river. The tubifex worms maintain the sludge level in the settling ponds to less than one-foot year-round. The process to salvage the tubifex worms takes about one-half day to complete.

B. Discharge Points and Receiving Waters

1. The Facility is located in Section 27 and 34, T1S, R15E, MDB&M, as shown in Attachment B (Figure B-1), a part of this Order.

2. Wastewater is discharged at Discharge Points 001 and 002 to Moccasin Creek, a water of the United States and a tributary to Don Pedro Reservoir and Tuolumne River.

C. Summary of Existing Requirements and Self-Monitoring Report (SMR) Data

Effluent limitations/Discharge Specifications contained in the existing Order for discharges from Discharge Point 001 and 002 and representative monitoring data from the term of the previous Order are as follows:

Table F-2. Historic Effluent Limitations and Monitoring Data

Parameter	Units	Effluent Limitation			Monitoring Data (From January, 2002– To June, 2006)		
		Average Monthly	Average Weekly	Maximum Daily	Highest Average Monthly Discharge	Highest Average Weekly Discharge	Highest Daily Discharge
Flow	mgd	--	--	21.33	--	--	21.3
Settleable Matter	ml/L	0.1	--	0.2	--	Trace	--
Total Suspended Matter	mg/L	5	--	15	4	--	--
	Lbs/day	875	--	2627	710.6	--	--

D. Compliance Summary

E. Planned Changes – Not Applicable

III. APPLICABLE PLANS, POLICIES, AND REGULATIONS

The requirements contained in this Order are based on the applicable plans, policies, and regulations identified in section II of the Limitations and Discharge Requirements (Findings). This section provides supplemental information, where appropriate, for the plans, policies, and regulations relevant to the discharge.

A. Legal Authority

See Limitations and Discharge Requirements - Findings, Section II.C.

B. California Environmental Quality Act (CEQA)

See Limitations and Discharge Requirements - Findings, Section II.E.

C. State and Federal Regulations, Policies, and Plans

1. **Water Quality Control Plans**. The Regional Water Board adopted a *Water Quality Control Plan, Fourth Edition (Revised August 2006), for the Sacramento and San Joaquin River Basins* (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. In addition, State Water Board Resolution No. 88-63 requires that, with certain exceptions, the Regional Water Board assign the municipal and domestic supply use to water bodies that do not have beneficial uses listed in the Basin Plan. The beneficial uses of the Moccasin Creek downstream of the discharge are municipal and domestic supply, hydropower generation, water contact recreation, other non-contact water recreation, warm freshwater aquatic habitat, cold freshwater aquatic habitat, and wildlife habitat.

   The Basin Plan on page II-1.00 states: "*Protection and enhancement of existing and potential beneficial uses are primary goals of water quality planning…*" and with respect to disposal of wastewaters states that "...*disposal of wastewaters is [not] a prohibited use of waters of the State; it is merely a use which cannot be satisfied to the detriment of beneficial uses.*"

   The federal CWA section 101(a)(2), states: "*it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water be achieved by July 1, 1983.*" Federal Regulations, developed to implement the requirements of the CWA, create a rebuttable presumption that all waters be designated as fishable and swimmable. Federal Regulations, 40 CFR sections 131.2 and 131.10, require that all waters of the State regulated to protect the beneficial uses of public water supply, protection and propagation of fish, shell fish and wildlife, recreation in and on the water, agricultural, industrial and other purposes including navigation. Section 131.3(e), 40 CFR, defines existing beneficial uses as those uses actually attained after November 28, 1975, whether or not they are included in the water quality standards. Federal Regulation, 40 CFR section 131.10 requires that uses be obtained by implementing effluent limitations, requires that all downstream uses be protected and states that in no case shall a state adopt waste transport or waste assimilation as a beneficial use for any waters of the United States.

2. **Antidegradation Policy.** Section 131.12 requires that the state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water

Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies.

The permitted discharge is consistent with the antidegradation provisions of 40 CFR 131.12 and State Water Board Resolution 68-16. Compliance with these requirements will result in the use of best practicable treatment or control of the discharge. The impact on existing water quality will be insignificant.

3. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at title 40, Code of Federal Regulations section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require that effluent limitations in a reissued permit must be as stringent as those in the previous permit, with some exceptions in which limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in the previous Order.

4. **Endangered Species Act.** This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). This Order requires compliance with effluent limits, receiving water limits, and other requirements to protect the beneficial uses of waters of the state. The Discharger is responsible for meeting all requirements of the applicable Endangered Species Act.

D. Impaired Water Bodies on CWA 303(d) List – Not Applicable

E. Regulation of Aquaculture Drugs and Chemicals

CAAP facilities produce fish and other aquatic animals in greater numbers than natural stream conditions would allow; therefore, system management is important to ensure that fish do not become overly stressed, making them more susceptible to disease outbreaks. The periodic use of various aquaculture drugs and chemicals is needed to ensure the health and productivity of cultured aquatic stocks and to maintain production efficiency.

CAAP facilities may legally obtain and use aquaculture drugs in one of several ways. Some aquaculture drugs and chemicals used at CAAP facilities in the Region are approved by the U.S. Food and Drug Administration (FDA) for certain aquaculture uses on certain aquatic species. Others have an exemption from this approval process when used under certain specified conditions.

Still others are not approved for use in aquaculture, but are considered to be of "low regulatory priority" by FDA (hereafter "LRP drug"). FDA is unlikely to take regulatory action related to the use of a LRP drug if an appropriate grade of the chemical or drug is used, good management practices are followed, and local environmental requirements are met (including NPDES permit requirements). Finally, some drugs and chemicals may be used for purposes, or in a manner not listed on their label (i.e., "extra-label" use) under the direction of licensed veterinarians for the treatment of specific fish diseases diagnosed by fish pathologists. It is assumed that veterinarian-prescribed aquaculture drugs are used only for short periods of duration during acute disease outbreaks. Each of these methods of obtaining and using aquaculture drugs is discussed in further detail below.

It is the responsibility of those using, prescribing, or recommending the use of these products to know which aquaculture drugs and chemicals may be used in CAAP facilities in the Region under all applicable federal, State, and local regulations and which aquaculture drugs and chemicals may be discharged to waters of the United States and waters of the State in accordance with this permit. A summary of regulatory authorities related to aquaculture drugs and chemicals is outlined below.

Summary of Regulatory Authorities

FDA is responsible for ensuring the safety, wholesomeness, and proper labeling of food products; ensuring the safety and effectiveness of both human and animal drugs; and ensuring compliance with existing laws governing these drugs. The Federal Food, Drug, and Cosmetic Act (FFDCA), the basic food and drug law of the United States, includes provisions for regulating the manufacture, distribution, and the use of, among other things, new animal drugs and animal feed. FDA's enforcement activities include correction and prevention of violations, removing illegal products or goods from the market, and punishing offenders. Part of this enforcement includes testing domestic and imported aquacultural products for drug and pesticide residues.

FDA's Center for Veterinary Medicine (CVM) regulates the manufacture, distribution, and use of animal drugs. CVM is responsible for ensuring that drugs used in food-producing animals are safe and effective and that food products derived from treated animals are free from potentially harmful residues. CVM approves the use of new animal drugs based on data provided by a sponsor (usually a drug company). To be approved by CVM, an animal drug must be effective for the claim on the label and safe when used as directed for (1) treated animals; (2) persons administering the treatment; (3) the environment, including non-target organisms; and (4) consumers. CVM establishes tolerances and animal withdrawal periods as needed for all drugs approved for use in food-producing animals. CVM has the authority to grant investigational new animal drug (INAD) exemptions so that data can be generated to support the approval of a new animal drug.

There are several options for CAAP facilities to legally obtain and use aquaculture drugs. Aquaculture drugs and chemicals can be divided into four categories as outlined

below: approved drugs, investigational drugs, unapproved drugs of low regulatory priority, and extra-label use drugs.

- ***FDA approved new animal drugs***

Approved new animal drugs have been screened by the FDA to determine whether they cause significant adverse public health or environmental impacts when used in accordance with label instructions. Currently, there are eight new animal drugs approved by FDA for use in food-producing aquatic species. These eight FDA-approved new animal drugs are:

1. Chorionic gonadrotropin (Chlorulun®), used for spawning;
2. Oxytetracycline (Terramycin®), an antibiotic;
3. Sulfadimethoxine-ormetoprim (Romet-30®), an antibiotic;
4. Tricaine methanesulfonate (MS-222, Finquel® and Tricaine-S), an anesthetic;
5. Formalin (Formalin-F®, Paracide F® and PARASITE-S®), used as a fungus and parasite treatment; and
6. Sulfamerazine, an antibiotic;
7. Florfenicol (Aquaflor ®), an antibiotic;
8. Hydrogen peroxide, used to control fungal and bacterial infections.

Each aquaculture drug in this category is approved by FDA for use on specific fish species, for specific disease conditions, for specific dosages, and with specific withdrawal times. Product withdrawal times must be observed to ensure that any product used on aquatic animals at a CAAP facility does not exceed legal tolerance levels in the animal tissue. Observance of the proper withdrawal time helps ensure that products reaching consumers are safe and wholesome.

FDA-approved new animal drugs that are added to aquaculture feed must be specifically approved for use in aquaculture feed. Drugs approved by FDA for use in feed must be found safe and effective. Approved new animal drugs may be mixed in feed for uses and at levels that are specified in FDA medicated-feed regulations only. It is unlawful to add drugs to feed unless the drugs are approved for feed use. For example, producers may not top-dress feed with water-soluble, over-the-counter antibiotic product. Some medicated feeds, such as Romet-30®, may be manufactured only after the FDA has approved a medicated-feed application (FDA Form 1900) submitted by the feed manufacturer.

- ***FDA Investigational New Animal Drugs (INAD)***

Aquaculture drugs in this category can only be used under an investigational new animal drug or “INAD” exemption. INAD exemptions are granted by FDA CVM to permit the purchase, shipment and use of an unapproved new animal drug for investigational purposes. INAD exemptions are granted by FDA CVM with the expectation that meaningful data will be generated to support the approval of a new animal drug by FDA in the future. Numerous FDA requirements must be met for the establishment and maintenance of aquaculture INADs.

There are two types of INADs: standard and compassionate. Aquaculture INADs, most of which are compassionate, consist of two types: routine and emergency. A compassionate INAD exemption is used in cases in which the aquatic animal's health is of primary concern. In certain situations, producers can use unapproved drugs for clinical investigations (under a compassionate INAD exemption) subject to FDA approval. In these cases, CAAP facilities are used to conduct closely monitored clinical field trials. FDA reviews test protocols, authorizes specific conditions of use, and closely monitors any drug use under an INAD exemption. An application to renew an INAD exemption is required each year. Data recording and reporting are required under the INAD exemption in order to support the approval of a new animal drug or an extension of approval for new uses of the drug.

- ***FDA Unapproved new animal drugs of low regulatory priority (LRP drugs)***

LRP drugs do not require a new animal drug application (NADA) or INAD exemptions from FDA. Further regulatory action is unlikely to be taken by FDA on LRP drugs as long as an appropriate grade of the drug or chemical is used, good management practices are followed, and local environmental requirements are met (such as NPDES permit requirements contained in this Permit). LRP drugs commonly used at CAAP facilities in the Region include the following:

1. Acetic acid, used as a dip at a concentration of 1,000-2,000 mg/L for 1-10 minutes as a parasiticide for fish.
2. Carbon dioxide gas, used for anesthetic purposes in cold, cool and warm water fish.
3. Povidone iodine (PVP) compounds, used as a fish egg disinfectant at rates of 50 mg/L for 30 minutes during egg hardening and 100 mg/L solution for 10 minutes after water hardening.
4. Sodium bicarbonate (baking soda), used at 142-642 mg/L for 5 minutes as a means of introducing carbon dioxide into the water to anesthetize fish.
5. Sodium chloride (salt), used at 0.5-1% solution for an indefinite period as an osmoregulatory aid for the relief of stress and prevention of shock. Used as 3% solution for 10-30 minutes as a parasiticide.

FDA is unlikely to object at present to the use of these LRP drugs if the following conditions are met:

1. The aquaculture drugs are used for the prescribed indications, including species and life stages where specified.
2. The aquaculture drugs are used at the prescribed dosages (as listed above).
3. The aquaculture drugs are used according to good management practices.
4. The product is of an appropriate grade for use in food animals.
5. An adverse effect on the environment is unlikely.

FDA's enforcement position on the use of these substances should be considered neither an approval nor an affirmation of their safety and effectiveness. Based on

information available in the future, FDA may take a different position on their use. In addition, FDA notes that classification of substances as new animal drugs of LRP does not exempt CAAP facilities from complying with all other federal, state and local environmental requirements, including compliance with this Permit.

- ***Extra-label use of an approved new animal drug***

Extra-label drug use is the actual or intended use of an approved new animal drug in a manner that is not in accordance with the approved label directions. This includes, but is not limited to, use on species or for indications not listed on the label. Only a licensed veterinarian may prescribe extra-label drugs under FDA CVM's extra-label drug use policy. CVM's extra-label use drug policy (CVM Compliance Policy Guide 7125.06) states that licensed veterinarians may consider extra-label drug use in treating food-producing animals if the health of the animals is immediately threatened and if further suffering or death would result from failure to treat the affected animals. CVM's extra-label drug use policy does not allow the use of drugs to prevent diseases (prophylactic use), improve growth rates, or enhance reproduction or fertility. Spawning hormones cannot be used under the extra-label policy. In addition, the veterinarian assumes the responsibility for drug safety and efficacy and for potential residues in the aquatic animals.

IV. RATIONALE FOR EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

Effluent limitations and toxic and pretreatment effluent standards established pursuant to Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 304 (Information and Guidelines), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act (CWA) and amendments thereto are applicable to the discharge.

The Federal CWA mandates the implementation of effluent limitations that are as stringent as necessary to meet water quality standards established pursuant to state or federal law [33 U.S.C., § 1311(b)(1)(C); 40 CFR, § 122.44(d)(1)]. NPDES permits must incorporate discharge limits necessary to ensure that water quality standards are met. This requirement applies to narrative criteria as well as to criteria specifying maximum amounts of particular pollutants. Pursuant to Federal Regulations, 40 CFR Section 122.44(d)(1)(i), NPDES permits must contain limits that control all pollutants that "*are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard, including state narrative criteria for water quality*." Federal Regulations, 40 CFR, §122.44(d)(1)(vi), further provide that "[w]*here a state has not established a water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable State water quality standard, the permitting authority must establish effluent limits.*"

The CWA requires point source discharges to control the amount of conventional, non-conventional, and toxic pollutants that are discharged into the waters of the United States. The control of pollutants discharged is established through effluent limitations

and other requirements in NPDES permits. There are two principal bases for effluent limitations: 40 CFR §122.44(a) requires that permits include applicable technology-based limitations and standards, and 40 CFR §122.44(d) requires that permits include water quality-based effluent limitations to attain and maintain applicable numeric and narrative water quality criteria to protect the beneficial uses of the receiving water where numeric water quality objectives have not been established. The Regional Water Board's Basin Plan, page IV-17.00, contains an implementation policy ("Policy for Application of Water Quality Objectives" that specifies that the Regional Water Board "*will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives*." This Policy complies with 40 CFR §122.44(d)(1). With respect to narrative objectives, the Regional Water Board must establish effluent limitations using one or more of three specified sources, including (1) EPA's published water quality criteria, (2) a proposed state criterion (*i.e*., water quality objective) or an explicit state policy interpreting its narrative water quality criteria (*i.e*., the Regional Water Board's "Policy for Application of Water Quality Objectives")(40 CFR 122.44(d)(1)(vi) (A), (B) or (C)), or (3) an indicator parameter. The Basin Plan contains a narrative objective requiring that: "*All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life*" (narrative toxicity objective). The Basin Plan requires the application of the most stringent objective necessary to ensure that surface water and groundwater do not contain chemical constituents, discoloration, toxic substances, radionuclides, or taste and odor producing substances that adversely affect beneficial uses. The Basin Plan states that material and relevant information, including numeric criteria, and recommendations from other agencies and scientific literature will be utilized in evaluating compliance with the narrative toxicity objective. The Basin Plan also limits chemical constituents in concentrations that adversely affect surface water beneficial uses. For waters designated as municipal, the Basin Plan specifies that, at a minimum, waters shall not contain concentrations of constituents that exceed Maximum Contaminant Levels (MCL) of CCR Title 22. The Basin Plan further states that, to protect all beneficial uses, the Regional Water Board may apply limits more stringent than MCLs.

A. Discharge Prohibitions

1. *As stated in section I.G of Attachment D, Standard Provisions, this Order prohibits bypass from any portion of the treatment facility. Federal Regulations, 40 CFR 122.41 (m), define "bypass" as the intentional diversion of waste streams from any portion of a treatment facility. This section of the Federal Regulations, 40 CFR 122.41 (m)(4), prohibits bypass unless it is unavoidable to prevent loss of life, personal injury, or severe property damage. In considering the Regional Water Board's prohibition of bypasses, the State Water Board adopted a precedential decision, Order No. WQO 2002-0015, which cites the Federal Regulations, 40 CFR 122.41(m), as allowing bypass only for essential maintenance to assure efficient operation.*

B. Technology-Based Effluent Limitations

1. Scope and Authority

The CWA requires that technology-based effluent limitations be established based on several levels of controls:

- Best practicable treatment control technology (BPT) represents the average of the best performance by plants within an industrial category or subcategory. BPT standards apply to toxic, conventional, and non-conventional pollutants.

- Best available technology economically achievable (BAT) represents the best existing performance of treatment technologies that are economically achievable within an industrial point source category. BAT standards apply to toxic and non-conventional pollutants.

- Best conventional pollutant control technology (BCT) represents the control from existing industrial point sources of conventional pollutants including BOD, TSS, fecal coliform, pH, and oil and grease. The BCT standard is established after considering the "cost reasonableness" of the relationship between the cost of attaining a reduction in effluent discharge and the benefits that would result, and also the cost effectiveness of additional industrial treatment beyond BPT.

- New source performance standards (NSPS) represent the best available demonstrated control technology standards. The intent of NSPS guidelines is to set limitations that represent state-of-the-art treatment technology for new sources.

The CWA requires USEPA to develop effluent limitations, guidelines and standards (ELGs) representing application of BPT, BAT, BCT, and NSPS. Section 402(a)(1) of the CWA and section 125.3 of the Code of Federal Regulations authorize the use of best professional judgment (BPJ) to derive technology-based effluent limitations on a case-by-case basis where ELGs are not available for certain industrial categories and/or pollutants of concern. Where BPJ is used, the permit writer must consider specific factors outlined in section 125.3.

A cold-water concentrated aquatic animal production (CAAP) facility is defined in Title 40 of the Code of Federal Regulations (40 CFR 122.24) as a fish hatchery, fish farm, or other facility that contains, grows, or holds cold-water fish species or other cold-water aquatic animals in ponds, raceways, or other similar structures. In addition, the facility must discharge at least 30 calendar days per year, produce at least 20,000 pounds (9,090 kilograms) harvest weight of aquatic animals per year, and feed at least 5,000 pounds (2,272 kilograms) of food during the calendar month of maximum feeding. A facility that does not meet the above criteria may also be designated a cold-water CAAP facility upon a determination that the facility is a significant contributor of pollution to waters of the United States [40 CFR 122.24(c)]. Cold-water, recirculating CAAP facilities are designed to minimize water

requirements, which leads to small-volume, concentrated waste streams as well as makeup water overflow. Waste streams from recirculating systems are typically a small but continuous flowing effluent. Flows from CAAP facilities ultimately are discharged to waters of the United States and of the State. 40 CFR 122.24 specifies that CAAP facilities are point sources subject to the National Pollutant Discharge Elimination System (NPDES) program. The Discharger's facility meets the NPDES definition of a cold-water CAAP facility.

The operation of CAAP facilities may introduce a variety of pollutants into receiving waters. USEPA identifies three classes of pollutants: (1) conventional pollutants (i.e., total suspended solids (TSS), oil and grease (O&G), biochemical oxygen demand (BOD), fecal coliform, and pH); (2) toxic pollutants (e.g., metals such as copper, lead, nickel, and zinc and other toxic pollutants); and (3) non-conventional pollutants (e.g., ammonia-N, Formalin, and phosphorus). Some of the most significant pollutants discharged from CAAP facilities are solids from uneaten feed and fish feces that settle to the bottom of the raceways. Both of these types of solids are primarily composed of organic matter including BOD, organic nitrogen, and organic phosphorus.

On August 23, 2004 USEPA published Effluent Limitation Guidelines and New Source Performance Standards for the Concentrated Aquatic Animal Production Point Source Category (hereafter "ELG") [40 CFR 451]. These ELGs became effective on September 22, 2004. The ELG regulation establishes national technology-based effluent discharge requirements for flow-through and recirculation systems and for net pens based on BPT, BCT, BAT and NSPS. In its proposed rule, published on September 12, 2002, USEPA proposed to establish numeric limitations for a single constituent – total suspended solids (TSS) – while controlling the discharge of other constituents through narrative requirements. In the final rule, however, USEPA determined that, for a nationally applicable regulation, it would be more appropriate to promulgate qualitative TSS limitations in the form of solids control best management practices (BMP) requirements. Furthermore, the final ELG does not include numeric effluent limitations for non-conventional and toxic constituents, such as aquaculture drugs and chemicals, but also relies on narrative limitations to address these constituents. The final ELG applies to CAAP facilities that produce, hold or contain 100,000 pounds or more of aquatic animals per year (any 12 month period). The Discharger's facility is therefore subject to ELG requirements.

2. **Applicable Technology-Based Effluent Limitations**

   a. **Total Suspended Solids (TSS)**. Technology-based requirements in this Order are based on a combination of application of the ELG for BMP requirements and case-by-case numeric limitations developed using best professional judgment (BPJ) and carried over from the previous Order 5-01-259. The effluent limitations for TSS are 5.0 mg/L as an average monthly limitation and 15 mg/L as a maximum daily limitation. Section 402(o) of the CWA prohibits backsliding of effluent limitations that are based on BPJ to reflect a subsequently promulgated

ELG that is less stringent. Removal of the numeric limitations for TSS would constitute backsliding under CWA Section 402(o). These limitations are established as a means of controlling the discharge of solids from algae, silt, fish feces and uneaten feed. The Regional Water Board finds the use of TSS effluent limitations is an appropriate measure of performance and a correct interpretation of these limitations, and does not constitute backsliding (40 CFR 122.44(l)(2)(i)(B)(2)). Results of monitoring indicate the Discharger is capable of meeting these limitations.

b. **Flow.** This Order contains a maximum daily effluent discharge flow limitation of 21.33 mgd based on the maximum daily effluent flow of 21.33 mgd reported in the Discharger's RWD.

3. **Final Technology-Based Effluent Limitations**

Summary of Technology-based Effluent Limitations
Discharge Point 001 and Point 002

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Flow	mgd	--	21.33	--	--
Total Suspended Solids	mg/L	5	15	--	--
	lbs/day[1]	889	2668	--	--

1 Based on a design flow of 21.33 mgd.

C. Water Quality-Based Effluent Limitations (WQBELs)

1. Scope and Authority

As specified in section 122.44(d)(1)(i), permits are required to include WQBELs for pollutants (including toxicity) that are or may be discharged at levels that cause, have reasonable potential to cause, or contribute to an in-stream excursion above any state water quality standard. The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses of the receiving water as specified in the Basin Plan, and achieve applicable water quality objectives and criteria that are contained in other state plans and policies, or any applicable water quality criteria contained in the CTR and NTR.

2. Applicable Beneficial Uses and Water Quality Criteria and Objectives

a. ***Receiving Water***—The receiving stream is Moccasin Creek, which is a tributary to Don Pedro Reservoir and the Tuolumne River. The beneficial uses of Moccasin Creek, as described above, are as follows: POW, REC-1, REC-2, WARM, COLD, WILD and MUN.

b. ***Hardness***—While no Effluent Limitation for hardness is necessary in this Order, hardness is critical to the assessment of the need for, and the development of, Effluent Limitations for certain metals. The *California Toxics Rule*, at (c)(4), states the following:

"Application of metals criteria. (i) *For purposes of calculating freshwater aquatic life criteria for metals from the equations in paragraph (b)(2) of this section, for waters with a hardness of 400 mg/L or less as calcium carbonate, the actual ambient hardness of the surface water* <u>*shall*</u> *be used in those equations*." [emphasis added]

The State Water Resources Control Board, in footnote 19 to Water Quality Order No. 2004-0013, stated: "*We note that…the Regional Water Board…applied a variable hardness value whereby effluent limitations will vary depending on the actual, current hardness values in the receiving water. We recommend that the Regional Water Board establish either fixed or seasonal effluent limitations for metals, as provided in the SIP, rather than 'floating' effluent limitations*."

Effluent Limitations for the discharge must be set to protect the beneficial uses of the receiving water for all discharge conditions. In the absence of the option of including condition-dependent, "floating" effluent limitations that are reflective of actual conditions at the time of discharge, Effluent Limitations must be set using the worst-case condition (*e.g*., lowest ambient hardness) in order to protect beneficial uses for all discharge conditions.

c. ***Assimilative Capacity/Mixing Zone***—Based on the available information, the worst-case dilution is assumed to be zero to provide protection for the receiving water beneficial uses. The impact of assuming zero assimilative capacity within the receiving water is that discharge limitations are end-of-pipe limits with no allowance for dilution within the receiving water.

3. Determining the Need for WQBELs

a. CWA section 301 (b)(1) requires NPDES permits to include effluent limitations that achieve technology-based standards and any more stringent limitations necessary to meet water quality standards. Water quality standards include Regional Water Board Basin Plan beneficial uses and narrative and numeric water quality objectives, State Water Board-adopted standards, and federal standards, including the CTR and NTR. The Basin Plan includes numeric site-specific water quality objectives and narrative objectives for toxicity, chemical constituents, and tastes and odors. The narrative toxicity objective states: "*All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.*" (Basin Plan at III-8.00.) With regards to the narrative chemical constituents objective, the Basin Plan states that waters shall not contain chemical constituents in concentrations that adversely affect beneficial uses. At minimum, "…*water designated for use as domestic or municipal supply (MUN) shall not*

contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs)" in Title 22 of CCR. The narrative tastes and odors objective states: "*Water shall not contain taste- or odor-producing substances in concentrations that impart undesirable tastes or odors to domestic or municipal water supplies or to fish flesh or other edible products of aquatic origin, or that cause nuisance, or otherwise adversely affect beneficial uses.*"

b. Federal regulations require effluent limitations for all pollutants that are or may be discharged at a level that will cause or have the reasonable potential to cause, or contribute to an in-stream excursion above a narrative or numerical water quality standard. Based on information submitted as part of the application, in studies, and as directed by monitoring and reporting programs, the Regional Water Board finds that the discharge has a reasonable potential to cause or contribute to an in-stream excursion above a water quality standard for settleable solids, copper, chloride and formaldehyde. Water quality-based effluent limitations (WQBELs) for these constituents are included in this Order. A summary of the reasonable potential analysis (RPA) is provided in Table F-4, and a detailed discussion of the RPA for each constituent is provided below.

c. The Regional Water Board conducted the RPA in accordance with Section 1.3 of the SIP. Although the SIP applies directly to the control of CTR priority pollutants, the State Water Board has held that the Regional Water Board may use the SIP as guidance for water quality-based toxics control.[1] The SIP states in the introduction "*The goal of this Policy is to establish a standardized approach for permitting discharges of toxic pollutants to non-ocean surface waters in a manner that promotes statewide consistency."* Therefore, in this Order the RPA procedures from the SIP were used to evaluate reasonable potential for both CTR and non-CTR constituents.

d. WQBELs were calculated in accordance with section 1.4 of the SIP, as described in Attachment F, Section IV.C.4.

e. ***pH.*** The Basin Plan includes numeric water quality objectives that the pH "…not be depressed below 6.5 nor raised above 8.5. Changes in normal ambient pH levels shall not exceed 0.5 in fresh waters with designated COLD or WARM beneficial uses." The receiving water is designated as having both COLD and WARM beneficial uses. An effluent limitation for pH is included in this Order, and is based on the Basin Plan objectives for pH.

f. ***Salinity*****.** The Discharger reports that sodium chloride (salt) may be used at the Facility. Sodium chloride is used as a stress reducer, infection inhibitor, osmoregulatory enhancer, and as a treatment for fish lice. FDA considers sodium chloride an unapproved new animal drug of low regulatory priority (LRP drug) for use in aquaculture. Consequently, FDA is unlikely to take regulatory action if an appropriate grade is used, good management practices are followed, and local environmental requirements are met.

[1] See, Order WQO 2001-16 (Napa) and Order WQO 2004-0013 (Yuba City)

The discharge may contain total dissolved solids (TDS), chloride, sulfate, and electrical conductivity (EC) during the use of sodium chloride. These are water quality parameters that are indicative of the salinity of the water. Their presence in water can be growth limiting to certain agricultural crops and can affect the taste of water for human consumption. There are no USEPA water quality criteria for the protection of aquatic organisms for these constituents. The Basin Plan contains a chemical constituent objective that incorporates State MCLs and contains a narrative objective. These criteria/objectives, together with representative data for the effluent, are shown below.

Table F-3. Salinity Water Quality Criteria/Objectives

Parameter	Agricultural WQ Goal[1]	Secondary MCL[3]	Maximum Effluent Concentration
EC (µmhos/cm)	700[2]	900, 1600, 2200	19
TDS (mg/L)	450[2]	500, 1000, 1500	15
Sulfate (mg/L)	N/A	250, 500, 600	1.21
Chloride (mg/L)	106[2]	250, 500, 600	1.31

1 Agricultural water quality goals based on *Water Quality for Agriculture*, Food and Agriculture Organization of the United Nations—Irrigation and Drainage Paper No. 29, Rev. 1 (R.S. Ayers and D.W. Westcot, Rome, 1985)

2 Agricultural water quality goals listed provide no restrictions on crop type or irrigation methods for maximum crop yield. Higher concentrations may require special irrigation methods to maintain crop yields or may restrict types of crops grown.

3 The secondary MCLs are stated as a recommended level, upper level, and a short-term maximum level.

Based on the data, the Discharger does not have a reasonable potential to cause, or contribute to an in-stream excursion of the narrative water quality objective for chemical constituents for salinity. Therefore, effluent limitations for salinity are not necessary. However, due to the direct application of salt to water flowing through the facility, this Order requires the Discharger to monitor the effluent for salinity monthly, with the monitoring frequency increased to daily during the use of sodium chloride. In addition, this order requires the Discharger to develop a salinity evaluation and minimization plan.

g. ***Settleable Solids.*** For inland surface waters, the Basin Plan states that "[w]ater shall not contain substances in concentrations that result in the deposition of material that causes nuisance or adversely affects beneficial uses." This Order contains average monthly and average daily effluent limitations for settleable solids.

Because the amount of settleable solids is measured in terms of volume per volume without a mass component, it is impracticable to calculate mass limitations for inclusion in this Order.

h. ***Aquaculture Drugs and Chemicals.*** Numeric water quality criteria or Basin Plan numeric objectives currently are not available for most of the aquaculture drugs and chemicals used by the Discharger or proposed for use at this facility. Therefore, the Regional Water Board used the narrative water quality objective for toxicity from the Basin Plan and applied the Policy for "Application of Water Quality Objectives" as a basis for determining "reasonable potential" for discharges of these drugs and chemicals. This objective states, in part: "All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." The Basin Plan states that compliance with this objective will be determined by several factors, including biotoxicity tests of appropriate duration, or other analytical methods as specified by the Regional Water Board. (Biotoxicity testing involves measuring the toxic effects of an effluent on specified organisms according to nationally approved protocols). USEPA's TSD specifies two toxicity measurement techniques that can be employed in effluent characterization; the first is Whole Effluent Toxicity (WET) testing, and the second is chemical-specific toxicity analyses. WET testing is used most appropriately when the toxic constituents in an effluent are not completely known; whereas chemical-specific analysis is more appropriately used when an effluent contains only one, or very few, well-known constituents. Due to the nature of operations and chemical treatments at most CAAP facilities in the Region, CAAP facility effluents generally contain only one or two known chemicals at any given a time. Therefore, the Regional Water Board is using a chemical-specific approach to determine "reasonable potential" for discharges of aquaculture drugs and chemicals from CAAP facilities. .

i. ***Antibiotics – Oxytetracycline, Penicillin G, Florfenicol, Amoxycillin Trihydrate, Erythromycin, and Romet-30***

The Discharger may periodically use the antibiotics as therapeutic agents in bath treatments to control fish diseases.

Oxytetracycline, also known by the brand name Terramycin®, is an antibiotic approved through FDA's NADA program for use in controlling ulcer disease, furunculosis, bacterial hemorrhagic septicemia, and pseudomonas disease in salmonids. Oxytetracycline is most commonly used at CAAP facilities as a feed additive. However, Oxytetracycline may also be used as an extra-label use under a veterinarian's prescription in an immersion bath of approximately six to eight hours in duration. Because Oxytetracycline may be applied in an immersion bath for up to eight hours at a time, the Regional Water Board considered the results of acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limitations for Oxytetracycline used in an immersion bath treatment were necessary in this Order. Results of acute toxicity tests using *C. dubia* showed a 96-hour NOAEL of

40.4 mg/L. Results of chronic toxicity tests using *C. dubia* showed a 7-day NOEC for reproduction of 175 mg/L. This Order does not include an effluent limitation for oxytetracycline. However, monthly use of oxytetracycline must be reported as specified in the attached Monitoring and Reporting Program. The Regional Water Board will review this information, and other information as it becomes available, and this Order may be reopened to establish effluent limitations based on additional use and toxicity information.

Penicillin G, also known as Pen-G, is an antibiotic used in a six to eight hour immersion bath treatment to control acute disease outbreaks. Penicillin G is not approved under FDA's NADA program and its' extra-label use in aquaculture requires a veterinarian's prescription. Due to the length of treatment time (up to eight hours), the Regional Water Board considered the results of acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limitations for penicillin G were necessary in this Order. Results of acute toxicity tests using *C.dubia* showed a 96-hour NOAEL of 890 mg/L. Results of 7-day chronic toxicity testing using *Pimephales promelas* showed 7-day NOEC for survival of 350 mg/L. This Order does not include an effluent limitation for penicillin G. However, monthly use of penicillin G must be reported as specified in the attached Monitoring and Reporting Program. The Regional Water Board will review this information, and other information as it becomes available, and this Order may be reopened to establish effluent limitations based on additional use and toxicity information.

Florfenicol, Amoxycillin Trihydrate, Erythromycin, and Romet-30 also are antibiotics that may be used in the future to control disease. These antibiotics must be used under conditions in the NADA approval (oxytetracycline and Romet-30®) or an INAD exemption or a veterinarian's prescription for extra-label use. In the NPDES General Permit for Aquaculture Facilities in Idaho (Idaho General Permit), USEPA Region 10 distinguishes between antibiotics applied in feed formulations and antibiotics applied in immersion baths. The Idaho General Permit concludes that drugs or chemicals administered via feed, and ingested by fish, pose little threat to aquatic life or beneficial uses because a majority of the drug is utilized by the fish, though some literature suggests otherwise. As stated in the Idaho General Permit, "USEPA believes that disease control drugs and other chemicals provided for ingestion by fish do not pose a risk of harm or degradation to aquatic life or other beneficial uses." Based on similar conclusions as those drawn by USEPA for the Idaho General Permit, the Regional Water Board has determined that florfenicol (when used in feed formulations), amoxycillin (when injected), erythromycin (when injected or used in feed formulations), and Romet-30® (when used in feed formulations) are used in a manner that reduces the likelihood of direct discharge to waters of the United States or waters of the State, particularly when Dischargers implement BMPs, as required by this Order. Therefore, florfenicol(when used in feed formulations), amoxycillin (when injected), erythromycin (when injected or used in feed formulations), and Romet-30® (when used in feed formulations) are not likely to be discharged from the Facility at levels that would cause, have the reasonable

potential to cause, or contribute to an excursion of Basin Plan narrative water quality objectives for toxicity. Accordingly, this Order does not include water quality-based effluent limitations for these substances; however, it does require reporting use as specified in the attached Monitoring and Reporting Program. If, in the future, additional information becomes available regarding the use or toxicity of any of these substances, the Regional Water Board will re-evaluate whether its discharge may cause, have the reasonable potential to cause, or contribute to an excursion of Basin Plan objectives for toxicity and, if necessary, re-open this Order to include numeric effluent limitations.

j. ***Anesthetics –MS-222, Carbon dioxide gas, Sodium Bicarbonate, and Aqui-S***

The Discharger may use anesthetics Tricaine methanesulfonate, commonly known as MS-222 (with trade names of Finquel® or Tricaine-S®), carbon dioxide gas, Sodium Bicarbonate, and Aqui-S.

MS-222 has been approved by FDA for use as an anesthetic for Salmonidae. It is intended for the temporary immobilization of fish, amphibians and other aquatic, cold-blooded animals. Carbon dioxide gas is used to anesthetize fish prior to spawning. FDA considers carbon dioxide gas an LRP drug for use in aquaculture. Sodium bicarbonate, or baking soda, also is used as a means of introducing carbon dioxide into the water to anesthetize fish. This Order does not include water quality-based effluent limitations for MS-222, carbon dioxide gas or sodium bicarbonate, but use and means of disposal of these substances must be reported as specified in the attached Monitoring and Reporting Program.

Aqui-S® is a water dispersible liquid anesthetic for finfish, crustacean and shell fish and is used in the US under an INAD exemption. The Regional Water Board does not have specific toxicity information for Aqui-S® or estimates of potential discharge concentrations of Aqui-S® at this Facility. Since there is limited toxicity information available at this time and no information regarding actual discharge concentrations of Aqui-S®, this Order does not include water quality-based effluent limitations for Aqui-S®. However, use and monitoring of Aqui-S® must be reported as specified in the attached Monitoring and Reporting Program. The Regional Water Board will review this information, and other information as it becomes available and this Order may be reopened to establish effluent limitations based on additional use and toxicity information.

k. ***PVP Iodine****.* PVP Iodine, a solution composed of 10% PVP Iodine Complex and 90% inert ingredients. PVP Iodine typically is applied in short-term treatments of 1-hour or less. Because PVP Iodine typically is applied in short-term treatments of 1-hour or less, results of acute aquatic life toxicity testing conducted by the DFG Pesticide Unit were considered when determining whether water quality-based effluent limitations for PVP Iodine were necessary in this Order. Results of a single acute toxicity test with *Ceriodaphnia dubia* showed a 96-hour NOAEL of 0.86 mg/L. There is limited toxicity information and no information on actual discharge concentrations of PVP iodine. This Order does not include water

quality-based effluent limitations for PVP Iodine. However, use and monitoring of PVP Iodine must be reported as specified in the attached Monitoring and Reporting Program. The Regional Water Board will review this information, and other information as it becomes available and this Order may be reopened to establish effluent limitations based on additional use and toxicity information.

I. ***Formalin.*** The Discharger may use Formalin (a 37 percent formaldehyde solution) as a fungicide treatment on the fish. Formalin (also known by the trade names Formalin-F®, Paracide-F®, PARASITE-S®) is approved through FDA's New Animal Drug Application (NADA) program for use in controlling external protozoa and monogenetic trematodes on fish, and for controlling fungi of the family Saprolegniacae in food-producing aquatic species.

The State of California Department of Health Services (DHS) does not have a Maximum Containment Level (MCL) for formaldehyde, however the DHS historic Drinking Water Action Level is listed as 0.1 mg/L based on calculation by standard risk assessment methods, with a Modifying Factor = 10. The USEPA Integrated Risk Information System (IRIS) lists a reference dose of 1.4 mg/L as a drinking water level. There are no recommended criteria for formaldehyde for protection of aquatic life.

The Basin Plan contains a narrative water quality objective for toxicity that states in part that "[a]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life" (narrative toxicity objective). Aquatic habitat is a beneficial use of the Moccasin Creek. The DFG Pesticide Unit conducted biotoxicity studies to determine the aquatic toxicity of Formalin using Pimephales promelas and Ceriodaphnia dubia in accordance with the analytical methods specified in EPA600/4-91-002, Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. These "short-term chronic tests" measure effects such as reduced growth of the organism, reduced reproduction rates, or lethality. Results were reported as a No Observed Effect Concentration (NOEC) and a Lowest Observed Effect Concentration (LOEC). The DFG Pesticide Unit also conducted acute toxicity tests using Ceriodaphnia dubia in accordance with methods specified in EPA600/4-90/027, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. Acute toxicity test results typically are reported as the No Observed Adverse Effect Level (NOAEL), Lowest Observed Adverse Effect Level (LOAEL), and LC50. A summary of the data submitted follows:

Species	7-day LC50 (mg/L)	LOEC (mg/L)	NOEC (mg/L)	LOAEL (mg/L)	NOAEL (mg/L)
Ceriodaphnia dubia	2.4	5.8[1] 1.3[2]	1.3[1] <1.3[2]	5.8	1.3
Pimephales promelas	23.3	9.09	2.28	--	--
Selenastrum capricornutum	<5.2	--	--	--	--

[1] Survival
[2] Reproduction

Since Formalin treatments are usually utilized as a batch or flush treatment which result in discharges from three to eight hours, short-term tests were conducted with C dubia, exposing the organisms for 2-hour and 8-hour periods, removing them from the chemical, and continuing the observation period for 7 days in clean water. The results were as follows:

Species	7-day LC50 (mg/L)	LOAEL (mg/L)	NOAEL (mg/L)
C. dubia—2-hour exposure	73.65	46.3	20.7
C. dubia—8-hour exposure	13.99	15.3	6.7

Results of both acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit were considered along with the Basin Plan narrative toxicity objective when determining whether water quality-based effluent limitations for formalin as formaldehyde were necessary. Results of 7-day chronic toxicity tests indicated Ceriodaphnia dubia was the most sensitive species, with a 7-day NOEC value of 1.3 mg/l formaldehyde for survival and < 1.3 mg/l for reproduction (the Regional Water Board used an NOEC of 1.3 mg/L). Acute toxicity tests conducted using Ceriodaphnia dubia showed a 96-hour NOAEL of 1.3 mg/l formaldehyde. The additional acute toxicity tests with Ceriodaphnia dubia conduct using only an 8-hour exposure, resulted in a 96-hour NOAEL concentration of 6.7 mg/L formaldehyde. There is no information regarding future discharge concentrations of formaldehyde, therefore, this Order includes water quality-based effluent limitations for formaldehyde to ensure protection of the receiving waters.

m. ***Hydrogen Peroxide***. Hydrogen peroxide (35 % H_2O_2) may be used by the Discharger as a flow-through raceway treatment. FDA considers hydrogen peroxide to be an LRP drug when used to control fungi on fish at all life stages, including eggs. Hydrogen peroxide may also be used under an INAD exemption to control bacterial gill disease in various fish, fungal infections, external bacterial infections, and external parasites. Hydrogen peroxide is a strong oxidizer that breaks down into water and oxygen; however, it exhibits toxicity to aquatic life during the oxidation process. Since there is limited toxicity information available at this time and no information regarding actual discharge concentrations of

hydrogen peroxide, this Order does not include water quality-based effluent limitations for hydrogen peroxide. However, use and monitoring of hydrogen peroxide must be reported as specified in the attached Monitoring and Reporting Program.

n. ***Potassium Permanganate***. Potassium permanganate (also known by the trade name of Cairox™) may be used to control gill disease as a 1-hour flush treatment in a single raceway. Potassium permanganate has a low estimated lifetime in the environment, being readily converted by oxidizable materials to insoluble manganese dioxide (MNO_2). In non-reducing and non-acidic environments, MNO_2 is insoluble and has a very low bioaccumulative potential. Potassium permanganate is not approved for use in aquaculture under FDA's NADA program and should therefore be used in accordance with an INAD exemption granted by FDA. Potassium permanganate is typically applied in a single, short-term treatment, or as a series of closely-spaced, short-term treatments. Results of a single acute toxicity test conducted by the DFG Pesticide Unit using *C. dubia* showed a 96-hour NOAEL of 0.038 mg/L for potassium permanganate. Since there is limited toxicity information available at this time and no information regarding actual discharge concentrations of potassium permanganate, this Order does not include water quality-based effluent limitations for potassium permanganate. However, use and monitoring of potassium permanganate must be reported as specified in the attached Monitoring and Reporting Program.

o. ***Copper Sulfate****.* Copper, primarily in the forms of copper sulfate and chelated copper compounds, is used in fish hatcheries to control algae and other vegetation that is susceptible to the toxic effects of copper uptake, and it is used to control the growth of external parasites and bacteria on fish. Copper sulfate may be used at the Facility at a rate of up to 0.5 pounds copper sulfate per 1 cfs in raceways. Based on this application rate in a single raceway,

The CTR includes hardness-dependent criteria for the protection of freshwater aquatic life for copper. The criteria for copper are presented in dissolved concentrations. USEPA recommends conversion factors to translate dissolved concentrations to total concentrations. The USEPA default conversion factors for copper in freshwater are 0.96 for both the acute and the chronic criteria. Since Moccasin Creek is an effluent-dominated receiving stream, using the worst-case measured hardness from the effluent water (3.2 mg/L as $CaCO_3$) and the USEPA recommended dissolved-to-total translator, the applicable chronic criterion (maximum four-day average concentration) is 0.5 µg/L and the applicable acute criterion (maximum one-hour average concentration) is 0.5 µg/L, as total recoverable.

Effluent limitations have been established for copper based on the CTR criterion to ensure the beneficial uses of the receiving water is maintained. Since copper is added for short-term treatments (2-hour flush) and the Facility is a flow-through facility without on-line settling, copper is expected to be present in the discharge for approximately the same duration as treatment, typically 8-hours or less. Therefore, the Regional Water Board is establishing only a MDEL for copper

based on the CTR criteria. The Regional Water Board determined that an AMEL is not appropriate based on the current treatment practice and water flow characteristics through the Facility. Since the Discharger has control over the use of copper, the Discharger is expected to be able to comply with final limitations upon adoption of this Order.

p. ***Acetic Acid and pH.*** Acetic acid may be used for the control of external parasites at a rate 1.5 to 2.2 gallons of glacial acetic acid added as a bolus to the top of a raceway. There is a taste and odor threshold for drinking water of 97 mg/L acetic acid. The Basin Plan also includes a numeric water quality objective for pH in the form of a range of acceptable pH values (measured in standard units). In the current Order, the Regional Water Board established effluent limitations in the form of an acceptable range of pH between 6.5 and 8.5 standard units for discharges to the Moccasin Creek. This existing pH limitation is carried over to this Order. Based on recent self-monitoring reports, the discharge has remained within this acceptable range. Use of acetic acid must be reported as specified in the Monitoring and Reporting Program.

q. ***Chloramine-T.*** Chloramine-T is available for use in accordance with an INAD exemption by FDA. The Discharger reports that Chloramine-T may be used at a rate of 10 ppm for a one-hour flush treatment in a single raceway. Chloramine-T breaks down into para-toluenesulfonamide (p-TSA) and unlike other chlorine based disinfectants does not form harmful chlorinated compounds. The Discharger has not conducted biotoxicity tests using Chloramine-T, however results of toxicity testing from other sources show a 96-hour LC_{50} for rainbow trout of 2.8 mg/L and a 48-hour NOEC for *Daphnia magna* of 1.8 mg/L (Halamid. n.d. *Halamid, Aquaculture*. http://www.halamid.com/aqua.htm). Since there is limited toxicity information available and no information regarding actual discharge concentrations of Chloramine-T, this Order does not include water quality-based effluent limitations for Chloramine-T. However, use and monitoring of Chloramine-T must be reported as specified in the attached Monitoring and Reporting Program.

4. WQBEL Calculations

a. Effluent limitations for copper, chloride and formaldehyde were calculated in accordance with section 1.4 of the SIP. The following paragraphs describe the methodology used for calculating effluent limitations.

b. **Effluent Limitation Calculations.** In calculating maximum effluent limitations, the effluent concentration allowances were set equal to the criteria/standards/objectives.

$$ECA_{acute} = CMC \qquad ECA_{chronic} = CCC$$

For the human health, agriculture, or other long-term criterion/objective, a dilution credit can be applied. The ECA is calculated as follows:

$ECA_{HH} = HH + D(HH - B)$

where:

ECA_{acute} = effluent concentration allowance for acute (one-hour average) toxicity criterion

$ECA_{chronic}$ = effluent concentration allowance for chronic (four-day average) toxicity criterion

ECA_{HH} = effluent concentration allowance for human health, agriculture, or other long-term criterion/objective

CMC = criteria maximum concentration (one-hour average)

CCC = criteria continuous concentration (four-day average, unless otherwise noted)

HH = human health, agriculture, or other long-term criterion/objective

D = dilution credit

B = maximum receiving water concentration

Acute and chronic toxicity ECAs were then converted to equivalent long-term averages (LTA) using statistical multipliers and the lowest is used. Additional statistical multipliers were then used to calculate the maximum daily effluent limitation (MDEL) and the average monthly effluent limitation (AMEL).

Human health ECAs are set equal to the AMEL and a statistical multiplier is used to calculate the MDEL.

$$AMEL = mult_{AMEL}\left[\min\left(\overbrace{M_A ECA_{acute}}^{LTA_{acute}}, M_C ECA_{chronic}\right)\right]$$

$$MDEL = mult_{MDEL}\left[\min\left(M_A ECA_{acute}, \underbrace{M_C ECA_{chronic}}_{LTA_{chronic}}\right)\right]$$

$$MDEL_{HH} = \left(\frac{mult_{MDEL}}{mult_{AMEL}}\right) AMEL_{HH}$$

where: $mult_{AMEL}$ = statistical multiplier converting minimum LTA to AMEL
$mult_{MDEL}$ = statistical multiplier converting minimum LTA to MDEL
M_A = statistical multiplier converting CMC to LTA
M_C = statistical multiplier converting CCC to LTA

Water quality-based effluent limitations were calculated for copper, chloride and formaldehyde as follows in Tables F-4 through F-6, below.

Table F-4
WQBEL Calculations for Copper

	Acute	Chronic
Criteria, dissolved (µg/L) [(1)]	0.5	0.5
Dilution Credit	No Dilution	No Dilution
Translator [(2)]	0.96	0.96
ECA, total recoverable [(3)]	0.5	0.5
ECA Multiplier [(4)]	0.32	0.53
LTA	0.18	0.26
AMEL Multiplier (95th%) [(5)(6)]	1.6	
AMEL (µg/L)	0.3	
MDEL Multiplier (99th%) [(7)]	3.11	
MDEL (µg/L)	0.5	

(1) CTR aquatic life criteria, based on a hardness of 3.2 mg/L as $CaCO_3$.
(2) EPA Translator used as default.
(3) ECA calculated per section 1.4.B, Step 2 of SIP. This allows for the consideration of dilution.
(4) Acute and Chronic ECA Multiplier calculated at 99th percentile per section 1.4.B, Step 3 of SIP or per sections 5.4.1 and 5.5.4 of the TSD.
(5) Assumes sampling frequency n=>4.
(6) The probability basis for AMEL is 95th percentile per section 1.4.B, Step 5 of SIP or section 5.5.4 of the TSD.
(7) The probability basis for MDEL is 99th percentile per section 1.4.B, Step 5 of SIP or section 5.5.4 of the TSD.
(8) Limitations based on chronic LTA (Acute LTA < Chronic LTA)

Table F-5
WQBEL Calculations for Formaldehyde

	Acute	Chronic
Criteria, dissolved (µg/L)	1.3	6.7
Dilution Credit	No Dilution	No Dilution
ECA	1.3	6.7
ECA Multiplier	0.32	0.53
LTA	0.42	0.69
AMEL Multiplier (95th%)	[(8)]	1.55
AMEL (µg/L)	[(8)]	**0.65**
MDEL Multiplier (99th%)	[(8)]	3.11
MDEL (µg/L)	[(8)]	**1.3**

Summary of Water Quality-based Effluent Limitations
Discharge Points 001 and 002

Table F-7. Summary of Water Quality-based Effluent Limitations

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	standard units	--	--	6.5	8.5
Settleable Solids	ml/L	0.1	0.2	--	--
Copper (Total Recoverable)	µg/L		0.5	--	--
Formaldehyde	mg/L	0.65	1.3	--	--
Chloride	mg/L	106	--	--	--

1 Based on a design flow of 21.33 mgd.

5. Whole Effluent Toxicity (WET)

The Basin Plan specifies a narrative objective for toxicity, requiring that "*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, bioassays of appropriate duration and/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 defined in Standard Methods for the Examination of Water and Wastewater (American Public Health Association, et al. 1992).

In addition to the Basin Plan requirements, Section 4 of the SIP states that a chronic toxicity effluent limitation is required in permits for all discharges that will cause, have the reasonable potential to cause, or contribute to chronic toxicity in receiving waters.

Numeric water quality criteria, or Basin Plan numeric objectives currently are not available for many of the aquaculture drugs and chemicals used by aquaculture facilities. Therefore, the Regional Water Board uses the narrative water quality objective for toxicity from the Basin Plan as a basis for determining "reasonable potential" for discharges of these drugs and chemicals. USEPA's *Technical Support Document Water Quality-based Toxics Control* (TSD) specifies two toxicity measurement techniques that can be employed in effluent characterization; the first is Whole Effluent Toxicity (WET) testing, and the second is chemical-specific toxicity analyses. WET requirements protect the receiving water quality from the aggregate toxic effect of a mixture of pollutants in the effluent. WET tests measure the degree of response of exposed aquatic test organisms to an effluent. The WET approach allows for protection of the narrative "*no toxics in toxic amounts*" criterion while implementing numeric criteria for toxicity. There are two types of WET tests: acute and chronic. An acute toxicity test is conducted over a short time period and generally measures mortality. A chronic toxicity test is conducted over a longer period of time and may measure mortality, reproduction, and growth. For fish hatcheries WET testing is used most appropriately when the toxic constituents in an effluent are not completely known; whereas chemical-specific analysis is more appropriately used when an effluent contains only one, or very few, well-known constituents.

Due to the nature of operations at the Facility, its effluent is very consistent. Inputs into the system are limited to source water from Moccasin Reservoir, feed, and, occasionally, therapeutents. Therefore, the Regional Water Board is using a chemical-specific approach to determine "reasonable potential" for discharges of aquaculture drugs and chemicals. As such it is not necessary to include an acute toxicity effluent limitation or require acute or chronic WET testing.

D. Final Effluent Limitations

a. **Mass-based Effluent Limitations.** Title 40 CFR 122.45(f)(1) requires effluent limitations be expressed in terms of mass, with some exceptions, and 40 CFR 122.45(f)(2) allows pollutants that are limited in terms of mass to additionally be limited in terms of other units of measurement. This Order includes effluent limitations expressed in terms of mass and concentration. In addition, pursuant to the exceptions to mass limitations provided in 40 CFR 122.45(f)(1), some effluent limitations are not expressed in terms of mass, such as pH and temperature, and when the applicable standards are expressed in terms of concentration (e.g. CTR criteria and MCLs) and mass limitations are not necessary to protect the beneficial uses of the receiving water.

Summary of Final Effluent Limitations
Discharge Points 001 and 002

Table F-8. Summary of Final Effluent Limitations

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Flow	mgd	--	21.33	--	--
pH	standard units	--	--	6.5	8.5
Total Suspended Solids	mg/L	5	15	--	--
	lbs/day[1]	889	2668	--	--
Settleable Solids	ml/L	0.1	0.2	--	--
Copper (Total Recoverable)	µg/L		0.5	--	--
Formaldehyde	mg/L	0.65	1.3	--	--
Chloride	mg/L	106	--	--	--

1 Based on a design flow of 21.33 mgd.

E. Interim Effluent Limitations – Not Applicable

F. Land Discharge Specifications – Not Applicable

G. Reclamation Specifications – Not Applicable

V. RATIONALE FOR RECEIVING WATER LIMITATIONS

Basin Plan water quality objectives to protect the beneficial uses of surface water and groundwater include numeric objectives and narrative objectives, including objectives for chemical constituents, toxicity, and tastes and odors. The toxicity objective requires that surface water and groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in humans, plants, animals, or aquatic life. The chemical constituent objective requires that surface water and groundwater shall not contain chemical constituents in concentrations that adversely affect any beneficial use or that exceed the maximum contaminant levels (MCLs) in Title 22, CCR. The tastes and

odors objective states that surface water and groundwater shall not contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses. The Basin Plan requires the application of the most stringent objective necessary to ensure that surface water and groundwater do not contain chemical constituents, toxic substances, radionuclides, or taste and odor producing substances in concentrations that adversely affect domestic drinking water supply, agricultural supply, or any other beneficial use.

A. Surface Water

1. CWA section 303(a-c), requires states to adopt water quality standards, including criteria where they are necessary to protect beneficial uses. The Regional Water Board adopted water quality criteria as water quality objectives in the Basin Plan. The Basin Plan states that "*[t]he numerical and narrative water quality objectives define the least stringent standards that the Regional Water Board will apply to regional waters in order to protect the beneficial uses*." The Basin Plan includes numeric and narrative water quality objectives for various beneficial uses and water bodies. This Order contains Receiving Surface Water Limitations based on the Basin Plan numerical and narrative water quality objectives for biostimulatory substances, chemical constituents, color, dissolved oxygen, floating material, oil and grease, pH, pesticides, radioactivity, salinity, sediment, settleable material, suspended material, tastes and odors, temperature, toxicity, turbidity, and electrical conductivity.

   Numeric Basin Plan objectives for bacteria, dissolved oxygen, pH, temperature, and turbidity are applicable to this discharge and have been incorporated as Receiving Surface Water Limitations. Rational for these numeric receiving surface water limitations are as follows:

   a. **Bacteria.** The Basin Plan includes a water quality objective that "*[I]n water designated for contact recreation (REC-1), the fecal coliform concentration based on a minimum of not less than five samples for any 30-day period shall not exceed a geometric mean of 200/100 ml, nor shall more than ten percent of the total number of samples taken during any 30-day period exceed 400/100 ml*." Numeric Receiving Water Limitations for bacteria are included in this Order and are based on the Basin Plan objective.

   b. **Biostimulatory Substances**. The Basin Plan includes a water quality objective that "*[W]ater shall not contain biostimulatory substances which promote aquatic growths in concentrations that cause nuisance or adversely affect beneficial uses."* Receiving Water Limitations for biostimulatory substances are included in this Order and are based on the Basin Plan objective.

   c. **Color**. The Basin Plan includes a water quality objective that "*[W]ater shall be free of discoloration that causes nuisance or adversely affects beneficial uses."* Receiving Water Limitations for color are included in this Order and are based on the Basin Plan objective.

d. **Chemical Constituents**. The Basin Plan includes a water quality objective that *"[W]aters shall not contain chemical constituents in concentrations that adversely affect beneficial uses."* Receiving Water Limitations for chemical constituents are included in this Order and are based on the Basin Plan objective.

e. **Dissolved Oxygen.** The Moccasin Creek has been designated as having the beneficial use of cold freshwater aquatic habitat (COLD). For water bodies designated as having COLD as a beneficial use, the Basin Plan includes a water quality objective of maintaining a minimum of 7.0 mg/L of dissolved oxygen. Since the beneficial use of COLD does apply to the Moccasin Creek, a receiving water limitation of 7.0 mg/L for dissolved oxygen was included in this Order.

   For surface water bodies outside of the Delta, the Basin Plan includes the water quality objective that "…*the monthly median of the mean daily dissolved oxygen (DO) concentration shall not fall below 85 percent of saturation in the main water mass, and the 95 percentile concentration shall not fall below 75 percent of saturation.*" This objective was included as a receiving water limitation in this Order.

f. **Floating Material**. The Basin Plan includes a water quality objective that *"[W]ater shall not contain floating material in amounts that cause nuisance or adversely affect beneficial uses."* Receiving Water Limitations for floating material are included in this Order and are based on the Basin Plan objective.

g. **Oil and Grease**. The Basin Plan includes a water quality objective that *"[W]aters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses."* Receiving Water Limitations for oil and grease are included in this Order and are based on the Basin Plan objective.

h. **pH.** The Basin Plan includes water quality objective that *"[T]he pH shall not be depressed below 6.5 nor raised above 8.5. Changes in normal ambient pH levels shall not exceed 0.5 in fresh waters with designated COLD or WARM beneficial uses*" This Order includes receiving water limitations for both pH range and pH change.

   The Basin Plan allows an appropriate averaging period for pH change in the receiving stream. Since there is no technical information available that indicates that aquatic organisms are adversely affected by shifts in pH within the 6.5 to 8.5 range, an averaging period is considered appropriate and a monthly averaging period for determining compliance with the 0.5 receiving water pH limitation is included in this Order.

i. **Pesticides**. The Basin Plan includes a water quality objective for pesticides beginning on page III-6.00. Receiving Water Limitations for pesticides are included in this Order and are based on the Basin Plan objective.

j. **Radioactivity**. The Basin Plan includes a water quality objective that *"[R]adionuclides shall not be present in concentrations that are harmful to human, plant, animal or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal or aquatic life."* The Basin Plan states further that *"[A]t a minimum, waters designated for use as domestic or municipal supply (MUN) shall not contain concentrations of radionuclides in excess of the maximum contaminant levels (MCLs) specified in Table 4 (MCL Radioactivity) of Section 64443 of Title 22 of the California Code of Regulations…"* Receiving Water Limitations for radioactivity are included in this Order and are based on the Basin Plan objective.

k. **Sediment.** The Basin Plan includes a water quality objective that *"[T]he suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses"* Receiving Water Limitations for suspended sediments are included in this Order and are based on the Basin Plan objective.

l. **Settleable Material.** The Basin Plan includes a water quality objective that *"[W]aters shall not contain substances in concentrations that result in the deposition of material that causes nuisance or adversely affects beneficial uses."* Receiving Water Limitations for settleable material are included in this Order and are based on the Basin Plan objective.

m. **Suspended Material.** The Basin Plan includes a water quality objective that *"[W]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses."* Receiving Water Limitations for suspended material are included in this Order and are based on the Basin Plan objective.

n. **Taste and Odors**. The Basin Plan includes a water quality objective that *"[W]ater shall not contain taste- or odor-producing substances in concentrations that impart undesirable tastes or odors to domestic or municipal water supplies or to fish flesh or other edible products of aquatic origin, or that cause nuisance, or otherwise adversely affect beneficial uses."* Receiving Water Limitations for taste- or odor-producing substances are included in this Order and are based on the Basin Plan objective.

o. **Temperature.** The Moccasin Creek has the beneficial uses of both COLD and WARM. The Basin Plan includes the objective that "[a]*t no time or place shall the temperature of COLD or WARM intrastate waters be increased more than 5ºF above natural receiving water temperature*." This Order includes a receiving water limitation based on this objective.

p. **Toxicity**. The Basin Plan includes a water quality objective that *"[A]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life."* Receiving

Water Limitations for toxicity are included in this Order and are based on the Basin Plan objective.

q. **Turbidity.** The Basin Plan includes a water quality objective that "*[I]ncreases in turbidity attributable to controllable water quality factors shall not exceed the following limits:*

- *Where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU.*
- *Where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent.*
- *Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.*
- *Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent*."

A numeric Receiving Surface Water Limitation for turbidity is included in this Order and is based on the Basin Plan objective for turbidity.

B. Groundwater

1. The beneficial uses of the underlying ground water in the vicinity of the Facility are municipal and domestic supply, industrial service supply, industrial process supply, and agricultural supply.

2. This Order includes groundwater limitations (Section V.B.) and solids disposal requirements (Section VI.C.4.a.) that adequately protect the beneficial uses of the groundwater.

VI. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS

Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorizes the Regional Water Board to require technical and monitoring reports. The Monitoring and Reporting Program (MRP), Attachment E of this Order, establishes monitoring and reporting requirements to implement federal and state requirements. The following provides the rationale for the monitoring and reporting requirements contained in the MRP for this facility.

A. Influent Monitoring – Not Applicable

B. Effluent Monitoring

1. Pursuant to the requirements of 40 CFR §122.44(i)(2) effluent monitoring is required for all constituents with effluent limitations. Effluent monitoring is necessary to

assess compliance with effluent limitations, assess the effectiveness of the treatment process, and to assess the impacts of the discharge on the receiving stream.

2. The SIP states that if "…all reported detection limits of the pollutant in the effluent are greater than or equal to the C [water quality criterion or objective] value, the RWQCB [Regional Water Board] shall establish interim requirements…that require additional monitoring for the pollutant…."

C. Whole Effluent Toxicity Testing Requirements – Not Applicable

D. Receiving Water Monitoring

1. Surface Water

a. Receiving water monitoring is necessary to assess compliance with receiving water limitations and to assess the impacts of the discharge on the receiving stream.

2. Groundwater – Not Applicable

E. Other Monitoring Requirements

VII. RATIONALE FOR PROVISIONS

A. Standard Provisions

Standard Provisions, which apply to all NPDES permits in accordance with section 122.41, and additional conditions applicable to specified categories of permits in accordance with section 122.42, are provided in Attachment D. The discharger must comply with all standard provisions and with those additional conditions that are applicable under section 122.42.

Section 122.41(a)(1) and (b) through (n) establish conditions that apply to all State-issued NPDES permits. These conditions must be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to the regulations must be included in the Order. Section 123.25(a)(12) allows the state to omit or modify conditions to impose more stringent requirements. In accordance with section 123.25, this Order omits federal conditions that address enforcement authority specified in sections 122.41(j)(5) and (k)(2) because the enforcement authority under the Water Code is more stringent. In lieu of these conditions, this Order incorporates by reference Water Code section 13387(e).

B. Special Provisions

1. Reopener Provisions

a. This provision allows the Regional Water Board to re-open this Order to include any newly adopted receiving water standards.

b. Conditions that necessitate a major modification of a permit are described in 40 CFR section 122.62, which include the following:

i. When standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision. Therefore, if more or less stringent applicable water quality standards are promulgated or approved pursuant to section 303 of the Federal Water Pollution Control Act or amendments thereto, the Regional Water Board will revise and modify this Order in accordance with such more or less stringent standards.

ii. When new information, that was not available at the time of permit issuance, would have justified different permit conditions at the time of issuance.

2. Special Studies and Additional Monitoring Requirements

c. **Provision VI.C.2.a, Chemical and Aquaculture Drug Reporting Requirements.** As described in Section IV.B.1 of this Fact Sheet, the final ELG includes the following reporting and narrative requirements for CAAP facilities that are subject to 40 CFR Part 451:

- Must notify the permitting authority of the use of any investigational new animal drug (INAD) and any extra-label drug use where the use may lead to a discharge to waters of the United States.
- Reporting requirement for failure in or damage to the structure of an aquatic animal containment system, resulting in an unanticipated material discharge of pollutant to waters of the United States.
- Develop and maintain a best management practice (BMP) plan for solids control, material storage, structural maintenance, record keeping, and training.

Prior to using any new chemical or aquaculture drug at the Facility, the Discharger is required to submit to the Regional Water Board a RWD and be issued waste discharge requirements and/or NPDES permit authorizing the discharge. The RWD must contain the reporting and toxicity testing of the new chemical or aquaculture drug as specified in Section VI.C.2.a of this Order. These reporting and toxicity testing requirements are needed for the Regional Water Board to determine if the discharge of a new drug or chemical by the Facility has reasonable potential to cause, or contribute to an in-stream excursion above any chemical-specific water quality criteria, narrative water quality

objective for chemical constituents from the Basin Plan, or narrative water quality objective for toxicity from the Basin Plan.

3. Best Management Practices and Pollution Prevention

a. **Salinity Evaluation and Minimization Plan.** The Discharger shall prepare a salinity evaluation and minimization plan to address sources of salinity from the Facility.

b. **Provision VI.C.3, Best Management Practices.** Best Management Practices plan requirements are established based on requirements in Effluent Limitations Guidelines and New Source Performance Standards for the Concentrated Aquatic Animal Production Point Source Category at 40 CFR 451. CAAP facilities that are subject to the federal ELG are required to develop and maintain a BMP plan that address the following requirements: solids control, material storage, structural maintenance, record-keeping, and training. The Discharger must make the BMP plan available to the Regional Water Board upon request, and submit certification that the BMP plan has been developed.

4. Construction, Operation, and Maintenance Specifications

a. Provisions VI.C.4.a, Solid waste disposal provisions in this Order are based on the requirements of CCR Title 27 and prevention of unauthorized discharge of solid wastes into waters of the United States or waters of the State.

5. Special Provisions for Municipal Facilities (POTWs Only) – Not Applicable

6. Other Special Provisions

7. Compliance Schedules – Not Applicable

VIII. PUBLIC PARTICIPATION

The California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) is considering the issuance of waste discharge requirements (WDRs) that will serve as a National Pollutant Discharge Elimination System (NPDES) permit for the Moccasin Creek Fish Hatchery. As a step in the WDR adoption process, the Regional Water Board staff has developed tentative WDRs. The Regional Water Board encourages public participation in the WDR adoption process.

A. Notification of Interested Parties

The Regional Water Board has notified the Discharger 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.

B. Written Comments

The staff determinations are tentative. Interested persons are invited to submit written comments concerning these tentative WDRs. Comments must be submitted either in person or by mail to the Executive Office at the Regional Water Board at the address above on the cover page of this Order.

To be fully responded to by staff and considered by the Regional Water Board, written comments should be received at the Regional Water Board offices by 5:00 p.m. on **May 22, 2007**.

C. Public Hearing

The Regional Water Board will hold a public hearing on the tentative WDRs during its regular Board meeting on the following date and time and at the following location:

Date: June 21-22, 2007
Time: 8:30 am
Location: Regional Water Quality Control Board, Central Valley Region
11020 Sun Center Dr., Suite #200
Rancho Cordova, CA 95670

Interested persons are invited to attend. At the public hearing, the Regional Water Board will hear testimony, if any, pertinent to the discharge, WDRs, and permit. Oral testimony will be heard; however, for accuracy of the record, important testimony should be in writing.

Please be aware that dates and venues may change. Our Web address is http://www.waterboards.ca.gov/rwqcb5/ where you can access the current agenda for changes in dates and locations.

D. Waste Discharge Requirements Petitions

Any aggrieved person may petition the State Water Resources Control Board to review the decision of the Regional Water Board regarding the final WDRs. The petition must be submitted within 30 days of the Regional Water Board's action to the following address:

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100, 1001 I Street
Sacramento, CA 95812-0100

E. Information and Copying

The Report of Waste Discharge (RWD), related documents, tentative effluent limitations and special provisions, comments received, and other information are on file and may be inspected at the address above at any time between 8:30 a.m. and 4:45 p.m., Monday through Friday. Copying of documents may be arranged through the Regional Water Board by calling (916) 464-3291.

F. Register of Interested Persons

Any person interested in being placed on the mailing list for information regarding the WDRs and NPDES permit should contact the Regional Water Board, reference this facility, and provide a name, address, and phone number.

G. Additional Information

Requests for additional information or questions regarding this order should be directed to Ms. Jennifer Watts at (916) 464-4795.