CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
REGION 9, SAN DIEGO REGION

ORDER NO. R9-2005-0148
NPDES PERMIT NO. CA0109070

WASTE DISCHARGE REQUIREMENTS
FOR
INDUSTRIAL STORM WATER DISCHARGES FROM DRISCOLL' S WEST BOAT REPAIR FACILITY TO SAN DIEGO BAY

SAN DIEGO COUNTY

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

Table 1. Discharger Information

Discharger	Driscoll's West
Name of Facility	Driscoll's West
Facility Address	2700 Shelter Island Drive
	San Diego, CA 92106

The discharge by Driscoll's West from the discharge point 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
East Property Boundary Near Railway (C-001)	Storm Water	32° 43' 30" N	117° 13' 60" W	America's Cup Harbor, San Diego Bay

Table 3. Order Information

This Order was adopted by the Regional Water Board on:	December 14, 2005
This Order shall become effective on:	January 1, 2006
This Order shall expire on:	December 14, 2010
The U.S. Environmental Protection Agency (USEPA) and the Regional Water Board have classified this discharge as a **minor** discharge.	
The Discharger shall file a Report of Waste Discharge in accordance with Title 23 of the California Code of Regulations **not later than 180 days in advance of the Order expiration date** as application for issuance of new waste discharge requirements.	

I, John H. Robertus, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of the Order adopted by the California Regional Water Quality Control Board, San Diego Region, on December 14, 2005.

for JOHN H. ROBERTUS, Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
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I. FACILITY INFORMATION

The following Discharger, identified in *Table 4. Facility Information*, is authorized to discharge in accordance with the waste discharge requirements set forth in this Order:

Table 4. Facility Information

Discharger	Driscoll's West
Name of Facility	Driscoll's West
Facility Address	2700 Shelter Island Drive
	San Diego, CA 92106
Facility Contact, Title, and Phone	Thomas Driscoll, President, 619-226-2500
Mailing Address	SAME
Type of Facility	Boat Repair (SIC – 3732)
Facility Design Flow	Not Applicable

II. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Water Board), finds:

A. **Background.** Driscoll's West (hereafter, Discharger) is currently discharging pursuant to Order No. 2000-208 and National Pollutant Discharge Elimination System (NPDES) Permit No. CA 0109070. The Discharger submitted a Report of Waste Discharge, dated April 17, 2005, and applied for a NPDES permit renewal to discharge storm water associated with industrial activity generated from boat repair activities from Driscoll's West, hereinafter the Facility. The application was deemed complete on April 19, 2005.

The Facility conducts various boat maintenance and repair activities, including but not limited to exterior/interior surface coating application/removal (e.g., painting and sanding), hull cleaning, engine repair, and general mechanical/fixture repair. These industrial activities along with material handling equipment or activities, raw materials, by-products, waste materials or industrial machinery generate pollutants that discharge when exposed to storm water.

B. **Facility Description.** The Discharger owns and operates a boat repair facility covering approximately 4.4 acres adjacent to the America's Cup Harbor of San Diego Bay. The Facility consists of a number of buildings, including an office and shops (carpentry, machine and welding, sterndrive, and carpentry) covering approximately 29,500 square feet. Other improvements on the site included a graded concrete and asphalt slab over the entire parcel, a sheet pile bulkhead at the waterline along much of the Facility. The Facility also includes storage space as well as several hundred linear feet of docks and slips. Boats are moved from the water to the yard using travel lifts, a marine railway, or a 150-ton Synchrolift.

The Facility uses hydro-washing to remove marine growth and loose paint from the bottom of the boats. All hydro-wash wastewater and any other wastewater is collected and directed to a treatment system that ultimately discharges to the City of San Diego's sanitary sewer. A trough has been installed along the entire length of the yard above the high tide level.

Wastewater flows into the trough and through a strainer, which removes any large pieces of debris. From the trough, wastewater enters a cement vault with a storage capacity of 250 gallons. A sewage and effluent ejector pump automatically pumps wastewater from the vault, through a second strainer and into a 600-gallon, three-stage clarifier. Wastewater flows by gravity from the clarifier to another vault and then to the city sewer system. The system is designed so that rain events over a certain size will trigger a float switch in the clarifier vault, which turns on a sump pump that sends the additional water to a second, above-ground clarifier. When the above-ground clarifier fills (approximately 1,400 gallons), a second float switch activates a pump to move storm water from the above-ground clarifier to one of two 12,500 storage tanks. Storm water is held in the storage tanks for a minimum of 24 hours before being discharged to the city sewer system. The system is able to capture storm water from an event producing up to 1.33 inches. If the system is overwhelmed, storage tanks overflow back to the central collection pit and discharge to the bay through outfall 001, located near the marine railway, when water levels exceed the high tide incursion level.

C. **Legal Authorities.** This Order is issued pursuant to section 402 of the CWA and implements regulations adopted by the US Environmental Protection Agency (USEPA) and Chapter 5.5, Division 7 of the CWC. 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 of the CWC for discharges that are not subject to regulation under CWA section 402.

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 through special studies. Attachments A through G, which contain background information and rationale for Order requirements, are hereby incorporated into this Order and, thus, constitute part of the Findings for this Order.

E. **California Environmental Quality Act (CEQA).** This action to adopt a NPDES permit is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100, et seq.) in accordance with Section 13389 of the CWC.

F. **Technology-Based Effluent Limitations.** The Code of Federal Regulations (CFR), 40 CFR §122.44(a), requires that permits include applicable technology-based limitations and standards, when such limitations and standards are applicable. Because there are no technology-based effluent limitations or new source performance standards established for the boatyard industry, the Regional Water Board establishes regulation through the implementation of Best Management Practice (BMP), pursuant to authority established by 40 CFR Section 122.44(k), and in accordance with requirements established in 40 CFR 125.100 through 125.104. A detailed discussion regarding the development of BMPs is included in the Fact Sheet (Attachment F).

G. **Water Quality-Based Effluent Limitations.** Section 122.44(d) of 40 CFR requires that permits include water quality-based effluent limitations (WQBELs) 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, 40 CFR §122.44(d) specifies that WQBELs may be established using USEPA criteria guidance under

CWA section 304(a), proposed State criteria or a State policy interpreting narrative criteria supplemented with other relevant information, or an indicator parameter.

H. **Water Quality Control Plans.**

1. **Basin Plan.** The Regional Water Board adopted a Water Quality Control Plan for the San Diego Region (hereinafter 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. Beneficial uses applicable to San Diego Bay are summarized in *Table 5. Beneficial Uses of San Diego Bay.*

Table 5. Beneficial Uses of San Diego Bay

Discharge Point	Receiving Water Name	Beneficial Uses
C-001 (East Property Boundary Near Railway)	San Diego Bay	Industrial Service Supply (IND); Navigation (NAV); Contact Water Recreation (REC-1); Non-contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Preservation of Biological Habitats of Special Significance (BIOL); Estuarine Habitat (EST); Wildlife Habitat (WILD); Rare, Threatened, or Endangered Species (RARE); Marine Habitat (MAR); Migration of Aquatic Organisms (MIGR); Shellfish Harvesting (SHELL).

I. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, which was amended on May 4, 1995 and November 9, 1999, and the CTR on May 18, 2000, which was amended on February 13, 2001. These rules include water quality criteria for priority pollutants and are applicable to this discharge.

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 Boards in their basin plans, with the exception of the provision on alternate test procedures for individual discharges that have been approved by USEPA Regional Administrator. The alternate test procedures provision was effective on May 22, 2000. The SIP became effective on May 18, 2000. The SIP includes procedures for determining the need for and calculating WQBELs and requires dischargers to submit data sufficient to do so. The SIP is not applicable to storm water discharges.

K. **Compliance Schedules and Interim Requirements.** 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 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. **Antidegradation Policy.** Section 131.12 of 40 CFR requires that 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 68-16, which incorporates the requirements of the federal antidegradation policy. Resolution 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. As discussed in detail in the Fact Sheet (Attachment F) the permitted discharge is consistent with the antidegradation provision of 40 CFR §131.12 and State Water Board Resolution 68-16.

M. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR § 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.

N. **Monitoring and Reporting.** Section 122.48 of 40 CFR requires that all NPDES permits specify requirements for recording and reporting monitoring results. Sections 13267 and 13383 of the CWC authorize the Regional Water Boards 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 (MRP) is provided in Attachment E.

O. **Standard and Special Provisions.** Standard Provisions, which in accordance with 40 CFR Sections 122.41and 122.42, apply to all NPDES discharges and must be included in every NPDES permit, are provided in Attachment D. 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 (Attachment F).

P. **Notification of Interested Parties.** The Regional Water Board has notified the Discharger, 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 (Attachment F) of this Order.

Q. **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 (Attachment F) of this Order.

R. **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 CFR 131.21, 65 FR 24641, April 27, 2000). Under USEPA's new regulation (also known as the Alaska rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved 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.

IT IS HEREBY ORDERED, that this Order supersedes Order No. 2000-208 except for enforcement purposes, and, in order to meet the provisions contained in Division 7 of the California Water Code (CWC) 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.

III. DISCHARGE PROHIBITIONS

California Water Code Section 13243 provides the Regional Water Board, in a water quality control plan, may specify certain conditions where the discharge of wastes or certain types of wastes that could affect the quality of waters of the state is prohibited:

A. Compliance with prohibitions listed in the Basin Plan is required as a condition of this Order.

B. The Discharger shall comply also with the following waste discharge prohibitions:

1. The discharge of industrial process water, as defined in Attachment A, is prohibited.
2. The discharge of first-flush (0.1 inch) storm water runoff, as defined in Attachment A, from the Discharger's maintenance and repair areas is prohibited subject to Section VIII.C.2.a of this Order.
3. Hydro-washing and sand blasting operations during a storm expected to produce greater than 1.33 inches of rainfall is prohibited.
4. Discharges of wastes in a manner or to a location which have not been specifically authorized by this Order and for which valid WDRs are not in force are prohibited.
5. Odors, vectors, and other nuisances of waste origin beyond the limits of the property controlled by the Discharger are prohibited.
6. If the Discharger intends to reuse or recycle stored or contained storm water for use in processing activities (e.g., hydro-washing vessels, general wash down, etc.), then the reused/recycled water will be considered industrial process water and is prohibited from discharge to waters of the State in accordance with Discharge Prohibition III.B.2 of Order No. R9-2005-0148.

IV. EFFLUENT LIMITATION AND DISCHARGE SPECIFICATIONS

A. Effluent Limitation – Discharge Point No. C-001

1. The acute toxicity of storm water runoff to surface waters or to storm drains shall not be less than seventy (70) percent survival as determined by a 96-hour bioassay based on a grab sample.

B. Discharge Specifications

The discharge of effluent through Discharge Point No. C-001 shall comply with the following:

1. Waste management systems that discharge to the Pacific Ocean through C-001 must be designed and operated in a manner that will maintain the indigenous marine life and a healthy and diverse marine community.

2. Waste discharged to the Pacific Ocean through C-001 must be essentially free of:

   a. Material that is floatable or will become floatable upon discharge.

   b. Settleable material or substances that may form sediments, which will degrade benthic communities or other aquatic life.

   c. Substances, which will accumulate to toxic levels in marine waters, sediments, or biota.

   d. Substances that significantly decrease the natural light to benthic communities and other marine life.

   e. Materials that result in aesthetically undesirable discoloration of the ocean surface.

3. Waste effluents shall be discharged through C-001 in a manner that provides sufficient initial dilution to minimize the concentrations of substances not removed in treatment.

4. The location of waste discharges from Driscoll's West shall assure that:

   a. Pathogenic organisms and viruses are not present in areas where shellfish are harvested for human consumption or in areas used for swimming or other body contact sports.

   b. Maximum protection is provided to the marine environment.

5. Waste that contains pathogenic organisms or viruses shall be discharged from the Driscoll's West through C-001 a sufficient distance from shellfishing and water contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard shall be used.

6. The Discharger shall not cause pollution, contamination, or nuisance, as those terms are defined in CWC 13050, as a result of the treatment or discharge of wastes.

7. Collected screenings, sludges, and other solids removed from liquid wastes, shall be disposed of in a manner approved by this Regional Water Board.

V. LAND DISCHARGE SPECIFICATIONS

[Not Applicable]

VI. RECLAMATION SPECIFICATIONS

[Not Applicable]

VII. RECEIVING WATER LIMITATIONS

Unless specifically excepted by this Order, the discharge, by itself or jointly with any other discharge(s), shall not cause violation of the following water quality objectives. Compliance with these objectives shall be determined by samples collected at stations representative of the area within the waste field where initial dilution is completed.

A. Bacterial Characteristics

1. Within a zone bounded by the shoreline and a distance of 1,000 feet from the shoreline or the 30-foot depth contour, whichever is further from the shoreline, and in areas outside this zone used for water contact sports, as determined by the Regional Water Board, but including all kelp beds, the following bacterial objectives shall be maintained throughout the water column.

    a. Samples of water from each sampling station shall have a density of total coliform organisms less than 1,000 per 100 ml (10 per ml); provided that not more than 20 percent of the samples at any sampling station, in any 30-day period, may exceed 1,000 per 100 ml (10 per ml), and provided further that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml (100 per ml).

    b. The fecal coliform density, based on a minimum of not less than five samples for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10 percent of the total samples during any 60-day period exceed 400 per 100 ml.

2. The Initial Dilution Zone for any wastewater outfall shall be excluded from designation as kelp beds for purposes of bacterial standards. Adventitious assemblages of kelp plants on waste discharge structures (e.g., outfall pipes and diffusers) do not constitute kelp beds for purposes of bacterial standards.

3. At all areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70 per 100 ml throughout the water column, and not more than 10 percent of the samples shall exceed 230 per 100 ml.

B. Physical Characteristics

1. Floating particulates and grease and oil shall not be visible.

2. The discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface.

3. Natural light shall not be significantly reduced at any point outside the initial dilution zone as the result of the discharge of waste.

4. The rate of deposition of inert solids and the characteristics of inert solids in ocean sediments shall not be changed such that benthic communities are degraded.

5. The temperature of the receiving water shall not be altered or the water quality degraded due to the temperature of the discharge of waste.

C. **Chemical Characteristics**

1. The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally, as the result of the discharge of oxygen demanding waste materials.

2. The pH shall not be changed at any time more than 0.2 units from that which occurs naturally.

3. The dissolved sulfide concentration of waters in and near sediments shall not be significantly increased above that present under natural conditions.

4. The concentration of substances set forth in Chapter II, Table B of the Ocean Plan (2001), shall not be increased in marine sediments to levels that would degrade indigenous biota.

5. The concentration of organic materials in marine sediments shall not be increased to levels that would degrade marine life.

6. Nutrient materials shall not cause objectionable aquatic growths or degrade indigenous biota.

7. Numerical water quality objectives established in Chapter II, Table B of the California Ocean Plan (2001) shall not be exceeded outside of the zone of initial dilution as a result of discharges from the Hale Avenue Resource Recovery Facility.

D. **Biological Characteristics**

1. Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded.

2. The natural taste, odor, and color of fish, shellfish, or other marine resources used for human consumption shall not be altered.

3. The concentration of organic materials in fish, shellfish, or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health.

E. **Toxic Materials**

Upon completion of initial dilution, the discharge of waste through C-001 shall not by itself or jointly with any other discharge, cause water quality objectives found in Table B of the Ocean Plan (2001) to be exceeded in the receiving water, except that limitations indicated for radioactivity shall apply directly to the undiluted waste effluent.

F. **Radioactivity**

Discharge of radioactive waste shall not degrade marine life.

VIII. PROVISIONS

A. **Standard Provisions**

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

2. **Regional Water Board Standard Provisions**. The Discharger shall comply with the following provisions:

   a. The Discharger shall comply with all requirements and conditions of this Order. Any permit non-compliance constitutes a violation of the CWA and/or of the CWC and is grounds for enforcement action, permit termination, revocation and reissuance, or modification, or for denial of an application for permit renewal, modification, or reissuance.

   b. The Discharger shall comply with all applicable federal, state, and local laws and regulations for handling, transport, treatment, or disposal of waste or the discharge of waste to waters of the state in a manner which causes or threatens to cause a condition of pollution, contamination or nuisance as those terms are defined in CWC 13050.

   c. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.

   d. Any noncompliance with this Order is a violation of the California Water Code (CWC) and/or the CWA and is grounds for denial of an application for Order renewal or modification.

   e. No discharge of waste into waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

f. For the purposes of this Order, the term "permittee" used in parts of 40 CFR incorporated into this Order by reference and/or applicable to this Order shall have the same meaning as the term "Discharger" used elsewhere in this Order.

g. This Order expires on December 14, 2010, after which, the terms and conditions of this permit are automatically continued pending issuance of a new Order, provided that all requirements of USEPA's NPDES regulations at 40 CFR 122.6 and the State's regulations at CCR Title 23, Section 2235.4 regarding the continuation of expired Orders and waste discharge requirements are met.

h. Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this permit will be considered confidential, and all such information and documents shall be available for review by the public at the office of the Regional Water Board.

i. A copy of this Order shall be maintained on-site at the Facility, and shall be available to Regional Water Board, State Water Board, and EPA personnel and/or their authorized representatives at all times.

j. The Discharger shall comply with any interim limitations established by addendum, enforcement action, or revised waste discharge requirements that have been or may be adopted by the Regional Water Board.

3. **Definition of Terms**. Compliance with the requirements of this Order shall be in accordance with the definitions contained in Attachment A.

B. Monitoring and Reporting Program Requirements

1. The Discharger shall comply with the Monitoring and Reporting Program (Attachment E), and future revisions thereto.

2. Reports required to be submitted to this Regional Water Board shall be sent to:

   Executive Officer
   California Regional Water Quality Control Board
   San Diego Region
   9174 Sky Park Court, Suite 100
   San Diego, California 92123-4340

   Notifications required to be provided to this Regional Water Board shall be made to:

   Telephone - (858) 467-2952
   Facsimile - (858) 571-6972

3. After notification by the State or Regional Water Board, the Discharger may be required to electronically submit self-monitoring reports. Until such time as electronic submission of self-monitoring reports is required, the Discharger shall submit discharge monitoring reports (DMRs) in accordance with the requirements described further below.

DMRs must be signed and certified as required by the standard provisions (Attachment D). The Discharger shall submit the original DMR and one copy to:

State Water Resources Control Board
Discharge Monitoring Report Processing Center
Post Office Box 671
Sacramento, CA 95812

All discharge monitoring results must be reported on the official USEPA pre-printed DMR forms (EPA Form 3320-1). Forms that are self generated or modified cannot be accepted.

C. **Special Provisions**

1. **Re-opener Provisions**

a. The Order may be reopened and modified in accordance with NPDES regulations at 40 CFR 122 and 124, as necessary, to include additional conditions or limitations based on newly available information or to implement any USEPA approved, new, State water quality objective.

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

i. Violations of any terms or conditions of this Order.

ii. Obtaining this Order by misrepresentation or failure 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.

b. The filing of a request by the Discharger for modifications, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.

c. This Order may be re-opened and modified, to incorporate in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach.

d. This Order may also be re-opened and modified, revoked, and reissued or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62 to 122.64, 125.62, and 125.64. Causes for taking such actions include, but are not limited to, failure to comply with any condition of this Order and permit, and endangerment to human health or the environment resulting from the permitted activity.

2. **Storm Water Discharge Requirements**

a. The Discharger shall eliminate the discharge of the first-flush (0.1 inch) storm water runoff, as defined in Attachment A, from the Facility maintenance and repair areas to surface waters or storm drains, and shall appropriately maintain all means by which this is accomplished.

b. The Discharger shall continue to implement and maintain the SWPPP and BMP Plan as directed in Section VIII.C.3. below.

c. Treatment systems and related collection and conveyance facilities shall be constructed and maintained to prevent the discharge of pollutants to surface waters during and after collation in those facilities.

d. Appropriate means, such as but not limited to berms, shall be used to isolate the Facility's maintenance/repair area(s) to prevent storm water run-on from commingling with the storm water discharge from the maintenance/repair area, and to prevent storm water runoff to offsite areas.

e. The USEPA has established and the Regional Water Board has adopted benchmark values for storm water discharges. The Discharger is required to conduct a comparison of analytical results for storm water discharges to the Regional Water Board benchmark values. Results are to be included in the Annual Storm Water Report as directed in Section IX.F.8 of the MRP (Attachment E). The Regional Water Board benchmark values for the required pollutant parameters to be sample for in storm water discharges to America's Cup Harbor, San Diego Bay are listed in *Table 6. Benchmark Values.*

Table 6. Benchmark Values

Parameter	Units	Benchmark Values	
		Instantaneous Minimum	Instantaneous Maximum
Total Suspended Solids	mg/L	-	100.0
pH	standard units	6.0	9.0
Copper	mg/L	-	0.0636
Zinc	mg/L	-	0.117

3. **Best Management Practices Plan**

The Discharger shall implement and maintain a BMP Plan. The BMP Plan shall incorporate the SWPPP provisions in Attachment G to prevent and or minimize the potential for the release of toxic and hazardous pollutants to surface waters. The Discharger shall amend its BMP Plan in accordance with 40 CFR 125.100 through 125.104 whenever there is a change in facility/leasehold/work area design, construction, operation, or maintenance, which materially affects the potential for discharge of toxic and hazardous pollutant to surface waters. The BMP Plan shall also address pier, float, dock, or other leasehold areas where work may occur directly over or on the receiving water. The Discharger shall submit its BMP Plan and any amendment thereto to the Executive Officer.

4. **Toxic Pollutant Source Control Study**

If the effluent limitation in Section IV.A.1 of Order R9-2005-0149 of seventy (70) percent survival in an acute toxicity test is not achieved, the Discharger shall develop a plan to investigate the sources of toxic material (metals and TBT) loadings from storm water discharges and any other potential sources at the Facility. The Discharger shall also submit a report on the findings of the investigation into the potential loadings sources and include control measures to address the sources. The control measures shall be incorporated into the BMP Plan and Storm Water Pollution Prevention Plan (SWPPP) and evaluated for effectiveness on an annual basis. The reports shall be submitted to the Executive Officer of the Regional Water Board as established in *Table 7. Pollutant Source Control Schedule.* The Discharger shall re-evaluate and revise the control measures as, necessary based on storm water discharge monitoring results.

Table 7. Pollutant Source Control Schedule

Action	Date
Submit study plan to the Regional Water Board for identifying toxic pollutant loadings from the Facility	Within 6 months of the determination that the effluent limitation in Section IV.A.1 was not achieved.
Complete study of toxic pollutant loadings and identify control measures. Incorporate control measures into BMP Plan and SWPPP.	As needed to comply with the effluent limitation of Section IV.A.1
Revise control measures as necessary based on monitoring results	Annually following implementation of the SWPPP

5. **Compliance Schedules**

[Not Applicable]

6. **Construction, Operation and Maintenance Specifications**

[Not Applicable]

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

[Not Applicable]

8. **Other Special Provisions**

[Not Applicable]

IX. COMPLIANCE DETERMINATION

[Not Applicable]

ATTACHMENT A – DEFINITIONS

Acute: A stimulus severe enough to rapidly induce an effect. In aquatic toxicity tests, an effect observed in 96 hours or less is typically considered acute. When referring to aquatic toxicology or human health, an acute effect is not always measured in terms of lethality.

Acute toxicity: For the purposes of compliance with the acute toxicity discharge specification of Order No. 2000-207, less than seventy percent survival of standard test organisms in undiluted effluent in a 96-hour static or continuous-flow test Defied in the Water Quality Control Policy for the Enclosed Bays and Estuaries of California as less than ninety percent survival, fifty percent of the time, and less than seventy percent survival, ten percent of the time, of standard test organisms in undiluted effluent in a 96-hour static or continuous-flow test.

Antidegradation: This refers to policies that are part of each State's water quality standards. These policies are designed to protect water quality and provide a method of assessing activities that may impact the integrity of the water body and therefore the beneficial and/or designated uses of the water body.

Beneficial Uses: Waters of the State that may be protected against quality degradation include,but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

Best Available Technology (BAT): A treatment standard for toxic and nonconventional pollutants.

Best Conventional Technology (BCT): A treatment standard for conventional pollutants.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

First-Flush Storm Water Runoff: The diversion of storm water runoff to a municipal sanitary sewer system, retention basin, or holding tank for recycling. The diversion shall not terminate until a minimum of 0.1 inch of precipitation has been collected in a rain gauge or equivalent measurement device from the maintenance and repair areas.

General Permit: An NPDES permit issued under 40 CFR 122.28 authorizing a category of discharges under the CWA within a geographical area.

Grab Sample: A sample which is taken from a waste stream on a one time basis with no regard to the flow of the waste stream and without consideration of time.

Industrial Process Water: Any water which, during manufacturing or processing, comes into direct contact with, or results from, the production of any raw material, intermediate product, finished product, by-product, or waste product.

Instantaneous Maximum: 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 value).

Instantaneous Minimum: 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 value).

National Pollutant Discharge Elimination System (NPDES): The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of CWA.

Non-Storm Water/Illicit Discharge: Any discharge to a storm water conveyance system that is not composed entirely of storm water, with the exception of discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities.

Pollution Prevention: To employ techniques and policies that eliminate or reduce the generation of pollutants.

Self Monitoring: Sampling and analyses performed by a facility to ensure compliance with a permit or other regulatory requirements.

Significant Difference: Defined as a statistically significant difference in the means of two distributions of sampling results at the 95 percent confidence level.

Significant Materials: These include, but are not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERLCA); any chemical the facility is required to report pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

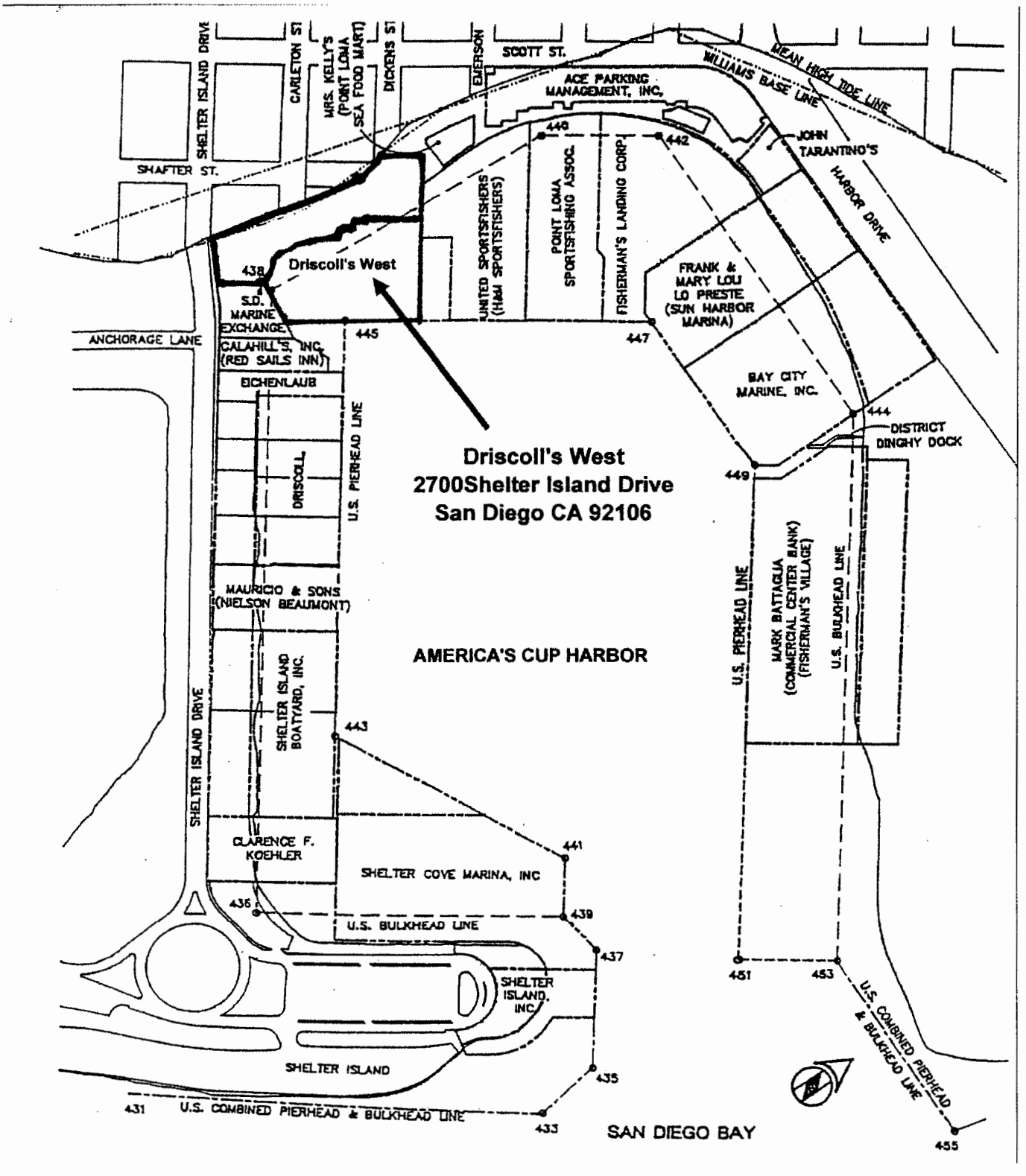
Significant Quantities: The volume, concentrations, or mass of a pollutant in storm water discharges that can cause or threaten to cause pollution, contamination, or nuisance; adversely impact human health or the environment; and cause or contribute to a violation of any applicable water quality standards for the receiving water.

Storm Water: Storm water runoff, snow melt runoff, and surface runoff and drainage. It excludes infiltration and runoff from agricultural land.

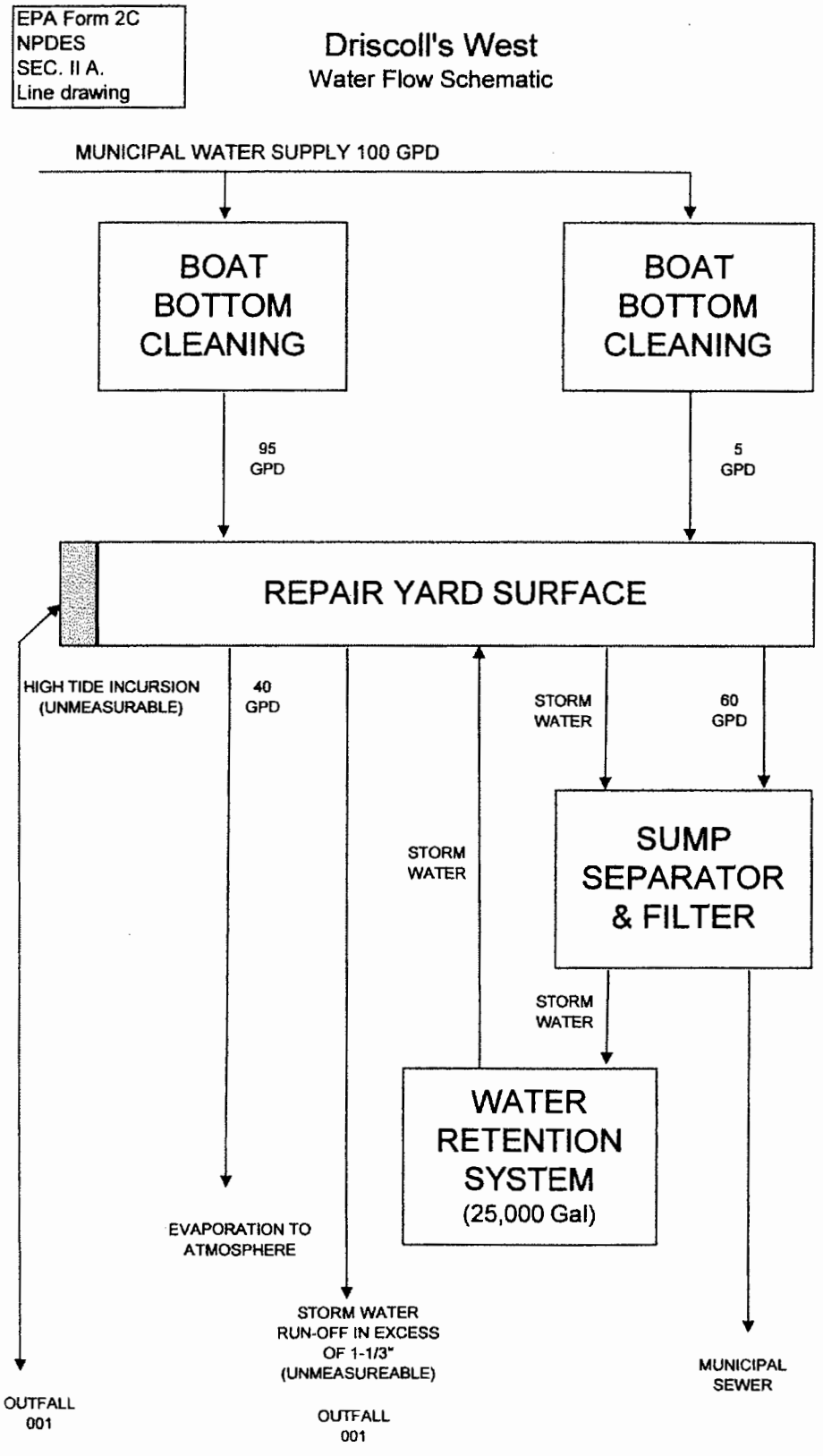
Toxicity Reduction Evaluation (TRE): A site-specific study conducted in stepwise process designed to identify the causative agents of effluent toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in effluent toxicity.

Toxicity Test: A procedure to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of effect on exposed test organisms of a specific chemical or effluent.

ATTACHMENT B – TOPOGRAPHIC MAP



ATTACHMENT C – DRISCOLL'S WEST WASTEWATER FLOW SCHEMATIC



ATTACHMENT D – FEDERAL 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 (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or denial of a permit renewal application [*40 CFR §122.41(a)*].

2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act 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 been modified to incorporate the requirement [*40 CFR §122.41(a)(1)*].

B. Need to Halt or Reduce Activity Not a Defense

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

C. Duty to Mitigate

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

D. Proper Operation and Maintenance

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

E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges [*40 CFR §122.41(g)*].

2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations [*40 CFR §122.5(c)*].

F. Inspection and Entry

The Discharger shall allow the Regional Water Quality Control Board (RWQCB), State Water Resources Control Board (SWRCB), 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 CFR §122.41(i)*] [*CWC 13383(c)*]:

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 CFR §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 CFR §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 CFR §122.41(i)(3)*];

4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location [*40 CFR §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 CFR §122.41(m)(1)(i)*].

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

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

   a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage [*40 CFR §122.41(m)(4)(A)*];

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

c. The Discharger submitted notice to the Regional Water Board as required under Standard Provision – Permit Compliance I.G.5 below [*40 CFR §122.41(m)(4)(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 CFR §122.41(m)(4)(ii)*].

5. Notice

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

b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below [*40 CFR §122.41(m)(3)(ii)*].

H. Upset

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

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph H.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review [*40 CFR §122.41(n)(2)*].

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

d. An upset occurred and that the Discharger can identify the cause(s) of the upset [*40 CFR §122.41(n)(3)(i)*];

e. The permitted Facility was, at the time, being properly operated [*40 CFR §122.41(n)(3)(i)*];

f. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b [*40 CFR §122.41(n)(3)(iii)*]; and

g. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above [*40 CFR §122.41(n)(3)(iv)*].

3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof [*40 CFR §122.41(n)(4)*].

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

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

B. Duty to Reapply

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

C. Transfers

This Order is not transferable to any person except after notice to the 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 CWC [*40 CFR §122.41(l)(3)*] [*40 CFR §122.61*].

III. STANDARD PROVISIONS – MONITORING

A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [*40 CFR §122.41(j)(1)*].

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

IV. STANDARD PROVISIONS – RECORDS

A. Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by

this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Regional Water Board Executive Officer at any time [*40 CFR §122.41(j)(2)*].

B. **Records of monitoring information shall include:**

1. The date, exact place, and time of sampling or measurements [*40 CFR §122.41(j)(3)(i)*];
2. The individual(s) who performed the sampling or measurements [*40 CFR §122.41(j)(3)(ii)*];
3. The date(s) analyses were performed [*40 CFR §122.41(j)(3)(iii)*];
4. The individual(s) who performed the analyses [*40 CFR §122.41(j)(3)(iv)*];
5. The analytical techniques or methods used [*40 CFR §122.41(j)(3)(v)*]; and
6. The results of such analyses [*40 CFR §122.41(j)(3)(vi)*].

C. **Claims of confidentiality for the following information will be denied [*40 CFR §122.7(b)*]:**

1. The name and address of any permit applicant or Discharger [*40 CFR §122.7(b)(1)*]; and
2. Permit applications and attachments, permits and effluent data [*40 CFR §122.7(b)(2)*].

V. STANDARD PROVISIONS – REPORTING

A. **Duty to Provide Information**

The Discharger shall furnish to the Regional Water Board, SWRCB, or USEPA within a reasonable time, any information which the Regional Water Board, SWRCB, 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, SWRCB, or USEPA copies of records required to be kept by this Order [*40 CFR §122.41(h)*] [*CWC 13267*].

B. **Signatory and Certification Requirements**

1. All applications, reports, or information submitted to the Regional Water Board, SWRCB, and/or USEPA shall be signed and certified in accordance with paragraph (2.) and (3.) of this provision [*40 CFR §122.41(k)*].
2. All permit applications shall be signed as follows:
   a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation,

or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated Facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures [*40 CFR §122.22(a)(1)*];

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively [*40 CFR §122.22(a)(2)*]; or

c. For a municipality, State, federal, or other public agency: 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 CFR §122.22(a)(3)*].

3. All reports required by this Order and other information requested by the Regional Water Board, SWRCB, or USEPA shall be signed by a person described in paragraph (b) of this provision, 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 paragraph (2.) of this provision [*40 CFR §122.22(b)(1)*];

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

   c. The written authorization is submitted to the Regional Water Board, SWRCB, or USEPA [*40 CFR §122.22(b)(3)*].

4. If an authorization under paragraph (3.) of this provision 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 paragraph (3.) of this provision must be submitted to the Regional Water Board, SWRCB or USEPA prior to or together with any reports, information, or applications, to be signed by an authorized representative [40 CFR §122.22(c)].

5. Any person signing a document under paragraph (2.) or (3.) of this provision shall make the following certification:

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

C. **Monitoring Reports**

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program in this Order [*40 CFR §122.41(l)(4)*].

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

3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR 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 CFR §122.41(l)(4)(ii)*].

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

D. **Compliance Schedules**

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

E. **Twenty-Four Hour Reporting**

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance [*40 CFR §122.41(l)(6)(i)*].

2. The following shall be included as information that must be reported within 24 hours under this paragraph [*40 CFR §122.41(l)(6)(ii)*]:

   a. Any unanticipated bypass that exceeds any effluent limitation in this Order [*40 CFR §122.41(l)(6)(ii)(A)*].

   b. Any upset that exceeds any effluent limitation in this Order [*40 CFR §122.41(l)(6)(ii)(B)*].

   c. Violation of a maximum daily discharge limitation for any of the pollutants listed in this Order to be reported within 24 hours [*40 CFR §122.41(l)(6)(ii)(C)*].

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 CFR §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 CFR §122.41(l)(1)*]:

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

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

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

G. Anticipated Noncompliance

The Discharger shall give advance notice to the Regional Water Board or SWRCB of any planned changes in the permitted Facility or activity that may result in noncompliance with General Order requirements [*40 CFR §122.41(l)(2)]*.

H. Other Noncompliance

The Discharger shall report all instances of noncompliance not reported under Section V.E – Standard Provisions at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E [*40 CFR §122.41(l)(7)*].

I. Other Information

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

VI. STANDARD PROVISIONS – ENFORCEMENT

A. The CWA provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed $25,000 per day for each violation. The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than one (1) year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than two (2) years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than three (3) years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than six (6) years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Clean Water Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions [*40 CFR §122.41(a)(2)*] [*CWC 13385 and 13387*].

B. Any person may be assessed an administrative penalty by the Regional Water Board for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the

maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000 [*40 CFR §122.41(a)(3)*].

C. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both [*40 CFR §122.41(j)(5)*].

D. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Order, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both [*40 CFR §122.41(k)(2)*].

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 CFR §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 CFR §122.42(a)(1)*]:

   a. 100 micrograms per liter (µg/L) [*40 CFR §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 CFR §122.42(a)(1)(ii)*];

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

   d. The level established by the Regional Water Board in accordance with 40 CFR §122.44(f) [*40 CFR §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 CFR §122.42(a)(2)*]:

   a. 500 micrograms per liter (µg/L) [*40 CFR §122.42(a)(2)(i)*];

b. 1 milligram per liter (mg/L) for antimony [*40 CFR §122.42(a)(2)(ii)*];

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

d. The level established by the Regional Water Board in accordance with 40 CFR §122.44(f) [*40 CFR §122.42(a)(2)(iv)*].

B. Publicly-Owned Treatment Works (POTWs)

All POTWs shall provide adequate notice to the Regional Water Board of the following [*40 CFR §122.42(b)*]:

1. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to Sections 301 or 306 of the CWA if it were directly discharging those pollutants [*40 CFR §122.42(b)(1)*]; and

2. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of adoption of the Order [*40 CFR §122.42(b)(2)*].

Adequate notice shall include information on the quality and quantity of effluent introduced into the POTW as well as any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW [*40 CFR §122.42(b)(3)*].

ATTACHMENT E – MONITORING AND REPORTING PROGRAM

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ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)

The Code of Federal Regulations (CFR) at 40 CFR §122.48 requires that all NPDES permits specify monitoring and reporting requirements. CWC sections 13267 and 13383 also authorize the Regional Water Board to require technical and monitoring reports. This MRP establishes monitoring and reporting requirements, which implement the federal and California regulations.

I. GENERAL MONITORING PROVISIONS

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

B. Monitoring must be conducted according to United States Environmental Protection Agency (USEPA) test procedures approved at 40 CFR Part 136, *Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act* as amended, unless other test procedures are specified in Order No. R9-2005-0148 and/or this Monitoring and Reporting Program (MRP) and/or this Regional Water Board.

C. A copy of the monitoring reports signed, and certified as required by Attachment D, Standard Provisions V.B., of Order No. R9-2005-0148, shall be submitted to the Regional Water Board at the address listed in Section X.B.7 of this MRP.

D. 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 Order No. R9-2005-0148 and this MRP, and records of all data used to complete the application for Order No. R9-2005-0148. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended by request of this Regional Water Board or by the USEPA at any time.

E. All analyses shall be performed in a laboratory certified to perform such analyses by the California Department of Health Services or by a laboratory approved by this Regional Water Board.

F. The Discharger shall report in its cover letter all instances of noncompliance not reported under Attachment D, Section V.E.1 of Order No. R9-2005-0148 at the time monitoring reports are submitted. The reports shall contain the information listed in Attachment D, Section V.E.1 of Order No. R9-2005-0148.

G. 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.

H. Monitoring results shall be reported at intervals and in a manner specified in Order No. R9-2005-0148 or in this Monitoring and Reporting Program.

I. This Monitoring and Reporting Program may be modified by this Regional Water Board as appropriate.

II. MONITORING LOCATIONS

The Discharger shall establish the monitoring locations listed in *Table 1. Monitoring Locations* to demonstrate compliance with discharge specifications and other requirements in Order No. R9-2005-0148.

Table 1. Monitoring Locations

Discharge Point	Monitoring Location Name	Monitoring Location Description
C-001	M-001A	Storm water diversion system storm water outfall.
--	DW (KTM)-01	Sediment monitoring location (Latitude 32° 43' 17.14"; Longitude 117° 13' 39.21").
--	DW (KTM)-02A	Sediment monitoring location. (Located adjacent to the waterline at south side of the Syncro lift).
--	DW (KTM)-06	Sediment monitoring location (Latitude 32° 43' 19.08"; Longitude 117° 13' 38.70").

III. INFLUENT MONITORING REQUIREMENTS

[Not Applicable]

IV. EFFLUENT MONITORING REQUIREMENTS

A. Monitoring Location M-001A

1. The Discharger shall monitor storm water discharges at M-001A as specified in *Table 2. Storm Water Monitoring Requirements.*

Table 2. Storm Water Monitoring Requirements

Parameter	Units[1]	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Volume of Discharge	gallons	estimate[2]	2 storms per year	[3]
Total Petroleum Hydrocarbons (TPH)	mg/L	grab	2 storms per year	[3]
Total Suspended Solids	mg/L	grab	2 storms per year	[3]
Settleable Solids	ml/L	grab	2 storms per year	[3]
pH	standard units	grab	2 storms per year	[3]
Copper	mg/L	grab	2 storms per year	[3]
Zinc	mg/L	grab	2 storms per year	[3]
Tributyltin (TBT)	mg/L	grab	2 storms per year	[3]
Acute Toxicity	% survival	grab	1 storm per year	[3]

[1] mg/L = milligrams per liter; ml/L = milliliters per liter

[2] The volume of storm water discharge can be estimated by multiplying: (amount or rainfall in inches/12) X square

feet of surface area X impervious factor. There are 7.5 gallons of water per cubic foot.

[3] Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; for priority pollutants the methods must 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.

V. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS

The presence of acute toxicity in the storm water shall be determined as specified in *Methods for Measuring Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, Fourth Edition (EPA 600/4-90-027F, August 1993, or subsequent editions). The Discharger shall conduct an annual acute toxicity test on a grab sample of storm water. The Discharger shall conduct a 96-hour static-renewal test for the vertebrates *Menidia beryllina* (inland silverside [fish]), *Antherinops affinis* (topsmelt [fish]), or the invertebrate *Mysidopsis bahia* (mysid shrimp). The acute toxicity testing shall be conducted on a sample of 100% storm water and a laboratory control. Use of two laboratory controls, a receiving water control, and a synthetic laboratory seawater control, is highly recommended. The salinity of the sample should be adjusted to the salinity level typical of the receiving water using dry sea salt. The adjusted salinity levels shall be reported. The storm water tests shall be conducted with concurrent reference toxicant tests. Both the reference toxicant and the storm water test shall meet all test acceptability criteria as specified in the above named manual. If the test acceptability criteria are not achieved, the Discharger shall re-sample and re-test during the next storm.

The Discharger shall implement the Toxic Pollutant Source Control Study described in Section VIII.C.4 of Order No. R9-2005-0148 in the event effluent limitations are not achieved.

VI. LAND DISCHARGE MONITORING REQUIREMENTS

[Not Applicable]

VII. RECLAMATION MONITORING REQUIREMENTS

[Not Applicable]

VIII. RECEIVING WATER MONITORING REQUIREMENTS – SURFACE WATER AND GROUNDWATER

A. Monitoring Locations DW(KTM)-01, DW(KTM)-02A, and DW(KTM)-06

1. The Discharger shall monitor sediment at DW(KTM)-01, DW(KTM)-02A, and DW(KTM)-06 as specified in *Table 3. Sediment Testing Requirements.*

Table 3. Sediment Testing Requirements

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Test Method
Grain size	-	Surficial sediment	Once per year per site	ASTM F213
Copper[1]	mg/kg	Surficial sediment	Once per year per site	6010
Total Organic Carbon[2]	mg/kg	Surficial sediment	[2]	[3]

[1] Method 3050 shall be used in preparation for the copper analyses; the detection limit shall be 0.5 mg/kg (dry weight).

[2] Total organic carbon (TOC) analyses shall not be initially required although composited sediment from each sample shall be retained for possible future TOC analysis. All samples shall be frozen and retained for a period of no less than 45 days from the date on which Regional Water Board staff received the corresponding analytical results. At that time, the Executive Officer shall be notified and approval to discard the samples shall be obtained, before the samples are discarded.

[3] Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; for priority pollutants the methods must 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

IX. OTHER MONITORING REQUIREMENTS

A. Compliance Certifications

1. The Discharger shall submit an annual certification statement to the Executive Officer certifying that it:

   a. Has or has not eliminated industrial process water discharges in accordance with Discharge Prohibition III.B.2 of Order No. R9-2005-0148;

   b. Has or does not have a storm water diversion system that will eliminate the discharge of the first-flush storm water runoff for each storm event, as defined in Attachment A, from its maintenance and repair area(s) to storm drains or surface water in accordance with Storm Water Discharge Requirement VIII.C.2.a of Order No. R9-2005-0148;

   c. Has or has not implemented BMPs in accordance with its BMP Plan, and that the BMP Plan has been amended in accordance with the BMP Plan, Section VIII.C.3, Order No. R9-2005-0148, Best Management Practices Plan; and,

   d. Has or has not isolated its maintenance/repair areas in accordance with Storm Water Discharge Requirement VIII.C.2.d of Order No. R9-2005-0148.

   e. Has or has not complied with Order No. R9-2005-0148, Discharge Prohibition III.B.1. The report shall include a copy of the form letter used to notify vessel owners, with any attachments, and a statement certifying that each owner/operator of each vessel at the Discharger's leasehold has been notified of their obligation to comply with Basin Plan prohibitions 15 through 18. In addition, the Discharger shall briefly report on any corrective actions taken against any vessel owner/operator(s).

   f. If subject to Section VIII.C.4, Toxic Pollutant Source Control Study of Order R5-2005-0148, the discharger has or has not assessed of the effectivness of control measures, including BMPs implemented following toxicity testing results of less than a seventy (70)

percent survival. The effectiveness assessment shall be considered part of the annual assessment required in the SWPPP.

The certification statement shall be signed by an authorized person as required in Section V.B Standard Provisions – Reporting of Attachment D, and shall be submitted to the Regional Water Board in accordance with *Table 7. Reporting Schedule* of this MRP.

2. The Discharger shall submit a quarterly certification statement to the Regional Water Board certifying that it:

   a. Has or has not complied with all conditions of Order No. R9-2005-0148.

   The certification statement shall be signed by an authorized person as required in Attachment D, Standard Provisions, Section V.B and shall be submitted to the Executive Officer in accordance with *Table 7. Reporting Schedule* of this MRP.

B. **Spill / Illicit Discharge Log**

The Discharger shall log and report all spills (i.e., non-routine releases to the land portion of the leasehold, which are contained before reaching waters of the State or any drainage course tributary thereto), and illicit discharges (i.e., releases, other than storm water, which reach waters of the State or any drainage course tributary thereto, including all pier, dock, float, and other areas where work may occur directly over or on the receiving water) originating within and/or from its leasehold. The spill/illicit discharge reports shall identify:

1. The time and date of the spill or illicit discharge;
2. The cause of the spill or illicit discharge;
3. The materials or wastes involved in the spill or illicit discharge;
4. The estimated volume of the spill or illicit discharge;
5. The specific location where the spill or illicit discharge originated;
6. The fate of the spill or illicit discharge (e.g., San Diego Bay, hydro-wash area, or other location(s) that the spill or illicit discharge was able to reach);
7. The physical extent or size of the problem area(s);
8. Whether the spill or illicit discharge contained pollutants;
9. The public agencies notified;
10. The corrective action taken;
11. The actions taken to prevent or minimize future spills or illicit discharges.

All reports shall be signed by an authorized person as required in Attachment D, Standard Provisions, Section V.B and shall be submitted to the Regional Water Board in accordance with *Table 7. Reporting Schedule* of this MRP.

C. Chemical Utilization Audit

The Discharger shall submit complete Chemical Utilization Audit forms to summarize hazardous materials used at its Facility and which may be discharged to surface waters or conveyance systems thereto in any manner. The audit form shall document the following information:

1. The name of the product and common trade name, if applicable;

2. The primary component/chemical contained in the product;

3. The quantity of the product used over the entire reporting period, and any further quantity per unit time that may be practically reportable (e.g., gallons/month);

4. The frequency or timing of the product's use (e.g., daily, several times per month, specific dates or ranges of dates that may apply to specialized applications, etc.);

5. A brief description of what the product is used for (e.g., hull costing, interior applications only, topside applications only);

6. A brief description of how the product is used and how it is typically worked with (e.g., sprayed, brushed, applied then sanded, etc.); and,

7. Any additional comments that may assist in characterizing a product or its use (e.g., chemical was/is only used during particular seasons, indoors only, etc.).

Material Safety Data Sheets (MSDS) should not be submitted with the annual report unless requested by the Regional Water Board. MSDS for all products used by the Discharger must be available for submittal at all times.

The Chemical Utilization Audit form (or the cover page for multiple forms) shall be signed by an authorized person as required in Section V.B Standard Provisions – Reporting of Attachment D, and shall be submitted annually to the Regional Water Board in accordance with *Table 7. Reporting Schedule* of this MRP.

D. Tributyltin Log

The Discharger shall maintain and submit a log of work done on tributyltin (TBT)-painted vessels within its leasehold. The report shall document the following information:

1. For all vessels coated with TBT paint which undergo in-water hull cleaning:

    a. The date(s) of hull cleaning;

    b. The size (length and width) and type of vessel;

c. The method of in-water hull cleaning; and,

d. The location(s) within the leasehold where in-water hull cleaning was performed.

2. For all vessels coated from which TBT paint was removed:

a. The date(s) of removal;

b. The size (length and width) and type of vessel;

c. The method of removal;

d. The percent of TBT paint coverage removed; and,

e. The location(s) within the leasehold where the paint removal was performed.

3. For all vessels coated to which TBT paint was applied:

a. The date(s) of application;

b. The size (length and width) and type of vessel;

c. The method of application;

d. The volume of TBT paint applied; and,

e. The location(s) within the leasehold where the paint application was performed.

The TBT log shall be signed by an authorized person as required in Attachment D, Standard Provisions, Section V.B and shall be submitted to the Regional Water Board in accordance with *Table 7. Reporting Schedule* of this MRP.

E. Waste Hauling Log

The Discharger shall submit final copies of all Uniform Hazardous Waste Manifest forms or a log, documenting the volume, type, disposition, and date of disposal of hazardous waste and recycled wastes (e.g., sandblasting material, waste petroleum, waste paint/solvents), which meet the hazardous waste criteria specified in Title 22 of the California Code of Regulations, originating at its Facility. Manifest forms and logs (or the cover page for multiple forms) shall be signed by an authorized person as required in Section V.B Standard Provisions – Reporting of Attachment D, and shall be submitted annually to the Regional Water Board in accordance with *Table 7. Reporting Schedule* of this MRP.

F. Storm Water and Non-Storm Water Monitoring

1. Non-Storm Water Discharge Visual Observations

a. The Discharger shall conduct quarterly visual observations of all drainage areas within its Facility for the presence of unauthorized non-storm water discharges to waters of the State other than those to the sanitary sewer system. The observations should include all work areas within the Discharger's leasehold that may drain to waters of the State, including all pier, dock, float, or other areas where work may occur directly over or on the receiving water. The Discharger shall conduct the visual observations within 6-18 weeks of each other during each of the following periods: January-March, April-June, July-September, and October-December.

b. Visual observations shall document the presence of any discolorations, stains, floating or suspended material, etc., as well as the source of any discharge (if known). The presence of any odors shall be documented at the time visual observations are documented. Records shall be maintained of the visual observations dates, specific leasehold/facility locations observed, specific observations detailing what was or was not observed, and response(s) taken to eliminate unauthorized non-storm water discharges. The Discharger shall also respond by revising its BMP Plan, as necessary, and implementing and reporting the appropriate changes in accordance with Order No. R9-2005-0148, Section VIII.C.3, BMP Plan.

2. **Storm Water Discharge Visual Observations**

a. The Discharger shall conduct quarterly visual observations of all discharges of storm water runoff from its facility during one storm event per month during the wet season (October 1 through April 30). The observations shall be reported in the quarterly report for the reporting period in which they were conducted, and in the Annual Storm Water Monitoring Report, and in each case will be submitted with accompanying storm water laboratory analytical data, as applicable. The Discharger shall conduct visual observations during daylight scheduled facility operating hours that are preceded by at least 48 hours without discharges of storm water runoff. These visual observations shall occur during the first hour of discharge and at all discharge locations. Visual observations of stored or contained storm water shall occur at the time of the discharge.

b. Visual observations shall document the presence of any discolorations, stains, floating or suspended material, etc., as well as the source of any discharge (if known). The presence of any odors shall be documented at the time visual observations are documented. Records shall be maintained of the visual observations dates, specific facility locations observed, specific observations detailing what was or was not observed, and response(s) taken to eliminate unauthorized non-storm water discharges. The Discharger shall also respond by revising its BMP Plan, as necessary, and implementing and reporting the appropriate changes in accordance with Order No. R9-2005-0148, Section VIII.C.3, Best Management Practices Plan.

3. **Sampling and Analysis**

a. The Discharger shall collect storm water samples during the first hour of discharge to waters of the State or to storm water conveyance systems that discharge thereto. Storm water samples shall be collected from (1) the first storm of the wet season that produces discharges, and (2) at lease one other storm in the wet season that produces discharges.

All storm water discharge locations shall be sampled. Sampling of stored or contained storm water shall occur at the time the stored or contained storm water is discharged to waters of the State or to storm water conveyance systems that discharge thereto. The samples shall be analyzed in accordance with *Table 2. Storm Water Monitoring Requirements* of this MRP.

b. If a sample is not collected from the first storm of the wet season that produces discharges, the Discharger shall collect samples from two other storms of the wet season that produce discharges and shall explain in the Annual Storm Water Monitoring Report why the first storm that produced discharges was not sampled. If a sample cannot be taken during the first hour of a discharge, the Discharger shall explain why the samples could not be taken during this period of time. In this event, the Discharger shall collect discharge samples, report the hour of discharge sampled, and collect samples (in accordance with IX.F.3.a of this MRP) from two other storms of the wet season that produce discharges.

c. Samples shall be collected from discharges of storm water that are preceded by at least 7 days without a storm water discharge. The results of the storm water sample laboratory analyses shall be reported in the quarterly report for the reporting period in which the analyses occur, as well as in the Annual Storm Water Monitoring Report, and in each case will be submitted with the accompanying visual observations. The samples shall be analyzed in accordance with *Table 2. Storm Water Monitoring Requirements* of this MRP.

4. **Storm Water Discharge Sampling Location**

Monitoring station M-001 shall be specified in the BMP Plan, depicted on a site map, and shall not be changed without notice to and the approval of the Regional Water Board. The installation of automatic or mechanical storm water samplers at the monitoring station is recommended.

5. **Visual Observation and Sample Collection Exceptions**

The Discharger is required to be prepared to collect samples and conduct visual observations at the beginning of the wet season (October 1) and throughout the wet season until minimum requirements of Section IX.F.2 and Section IX.F.3 of this MRP are completed with the following exceptions:

The Discharger is not required to collect a sample or conduct visual observations in accordance with Section IX.F.2 and Section IX.F.3 of this MRP during dangerous weather conditions, such as flooding, electrical storm, etc. Non-storm water and storm water visual observations are only required during daylight scheduled facility operating hours. Dischargers that do not collect the required samples or visual observations during a wet season due to this exception shall include an explanation in the Storm Water Annual Report of why the sampling of visual observations could not be conducted.

Preparedness to collect samples includes but is not limited to the following:

a. On-site personnel with the knowledge of how, when and where to collect samples;

b. The appropriate sampling equipment on-site (containers, coolers, access to ice, transportation, etc.); and,

c. On-site personnel awareness of what contracted laboratory to the sample(s) to and the applicable holding time for the sample.

The Regional Water Board recommends that the Discharger contact a laboratory certified in accordance with General Monitoring Provision I.E of this MRP well in advance of the wet season to discuss the appropriate sampling techniques, equipment, holding time, etc., as necessary. It is the Discharger's responsibility to verify that the laboratory is capable of meeting all applicable analyses and reporting requirements.

6. **Monitoring Methods**

All sampling and sample preservation shall be in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater" (American Public Health Association). All monitoring instruments and equipment (including a discharger's own field instruments for measuring pH and electro-conductivity) shall be calibrated and maintained in accordance with manufacturer's specifications to ensure accurate measurements. All laboratory analyses must be conducted according to test procedures pursuant to 40 CFR Part 136, unless other test procedures have been specified in Order No. R9-2005-0148 or by the Regional Water Board. All metals shall be reported as total metals.

7. **Records**

In addition to the information required by Attachment D, Standard Provisions, Section IV.B, records of storm water monitoring information shall include:

a. The date, place and time of visual observations;

b. The individual(s) who performed the visual observations;

c. Volume estimates;

d. Method detection limits used;

e. Quality assurance/quality control records and results;

f. Non-storm water discharge visual observation and storm water discharge visual observation records (see Sections IX.F.1 and IX.F.2 of this MRP);

g. Visual observation and sample collection exception records (see Section IX.F.5);

h. All calibration and maintenance records of on-site instruments used;

i. The records of any corrective actions and follow-up activities that resulted from the visual observations.

8. **Annual Storm Water Monitoring Report**

a. The Discharger shall submit an Annual Storm Water Monitoring Report by August 1 of each year to the Regional Water Board. The report shall include:

i. A summary of visual observations and sampling and analysis results;

ii. An evaluation of the visual observation and sampling and analysis results;

iii. Laboratory reports;

iv. An explanation of why the Discharger did not implement any activities required by Order No. R9-2005-0148; and,

v. Records specified in Section IX.F.7 of this MRP.

b. An authorized person in accordance with Section V.B Standard Provisions – Reporting of Attachment D, shall sign the Annual Storm Water Monitoring Report.

9. **Monitoring Locations**

Based on a review of the Discharger's BMP Plan, and the Annual Storm Water Monitoring Report, the Regional Water Board may direct the Discharger to monitor at different and/or additional storm water discharge points.

G. **Toxicity Reduction Evaluation (TRE)**

As a result of the infrequent discharges from the Facility, the TRE is not applicable to the Facility. A special study requirement has been added under Section VIII.C.4 of Order No. R9-2005-0148 to address the results of acute toxicity testing submitted in accordance with the Order.

H. **Sediment Chemistry Monitoring**

1. **Sample Collection**

a. The sediment sampling program shall consist entirely of surficial sediment samples, and shall be conducted by the Discharger at the stations within its leasehold and at reference stations as specified in Section IX.H.3 of this MRP.

b. One sample shall be collected from each designated station on an annual basis.

c. Each sample for copper shall consist of three replicates to be analyzed separately. Each sample for grain size analysis shall consist of either a fourth replicate, or one of the three replicates used for the copper analysis.

d. Samples shall not be discarded after analysis. All samples shall be frozen and retained for a period of no less than 45 days from the date on which the Regional Water Board staff received the corresponding analytical results. At that time, the Executive Officer shall be notified and approval to discard the samples shall be obtained, before the samples are discarded.

e. Surficial sediment samples shall be collected by grab. Grab samples shall be collected with a 0.1 m^2 modified van Veen grab. The grab sampler shall be galvanized, stainless steel, or Teflon-coated. All surfaces of the grab shall be clean and free of rust. Grab sample collection procedures shall be consistent with appropriate methods, including the criteria for acceptable grab samples specified in the Southern California Coastal Water Research Project (SCCWRP) Field Operations Manual. The subsample to be analyzed shall be taken from the top 2-3 cm of undisturbed grab sample. Detailed field protocol is provided in USEPA's guidance documents EPA/430/9-86/004 and 430/9-82/010, or in the SCCWRP Field Operations Manual cited above. The SCCWRP Field Operations Manual can be viewed on their Internet site at http://www.sccwrp.org/tools/methods.htm or may be ordered at http://www.sccwrp.org/databases/contrib/contrib_search.html, or at (714) 894-2222.

2. **Sample Collection Plan**

Samples shall be collected in accordance with a detailed Sample Collection Plan prepared by the Discharger, which shall be submitted to the Regional Water Board no later than 90 days before the start of sampling. The plan shall address all collection protocols including but not limited to station positioning method, decontamination procedures, sampling equipment, containers, preservation, transportation, etc.

The Sample Collection Plan shall be followed for the collection of all sediment monitoring data required under this monitoring program. Any proposed future changes to the Sample Collection Plan shall be submitted to the Regional Water Board for review no later than 90 days before the start of the sampling effort in which the changes are proposed to take effect. All changes to reduce the Sample Collection Plan in any manner are subject to the approval of the Executive Officer. The Regional Water Board may require revisions of the Sampling Collection Plan at any time, including but not limited to the frequency of sampling, and the number and/or location of sediment sampling locations.

A "pre-sampling confirmation survey" shall be conducted by the Discharger, their consultant (if applicable), and, at the discretion of the Executive Officer, Regional Water Board staff to determine and/or confirm the station locations to be included in the Sample Collection Plan. The Discharger will notify the Regional Water Board no later than 30 days before the pre-sampling confirmation survey. The survey will confirm at least the following:

a. Narrative Descriptions. A detailed narrative description of each station location, including distances from permanent key landmarks shall be developed and confirmed in the field.

b. Photographs. Each station shall be marked (if feasible) and photographed. A minimum of two photos from different vantage points shall be taken to show the location of each

station relative to the key landmarks, which will be used to relocate it (e.g. storm drain outlet, etc.).

c. Station Coordinates. The Discharger shall convert the station coordinates from the Lambert coordinate grid system (i.e. Easting and Northing) into Latitude and Longitude coordinates. All station coordinates shall be confirmed or established in the field, and/or corrected as appropriate.

d. Facility and Reference Station Maps. Accurate Facility and reference station maps shall be developed and confirmed in the field. All maps shall be drawn to a scale of 1"=50' overlain on a Latitude/Longitude coordinate grid system. In addition to the monitoring stations, the maps shall show only pertinent details such as structures, storm drains, and work areas. A mylar master is recommended; photocopies may be substituted.

   After confirmation (of Facility maps, narrative descriptions, and coordinates), monitoring stations should be permanently marked for faster and more accurate station positioning.

e. Method/Sampler Substitution. If over the course of the monitoring program, conditions at a particular station are encountered that render collection of samples by grab dangerous or impractical, the Discharger may instead use another of the approved methods/samplers (e.g., Ekman or diver). If possible, substitutions should be approved in advance by the Regional Water Board.

   When substitutions are necessary, the corresponding Discharge Monitoring Reports shall specify the station(s) involved and the substitute sampler used.

f. Double Sampling Requirement. During the first three sampling/reporting periods in which the use of the 'usual' method/sampler can be resumed at the station (because access has been restored), the Discharger shall collect two samples from that station at the same time, one with the usual method/sampler and the other with the substitute. The results will be compared to evaluate the variability due to the method or sampling equipment. This information will assist in interpreting data, should changes in contaminant concentrations be observed during the period in which the substitute method/sampler was used.

g. Sampling Stations and Analysis

   i. The general guidelines in *Table 4. Station Location General Guidelines*, regarding station location/sample collection shall apply, unless otherwise specified in this MRP.

Table 4. Station Location General Guidelines

Stations Adjacent To:	Sample Collection
Piers/Floats/Docks/Quay Walls	Samples shall be taken immediately below the edge of a pier, float, dock, dry dock, or quay wall and shall be collected by a 0.1 m^2 modified van Veen dredge deployed from a boat or the side of the pier, float, dock, dry dock, or quay wall. When a float and quay wall or pier are present side-by-side, samples should be taken below the outside (or bay/harbor-side) edge of the float

Stations Adjacent To:	Sample Collection
	(rather than between the float and the quay wall or under the float).
Rip Rap	Samples should be collected 5 feet further from shore than where the rip rap first meets the soft bottom sediment. (In some cases, 10 feet may be specified.)
Storm Drains	Storm drain samples of bay sediment should be collected at a point approximately 10 feet from the mouth of the drain and inline with the centerline of the drain unless otherwise specified in this MRP.
Beach	Narrative descriptions will indicate the distance that a station is located relative to a stationary landmark, such as a pier or other nearby structure.
Dock/Rip Rap Intersection	Follow guidelines for rip rap station.
Dock/Beach Intersection	Follow guidelines for beach station.

ii. Reference Stations. There are three remote reference stations common to San Diego Bay dischargers. San Diego Bay dischargers may fulfill their sampling requirements for the three remote reference stations by submitting results from samples collected at these stations by other entities (e.g., consultant contracted by the dischargers collectively) during the sampling/reporting period. San Diego Bay reference station locations are specified in *Table 5. Sediment Monitoring Reference Station Locations.* It is the dischargers' responsibility to request and obtain permission from the appropriate party or parties prior to sample collection at each of the three reference stations.

Table 5. Sediment Monitoring Reference Station Locations

Station Number	Easting	Northing
Ref-01	1697300	196600
Ref-02	1706085	204810
Ref-03	1715225	201110

h. Analysis Parameters and Detection Limits

i. Sample analyses shall be conducted using approved laboratory methods capable of meeting the detection limits shown in *Table 6. Sediment Chemistry Parameters, Methods, and Detection Limits*. Surficial sediment samples shall be analyzed for the parameters and to the detection limits indicated in *Table 6. Sediment Chemistry Parameters, Methods, and Detection Limits* of this MRP.

Table 6. Sediment Chemistry Parameters, Methods, and Detection Limits

Parameter	Method Number	Detection Limit (dry weight)
Grain size	ASTM F312	NA
Copper[1]	6010	0.5 mg/kg
Total organic carbon (TOC)	[2]	[2]

[1] Copper – Method 3050 shall be used in preparation for copper analyses.

[2] Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; for priority pollutants the methods must 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.

i. Data Submittal, Presentation and Analysis

i. Data Presentation: Each Sediment Monitoring Report shall contain all required sampling results in the following three forms:

(a) Tables. The Discharger shall submit current and historical monitoring data for each facility station and each reference station in tabular form. Current monitoring data at each facility station and each reference stations shall include: 1) the individual copper concentrations for each replicate; 2) the mean copper concentration calculated from the three replicate concentrations; 3) the standard deviation calculated from three replicate concentrations; and 4) the 95% confidence interval calculated from the three replicate concentrations. Historical monitoring data is defined as sample results from all previous reporting periods collected at each facility station and each reference station as part of this MRP and the previous sediment monitoring programs. All concentrations shall be reported in both dry and wet weights.

(b) Graphs. The Discharger shall submit histograms depicting the mean copper concentration and 95% confidence limits for each facility station and each reference station. Current and historical monitoring data shall be depicted on the same histogram.

(c) Facility and Reference Station Maps. The facility and reference station maps developed for the Sample Collection Plan and confirmed during the "pre-sampling confirmation survey" shall be used to present the monitoring data. Separate facility and reference station maps shall indicate the mean copper concentration at each facility station and each reference station (rather than concentrations contours).

j. Data Analysis: The Discharger shall submit annual "trend curves" for each monitored constituent, in which concentrations are plotted as a function of time. The Discharger shall also determine if a statistically significant change (increase or decrease) in sediment concentrations has occurred over time for each contaminant, relative to reference concentrations.

In making this determination, the Discharger shall employ Cochran's Approximation to the Behrens-Fisher Students' T-Test as described in 40 CFR Part 264, Appendix IV, or another statistical procedure approved or directed by the Executive Officer.

In all cases, the Discharger shall report as soon as possible the cause(s) or suspected cause(s) of any increase in contaminant concentrations.

Monitoring results shall be compared against the following three sets of references data:

i. The Discharger's own historical baseline data (historical data is defined as sample results from all previous sediment sampling/reporting periods collected as part of the Discharger's current and past MRP);

ii. Concentrations measured at all remote reference sites;

iii. Concentrations measured at nearby offsite municipal storm drain(s), if present.

3. **Sediment Monitoring Locations**

The Discharger shall conduct sediment monitoring at stations identified in *Table 1. Monitoring Locations* and *Table 5. Sediment Monitoring Reference Station Locations* of this MRP. Any proposed modification to the location of sediment monitoring station(s) shall be reported to the Executive Officer in accordance with Section IX.H.2, Sample Collection Plan, of this MRP. In such cases, the Discharger shall locate proposed sediment monitoring stations in accordance with *Table 4. Station Location General Guidelines* of this MRP, and that are representative of the areal extent of the Discharger's facility/leasehold and all maintenance/repair/working areas potentially impacting waters of the State. The criteria to be considered in the location of the proposed stations includes but is not limited to the deposition or potential deposition of pollutants to waters of the State by storm water, airborne transport, conveyance of spills, or direct discharge.

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.

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. Until such notification is given, the Discharger shall submit self-monitoring reports in accordance with the requirements described below.

2. The Discharger shall submit quarterly and annual Self Monitoring Reports including the results of all required monitoring using USEPA-approved test methods or other test methods specified in this Order. Quarterly reports shall be due on May 1, August 1, November 1, and February 1 following each calendar quarter; Annual reports shall be due on August 1 for preceding July 1 through June 30 storm water year.

3. Monitoring periods and reporting for all required monitoring shall be completed according to the schedule presented in *Table 7. Reporting Schedule.*

Table 7. Reporting Schedule

Sampling Frequency	Data/Report	Monitoring Period	SMR Due Date
Quarterly	Spill/Ilicit Discharge Log, Compliance Certification;, Tributyltin Log, Non-Storm Water Visual Observations; Storm Water Visual Observations and related Analytical Data	January 1 through March 31 April 1 through June 30 July 1 through September 30 October 1 through December 31	May 1 August 1 November 1 February 1
Annually	Annual Report Summary, Annual Storm Water Monitoring Report, Chemical Utilization Audit, Sediment Monitoring Report (including sediment trend curves and statistical analyses), Annual Compliance Certification, Waste Hauling Log, Annual Vessel Owner Compliance Certification	July 1 through June 30	August 1

4. The Discharger shall report with each sample result the applicable Minimum Level (ML) and the current Method Detection Limit (MDL), as determined by the procedure in 40 CFR Part 136.

5. The Discharger shall arrange all reported data in a tabular format. The data shall be summarized to clearly illustrate whether the Facility is operating in compliance with interim and/or final effluent limitations.

6. The Discharger shall attach a cover letter to the SMR. The information contained in the cover letter shall clearly identify violations of the WDRs; discuss corrective actions taken or planned; and the proposed time schedule for corrective actions. Identified violations must include a description of the requirement that was violated and a description of the violation.

7. SMRs must be submitted to the Regional Water Board, signed and certified as required by the standard provisions, to the address listed below:

   San Diego Regional Water Quality Control Board
   9174 Sky Park Court
   Suite 100
   San Diego, CA 92123-4340

C. **Discharge Monitoring Reports (DMRs)**

[Not Applicable]

D. **Other Reports**

[Not Applicable]

ATTACHMENT F – FACT SHEET

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ATTACHMENT F – FACT SHEET

As described in Section II of Order No. R9-2005-0148, this Fact Sheet includes the specific legal requirements and detailed technical rationale that serve as the basis for the requirements of this Order.

I. PERMIT INFORMATION

The following table summarizes the administrative information related to the facility.

Table 1. Facility Information

WDID	9 000000104
Discharger	Driscoll's West
Name of Facility	Driscoll's West
Facility Address	2700 Shelter Island Drive, San Diego, CA 92106
Facility Contact, Title and Phone	Greg Thomas (General Manager) 619-226-2500
Authorized Person to Sign and Submit Reports	Greg Thomas
Mailing Address	Same
Billing Address	Same
Type of Facility	3732 – Pleasure Boat Repair
Threat to Water Quality	2
Complexity	C
Pretreatment Program	N
Reclamation Requirements	None
Facility Permitted Flow	N/A
Facility Design Flow	N/A
Watershed	Point Loma Hydrologic Unit
Receiving Water	San Diego Bay (America's Cup Harbor)
Receiving Water Type	Surface Water (Enclosed portion of San Diego Bay)

Thomas A. Driscoll (hereinafter Discharger) is the owner and operator of Driscoll's West (hereinafter Facility) a full-service boat repair facility. The Facility is located on property leased from the Port of San Diego.

The Facility discharges all process wastewater generated from its boat repair activities to the City of San Diego's sanitary sewer system. The discharge is classified as a minor discharge. The Facility discharges storm water runoff to the America's Cup Harbor portion of San Diego Bay, a water of the United States, when storm events are greater than 1.33 inches in a 24-hour period. The Facility is currently regulated by Order No. 2000-207, NPDES Permit No. CA0109070, which was adopted on October 11, 2000. Order No. 2000-207 expires on October 12, 2005.

The Discharger filed a Report of Waste Discharge (RWD), an application for renewal of its Waste Discharge Requirements (WDRs), on April 18, 2005. A site inspection was conducted on December 9, 2004 to observe operations and collect additional data to develop WDRs, effluent limitations and permit conditions. On April 19, 2005, this Regional Water Board determined that the RWD contained all the information necessary to draft tentative WDRs.

II. FACILITY DESCRIPTION

The Discharger owns and operates a full-service boat repair facility located at 2500 Shelter Island Drive, San Diego, California. The site consists of a single slab of concrete (excluding buildings) approximately 35,000 square feet. The site slopes from east to west to facilitate drainage towards two trench drains used for wastewater and storm water diversion and collection. The features of the Facility include: piers, travel lifts, in-yard boat repair areas, buildings, trench collection system, and a wastewater treatment system. The wastewater treatment system consists of the collection system, a 3-stage clarifier, micron filter, and two 10,000-gallon storage tanks.

Vessels up to 160 feet in length are removed from the bay using a travel lift and are transported to the yard for repairs to the underside and topside. It is often necessary to hydro-wash the bottom of the boats to remove marine growth and/or loosen existing bottom paint. Industrial activities or boat repair activities that occur at this Facility include but are not limited to fiberglass repair, metal work, paint and coating application, internal combustion engine rebuild and repair, shaft and prop repair, wood work, and welding and brazing. Industrial activities do not occur over the bay or on the piers.

Employees, subcontractors of Driscoll's West, and contractors hired by boat owners/operators may conduct these repair activities in predominantly outdoor areas. Boat repair industrial activities deposit various waste products on the outdoor impervious surfaces such as asphalt or concrete surfaces throughout the work areas.

A. Description of Wastewater Treatment or Controls

Boat repair activities generate several types of pollutants, including oils, greases, paints, varnishes, paint thinners and additives, gelcoat wastes, dust, grit, and other spilled liquids. The accumulation of these pollutants occurs in the maintenance and repair areas.

The WDRs for Driscoll's West establish discharge requirements for pollutants in storm water. Storm water discharges are those that are produced as a result of precipitation on the working areas of the Facility. Non-storm water discharges (i.e. hydro-washing, spills, airborne transport of particulates to surface waters) include pollutant discharges produced as a result of the various outdoor/indoor activities conducted at the Facility involving the use of water (which would then be referred to as industrial process water). Discharges potentially containing the pollutants listed above include hydro-wash wastewater, industrial process water, storm water and other non-storm water discharges. Under a permit issued by the City of San Diego, all process and hydro-wash water are discharged to the city's sanitary sewer system after treatment.

Storm water monitoring data submitted from boatyards in the San Diego Region indicate that high levels of toxic pollutants, particularly copper and zinc, have been and are being discharged to surface waters. It is generally accepted that storm water runoff from rainfall will mobilize solid particles located on the surfaces receiving precipitation. Generally, most municipal sanitation agencies will accept a "first-flush" (as defined in Attachment A) of polluted water from a facility's maintenance and repair areas into the municipal sanitary sewer system under an industrial discharge permit. The Facility's first-flush of storm water, up to 1.33 inches, is currently captured, treated, and discharged to the sanitary sewer system. Therefore, the Order continues the prohibition of a first-flush discharge of polluted water to surface waters. Storm

water runoff from storm events greater than 1.33 inches is diverted around the 10,000-gallon storage tanks and discharged into San Diego Bay.

The Facility's wastewater containment system begins with two lateral trench drains that run across the yard from north to south and collect all hydro-wash runoff, process water, and storm water from the yard. The trench drains divert water flows from the yard to the water reclamation system designed to contain up to a 1.33-inch rainfall event. The hydro-wash/storm water flows through stainless screens in the drains and then to a sump. From the sump, the water is pumped at 40 gallons per minute (gpm) to a 3-stage clarifier where oil and grease, sediment, and other gross (heavy) pollutants are separated. The wastewater is then pumped through a filter and then stored in two 10, 000 gallon storm surge tanks which are plumbed directly to the city sewer system. This treatment system is capable of containing and treating up to 23,000 gallons without discharge to San Diego Bay. The yard is also fitted with a 1.5-inch steel berm along the east (bay) to divert storm water to the trench drains and prevent flows from entering the bay.

Diverting and containing virtually all storm water runoff has not entirely eliminated Driscoll's West' potential to discharge storm water, nor has it yet been demonstrated that the capture of storm water runoff will achieve the acute toxicity discharge specification of the Order. As a result, the effectiveness of such strategies will continue to be monitored, and further action may be required of the Discharger to achieve the acute toxicity effluent limitation.

B. Discharge Points and Receiving Waters

The Facility has one discharge point to San Diego Bay located at the southeast end of the yard (32° 43' 20" North latitude and 117° 13' 40" West longitude). Under extreme weather conditions, especially during the wet season, the potential exists for storm water discharges to San Diego Bay. The treatment system described above is capable of containing and capturing all hydro-wash, non-storm water and storm water discharges (up to 23,000 gallons or equivalent to a 1.33 inch storm event) from the yard. Driscoll's West is prohibited from conducting operations that could produce process water during a storm event with the potential to exceed the capture/treatment system's 23,000-gallon capacity. Therefore, any water flow into the America's Cup Harbor portion of San Diego Bay from Driscoll's West is only storm water since all wastewater and storm water up to a total of 23,000 gallons is captured and directed to the sanitary sewer.

C. Summary of Existing Requirements

Pursuant to Order No. 2000-207, the Discharger was required to eliminate the discharge of the first-flush storm water runoff (0.1 inch) from the Facility and to appropriately maintain ways by which this is accomplished. The Discharger has developed a Best Management Practices (BMPs) plan in accordance with 40 CFR 125.100 through 125.104 that is consistent with the general guidance contained in the *Guidance Manual for Developing Best Management Practices (BMPs),* USEPA, October 1993. The Discharger is required to keep the BMP Plan current and continue its implementation under Order No. R9-2005-00148. The BMP plan includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the offsite discharge of generated pollutants from year-round industrial activities.

The Discharger also developed a Storm Water Pollution Prevention Plan (SWPPP) as a part of requirements established under Order No.2000-207. Order No. R9-2005-0148 requires the Discharger to continue operations consistent with the SWPPP and to modify it as necessary to meet the objectives of the Order if changes in operations at the Facility occur. The Discharger is required to conduct a regular (annually) assessment of the potential for various sources to contribute pollutants to storm water discharges and that storm water pollution prevention practices are effectively removing pollutants from storm water discharges during the wet season.

The MRP requires the Discharger to report quarterly storm water and non-storm water visual observations. The quarterly and annual monitoring data pursuant to Order No. R9-2005-0148 for submittal to the Regional Water Board for review are listed below:

1. *Compliance Certifications* – certification that the Discharger has eliminated the discharge of the first-flush storm water runoff for each storm event and industrial process water discharges under Order No. R9-2005-0148.

2. *Spill/Illicit Discharge Log* – the Discharger shall log and report all spills and illicit discharges from the Facility.

3. *Chemical Utilization Audit* – the Discharger shall submit complete Chemical Utilization Audit Forms of hazardous materials used at the Facility which may be discharged to the bay, surface waters or conveyance systems.

4. *Tributyltin Log* – the Discharger shall maintain and submit a log of work done on tributyltin (TBT) painted vessels within its leasehold.

5. *Waste Hauling Log* – the Discharger shall submit final copies of all Uniform Hazardous Waste Manifest forms, or a log, documenting the volume, type, disposition, and date of disposal of hazardous waste and recycled wastes, which meet the hazardous waste criteria specified in Title 22 of the California Code of Regulations.

6. *Storm Water and Non-Storm Water Monitoring* – the Discharger shall conduct visual observations of all storm water discharges from its Facility during one storm event per month during the wet season (October 1 through May 31). The Discharger shall conduct quarterly visual observations of all drainage areas within the Facility for the presence of unauthorized non-storm water discharges to waters of the State other than those to the sanitary sewer system.

7. *Sampling and Analysis* – the Discharger shall collect storm water samples during the first hour of discharge to the San Diego Bay or to the storm water conveyance system.

8. The *Annual Vessel Owner Compliance Certification* shall be submitted in the annual monitoring report to document compliance with the Basin Plan prohibitions regarding discharges from vessels. This additional reporting requirement serves to demonstrate the Discharger's compliance with the Order.

9. *Sediment Chemistry Monitoring* shall consist entirely of surficial sediment samples conducted by the Discharger at the stations within its leasehold and at reference stations as specified in the Section IX.H.3 – Sediment Monitoring Locations of the MRP.

D. Compliance Summary

1. Storm Water Monitoring

Storm water discharges were monitored pursuant to Order No. 2000-207. Monitoring data from two storm water discharge events are shown in *Table 2. Storm Water Discharge Monitoring Data – Discharge Point No. C-001.*

Table 2. Storm Water Discharge Monitoring Data – Discharge Point No. C-001

Constituent	Units	Results from Sample Collected 1/12/2001	Results from Sample Collected 2/21/2005
pH	units	6.10	6.18
Total Suspended Solids	mg/L	16.0	7.00
Settleable Solids	mg/L	<0.10	ND
Total Petroleum Hydrocarbons (TPH)	mg/L	ND	ND
Copper	mg/L	1.17	0.37
Zinc	mg/L	0.88	0.53
Tributyltin (TBT)	µg/L	ND	2.80
Dibutyltin (DBT)[1]	µg/L	Not measured	1.64
Acute Toxicity	% Survival	Not reported[2]	0%

[1] Dibutyltin was not required as part of the MRP under the existing Order although monitoring results were presented in the application package for the tentative Order. Monitoring of dibutyltin is not required in the MRP of the tentative Order.

[2] The chain of custody for the January 12, 2001 sample requested an acute toxicity test. The contract laboratory did not complete the toxicity testing for the sample and therefore results were not reported. Supplemental documentation submitted with the application package included correspondence between the Facility and their contract laboratory. The lab stated that the sample volume was insufficient to perform toxicity testing, however the Discharger stated that their sampling regime followed protocols provided by the lab.

The concentrations of copper and zinc noted in *Table 2. Storm Water Discharge Monitoring Data – Discharge Point No. C-001* exceeded the parameter benchmark values of 0.0636 mg/L and 0.117 mg/L, respectively, of the General Industrial Storm Water Permit (Permit No. CAS000001). Elevated concentrations of copper and zinc may be toxic to humans and aquatic life, they accumulate in aquatic sediments, and bioaccumulate in animal tissues. While the USEPA benchmark values are not numeric limitations, they are used to alert the Discharger to take actions to identify and reduce the sources of pollutants in the discharge. For TBT, the criterion to protect aquatic life in saltwater from chronic toxic effects is 0.001 µg/L (*USEPA Ambient Aquatic Life Water Quality Criteria For Tributyltin*, December 2002). Tributyltin and dibutyltin are extremely toxic to aquatic life while being extremely stable and resistant to natural degradation in water. The tributyltin values reported in the storm water sample collected on February 21, 2005 exceeded the chronic aquatic life criterion by three orders of magnitude.

2. Acute Toxicity Testing

On February 21, 2005, the acute toxicity test of the storm water discharge had a zero (0) percent survival. This discharge was in violation of the discharge specification of Order No. 2000-207. Order No. 2000-207 requires that the acute toxicity shall not be less than seventy (70) percent survival as determined by a 96-hour bioassay. Toxicity indicates the adverse response of organisms to chemicals or physicals agents present in the storm water discharges. It should be noted that the species (*Pimephales promelas*) used in the acute toxicity test was not one of those on the list required under Order No. 2000-207.

III. RECEIVING WATER MONITORING

The Facility conducted annual sediment monitoring pursuant to Order No. 2000-207 for copper and grain size distribution in 2000, 2002, 2003 and 2004. The copper concentration results are presented in *Table 3. Comparison of Sediment Sample Data to Historical and Reference Data.*

Table 3. Comparison of Sediment Sample Data to Historical and Reference Data.

Sample Location And Year	Statistically Significant Difference (increase or decrease)[1]			
	Historical Data Comparison[2]		Reference Site Comparison[3]	
	Wet Weight[4]	Dry Weight	Wet Weight	Dry Weight
2000				
DW (KTM)-01	No data	Decrease	No data	Increase
DW (KTM)-02A	No data	No data	No data	No data
DW (KTM)-06	No data	No difference	No data	Increase
2001				
DW (KTM)-01	No sampling report was available for 2001			
DW (KTM)-02A				
DW (KTM)-06				
2002				
DW (KTM)-01	No difference[5]	Decrease	Increase	Increase
DW (KTM)-02A	Decrease[5]	Decrease	Increase	No difference
DW (KTM)-06	Decrease[5]	Decrease	Increase	Increase
2003				
DW (KTM)-01	No difference[6]	Decrease	Increase	Increase
DW (KTM)-02A	No difference[6]	No difference	No difference	No difference
DW (KTM)-06	No difference[6]	Decrease	No difference	No difference
2004				
DW (KTM)-01	Decrease[7]	Decrease	Increase	Increase
DW (KTM)-02A	No difference[7]	Increase	Increase	Increase
DW (KTM)-06	No difference[7]	Decrease	Increase	Increase

[1] Statistical significance was tested using Cochran's Approximation to the Behrens-Fisher Student's T-Test to determine whether a statistically significance change (increase or decrease) was observed between sample locations and historical data and between sample locations compared to reference location in America's Cup Harbor.

[2] Historical sampling results were based on the dry weights of samples collected on December 20, 1992, June 30, 1993, December 30, 1993, and June 30, 1994.

[3] Reference sites are common to 7 boatyards participating in the sediment sampling study.

[4] Historical wet weight were only determined for samples collected in May 2000, June 2002, and June

2003.

[5] Comparisons made between samples collected in June 2002 and historical samples collected in May 2000.

[6] Comparisons made between samples collected in June 2003 and historical samples collected in May 2000 and June 2002.

[7] Comparisons made between samples collected in June 2004 and historical samples collected in May 2000, June 2002, and June 2003.

IV. APPLICABLE PLANS, POLICIES, AND REGULATIONS

The requirements contained in the Order are based on the requirements and authorities described in this section.

A. Legal Authorities

This Order is issued pursuant to section 402 of the federal CWA that implements regulations adopted by the USEPA and Chapter 5.5, Division 7 of the CWC. It shall serve as a National Pollutant Discharge Elimination System (NPDES) permit for point source discharges from Driscoll's West to a surface water of the United States. This Order establishes Waste Discharge Requirements pursuant to Article 4, Chapter 4 of the CWC.

B. California Environmental Quality Act (CEQA)

This action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100, et seq.) in accordance with Section 13389 of the CWC.

C. State and Federal Regulations, Policies, and Plans

1. **Basin Plan.** The Regional Water Board adopted a *Water Quality Control Plan for the San Diego Basin* (hereinafter Basin Plan) on September 8, 1994. The Basin Plan was subsequently approved by the State Water Resources Control Board (State Water Board) on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Water Board and approved by the State Water Board. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Beneficial uses applicable to Pacific Ocean are listed in *Table 4. Basin Plan Beneficial Uses of San Diego Bay.*

Table 4. Basin Plan Beneficial Uses of San Diego Bay

Discharge Point	Receiving Water Name	Beneficial Use(s)
C-001 (East Property Boundary Near Railway)	San Diego Bay	Industrial Service Supply (IND); Navigation (NAV); Contact Water Recreation (REC-1); Non-contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Preservation of Biological Habitats of Special Significance (BIOL); Estuarine Habitat (EST); Wildlife Habitat (WILD); Rare, Threatened, or Endangered Species (RARE); Marine Habitat (MAR); Migration of Aquatic Organisms (MIGR); Shellfish Harvesting (SHELL); Spawning, Reproduction and/or Early Development (SPWN)

2. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, which was amended on May 4, 1995 and November 9, 1999, and the CTR on May 18, 2000, which was amended on February 13, 2001. These rules include water quality criteria for priority pollutants, and are applicable to this discharge.

3. **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 Boards in their basin plans, with the exception of the provision on alternate test procedures for individual discharges that have been approved by USEPA Regional Administrator. The alternate test procedures provision was effective on May 22, 2000. The SIP became effective on May 18, 2000. The SIP includes procedures for determining the need for and calculating WQBELs and requires dischargers to submit data sufficient to do so. The SIP is not applicable to storm water discharges.

4. **Thermal Plan.** The State Water Board adopted a Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Water and Enclosed Bays and Estuaries of California (hereinafter, Thermal Plan) on May 18, 1972, and amended it on September 18, 1975. The Thermal Plan contains temperature objectives for coastal surface waters.

5. **Antidegradation Policy.** 40 CFR 131.12 requires that 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, which incorporates the requirements of the federal antidegradation policy. State Water Board Resolution No. 68-16 requires that existing water quality is maintained unless degradation is justified based on specific findings. As discussed in detail in this Fact Sheet, the permitted discharge is consistent with the antidegradation provision of 40 CFR 131.12 and State Water Board Resolution No. 68-16.

6. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and 40 CFR 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.

7. **Monitoring and Reporting Requirements.** 40 CFR 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Sections 13267 and 13383 of the CWC authorize the Regional Water Boards to require technical and monitoring reports. The Monitoring and Reporting Program (Attachment E) establishes monitoring and reporting requirements to implement federal and State requirements.

D. Impaired Water Bodies on CWA 303(d) List

Section 303(d) of the CWA requires states to identify specific water bodies where water quality standards are not expected to be met after implementation of technology-based effluent limitations for point sources. For all 303(d)-listed water bodies and pollutants, the Regional Water Board plans to develop and adopt total maximum daily loads (TMDLs) that will specify waste load allocations (WLAs) for point sources and load allocations (LAs) for non-point sources, as appropriate.

The USEPA has approved the State's 2002 303(d) list of impaired water bodies. Certain receiving waters in the San Diego County watersheds do not fully support beneficial uses and therefore have been classified as impaired on the 2002 303(d) list and have been scheduled for TMDL development. The America's Cup Harbor of San Diego Bay is not included in the 2002 303(d) list therefore; additional measures are not included at this time.

V. RATIONALE FOR EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

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 objectives to protect the beneficial uses of the receiving water. Where numeric water quality objectives have not been established, three options exist to protect water quality: 1) 40 CFR 122.44(d) specifies that WQBELs may be established using USEPA criteria guidance under CWA section 304(a); 2) proposed State criteria or a State policy interpreting narrative objective supplemented with other relevant information may be used; or 3) an indicator parameter may be established.

The Regional Water Board has determined that the establishment and enforcement of numeric effluent limitations for water discharges from the Facility are infeasible, due to the difficulties of collecting representative effluent samples and of determining concentration and mass emissions. The Regional Water Board has further determined that such discharges are most appropriately controlled by BMPs instead of numeric effluent limitations. The inclusion of BMPs as requirements in NPDES permits is authorized by CWA Section 304 (e); and in accordance with NPDES regulations at 40 CFR 122.44 (k), which state that BMPs can be used to control or abate the discharge for pollutants, when numeric effluent limitations are infeasible.

The USEPA has established and the Regional Water Board has adopted, benchmark values for storm water discharges. The Discharger is required to conduct a comparison of analytical results for storm water discharges to the Regional Water Board benchmark values. Analytical results above the

Regional Water Board benchmark values represent a level of concern. The level of concern is a concentration at which a storm water discharge could potentially impair, or contribute to impairing, water quality or affect human health from ingestion of water or fish. The benchmarks are also viewed by the Regional Water Board as a level that, if below, a facility presents little potential for water quality concern. As such, the benchmarks also provide an appropriate level to determine whether a facility's storm water pollution prevention measures (BMPs) are successfully implemented. The benchmark concentrations are not effluent limitations and should not be interpreted as such. These values are merely levels that the Regional Water Board has used to determine if a storm water discharge from any given facility merits further monitoring to ensure that the facility has been successful in implementing their SWPPP and BMP Plan. As such, these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility. Requirements of the SWPPP and BMP Plan are discussed in greater detail in Attachment G.

A. Discharge Prohibitions

The discharge prohibitions are based on the requirements of the Basin Plan and are consistent with the requirements set for other discharges regulated by waste discharge requirements adopted by this Regional Water Board. All discharge prohibitions established in the existing Order are retained in the Order with the addition of the following prohibition.

1. The Discharger shall not conduct hydro-washing or sand blasting during any storm with the potential to generate greater than 1.33 inches of precipitation. This probation is being included because copper and zinc levels reported in storm water samples collected in 2001 and 2005. The Regional Water Board finds that the presence of these contaminants in excess of benchmark values after capturing over 1 inch of first-flush storm water warrants concern and justifies a prohibition of hydro-washing or sand blasting when a storm event may produce enough precipitation to exceed the capacity of the Facility's collection system.

B. Technology-Based Effluent Limitations

The Regional Water Board has determined that the establishment and enforcement of numeric effluent limitations for discharges from the Facility are infeasible, due to the difficulties of collecting representative effluent samples and of determining concentration and mass emissions. In lieu of technology-based limitations, the Regional Water Board has further determined that such discharges are most appropriately controlled by BMPs. The inclusion of BMPs as requirements in NPDES permits is authorized by CWA Section 304 (e); and in accordance with NPDES regulations at 40 CFR 122.44 (k). BMPs employed by the Facility are defined in the SWPPP and BMP Plan.

C. Water Quality-Based Effluent Limitations (WQBELs)

No water quality-based limitations for individual pollutants have been established as part of Order No. R9-2005-0148. The Regional Water Board finds that the implementation and maintenance of the SWPPP and BMP Plan will be adequate to protect water quality. The acute toxicity testing requirement (see Section D below) established under Order 2000-207 is retained in the Order as a measure of BMP performance and to assure compliance with water quality standards.

D. Whole Effluent Toxicity (WET)

Whole effluent toxicity (WET) protects 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 measures mortality. A chronic toxicity test is conducted over a longer period of time and may measure mortality, reproduction, and growth. Because the discharge is intermittent, chronic toxicity testing is not required for this Facility.

The Basin Plan specifies a narrative objective for toxicity, requiring that all waters be maintained free of toxic substances that produce detrimental responses in aquatic organisms. Detrimental response includes but is not limited to decreased growth rate, decreased reproductive success of resident or indicator species, and/or significant alterations in population, community ecology, or receiving water biota. The Basin Plan further dictates that compliance with the toxicity objective shall, at a minimum be evaluated with a 96-hour acute bioassay and effluent limitations based upon acute bioassays of effluents be prescribed where appropriate.

The presence of acute toxicity in the storm water shall be determined as specified in Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fourth Edition (EPA 600/4-90-027F, August 1993 or subsequent editions). The Discharger shall conduct an annual acute toxicity test on a grab sample of storm water. Dischargers shall conduct a 96-hour static renewal test with the vertebrates *Menidia beryllina* (inland silverside [fish]), *Atherinops affinis* (topsmelt [fish]) or the invertebrate *Mysidopsis bahia* (mysid shrimp). The acute toxicity testing shall be a 96-hour static renewal test conducted on a sample of 100 percent storm water and a laboratory control. Use of two laboratory controls, a receiving water control, and a synthetic laboratory seawater control, is highly recommended. The salinity of the sample should be adjusted to the salinity level typical of the receiving water using dry sea salt. The adjusted salinity level shall be reported. The storm water tests shall be conducted with concurrent reference toxicant tests. Both the reference toxicant and the storm water test shall meet all test acceptability criteria as specified in the above-named manual. If the test acceptability criteria are not achieved, the Discharger shall re-sample and re-test during the next storm.

E. Final Effluent Limitations

Order R9-2005-0148 will retain the acute toxicity specification established in the existing Order. Acute toxicity testing shall be conducted by the methods specified in Section V.D of this Fact Sheet and Section V of the MRP. Acute toxicity was included as a performance goal prior to October 12, 1998 at which time it was to become a discharge specification. Based on a request from the San Diego Unified Port District dated, June 4, 1998, Addendum No.1 to Order No. 95-41 revised the date of the discharge specification from October 12, 1998 to October 12, 1999. The Facility has since implemented a storm water containment system designed to capture in excess of the first inch of storm water runoff and direct it to the City of San Diego sanitary sewer. As of the date of the preparation of Order R9-2005-0148, the effectiveness of the containment strategy to reduce the

acute toxicity of storm water runoff discharges to surface waters has not been demonstrated by any of the regional boatyards.

Other effluent limitations are not applicable under the Order although a SWPPP and BMP Plan are required. The inclusion of BMPs as requirements in NPDES permits is authorized by CWA Section 304 (e); and in accordance with NPDES regulations at 40 CFR 122.44 (k). The Regional Water Board finds that the implementation and maintenance of the SWPPP and BMP Plan will be adequate to protect water quality. The acute toxicity testing, along with effluent and sediment monitoring, will serve as a measure of BMP performance.

VI. RATIONALE FOR RECEIVING WATER LIMITATIONS

Narrative and numerical receiving water limitations have been established to meet water quality objectives specified in Chapter 3 of the Basin Plan and the Ocean Plan to ensure the reasonable protection of beneficial uses and the prevention of nuisance. The limitations established under previous orders will be continued under Order No. R9-2005-0148.

VII. MONITORING AND REPORTING REQUIREMENTS

Section 122.48 of 40 CFR requires all NPDES permits to specify recording and reporting monitoring results. Sections 13267 and 13383 of the California Water Code authorize the Regional Water Boards to require technical and monitoring reports. The MRP, Attachment E of Order No. R9-2005-0148, 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 the Facility.

A. Effluent Monitoring

Effluent monitoring requirements for pH, TSS, and total petroleum hydrocarbons (TPH), copper, zinc, and tributyltin established in the existing Order are retained through Order No. R9-2005-0148. Effluent monitoring requirements for the storm water outfall are listed in *Table 5. Storm Water Monitoring Requirements.*

Table 5. Storm Water Monitoring Requirements

Parameter[1]	Units	Sample Type	Frequency
Total Suspended Solids	mg/L	grab	two storm events per year
pH	standard units	grab	two storm events per year
Settleable Solids	ml/L	grab	two storm events per year
Total Petroleum Hydrocarbons (TPH)	mg/L	grab	two storm events per year
Copper	mg/L	grab	two storm events per year
Zinc	mg/L	grab	two storm events per year
Tributyltin (TBT)	mg/L	grab	two storm events per year
Acute Toxicity	% survival	grab	one storm event per year

[1] All parameters shall be analyzed by the methods specified in 40 CFR Section 136.3.

B. Whole Effluent Toxicity Testing Requirements

Whole effluent toxicity (acute toxicity) testing shall be conducted by the methods specified in Section V.D of this Fact Sheet and Section V of the MRP. Acute toxicity was included in a

previous permit (Order No. 95-41) as a performance goal prior to October 12, 1998, and ultimately became a discharge specification on October 12, 1999. Note that a failure to perform testing is a violation of the Order. In the event that the whole effluent toxicity effluent limitations are not achieved, the Discharger shall implement the Toxic Pollutant Source Control Study described in Section VIII.C.4 of Order No. R9-2005-0148.

The Toxicity Reduction Evaluation (TRE) and Toxic Identification Evaluation (TIE) process is not applicable to Driscoll's West, since the Facility's discharges occur infrequently.

C. Receiving Water Monitoring

In order to determine compliance with the Basin Plan and discharge prohibitions established in the Order, the Discharger shall conduct sediment sampling as specified in Section IX.H of the MRP. A sediment monitoring program was established as part of the existing Order (Order No. 2000-207) and is carried through Order No. R9-2005-0148. A brief history of the development of the boatyard monitoring program is contained in Item No. 9, Supporting Document No. 2, of the April 8, 1998 Regional Water Board meeting agenda.

VIII. RATIONALE FOR PROVISIONS

A. Standard Provisions

Standard Provisions, which in accordance with 40 CFR 122.41and 122.42, apply to all NPDES discharges and must be included in every NPDES permit, are provided in Attachment D to the Order.

B. Special Provisions

1. Re-Opener Provisions

a. This Order may be re-opened to include effluent limitations for toxic constituents determined to be present in significant amounts in the discharge by this Regional Water Board.

b. This Order may be re-opened and modified, to incorporate in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach.

c. This Order may be re-opened and modified, in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include new minimum level (ML).

d. This Order may be re-opened and modified to revise effluent limitations because of Basin Plan Amendments, such as an update of an objective or the adoption of a Total Maximum Daily Load (TMDL).

e. This Order may be re-opened upon submission of adequate information by the Discharger, as determined by this Regional Water Board, to provide for dilution credits or a mixing zone, as may be appropriate.

f. This Order may also be re-opened and modified, revoked, and reissued or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62 to 122.64, 125.62, and 125.64. Causes for taking such actions include, but are not limited to, failure to comply with any condition of this Order and permit, and endangerment to human health or the environment resulting from the permitted activity.

C. Special Studies and Additional Monitoring Requirements

In the event effluent limitation defined in Section IV.A.1 of this Order is not achieved, the Discharger shall investigate the sources of toxicity (metals and TBT) within storm water and other potential sources. The rationale for requiring the study stems from the potential that a failure of acute toxicity testing could indicate a discharge of metals (copper and zinc) well in excess of Benchmark Values. If the seventy (70) percent survival limitation is not met, the Discharger shall submit a plan to identify the sources within the schedule within 6 months of the determination that the effluent limitation in Section IV.A.1 was not achieved. The plan will be followed within one year by a report that will identify the loading sources and include BMPs for addressing the sources. The Discharger will implement the BMPs and reassess their effectiveness after each sampling event until acute toxicity tests result in 70 percent survival or better and storm water sample results are within benchmark values. Results of subsequent acute toxicity testing will be considered in the annual assessment of BMP effectiveness as required under the SWPPP.

D. Best Management Practices and Pollution Prevention

The requirements for the BMP plan and pollution prevention plan are retained from the existing permit. The Discharger shall amend its BMP Plan in accordance with 40 *CFR* 125.100 through *125.104* whenever there is a change in facility/leasehold/work area design, construction, operation, or maintenance, which materially affects the potential for discharge of toxic and hazardous pollutant to surface waters. The Discharger shall submit any amendment to its BMP Plan to the Executive Officer.

The Discharger must also maintain a SWPPP as described in Attachment G. The SWPPP must be revised as necessary prior to changes in industrial activities which (i) may significantly increase the quantities of pollutants in the storm water discharge, (ii) cause a new area of industrial activity at the Facility to be exposed to storm water, or (iii) begin an industrial activity which would introduce a new pollutant source at the Facility.

IX. PUBLIC PARTICIPATION

This Regional Water Board is considering the reissuance of WDRs that will serve as an NPDES permit for Driscoll's West. This Regional Water Board has developed WDRs. This Regional Water Board encourages public participation in the WDR adoption process.

A. Notification of Interested Parties

This Regional Water Board has notified the Discharger and interested agencies and persons of its intent to adopt waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Notification was provided

through publication in the San Diego Union Tribune newspaper November 7, 2005 and by letter mailed to interested parties on November 7, 2005.

B. **Written Comments**

Interested persons are invited to submit written comments regarding the WDRs. Comments should be submitted either in person or by mail, during business hours, to:

John H Robertus, Executive Officer
Attn: Industrial Compliance Unit
Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123

To ensure that this Regional Water Board has the opportunity to fully consider written material, comments regarding Order No. R9-2005-0148 should be received in the Regional Water Board's office no later than 5:00 p.m. on Wednesday, November 30, 2005. Written material submitted after 5:00 p.m. on Wednesday, December 7, 2005 will not be provided to the Regional Water Board members and will not be considered by this Regional Water Board. Oral comments will be received at the hearing on Wednesday, December 14, 2005.

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:	December 14, 2005
Start Time:	9:00 a.m.
Location:	Regional Water Quality Control Board Regional Water Board Meeting Room 9174 Sky Park Court, Suite 100 San Diego, California 92123

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 Order. 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/sandiego** 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**

For additional information, interested persons may write the following address or contact Mr. Tony Felix of the Regional Water Board by e-mail at TFelix@waterboards.ca.gov or by phone at (858) 636-3134.

Regional Water Quality Control Board, San Diego Region
Attn: Executive Officer
9174 Sky Park Court, Suite 100
San Diego, California 92123

Copies of the applications, NPDES waste discharge requirements, and other documents (other than those that the Regional Water Board maintains as confidential) are available at the Regional Water Board office for inspections and copying according to the following schedule (excluding holidays):

Monday and Thursday:	1:30 p.m. to 4:30 p.m.
Tuesday and Wednesday:	8:30 a.m. to 11:30 a.m.
	1:30 p.m. to 4:30 p.m.
Friday:	8:30 a.m. to 11:30 a.m.

An electronic copy of the Fact Sheet and Order can be accessed on the Regional Water Board website: http://www.waterboards.ca.gov/sandiego.

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 this Regional Water Board, reference this Facility, and provide a name, address, and phone number.

ATTACHMENT G – STORM WATER POLLUTION PREVENTION PLAN

A. A Storm Water Pollution Prevention Plan (SWPPP) shall be developed, implemented, and maintained by the Discharger and incorporated into the Discharger's Best Management Practices *(BMP)* Plan. The SWPPP shall be designed to comply with Best Available Technology (Best Conventional Technology Currently Achievable (BAT/SCT)) and be certified in accordance with Order No. R9-2005-0148, Attachment D, *Standard Provisions,* Section V.B. The SWPPP shall be retained at the Discharger's facility and must also be submitted to the Regional Water Board Officer. See Attachment A for definitions of BAT/BCT.

B. The Regional Water Board may notify a Discharger of any deficiencies found in the review of the SWPPP. Within 30 days of receipt of the Regional Water Board's notification, the Discharger shall submit a time schedule to correct the deficiencies in the SWPPP. After making the required changes, the Discharger shall provide written certification that the changes have been made.

C. The Discharger shall amend the SWPPP whenever there is a change in operation or maintenance, which may affect the discharge of significant quantities of pollutants to surface waters. The SWPPP should also be amended if it is in violation of conditions of Order No. R9-2005-0148 or has not achieved the general objectives of preventing or reducing pollutants in its storm water discharge(s).

D. The SWPPP shall provide a description of potential sources which may be expected to add significant quantities of pollutants to storm water discharges, or which may result in industrial process water discharges to surface waters. The SWPPP shall include, at a minimum, the following items:

1. A map extending approximately one-quarter mile beyond the property boundaries of the Discharger showing:

   a. General topography,

   b. Surface water bodies, and

   c. The discharge points where the storm water discharges to surface waters.

   The requirements of this paragraph may be included in the site map required in the following paragraph if appropriate.

2. A site map showing:

   a. Storm water conveyance, retention, and/or discharge structures;

   b. An outline of the storm water drainage areas for each storm water discharge point and designation of the storm water discharge point where monitoring will be performed;

   c. Paved areas, parking areas, and buildings;

d. Areas of pollutant contact, existing or potential;

e. Location of existing storm water structural control measures (i.e., berms, coverings, etc.);

f. Maintenance and repair areas; and

g. Enclosed hazardous materials storage areas.

3. A narrative description of the following:

   a. Significant materials that have been treated, stored, disposed, spilled, or leaked in significant quantities in storm water discharges within the last three years;

   b. Materials, equipment, and management practices employed to minimize contact of significant materials with storm water discharges;

   c. Material loading, unloading, and access areas;

   d. Existing structural and non-structural control measures (if any) to reduce pollutants in storm water discharges;

   e. Methods of on-site storage and disposal of significant materials; and

   f. Outdoor storage, manufacturing, and processing activities including activities that generate significant quantities of dust or particulates.

4. A list of pollutants that are likely to be present in storm water discharges in significant quantities and an estimate of the annual quantities of these pollutants in the storm water discharges.

5. An estimate of the size of the facility's maintenance and repair areas (in square feet), and the percent of impervious surface. The volume of storm water discharge can be estimated by multiplying the inches of rainfall (converted to feet by dividing by 12) by the square feet of surface area of the maintenance and repair areas, then multiplying the product by the impervious factor. The volume calculated, now in cubic feet, can be converted to gallons by multiplying by 7.5 (there are 7.5 gallons per cubic foot). For example,

   (1 inch) / (12 inches per foot) = 0.083 feet
   (0.083 feet) x (500 square feet) = 41.7 cubic feet

   If the area under consideration is approximately 90% covered by asphalt, then the impervious factor is 90% or 0.90. Therefore,

   (41.7 cubic feet) x (0.90) = 37.5 cubic feet, and
   (37.5 cubic feet) x (7.5 gallons per cubic foot) = 281 gallons

6. A list of significant spills or leaks of toxic or hazardous pollutants that have occurred within the last three years. This shall include:

   a. Toxic chemicals (listed in 40 CFR Part 372) that have been discharged to storm water as reported on USEPA Form R; and

   b. Oil or hazardous substances in excess of reportable quantities (see 40 CFR Part 110,117, or 302).

7. A summary of existing sampling data (if any) describing pollutants in storm water discharges.

E. The SWPPP shall describe the Discharger's storm water pollution prevention and control management measures as follows:

1. Storm Water Pollution Prevention Personnel. Identify the specific individuals (and job titles) that are responsible for developing, implementing, and revising the SWPPP.

2. Preventive Maintenance. Preventive maintenance involves inspection and maintenance of storm water conveyance system devices (clarifiers, oil water separators, catch basins, containment tanks, pumps/sumps, etc.), and inspection and testing of plant equipment and systems that could fail and result in discharges of pollutants in resulting storm water discharges.

3. Good Housekeeping. Good housekeeping requires the maintenance of clean and orderly facility areas that discharge storm water. Material handling areas shall be inspected and cleaned to reduce the potential for pollutants to enter surface waters.

4. Spill Prevention and Response. Identification of areas where significant materials may spill into or otherwise enter storm water discharge points. Specific material handling procedures, storage requirements, and cleanup equipment and procedures shall be identified, as appropriate. Internal reporting procedures for spills of significant materials shall be established.

5. Storm Water Pollution Prevention Practices. Storm water pollution prevention practices, other than those which control the source of pollutants, include measures such as installing oil and grit separators, diverting storm water into retention basins, etc. Based on assessment of the potential of various sources to contribute pollutants to storm water discharges in significant quantities, additional storm water pollution prevention practices to remove pollutants from storm water discharges may need to be implemented.

6. Employee Training. Employee training programs shall be held with all personnel responsible for implementing the SWPPP. Training shall address pollution prevention, spill response, good housekeeping, and material management practices. Periodic dates for training shall be identified.

7. Inspections. All inspections, visual observations, and sampling as required in the MRP (Attachment E), shall be done by trained personnel. A tracking or follow-up procedure shall be implemented to address any deficiencies found during the inspections, etc.

F. The SWPPP may incorporate, by reference, the appropriate elements of other program requirements (e.g. Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the clean Water Act (CWA).

G. The SWPPP is considered a report that shall be available to the public under Section 308 (b) of the CWA.

H. The SWPPP shall include the signature and title of the person responsible for preparation of the SWPPP and include the date of initial preparation and each amendment thereto.