

Dear Ms. Creedon:

As noted in the Draft Order, PCC is a useful material that enjoys a healthy (albeit variable) demand from farmers in the Sacramento Valley. In order to gear the CDO toward reuse of the material, and to avoid the expense of alternative (more costly) removal methods, Clark Pacific and Clark Structural, LLC, propose the following changes to the Draft CDO that the enforcement team distributed on August 8:

### **Findings**

Split finding no. 7 so that no. 8 begins "PCC has a number of beneficial uses . . ."

Add new findings:

"After taking over the facility, Clark Pacific began removing the main PCC hill located along the eastern property boundary. Clark Pacific transplanted elderberry bushes from the eastern side of this hill in January and February 2010 and gradually relocated PCC from the eastern portion of the site over the next two years."

"In August 2012 staff observed that Area A was cleared of PCC. The PCC from this area had been moved to the west forming a large, low stockpile near the area where the PCC is loaded into trucks to be hauled off site. Staff observed sprinklers over this stockpile which had been used to water ground cover recently planted in the PCC, and observed a crust over the surface of the stockpile."

"In light of the beneficial uses of PCC, reuse of the material in agriculture is encouraged. The Discharger reports that the market for PCC has fluctuated with changes in consumer demand and the availability of PCC from competing sources. Consumer demand also fluctuates throughout the year and cannot be predicted. However, farmers typically demand more PCC near the end of the calendar year, with the largest volume consumed in the fall months, particularly in years without significant fall rain."

Modify finding no. 19:

"Fluctuations in the market for PCC have prevented the Discharger from meeting the schedule in WDRs R5-2003-0047, which is a violation of the WDRs. This Order provides a revised schedule for the Discharger to complete the off-site removal of all PCC by 30 September 2015. In order to do so, the Order requires that at least 60,000 tons of PCC be removed off-site each calendar year, with allowances for fluctuations in consumer demand."

No. 28 under Regulatory Considerations: Change "On \_\_ August 2012," to "On \_\_ October 2012,"

### **Order**

Add (before no. 2) top of page 6:

"In the event that less than 60,000 tons of PCC are removed off-site by the end of a calendar year, the PCC removed in January, February and March of the following year may be counted toward the prior calendar year requirement. Conversely, if more than 60,000 tons are removed in a calendar year, not counting any PCC removal that was applied to the prior year requirement, the amount of PCC removed

in excess of 60,000 tons may be applied to the amount required to be removed the following calendar year. In no event shall fewer than 50,000 tons be removed in any single calendar year.”

Revise Item no. 4 to delete: “(d) a projection of how much PCC will be removed during the calendar year and (e) whether or not this projection will result in compliance with the timelines of this Order. If not, then the report shall identify other removal options, and show that the Discharger has implemented these options to the extent needed to comply with the timelines.”

Revise Item nos. 5-7:

“By 31 March 2013, the Discharger shall submit a report documenting that it has completed the offsite removal of at least 60,000 tons of PCC during the 2012 calendar year, with adjustments (if any) as provided in Item 2 of this Order. The report shall include the volume and tons of material removed, hauling records, and a map showing the areas from which PCC has been removed from the site.”

“By 31 March 2014, the Discharger shall submit a report documenting that it has completed the offsite removal of at least 60,000 tons of PCC during the 2013 calendar year, with adjustments (if any) as provided in Item 2 of this Order. The report shall include the volume and tons of material removed, hauling records, and a map showing the areas from which PCC has been removed from the site.”

“By 31 March 2015, the Discharger shall submit a report documenting that it has completed the offsite removal of at least 60,000 tons of PCC during the 2014 calendar year, with adjustments (if any) as provided in Item 2 of this Order. The report shall include the volume and tons of material removed, hauling records, and a map showing the areas from which PCC has been removed from the site.”

New Item:

"By 30 September 2015, the Discharger shall submit a report documenting that it has completed the off-site removal of all PCC from the entire facility. The report shall include the volume and tons removed, hauling records, and a map showing the areas from which PCC had been removed from the site."

Item nos. 8-9, change “31 January” to “30 April”

Item no. 10, change "1 January" to "1 April"

Last Item, p. 7, change "31 July 2015" to "30 December 2015"

Global: Clark Pacific is a California general partnership; it is not Clark Pacific "Corporation" – please change all such references.

Thank you.

*Greg Forest*

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**Subject:** Revised Clark Pacific Cease and Desist Order

Advisory Team, Designated Parties and Interested Parties:

At the request of Ms. Cederblade, consideration of the Clark Pacific CDO has been delayed to the 3/4/5 October Water Board meeting. This delay has required the Prosecution Team to revise the proposed CDO. As shown on the attached Order, documents that would have been due in August, September, and early October now must be submitted after in late October or early November.

In addition, the Prosecution Team has simplified the Order. Instead of requiring that Areas A, B, and C be cleaned up individually, the proposed Order now simply requires that a minimum of 60,000 tons of PCC be removed from the facility each calendar year. The final date by which all PCC must be removed, 31 March 2015, has not changed. In addition, staff has added additional reporting requirements to the monthly monitoring reports.

Please note that proposed additions are shown as underline text, while deletions are in strikethrough text.

The Prosecution Team recommends that the Advisory Team allow a short comment period for the proposed revisions, but exclude the submittal of any new evidence.

Please feel free to contact me if you have any questions.

Wendy Wyels

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