

ITEM No. 11

May 19, 2006

ERRATA SHEET

CHANGES TO ORDER NO. R8-2006-0010, NPDES No. CA0105279

Waste Discharge Requirements
For
Inland Empire Utilities Agency
Regional Water Recycling Plants No. 1 and No. 4
San Bernardino County

(Language deleted is strike through)

(Language added is shaded)

1. Order No. R8-2006-0010, page 12 of the Order, modify sub-paragraph IV.A.1.d. as follows:
 - d. The Total Inorganic Nitrogen (TIN) concentration of the discharge with compliance measured at monitoring locations M-001~~AB~~ and M-002A shall not exceed a 12-month running average concentration of 8 mg/L. This limitation may be met on an agency-wide basis using flow-weighted averages of the discharges from all treatment plants operated by the Discharger.

2. Order No. R8-2006-0010, page 13 of the Order, modify sub-paragraph IV.A.1.e.1) as follows:
 - 1) With compliance measured at monitoring location M-001~~AB~~ and M-002A, the turbidity of the filter effluent shall not exceed any of the following:
 - a) Average of 2 Nephelometric Turbidity Unit (NTU) within any 24-hour period;
 - b) 5 NTU more than 5 percent of the time in any 24-hour period; and
 - c) 10 NTU at any time.

3. Order No. R8-2006-0010, page 16 of the Order, modify sub-paragraph IV.C.1.b. as follows:
 - b. TDS Limitations: The following TDS limitations apply to recycled water uses, except groundwater recharge, that would affect underlying local Groundwater Management Zone(s). **These limitations may be met on an agency-wide basis using flow-weighted averages of the discharges from all treatment plants operated by the Discharger.**

4. Order No. R8-2006-0010, page 17 of the Order, modify sub-paragraph IV.C.1.c. as follows:

c. Total Inorganic Nitrogen (TIN) Limitations: The following TIN limitations apply to recycled water uses, except groundwater recharge, that would affect underlying local Groundwater Management Zone(s). **These limitations may be met on an agency-wide basis using flow-weighted averages of the discharges from all treatment plants operated by the Discharger.**

5. Attachment E, Monitoring and Reporting Program, page E-6, add Table 3 to Section III. A. 2., including footnotes 2 and 3 as follows and renumber following footnotes references accordingly:

2. The Discharger shall monitor the influent to the facility at Monitoring Locations M-INFA and M-INFB as follows:

Table 3. Influent Monitoring Requirements

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Flow	mgd	Recorder/Totalizer	Continuous	See Section I.A.3, above, of this MRP
pH	pH Units	Recorder	"	"
Specific Conductance	µmhos/cm	"	"	"
TOC	mg/L	24-hr Composite	Weekly	"
Total Suspended Solids	"	"	"	"
Total Dissolved Solids	"	"	"	"
Ammonia-Nitrogen	"	Grab	"	"
Total Inorganic Nitrogen	"	"	"	"
Boron	mg/L	24-hr Composite	Quarterly	See Section I.A.3, above, of this MRP
Chloride	"	"	"	"
Fluoride	"	"	"	"
Sulfate	"	"	"	"
Total Hardness	mg/L	"	"	"
Arsenic	µg/L	"	Quarterly	See Section I.A.2, above, of this MRP
Cadmium	"	"	"	"
Total Chromium/Chromium, IV	"	"	"	See Section I.A.2, above, of this MRP
Copper	"	"	"	"
Lead	"	"	"	"
Mercury	"	"	"	"
Nickel	"	"	"	"
Phenol	"	"	"	"
Silver	"	"	"	"
Zinc	"	24-hr Composite	"	"
Cyanide (Free)	"	Grab	"	"

Table 3. Influent Monitoring Requirements

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Volatile organic portion of EPA Priority Pollutants ² (See Attachment G)	µg/L	Grab	Annually	See Section LA.2. above, of this MRP
Remaining EPA Priority Pollutants ³ (See Attachment G)	µg/L	24-hr Composite	Annually	"

6. Attachment E, Monitoring and Reporting Program, page E-7, delete Footnote 3 in Table 4a of Section IV. A. 1. as follows and renumber following footnote references accordingly:

Footnote 3: The number reported in the monthly report is based on a 24-hr composite sample.

7. Attachment F, Fact Sheet, page F-6, modify Footnote 1 as follows:

¹ These groundwater recharge projects are regulated under Order No. R8-2005-0033, with the exception of Ely Basin which is currently regulated under Order No. **01-01 97-43**. Ely Basin will be included as a part of IEUA's Phase II Chino Basin Groundwater Recharge Project. Until the Waste Discharge Requirements for the Phase II Chino Basin Groundwater Recharge Project are adopted by the Regional Board, IEUA will continue to comply with the **Ely Basin requirements** ~~monitoring and reporting requirements~~ stipulated in Order No. **01-01 97-43**.

8. Attachment F, Fact Sheet, page F-23, modify paragraph IV.G.3., as follows:

3. As shown in Chapter 4 of the Basin Plan as amended by the N/TDS Amendment (Resolution No. R8-2004-0001), two sets of groundwater management zones (**GMZs**) and respective TDS and nitrate-nitrogen objectives have been adopted for a portion of the Chino Basin. **"Maximum benefit" objectives are established for the Chino North GMZ, while "antidegradation" objectives are set for the Chino 1, 2 and 3 GMZs. Order No. R8-2006-0010 includes TDS and TIN limits for recycled water use that implement the Chino North and Chino 1, 2 and 3 TDS and TIN objectives.** Provided that maximum benefit commitments specified in Chapter 5 of the amended Basin Plan (and shown in Attachment L of this Order) are satisfied by the Discharger and the Chino Basin Watermaster, **the TDS and TIN discharges from the combined effluent quality from the Discharger's treatment plants will be limited to 550 mg/L and 8 mg/L, respectively. The basis for these limits is as follows. The modeling analyses used to develop the TDS objective for the Chino North "Maximum Benefit" Groundwater Management Zone assumed that**

² EPA priority pollutants are those remaining volatile organic pollutants listed in Attachment "G" which are not specifically listed in this monitoring program table.

³ Remaining EPA priority pollutants are those pollutants listed in Attachment "G" which are not volatile organics and pollutants not specifically listed in this monitoring program table.

recycled water used for irrigation was at 550 mg/L TDS. (The TDS objective for this GMZ (420 mg/L) is the TDS concentration of the volume-weighted average of State Project water, stormwater and recycled water (Pursuant to the December 5, 2002 Maximum Benefit Proposal by the Chino Basin Watermaster, page 5, Case 4 and modeling assumptions in its attached exhibits). The TIN limit when maximum benefit is demonstrated is based on the Chino North GMZ nitrate-nitrogen objective (5 mg/L), with the application of a 44% nitrogen loss coefficient. The 44% loss coefficient was derived from Chino Basin specific studies conducted by the discharger's consultant, Wildermuth Environmental Inc. The TIN objective and the 44% loss coefficient were used in the equation for groundwater management zones without assimilative capacity that is specified in the Basin Plan (Chapter 5, Implementation, Nitrogen Loss Coefficients), resulting in a TIN limit of 8.93 mg/L. However, the discharger has committed to achieve 8 mg/L TIN as part of the maximum benefit commitments. Accordingly, the TIN limit is set at 8 mg/L, Chino North "Maximum Benefit" Groundwater Management Zone (GMZ) and the TDS and TIN objectives specified for that zone in the Basin Plan apply for regulatory purposes. If the Regional Board finds that these maximum benefit commitments are not satisfied, then the Chino 1, 2 and 3 "antidegradation" management zones and their respective TDS and TIN objectives apply. Again, the TIN limits were calculated by employing the equation specified in the Basin Plan for management zones without assimilative capacity (see above). The TIN objectives of each of these GMZs and the 44% nitrogen loss coefficient were applied to calculate appropriate TIN limits. Since the Chino 1, 2 and 3 GMZs lack assimilative capacity for TDS, the TDS limits are the same as the management zone objectives.

Requirements pertaining to the implementation of the maximum benefit commitments are specified in Order No. R8-2005-0033, issued by the Regional Board to IEUA and the Chino Basin Watermaster for the Phase I-Groundwater Recharge Project. Order No. R8-2006-0010 includes TDS and TIN limits for recycled water use that are based on both the Chino North and Chino 1, 2 and 3 TDS and TIN objectives. Provided that maximum benefit is demonstrated, the limitations based on the Chino North GMZ objectives apply. If the Regional Board finds that the maximum benefit commitment are not being satisfied, then the limitations based on the Chino 1, 2 and 3 objectives apply. Further, this Order No. R8-2006-0010 requires that if maximum benefit is not demonstrated, the Discharger must implement an approved mitigation program for recycled water use in excess of the limitations applicable to the Chino 1, 2 and 3 GMZs. [Note: Effluent limitations for surface water discharges by IEUA are based on TDS and TIN wasteload allocations, which do not vary based on whether or not maximum benefit is demonstrated.] Based on studies conducted by the Discharger's consultant WE Inc., a nitrogen loss coefficient of 44% is used in determining TIN effluent limitations.

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
May 19, 2006

ITEM: 11

SUBJECT: Order No. R8-2006-0044 Amending the Economic Savings Portion of Administrative Civil Liability Imposed on Robertson's Ready Mix in Order No. R8-2005-0091

DISCUSSION

On August 26, 2005, the California Regional Water Quality Control Board, Santa Ana (Regional Board) adopted Order No. R8-2005-0091 (Order), imposing an administrative civil liability on Robertson's Ready Mix (Robertson's) for violations of the California Water Code and the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 97-03 DWQ, NPDES No, CAS000001 (Permit). These violations included the lack of implementation of erosion and sediment control Best Management Practices (BMPs) at Robertson's Star Plant in the City of Anaheim, resulting in the discharge of sediment-laden storm water and unauthorized non-storm water to Gypsum Creek and the Santa Ana River.

The Order required that Robertson's Ready Mix (Robertson's) pay an administrative civil liability assessment in the total amount of \$493,856. The \$493,856 assessment consisted of (i) a penalty assessment of \$112,000 (Penalty) with an option to participate in an approved Supplemental Environmental Project (SEP), (ii) an assessment of \$6,860 in Regional Board staff time (Staff Time) and (iii) an economic savings assessment in the amount of \$374,996 (Economic Savings). In response to the Regional Board's August 26, 2005 action, Robertson's filed a petition with the State Water Resources Control Board (State Board) challenging the Regional Board's order.

Subsequent to the Regional Board's August 26, 2005 action and the filing of Robertson's petition, Robertson's provided additional information that was not previously available to Regional Board staff regarding Economic Savings. After several meetings and negotiation, Regional Board staff and Robertson's representatives agreed that the best estimate for the Economic Savings that resulted from the non-implementation of adequate BMPs during the closure activities of the Star Plant was \$230,108. If this estimate is used in place of the original estimate, it would reduce the amount of the total assessment to \$348,968.

On March 14, 2006, the Regional Board's Executive Officer and Robertson's entered into a Stipulation and Settlement Agreement (attached), jointly

requesting that the State Board remand this matter to the Regional Board to amend the Economic Savings amount in the Order.

On May 15, 2006, the State Board is scheduled to take up this issue during its regular meeting. Because the anticipated State Board order is the subject of a settlement agreement between the Regional Board Executive Officer and Robertson's, it is on the consent calendar for the State Board meeting. It is anticipated that the State Board will remand this Order to the Regional Board to amend the Economic Savings amount as per the Stipulation and Settlement Agreement.

As required under Order No. R8-2005-0091, Robertson's agreed to donate \$112,000 towards two supplemental environmental projects. These projects are the following:

1. \$100,000 for the Orange County Water District Recharge Basin Restoration Project; and
2. \$12,000 for the Marine Education Project, Upper Newport Bay Restoration Project.

Robertson's agreement to participate in these SEP projects is also reflected in Order No. R8-2006-0044.

RECOMMENDATION

Adopt Order No. R8-2006-0044 amending the Economic Savings portion of Order No. R8-2005-0091 as ordered by the State Board.

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:)	Order No. R8-2006-0044
)	for
Robertson's Ready Mix)	Administrative Civil Liability
200 South Main Street, Suite 200)	
Corona, CA 92882)	
Attention: Mr. Craig Phillips)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), held a hearing on August 26, 2005 and May 19, 2006 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2005-0073, dated May 23, 2005, and on the recommendation for the imposition of administrative civil liability pursuant to Water Code Section 13385. The Regional Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities (Permit). Robertson's Ready Mix (Robertson's) is authorized to discharge storm water from its Star Rock Plant, located at 24000 Santa Ana Canyon Road in the City of Anaheim (facility), under the Permit, WDIID 830\$011160. The Permit requires Robertson's to develop and implement a Storm Water Pollution Prevention Plan (SWPPP) and a monitoring program/reporting plan. The SWPPP must identify best management practices (BMPs) to reduce or prevent pollutants in storm water and authorized non-storm water discharges. For conventional pollutants, these BMPs must meet the Best Conventional Pollutant Control Technology (BCT) and for non-conventional and toxic pollutants, the BMPs must meet the Best Available Technology (BAT) standard.
2. On February 11, 15, 18 and 23, Regional Board staff conducted inspections of the facility and observed a lack of erosion controls, improperly sized detention basins and a lack of maintenance of the BMPs. During the storm events of February 11th-13th and 19th-24th a large amount of sediment and unauthorized non-storm water were discharged to Gypsum Creek and the Santa Ana River.
3. The allegations in Complaint No. R8-2005-0073 are incorporated herein.
4. Water Code Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day of violation. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in

excess of 1,000 gallons. Based on the violations cited above, Robertson's is civilly liable for a maximum amount of \$220,000,000.

5. On May 23, 2005, after consideration of the factors specified in Section 13385(e) of the Water Code, the Executive Officer issued Administrative Civil Liability Complaint No. R8-2005-0073 to Robertson's, proposing that the Regional Board impose civil liability in the amount of \$691,846 on Robertson's, for the violations cited above.
6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.
7. On August 26, 2005, the Regional Board adopted Order No. R8-2005-0091 (Order) assessing a penalty of \$493,856. This assessment included an assessment of \$374,996 for economic savings. Robertson's filed a timely petition with the State Water Resources Control Board (State Board) for a review of the Regional Board's order. Subsequently, Robertson's provided additional information to Regional Board staff, which indicated that the actual economic savings from not implementing the proper control measures at the site were \$230,108. Based on this new information, Robertson's and the Regional Board Executive Officer entered into a Stipulation and a Settlement Agreement that requested the State Board to remand the Order to the Regional Board to amend the economic savings portion of the Order. On May 15, 2006, the State Board remanded the Order to the Regional Board to amend the economic savings portion and other related parts of the order.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, administrative civil liability shall be imposed on Robertson's in the amount of \$348,968 for the violations cited in Complaint No. R8-2005-0073. This assessment consists of: (1) A penalty of \$112,000; (2) An assessment of \$6,860 in Regional Board staff time; and (3) An economic savings assessment of \$230,108. The total assessment must be paid by June 19, 2006 as set forth below. (Items 2 and 3, below represent supplemental environmental projects in which Robertson's agreed to participate.)

1. A check for \$230,108 payable to the State Water Resources Control Board. This amount will be deposited into the Cleanup and Abatement Account.
2. A second check for \$100,000 payable to the Orange County Water District. This amount will be used for the restoration of the groundwater recharge basins in Orange County.
3. A third check for \$12,000 payable to the Marine Education Project. This amount will be used for Upper Newport Bay restoration activities.

All three checks should be mailed to the Regional Board office.

4. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.
5. Order No. R8-2005-0091, adopted by the Regional Board on August 26, 2005, is hereby rescinded.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on May 19, 2006.

Gerard J. Thibeault
Executive Officer