



# MALAGA COUNTY WATER DISTRICT

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## BOARD OF DIRECTORS

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JIM ANDERSON- GENERAL MANAGER

October 26, 2015

Warren W. Gross, Senior Engineering Geologist  
Central Valley Regional Water Quality Control Board  
1685 E. Street  
Fresno, California 93706

Pamela C. Creedon, PE, Executive Officer  
Central Valley Regional Water Quality Control Board

Carl E. Longly, SCD, PE, Chairman  
Central Valley Regional Water Quality Control Board

Dear Mr. Gross:

This letter is in response to the document entitled "Notice of Violation " issued by the Central Valley Regional Water Quality Control Board ("CVRWQCB"), signed by you, dated September 10, 2015, which requested that the Malaga County Water District ("District") "submit a written description of the measures the District has implemented or will implement to resolve the above violations and in response to the requirements and recommendations in section of the PCI report [.]" by October 26, 2015. Further, it was requested that the District include a proposed schedule for implementation of changes in the District's Pretreatment Program for each requirement and as applicable, for each recommendation. The NOV lists twenty one "violations" or "threatened violations" whatever may be meant by the term "threatened violations" most of which, which will be shown below, are based on misunderstandings, erroneous conclusions, omitted facts, or outright false factual assertions.

Over the last two years, the District has taken a number of affirmative actions in order to bring its Pretreatment Program into full compliance with all State and Federal statutes, acts and

regulations. While first encouraged by the CVRWQCB's initial cooperation in helping the District achieve full compliance, the District is now taken aback by the CVRWQCB's continued insistence that the District's current Sewer Use Ordinance ("SUO") is somehow invalid and instead has applied the rescinded, non-existent 2004 Ordinance in spite of clear and uncontested facts to the contrary which the CVRWQCB simply and repeatedly ignores. This, along with the CVRWQCB's refusal or inability to communicate with the District does nothing more than serve as an impediment to the District's constant and significant progress which the District has and continues to make in spite of this uncooperative, unhelpful, and frankly disingenuous step backwards by the CVRWQCB.

The CVRWQCB's conclusion that the District's current Ordinance is invalid appears to be based on the following facts:

1. "According to information provided on the District's website, the Ordinance had been passed on December 9, 2014." (Report at Section 2.2, pg 5)

This fact is false.

The website does not say that the District's SUO was passed on December 9, 2014. The District's Ordinance Code, which is available for viewing at [www.codepublishing.com/ca/malagacwd/](http://www.codepublishing.com/ca/malagacwd/) states "the Malaga County Water District Code is current through Ordinance 2014-2 passed December 9, 2014."

The CVRWQCB's confusion appears to stem from its fundamental lack of understanding of what an Ordinance Code is and how it works. The District, like the State of California and hundreds of counties, cities, and special districts therein, maintains an Ordinance Code. This Ordinance Code contains various rules and regulations relating to all of the services within the jurisdiction of the District including recreation, sanitation, water, and the District's SUO. This Ordinance Code is amended from time to time by Ordinance of the District's Board of Directors. The last amendments to the District's Ordinance Code were made on December 9, 2014, as stated on the aforementioned website Ordinance No. 2014-1 dealt with changes to title two of the Ordinance Code relating to water, and Title Four of the District's Ordinance Code pertaining to park rules. Ordinance No. 2014-2 made non-significant changes to the District's SUO, which, as will be shown below, were permitted by the CVRWQCB.

2. "The Central Valley Water Board notified the District that it was required to request and receive approval from the Central Valley [sic] Water Board prior to implementing significant changes to the SUO." (Report at Section 202, page 5.)

This fact is false.

The District has twice given the CVRWQCB notice that it intended to make non-significant changes to its SUO. As shown below, the CVRWQCB did not respond to the first notice as required by 40CFR403.18 (d) and the response to the second notice was based solely on a completely baseless factual assertion. These issues were

addressed in the District's response to the Supplemental Notice of Violation which is attached to the report as Attachment B.3; the Districts November 25, 2014, response to the CVRWQCB's October 24, 2014, letter regarding the Districts notice of non-substantial changes and are further addressed as follows:

### **Modifications Effective February 25, 2014 (Ordinance No. 2013-1)**

As set forth in detail to the District's response to the CVRWQCB's Supplemental Notice of Violation dated September 23, 2014, attached as Attachment B.3 to the Report, the District underwent a comprehensive review of its Ordinances, which included the District's SUO. As part of this review, the District made a number of changes to its Pretreatment Program. The District interpreted those changes then, as it does now, as non-substantial modifications to the District's Pretreatment Program. On December 2, 2013, the District provided a notice of non-substantial modifications to the Malaga County Water District's Pretreatment Program to the Central Valley Regional Water Quality Control Board along with a copy of its proposed Ordinance which was also made available to the public. The District held a public workshop on the proposed Ordinance on December 16, 2013. The procedures as set forth in 40CFR403.18(d) for Non-Substantial modifications of a Pretreatment Program provide:

“(1) The POTW shall notify the approval authority of any non-substantial modification at least forty five (45) days prior to implantation by the POTW, any statement similar to that provided for in (c) (1) of this section.

(2) Within forty five (45) days after the submission of the POTW statement, the approval of authority **shall notify the POTW of its decision to approve or disapprove the non-substantial modification.**

(3) If the approval authority **does not notify the POTW within forty five (45) days of its decision to approve or deny the modification or to treat the modification as substantial (d)(7) of this section, the POTW may implement the modification.**” [Emphases added]

Because §40CFR403.18(d)(3) provides that if the approval authority, in this case the CVRWQCB, does not notify the POTW, in this case the District, that it will treat the proposed modification as substantial, the POTW may implement the modification.

The CVRWQCB first gave the District notice that it considered the District's Ordinance effective February 25, 2014, to be a substantial modification on July 7, 2014. This was nearly six (6) months after the forty five (45) day review period provided in §40CFR403.18(d) had expired.

- The CVRWQCB has never disputed the fact that the District gave it notice of non-substantial modifications on December 2, 2013 and provided the CVRWQCB with all documents, including the Ordinance related thereto. Those documents were also made available for public review.

- The CVRWQCB has never disputed the fact that it did not notify the District that it intended to treat the District's proposed modifications to its Pretreatment Program as significant as required by §40CFR403.18(d)(3).

**Modification to the Pretreatment Program December 9, 2014** (Ordinance 2014-2).

On September 24, 2014, the District gave the CVRWQCB notice of non-substantial modifications to the District's Pretreatment Program pursuant to 40CFR403.18(d) and provided the CVRWQCB with a copy of its proposed Ordinance 2014-2. The Ordinance was also made available for public review.

On October 24, 2014, the CVRWQCB provided a response to the District's notice of non-substantial modification to its Pretreatment program. In the response, the CVRWQCB stated that it was treating the proposed modification as a substantial modification based on the fact that the "Draft Ordinance Code" "has removed the iron limit, as well as the limits for several other metals, from section 3.05.040, local limitations on wastewater discharges." The ordinance which accompanied the notice of non-substantial modifications, was Ordinance No. 2014-2. Ordinance 2014-2 did not make any reference or change to section 3.05.040. As stated in the District's November 25, 2014, response, the Water Board was clearly relying on completely baseless fact for its assertion that the District proposed changes were substantial. It appears obvious from the CVRWQCB's reference to the "Draft Ordinance Code" that the CVRWQCB is attempting to, belatedly, respond to the First Notice of Non-Substantial Change to the District's Pretreatment Program in response to the District's Second Notice of Non-Substantial Change. The First Notice of Substantial Change was accompanied by a copy of the Draft Ordinance Code (Ordinance 2013-1) as referred to in the October 24, 2014, letter and the PCI Report. The Second Notice of Non-Substantial Modification was accompanied by a copy proposed (Ordinance No. 2014-2).

- The CVRWQCB has not disputed the fact that it received a notice of non-substantial modifications related to the District's Ordinance 2014-2 on September 24, 2014.
  - The CVRWQCB has not disputed the fact that the bases of its conclusion that the District's modification of its Pretreatment program by District Ordinance No. 2014-2 was a substantial change was based on a clearly erroneous factual conclusion by the CVRWQCB that the District was amending §305.040 of its Ordinance Code.
  - These facts are conspicuously omitted from the Pretreatment Compliance Inspection Report ("Report").<sup>1</sup>
3. "Due to the District not receiving approval from the Central Valley Water Board, the District repealed some of the significant changes."

This assertion is false.

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<sup>1</sup> The Report does not identify who or whom authorized the Report. Because the NOV is being issued by Mr. Gross, it is assumed that the CVRWQCB is responsible for the content of that Report.

The District has not made any significant changes in its Pretreatment Program. Further, the District has not repealed any of the changes it has made from its SUO and the Report does and cannot identify any such alleged changes.

In spite of the clearly erroneous facts and assertions made by the CVRWQCB and the conspicuous absence of undisputed incontrovertible facts to the contrary, the CVRWQCB determined that “since the 2004 SUO is the version most recently approved by the Central Valley Water Board, this is the version that was considered to be in effect at the time of the 2015 inspection and continues to be in effect.” (Report at §3.1 Pg. 8) This creates an additional problem with the report in that by its Ordinance 2013-1 adopted on February 25, 2014, the District repealed the 2004 Sewer Use Ordinance. Therefore, the 2004 Sewer Use Ordinance upon which the report and Notice of Violation are based does not exist.

Because the CVRWQCB twice failed to provide notice to the District as required by 40CFR403.18(d)(3) prior to the adoption of non-substantial modifications to the District’s Pretreatment Program (Ordinance No.s 2013-1 and 2014-2), the District’s current Sewer Use Ordinance and Pretreatment Program are the Sewer Use Ordinance and Pretreatment Program that are in effect. The CVRWQCB has no authority to and has cited no authority to consider any other Pretreatment Program or Sewer Use Ordinance to be in effect at the time of the inspection. Further, there may have been legal avenues available to the CVRWQCB to challenge the District’s adoption of Ordinance No.s 2013-1 and 2014-2 along with the repeal of the 2004 Sewer Use Ordinance however the CVRWQCB did not avail itself of any of those processes.

Accordingly, because the CVRWQCB has erroneously based its Report and the NOV on the 2004 SUO, the Report and the NOV are invalid in their entirety and as such, both the PCI Summer Report and the September 10, 2015, Notice of Violation should be rescinded in their entirety in writing by the CVRWQCB immediately. <sup>2</sup>

Notwithstanding the forgoing, and without admitting to the validity of the Report or the NOV and without admitting that any of the listed “requirements” or “recommendations” or “violations” or “threatened violations” whatever that may mean, are violations or have any validity, and reserving the right to use any procedure available at law to contest said report, requirements, recommendations, violations, or threatened violations and to the extent the District is able to understand the vague and inconsistent NOV and PCI Summary Report, the District submits the following “written description of the measures the District has implemented or will implement to resolve the above violations in response to the requirements and recommendations in Section 10 of the PCI Summary Report [.]” as apparently required by the September 10, 2015, Notice of Violation:

***Response to Requirement No. 1:*** For the reasons set forth above, which are incorporated by this reference herein as though fully set forth at this point, it is the District’s position that its Ordinance and Pretreatment Program were validly adopted and are the current and effective Sewer

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<sup>2</sup> Another by-product of the CVRWQCB basin the Report on the 2004 Ordinance is that the resulting Report intermingles references two or more different pretreatment standards rendering the Report at best, erroneous vague and internally inconsistent.

Use Ordinance and Pretreatment Program. Further, it is the District's position that the CVRWQCB's basing the PCI report and the NOV on the 2004 SUO, render the PCI Summary Report and the NOV invalid.

By not notifying the District that the CVRWQCB considered the proposed modification by the District as described above as substantial, as required by 40CFR403.18(d)(3), the District was, by the plain language of that section, permitted to implement the modifications. Therefore, there is no action required by the District at this time pursuant to requirement No. 1.

***Response to Requirement No. 2:*** Requirement No. 2 does not appear to be a requirement in that it simply reminds the District that it must publish Notice of SIUs in significant non-compliance in accordance with 40CFR403.8(f)(2)(VIII). The response to Requirement No. 2 pertains to a point during the inspection when the inspectors questioned District staff about an inspection made to Fifth Wheel Truck Wash that resulted in the District preparing an administrative citation to Fifth Wheel for excess BOD, EC, and TSS. Enforcement actions against Fifth Wheel proceeded into stronger enforcement action by a compliance order and a show cause order. The District took these actions to demonstrate to Fifth Wheel the power of the District as the Control Authority to demand compliance so far as to terminate all services to Fifth Wheel for non-compliance. At that point Fifth Wheel made the necessary changes in the compliance order and further enforcement action was not applied. During this whole period of events, Fifth Wheel Truck Wash was not a significant industrial user. It was after this action that the District decided to designate not only Fifth Wheel but also the three other truck wash businesses the District serves as significant industrial users due to the potential for significant impact on the WWTF. The fact that Fifth Wheel Truck was not an SIU at the time of the violation was explained to the inspectors. At that point of the inspection the inspectors took the time to assist the District to explain the process to "perform SNC calculations" that the District knew how to do but the effort was recognized as a learning process and a cooperative point in the inspection that the inspectors and the District shared. The conversation proceeded as the inspectors discussed the requirement for publishing significant industrial user significant non-compliance, which the District also knew of and a general discussion of both requirements was shared. The District is surprised to see the event noted as a violation for being "unaware of how and when to perform SNC calculations" and the reminder "that is must publish" significant non-compliance of an SIU. The District again points out that this violation is also false and should be withdrawn.

***Response to Requirement No. 3:*** This request appears to be a recommendation. The forgoing notwithstanding, the District is proceeding as required by CDOR5-2014-0146 (task 2a) in conducting a local limit evaluation and revising /developing local limits as necessary.<sup>3</sup> For this requirement to be cited as a violation is to say the District is being cited for a violation for taking appropriate actions required in CDO R5-2014-0146 that it is doing in compliance with the Order. The District objects to being cited for taking the actions required in the Order.

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<sup>3</sup> It should be noted that the District is challenging the validity of CDOR5-2014-0146 and WRD Order R5-2014-0145 and any reference to these orders, or compliance therewith, is not and should not be construed as a waiver of that challenge or an admission to the validity of said orders.

***Response to Requirement No. 4:*** The District's Pretreatment Program, at section 5.40 describes the process by which individual wastewater discharge permits are renewed / reissued. The District will update this section of the Pretreatment Program to include a requirement that permits are issued at least fifteen (15) days prior their effective dates. In response to the inspection teams lack of clarity as to whether or not the permits issued had been signed and dated, the District maintains electronic copies of those signed and dated permits however, did not scan the permit cover sheets prior to issuing the permits to users. The copies received by users were signed and dated. To avoid confusion in the future, the Pretreatment Program will be updated to require that hardcopies of the issued permits be maintained by the District and available for inspection.

***Response to Requirement No. 5:*** As part of the District's permit issuance procedure, it was intended that a diagram of the facility indicating, among other things, the sampling location would be attached and incorporated into each permit with a condition for monitoring and sampling. The District will incorporate the identification of sampling points into each permit.

***Response to Requirement No. 6:*** To the extent that this requirement refers to "parameters" included in the 2004 SUO and 2014 SIU Permits, see response to requirement No. 1, incorporated by reference. The inconsistency between the 2004 SUO, 2014 SIU Permits, and the 2015 SIU Permits appear to be a function of the improper application of the rescinded 2004 SUO. To the extent that this requirement refers to the need for the District to adopt technically based local limits, see Response to Request No. 3, incorporated by reference.

***Response to Requirement No. 7:*** The District will update its Permits to clarify the required procedures, sampling type, and frequency. To the extent that this requirement requires application of local limits, see Response to Request No. 3, incorporated by this reference.

***Response to Requirement No. 8:*** To the extent that this requirement refers to the 2004 SUO, See Response to Requirement No.1, incorporated by reference. To the extent that this requirement refers or relates to the development of technically based local limits, see Response to Requirement No. 3, incorporated by reference.

***Response to Requirement No. 9:*** Bypass is specifically prohibited the District's Sewer Use Ordinance at §3.05.050(B). Part one section one of the permit in question requires that the user comply with "all of the provision, terms, and requirements of the Malaga Code ("Code"), the Pretreatment Program, the Clean Water Act ("Act")...." The permit also includes a definition of bypass. The foregoing notwithstanding, the District will revise its Permits to specifically prohibit bypass.

***Response to Requirement No. 10:*** The District will revise its permits and permit issuing procedures to clarify the requirements for industrial users including whether or not they are subject to the District's Pretreatment Program requirements and if so, the applicable Pretreatment standards including any applicable requirements under Sections 204(b) and 405 of the Act and subtitles C and D of the Recourses Conservation and Recovery Act, notify each significant user of its status and of all applicable requirements as a result of that status.

***Response to Requirement No. 11:*** As stated in Section 2.2 of the PCI Summary Report, the District has made a number of personnel changes designed to improve the implantation of the District's Pretreatment Program. As a result, the District has developed policies and procedures to ensure that samples are collected at each SIU at least once per year. Copies of inspection reports for each SIU for 2015 maintained at the District office and will be included in the District's 2015 Annual Pretreatment Program Report.

***Response to Requirement No. 12:*** As necessary the District will re-train its inspection personnel to ensure that each inspection report is fully completed including, but not limited to, the date and time of each inspection and the name and signature of the inspector(s).

***Response to Requirement No. 13:*** The District has reevaluated the sample point and/or probe location for PPG Industries and has required the user to relocate the sampling point to ensure that the sample is being collected in accordance with 40CFR403.12(b)(5)(ii). The District, as part of annual inspections and/or permit renewal process will reevaluate the sampling locations of each SIU.

***Response to Requirement No. 14:*** As stated in the response to Requirement No. 13, the District will, as part of its annual inspection or permit reissuance procedures, reevaluate the sampling points for all SIU; and if necessary issue appropriate compliance order/schedules to relocate the sample points to comply with all applicable requirements.

***Response to Requirement No. 15:*** The User identified in this requirement is doing the monitoring and reporting on a voluntary basis. The District conducts sampling and testing for this User independent of the sampling and reporting done by the User. For any User where the District requires monitoring and reporting the District will reevaluate each of those Users to ensure that the sample is representative of daily operations pursuant to 40CFR403.12(b)(5)(ii).

***Response to Requirement No. 16:*** Both sampling locations referred to in this requirement are representative of the wastewater generated and discharged from the facility. The District will, as part of its inspection and/or permit renewal process, review each sampling location for each SIU, identify each sampling location clearly, incorporate those locations into that SIU's permit, and, in the event that there are more than one sampling points available, identify which sampling point(s) will be utilized.

***Response to Requirement No. 17:*** The User identified in requirement No.17 is not required to submit monitoring reports to the District. The District conducts its own independent sampling and testing of this user's wastewater discharged into the District's system. However, the District does, as part of its inspection process, inspect the pretreatment equipment of all users required to have pretreatment equipment to ensure that that equipment is functioning properly. The District will review and reevaluate its inspection procedures and frequency to ensure that all user maintain all required pretreatment program equipment and records related thereto and if necessary issue an appropriate enforcement response.

***Response to Requirement No. 18:*** The District has revised its self-reporting requirements to clarify the necessity to include chain of custody reports with self-monitoring reports. The

District has also revised its permit to specify the chain of custody requirement on self-monitoring reports.

**Response to Requirement No. 19:** This requirement is related the requirement that the District development technically bases local limits and include those limits, along with the sampling and monitoring requirements into user permits. As stated above, the District is in the process of conducting a local limits study and will develop appropriate local limits and a monitoring and reporting program necessary to enforce those limits as set forth in the response to requirement No. 3, which is incorporated by this reference herein. In the interim, the District will clarify the monitoring requirements in each industrial users permit who is required to conduct monitoring and reporting and of what constituents.

**Response to Requirement No. 20:** The District has in place a process for evaluating each industrial user to determine whether or not that user needs a slug discharge control plan and/or a spill containment plan. Those procedures are set forth in Chapter 7 of the District Pretreatment Program. The District has separate forms for evaluating whether each user will be required to have a slug discharge control plan and/or a spill containment plan. Each industrial user is required to be evaluated prior to the issuance of any individual wastewater discharge permit, the reissuance of any individual wastewater discharge permit, following any slug discharge or spill or at any time or frequency deemed necessary by the District. The Slug Discharge Control Plan Evaluation form is attached to the Pretreatment Program as Attachment J. The Pretreatment Program and its attachments are available on the District's website. The District will reevaluate its implementation of these procedures to ensure that the evaluations are completed as required by the District Pretreatment Program and the records of said evaluations are maintained in a manner that renders them readily available for inspection.

**Response to Requirement No. 21:** This is a repetition of Requirement No. 2. The District is in compliance with this requirement as the District has adopted and is properly implementing its enforcement plan. The basis for this requirement appears to be a misunderstanding of the actions taken by the District relating to a September 24, 2014 discharge by one of the District's Users. Following the discharge, the District did issue a letter to the User notifying them of the violation by written citation, flowed by a compliance order to take corrective action. When the compliance order was ignored, a Notice of an Order to Show Cause hearing was issued. The confusion seems to stem from purported statements that these actions were somehow "not officially issued". These action were officially issued and, as correctly stated in the PCI Summary Report quoting from the 2014 Annual Pretreatment Report, the District was able to obtain compliance of the User through a series of meetings rendering the need for an Order to Show Cause hearing moot.

The District does recognize that the use of the term "significant non-compliance" within the context of determining which enforcement action should be taken by the District can create confusion as the term "significant non-compliance" as used in this capacity is not the same meaning as significant non-compliance as defined in the District's Ordinance and at 40CFR403.8(f)(2)(viii)(A-H.). The District will revise its Pretreatment Program to include a different term to be used in place of "significant non-compliance" as a factor in determining the enforcement procedures to be applied.

***Response to Recommendation No.1:*** The District will reevaluate RV sales facilities and other facilities which may allow or introduce hauled waste into the District's POTW. A compliance order is being developed for all RV sales facilities to maintain a log of the number of RV's allowed to dump waste at their facilities and the volume of waste discharged. If necessary, the District will require any and all users which may allow or introduce hauled waste into the District's POTW to be permitted as appropriate.

***Response to Recommendation No.2:*** The District is in the process of conducting a study to determine technically based local limits which is expected to play a key role in identifying the source of Chromium at the WWTF and with Chromium is currently being introduced into the District's POTW. The District is also in the process of evaluating and performing necessary maintenance on its wastewater collection system in order to eliminate the possibility that the source of Chromium is legacy solids contained in the District's collection system. If the maintenance performed on the District's wastewater collection system does not eliminate the source of Chromium, and said source of Chromium is not identified during the local limits study, the District, through consultation with its engineer or other consultants as required, will develop a testing procedure to identify the source of Chromium.

***Response to Recommendation No.3:*** The District has continued its investigation into the processes performed at the facility referred to in this recommendation and will make a determination and if necessary require that the facility apply for and receive a permit in the appropriate class, on or before January 1, 2016.

***Response to Recommendation No.4:*** The General Manager signed the cover page of each permit issued to permittees however, it appears that the District did not scan and/or store the signature pages in an electronic format as intended. In order to avoid the possibility of this error again, the District will make a hard copy of each permit issued and maintain that hard copy in each users file.

***Response to Recommendation No.5:*** As dated above, the District will review its inspection procedures and employee training to insure that each inspection report, slug discharge evaluation form, FSE evaluation form, or any other forms required during inspections or permit issuance or reissuance procedure will fully completed, signed, dated, and properly maintained in the District's records.

***Response to Recommendation No.6:*** The District will upgrade its procedures related to the obtaining and reviewing/evaluating user records related to the maintenance and operation of the users pretreatment facilities.

***Response to Recommendation No.7:*** The District will review each permit to determine whether or not the District needs to include in the permit, likely in the best practices requirements, that each facility develop SOP's to minimize the potential for an upset at the Districts WWTF.

***Response to Recommendation No.8:*** See response to Recommendation No.7, incorporated by reference. The District, as part of its permit reissuance procedures, will require

all users to update their facility and process area schematics and keep said updated schematic on file in the District's records.

***Response to Recommendation No.9:*** As part of the District's formulation of technically based local limits, the District will comprehensively review its EC limits and discharging methods and prohibitions.

***Response to Recommendation No.10:*** As part of the District's permit reissuance process, the District will evaluate each permit to ensure that the permit clearly distinguishes between slug discharge and batch discharge and where necessary, clearly distinguish whether a slug discharge or batch discharge plan, or both, are required

***Response to Recommendation No.11:*** The District will request a copy of the facilities SOP's related to general cleanup and spill response and will, as part of the District's permit reissuance procedures, perform an evaluation to determine whether or not the District will require the user to prepare or to revise a slug discharge control plan and/or a spill containment plan, pursuant to, among other things, Chapter 7 of the District's pretreatment program.

***Response to Recommendation No.12:*** Following the incident described in Recommendation No. 12, the District performed multiple inspection at the facility, conducted interviews with facility representatives, and reviewed the facilities response to the incident and determined that although the incident caused a spill, the facilities secondary containment system prevented said spill from entering the District's POTW and therefore did not cause upset to the District's WWTF. However, the District will review the facilities emergency assists along with each SIU's emergency assists and facilities to minimize the potential for discharge into the District's POTW which would cause an upset at the District's WWTF.

***Response to Recommendation No.13:*** As stated above, the District will review each users permit to determine whether or not each user should develop written SOP's and/or develop and utilize best management practices.

***Response to Recommendation No.14:*** As state above, the District will review each industrial user to determine whether or not that user will be required to develop and implement a slug discharge control plan and/or spill response plan and specifically will review the user reference in this Recommendation. Further, as reference above, future district permits will clearly distinguish between slug discharge and batch discharge. See Response to Requirement No.21, incorporated by reference.

In summary, let me conclude this response by saying the dialog between the CVWQRCB is inconsistent related to the Districts Pretreatment Program and revisions to its Pretreatment Program which makes it difficult to provide a response to the NOV. The CVWRQCB persists that the District does not operate by an authorized sewer use ordinance and the most substantial portions of the NOV are related to that as well as a local limits study that the CVWRQCB already knows is underway yet cites the District for not having technically based local limits. The District is very frustrated working with CVWQRCB who on the phone or in person seem polite and listening who on paper are accusatory and have not heard a single word that was said. In person

the CVWQRCB recognizes the significance of changes the District has made to achieve compliance with its pretreatment program, but this NOV reads as though the District has no clue what pretreatment is even about. Slapping a child for spilling milk makes for more spilt milk. I do not berate enforcement, but I do suggest enforcement unevenly applied does not work well.

Malaga County Water District takes offense to most of this NOV, yet recognizes there is still work to be done. The District has a positive attitude about the significance of a working, fact based pretreatment program in compliance with the requirements of the EPA and the Clean Water Act and will forward updates and supplements to this response as they become available. It is hoped that the CVWRQCB will make a better effort to report the truth in facts rather than what appears to be picking on Malaga.

Respectfully submitted,

*James D. Anderson*

James D. Anderson  
General Manager and  
Legally Responsible Officer  
of the Malaga County Water District