STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
320 W. 4th Street, Suite 200, Los Angeles

FACT SHEET
WASTE DISCHARGE REQUIREMENTS
for
1801 AVENUE OF THE STARS LIMITED PARTNERSHIP
GATEWAY WEST BUILDING

NPDES Permit No.: CA0053287
Public Notice No.: 05-006

FACILITY ADDRESS	FACILITY MAILING ADDRESS
Gateway West Building	1801 Avenue of the Stars L. P.
1801 Avenue of the Stars	1801 Avenue of the Stars, #330
Los Angeles, CA 90067	Los Angeles, CA 90035
	Contact: Bruce Hofert
	Telephone: (310) 277-2737

I. Public Participation

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is considering the issuance of Waste Discharge Requirements (WDRs) that will serve as a National Pollutant Discharge Elimination System (NPDES) permit for the above-referenced facility. As an initial step in the WDR process, the Regional Board staff has developed tentative WDRs. The Regional Board encourages public participation in the WDR adoption process.

A. Written Comments

The staff determinations are tentative. Interested persons are invited to submit written comments concerning these tentative WDRs. Comments should be submitted either in person or by mail to:

Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

To be fully responded to by staff and considered by the Regional Board, written comments should be received at the Regional Board offices by 5:00 p.m. on February 11, 2005. The Regional Board chair may exclude from the record written materials received after this date. (See Cal. Code Regs., tit. 23, § 648.4.)

B. Public Hearing

The Regional 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:	March 3, 2005
Time:	9:00 a.m.
Location:	The City of Simi Valley Council Chambers, 2929 Tapo Canyon Road, Simi Valley, California.

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

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

C. Waste Discharge Requirements Appeals

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

State Water Resources Control Board, Office of Chief Counsel
ATTN: Elizabeth Miller Jennings, Senior Staff Counsel
1001 I Street, 22nd Floor
Sacramento, CA 95814

D. Information and Copying

The Report of Waste Discharge (ROWD), related documents, tentative effluent limitations and special conditions, comments received, and other information are on file and may be inspected at 320 West 4th Street, Suite 200, Los Angeles, California 90013, at any time between 8:30 a.m. and 4:45 p.m., Monday through Friday. Copying of documents may be arranged through the Los Angeles Regional Board by calling (213) 576-6600.

E. Register of Interested Persons

Any person interested in being placed on the mailing list for information regarding the WDRs and NPDES permit should contact the Regional Board, reference this facility,

and provide a name, address, and phone number.

II. Introduction

1801 Avenue of the Stars Limited Partnership (hereinafter AOTSLP or Discharger) discharges untreated groundwater seepage and reflection pool drainage from Gateway West Building under WDRs contained in Order No. 97-094 adopted by the Regional Board on July 21, 1997. Order No. 97-094 expired on June 10, 2002.

AOTSLP filed a Report of Waste Discharge and applied for renewal of its WDRs and a National Pollutant Discharge Elimination System (NPDES) permit on October 27, 2004, for discharge of wastes to surface waters. The tentative Order is the reissuance of the WDRs and NPDES permit for discharges from AOTSLP.

Effective August 2, 2004, AOTSLP became the new owner (former owner was Pine Realty, Incorporated) of Gateway West Building. By a fax letter dated September 30, 2004, AOTSLP informed the Regional Board of transfer of ownership.

III. Description of Facility and Waste Discharge

AOTSLP owns and operates the Gateway West Building located at 1801 Avenue of the Stars, Los Angeles, California, and discharges up to 8,000 gallons per day (gpd) of groundwater seepage commingled with storm water runoff and 24,000 gpd of reflection pool drainage.

Gateway West Building is a 14-story commercial office building that was constructed in 1991. The building provides commercial office space to tenants in suites ranging in size from 750 to 20,000 square feet. The approximate footprint of the building is 225 feet by 100 feet.

Groundwater seeps through the foundation at several locations within the air return duct in the building. Storm water from the building roof is directed down a ramp to the lower level, where it is directed to the sump and commingles with groundwater seepage. Groundwater seepage and reflection pool drainage water is directed to a sump pit located in the fan room. A large fan, adjacent to the sump pit area, blows the exhaust outside of the facility.

Reflection pool overflow and drainage water flows through a 4-inch PVC pipe directed to the sump pit located in the fan room. During the inspection conducted on January 8, 2004, the facility representative stated that the reflection pool is drained approximately once per year. The facility representative did not know the volume of the pool but estimated it to be approximately 9,000 gallons, based on its dimensions. It should be noted that in the permit renewal application, a flow chart indicates that the volume of the discharge is 24,000 gallons.

The sump pit is equipped with an automated level switch that activates one of the two pumps when the sump is approximately half full. Water from the sump pit (i.e., untreated groundwater seepage, storm water, and reflection pool drainage water) is pumped to a storm drain in the Avenue of the Stars, Discharge Serial No. 001 (Latitude 34°03'34" North, Longitude 118°25'00" West) which discharges into Ballona Creek at a point near Slauson Avenue (several miles from the facility), above the Estuary. Ballona Creek is part of the Ballona Creek Watershed.

Average monthly flow data for groundwater seepage and storm water from the Discharger for the period from October 1997 through March 2003 range from 420 gpd to 7,545 gpd. The application states that the maximum flow is 3,981 gpd and the average daily flow is 3,500 gpd. In a telephone conversation on June 14, 2004, a site representative clarified that the maximum listed was not the absolute maximum discharged. The representative agreed that the highest value recorded during the previous Order term, 7,554 gpd would be a more realistic maximum value. For this reason, the proposed Order will change the maximum allowed flow rate to 32,000 gpd (approximately 8,000 gpd for groundwater seepage and storm water and 24,000 gpd for reflection pool drainage).

The Regional Board and the U.S. EPA have classified Pine Realty as a minor discharge.

Effluent data for groundwater seepage discharge presented in the permit renewal application is summarized in the following Table:

Constituent (units)	Reported Maximum Effluent Concentration		Reported Average Effluent Concentration	
	Concentration	Mass	Concentration	Mass
BOD (mg/L)	4.3	0.143	2.6	0.076
Total Suspended Solids (mg/L)	5	0.166	2.8	0.082
Ammonia (mg/L)	0.061	0.002	0.061	0.002
Discharge Flow (gallons per day)	3,981	--	3,500	--
pH (standard units)	9.1	--	8.7	--
Temperature (winter) (°C)	13.3	--	14.3	--
Temperature (summer) (°C)	17.7	--	17.0	--

In the permit renewal application, the Discharger indicated that total residual chlorine and oil and grease were "not detected." Further, all other toxic pollutants were reported as "believed absent" or "not detected".

Effluent limitations contained in the existing Order for Pine Realty Discharge Serial No. 001 and representative monitoring data from the previous Order term are presented in the

following Table. These constituents were monitored either monthly, quarterly, or annually, and monitoring reports were submitted quarterly.

Constituents	Units	Average Monthly Effluent Limitations		Maximum Daily Effluent Limitations		Monitoring Data (November 1997 – February 2003)
		Concentration	Mass[2] (lbs/day)	Concentration	Mass[2] (lbs/day)	
Flow	gpd	50,000	--	50,000	--	420 – 7,545[1]
Temperature	°F	100	--	100	--	56.2 – 69
pH	s.u.	6 – 9	--	6 – 9	--	7.3 – 8.4
Total Suspended Solids	mg/L	50	21	150	63	<1 – 5
Turbidity	NTU	50	--	150	--	0.24 – 3.4
BOD_5@20°C	mg/L	20	8	30	12	<1 – 37
Oil and Grease	mg/L	10	4	15	6	<5 – 27
Settleable Solids	ml/L	0.1	--	0.3	--	<0.1 – 4
Residual Chlorine	mg/L	--	--	0.5	--	<0.2 – 0.33
Detergents as Methylene Blue Active Substances	mg/L	--		0.5		<0.17 – 0.2
Cadmium	ì g/L	--	--	10	--	<0.25 – <10
Chromium	ì g/L	--	--	50	--	<10 – <50
Copper	ì g/L	--	--	1,000	--	<0.7 – 31
Lead	ì g/L	--	--	50	--	0.029 – 0.071
Silver	ì g/L	--	--	50	--	<10 – <50
Zinc	ì g/L	--	--	5,000	--	0.044 – 130
Methyl Tertiary Butyl Ether (MTBE)	ì g/L	--	--	35	--	8.3 – 9.2

1 Reported as Average monthly flow.

The data shown in the Table above indicate that the Discharger has exceeded effluent limitations in the previous permit for oil and grease, BOD_5, and settleable solids. The Discharger exceeded the maximum daily effluent limitation for oil and grease of 15 mg/L during the 4th quarter of 2001 (27 mg/L). The Discharger exceeded the maximum daily effluent limitation for BOD_5 of 30 mg/L on July 3, 2001 (37 mg/L). The Discharger exceeded the maximum daily effluent limitation for settleable solids of 0.3 ml/L on May 9, 2002 (4 ml/L). Identified violations are being evaluated for appropriate enforcement actions.

IV. Applicable Plans, Policies, Laws, and Regulations

The requirements contained in the proposed Order are based on the requirements and authorities contained in the following:

A. The federal Clean Water Act (CWA). The federal Clean Water Act requires that any point source discharges of pollutants to a water of the United States must be done in conformance with an NPDES permit. NPDES permits establish effluent limitations that incorporate various requirements of the CWA designed to protect water quality.

B. Title 40, Code of Regulations (40 CFR) – Protection of Environment, Chapter I, Environmental Protection Agency, Subchapter D, Water Programs, Parts 122-125 and Subchapter N, Effluent Guidelines. These CWA regulations provide effluent limitations for certain dischargers and establish procedures for NPDES permitting, including how to establish effluent limitations for certain pollutants discharged.

C. On June 13, 1994, the Regional Board adopted a revised *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan). The Basin Plan contains water quality objectives and beneficial uses for inland surface waters and for the Pacific Ocean. The immediate receiving water body for the permitted discharge covered by this Order is Ballona Creek, above the estuary. The Basin Plan contains beneficial uses and water quality objectives for Ballona Creek. The beneficial uses listed in the Basin Plan for Ballona Creek are:

Ballona Creek – Hydro Unit No. 405.15

Existing uses: Non-contact water recreation and wildlife habitat.

Potential uses: Municipal and domestic water supply, warm freshwater habitat, and water contact recreation (prohibited by LA County DPW).

D. Ammonia Basin Plan Amendment. The 1994 Basin Plan provided water quality objectives for ammonia to protect aquatic life, in Tables 3-1 through Tables 3-4. However, those ammonia objectives were revised on April 25, 2002, by the Regional Board with the adoption of Resolution No. 2002-011, *Amendment to the Water Quality Control Plan for the Los Angeles Region to Update the Ammonia Objectives for Inland Surface Waters (Including Enclosed Bays, Estuaries and Wetlands) with Beneficial Use Designations for Protection of Aquatic Lif*e. The ammonia Basin Plan amendment was approved by the State Board, the Office of Administrative Law, and U.S. EPA on April 30, 2003, June 5, 2003, and June 19, 2003, respectively. Although the revised ammonia water quality objectives may be less stringent than those contained in the 1994 Basin Plan, they are still protective of aquatic life and are consistent with U.S. EPA's 1999 ammonia criteria update.

E. The State Water Resources Control Board (State Board) adopted a *Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Water and Enclosed Bays and Estuaries of California* (Thermal Plan) on May 18, 1972, and amended this plan on September 18, 1975. This plan contains temperature objectives for inland surface waters.

F. On May 18, 2000, the U.S. Environmental Protection Agency (U.S. EPA) promulgated numeric criteria for priority pollutants for the State of California [known as the *California Toxics Rule* (CTR) and codified as 40 CFR §131.38]. In the CTR, U.S. EPA promulgated criteria that protect the general population at an incremental cancer risk level of one in a million (10^{-6}), for all priority toxic pollutants regulated as carcinogens. The CTR also allows for a schedule of compliance not to exceed 5 years from the date of permit renewal for an existing discharger if the Discharger demonstrates that it is infeasible to promptly comply with effluent limitations derived from the CTR criteria.

G. On March 2, 2000, State 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 was effective on April 28, 2000, with respect to the priority pollutant criteria promulgated for California by the U.S. EPA through National Toxics Rule (NTR) and to the priority pollutant objectives established by the Regional Boards in their basin plans, with the exception of the provision on alternate test procedures for individual discharges that have been approved by the U.S. EPA Regional Administrator. The alternate test procedures provision was effective on May 22, 2000. The SIP was effective on May 18, 2000, with respect to the priority pollutant criteria promulgated by the U.S. EPA through the CTR. The SIP requires the dischargers' submittal of data sufficient to conduct the determination of priority pollutants requiring water quality-based effluent limitations (WQBELs) and to calculate the effluent limitations. The CTR criteria for freshwater or human health for consumption of organisms, whichever is more stringent, are used to develop the effluent limitations in this Order to protect the beneficial uses of Ballona Creek, above the Estuary.

H. 40 CFR §122.44(d)(1)(vi)(A) requires the establishment of numeric effluent limitations to attain and maintain applicable narrative water quality criteria to protect the designated beneficial uses. Where numeric water quality objectives have not been established in the Basin Plan, 40 CFR section 122.44(d) specifies that water quality-based effluent limitations (WQBELs) may be set based on U.S. EPA criteria and supplemented, where necessary, by other relevant information to attain and maintain narrative water quality criteria to fully protect designated beneficial uses.

I. State and Federal antibacksliding and antidegradation policies require that Regional Board actions to protect the water quality of a water body and to ensure that the waterbody will not be further degraded. The antibacksliding provisions are specified

in sections 402(o) and 303(d)(4) of the CWA and in the Title 40 of the Code of Federal Regulations (40 CFR), section 122.44(l). Those provisions require a reissued permit to be as stringent as the previous permit with some exceptions where effluent limitations may be relaxed.

J. Effluent limitations are established in accordance with sections 301, 304, 306, and 307 of the federal CWA, and amendments thereto. These requirements, as they are met, will maintain and protect the beneficial uses of Ballona Creek.

K. Existing waste discharge requirements contained in Board Order No. 97-094, were adopted by the Regional Board on July 21, 1997. In some cases, permit conditions (effluent limitations and other special conditions) established in the existing waste discharge requirements have been carried over to this Order.

V. Regulatory Basis for Effluent Limitations

The CWA requires point source discharges to control the amount of conventional, nonconventional, and toxic pollutants that are discharged into the waters of the United States. The control of the discharge of pollutants is established through NPDES permits that contain effluent limitations. The CWA establishes two principal bases for effluent limitations. First, dischargers are required to meet technology-based effluent limitations that reflect the best controls available considering costs and economic impact. Second, they are required to meet water quality-based effluent limitations (WQBELs) that are developed to protect applicable designated uses of the receiving water.

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

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

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

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

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

The CWA requires EPA to develop effluent limitations, guidelines and standards (ELGs) representing application of BPT, BCT, BAT, and NSPS. Section 402(a)(1) of the CWA and 40 CFR 125.3 of the NPDES regulations authorize the use of best professional judgment (BPJ) to derive technology-based effluent limitations on a case-by-case basis where ELGs are not available for certain industrial categories and/or pollutants of concern.

If a reasonable potential exists for pollutants in a discharge to exceed water quality standards, WQBELs are also required under 40 CFR 122.44(d)(1)(i). WQBELs are established after determining that technology-based limitations are not stringent enough to ensure that state water quality standards are met for the receiving water. WQBELs are based on the designated use of the receiving water, water quality criteria necessary to support the designated uses, and the state's antidegradation policy. For discharges from this facility to inland surface waters, enclosed bays, and estuaries, the SIP establishes procedures for determining reasonable potential and establishing WQBELs for priority pollutant criteria promulgated by U.S. EPA through the CTR and NTR, as well as the Basin Plan.

There are several other specific factors affecting the development of limitations and requirements in the proposed Order. These are discussed as follows:

1. Pollutants of Concern

   The CWA requires that any pollutant that may be discharged by a point source in quantities of concern must be regulated through an NPDES permit. Further, the NPDES regulations require regulation of any pollutant that (1) causes; (2) has the reasonable potential to cause; or (3) contributes to the exceedance of a receiving water quality criteria or objective.

   Pine Realty operates a commercial office building, providing office space to tenants. The discharge from the property is comprised of reflection pool drainage water, groundwater seepage, and storm water. Typical pollutants expected to be present in the discharge include solids (i.e., suspended solids, settleable solids, and materials contributing to turbidity), oil and grease, residual chlorine, and substances contributing to biochemical oxygen demand.

   Effluent limitations for Discharge Serial No. 001 in the current Order were established for total suspended solids, turbidity, BOD_5, oil and grease, settleable solids, residual chlorine, detergents as methylene blue active substances (MBAS), cadmium, chromium, copper, lead, silver, zinc, and methyl tertiary butyl ether. Total suspended solids, turbidity, BOD_5, oil and grease, and settleable solids are constituents

commonly found in storm water and may be present in the reflection pool drainage water; therefore, these constituents remain pollutants of concern in this Order. In addition, detergents (MBAS) are sometimes used to clean pools; therefore, MBAS is a pollutant of concern. MTBE could be present in the groundwater, and therefore could be present in the groundwater seepage discharge. In addition, residual chlorine, cadmium, chromium, copper, lead, silver, and zinc were identified as pollutants of concern in the Santa Monica Bay, and may be present in trace levels in groundwater, and were regulated in the previous Order. Therefore, they will remain pollutants of concern in this Order. Cadmium, chromium, and silver were not detected, and detected levels of lead and zinc were not determined to cause reasonable potential; therefore they are not expected to be found at toxic levels in the effluent. Monitoring will be required for cadmium, chromium, lead, silver, and zinc to evaluate reasonable potential in the future. Copper was detected at levels indicating that it has the reasonable potential to exceed water quality standards; therefore, effluent limitations have been established for copper.

2. Technology-Based Effluent Limitations

Due to the lack of national ELGs for discharges of storm water, groundwater seepage, and reflecting pool drainage water from office buildings and the absence of data to apply BPJ, and pursuant to 40 CFR 122.44(k), the Regional Board will require the Discharger to develop and implement a Best Management Practices Plan (BMPP). The combination of the BMPP and existing Order limitations based on past performance and reflecting BPJ will serve as the equivalent of technology-based effluent limitations, in the absence of established ELGs, in order to carry out the purposes and intent of the CWA.

Although this facility discharges storm water, a Storm Water Pollution Prevention Plan (SWPPP) is not appropriate for this facility because the storm water discharge is not associated with industrial activity, as defined in 40 CFR section 122.26(b)(14).

3. Water Quality-Based Effluent Limitations

As specified in 40 CFR section 122.44(d)(1)(i), permits are required to include WQBELs for toxic pollutants (including toxicity) that are or may be discharged at levels which cause, have reasonable potential to cause, or contribute to an excursion above any state water quality standard. The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses for the receiving water as specified in the Basin Plan, and achieve applicable water quality objectives and criteria (that are contained in other state plans and policies, or U.S. EPA water quality criteria contained in the CTR and NTR). The procedures for determining reasonable potential, and if necessary for calculating WQBELs, are contained in the SIP.

The CTR contains both saltwater and freshwater criteria. According to 40 CFR section 131.38(c)(3), freshwater criteria apply at salinities of 1 part per thousand (ppt) and below at locations where this occurs 95 percent or more of the time; saltwater criteria apply at salinities of 10 ppt and above at locations where this occurs 95 percent or more of the time; and at salinities between 1 and 10 ppt the more stringent of the two apply. Salinity data reported during the previous Order term range from 0.67 to 0.73 ppm. The CTR criteria for protection of freshwater aquatic life or human health for consumption of organisms, whichever are more stringent, are used to develop the effluent limitations in this Order to protect the beneficial uses of Ballona Creek, above the Estuary.

Some water quality criteria are hardness dependent. The Discharger provided hardness data for the effluent as part of their required CTR monitoring. The immediate receiving water is a storm drain, and is typically dry; the effluent makes up most of the flow in the channel. Further, the storm drain enters the receiving water several miles from the facility; therefore, the sampling of receiving water was not feasible. Thus, hardness measurements were taken of the effluent. The hardness values ranged from 350 to 440 mg/L as $CaCO_3$ The lowest value, representing the most conservative approach for establishing criteria, is used for evaluation of reasonable potential.

a. Reasonable Potential Analysis (RPA)

The Regional Board will conduct a reasonable potential analysis for each priority pollutant with an applicable criterion or objective to determine if a WQBEL is required in the Order. The Regional Board would analyze effluent data to determine if a pollutant in a discharge has a reasonable potential to cause or contribute to an excursion above a state water quality standard. For all parameters that have a reasonable potential, numeric WQBELs are required. The RPA considers water quality objectives outlined in the CTR, NTR, as well as the Basin Plan. To conduct the RPA, the Regional Board must identify the maximum observed effluent concentration (MEC) for each constituent, based on data provided by the Discharger.

Section 1.3 of the SIP provides the procedures for determining reasonable potential to exceed applicable water quality criteria and objectives. The SIP specifies three triggers to complete an RPA and determine that a WQBEL is needed:

i. Trigger 1 – If the MEC is greater than or equal to the CTR water quality criteria or applicable objective (C), a limitation is needed.

ii. Trigger 2 – If MEC<C and backgroundwater quality (B) > C, a limitation is needed.

iii. Trigger 3 – If other related information such as CWA 303(d) listing for a pollutant, discharge type, compliance history, etc. indicates that a WQBEL is required.

Sufficient effluent and ambient data are needed to conduct a complete RPA. If data are not sufficient, the Discharger will be required to gather the appropriate data for the Regional Board to conduct the RPA. Upon review of the data, and if the Regional Board determines that WQBELs are needed to protect the beneficial uses, the Order will be reopened for appropriate modification. Refer to Attachment A for a summary of the RPA and associated effluent limitation calculations.

The RPA was performed for the priority pollutants for which effluent data were available. Effluent data were provided pursuant to a letter (dated August 3, 2001) from the Regional Board addressed to Pine Realty requiring quarterly monitoring for priority pollutants regulated in the CTR. Data collected on December 12, 2001, February 21, 2002, May 9, 2002, August 7, 2002, and February 5, 2003 were used in the RPA. One set of data for 2,3,7,8-TCDD and congeners (sampled February 5, 2003) was submitted. In addition, samples for certain priority pollutants (i.e., metals) were collected as required by their existing permit. All these data were used to perform the RPA and are summarized in Attachment A.

Based on the RPA, there was reasonable potential to exceed water quality standards for bis(2-ethylhexyl)phthalate and copper.

Order No. 97-094 regulated certain priority pollutants (cadmium, chromium, lead, silver, and zinc), but was not specific in the basis for this determination. Based on the available facility data and RPA for these pollutants, they do not demonstrate reasonable potential to exceed applicable water quality criteria. Therefore, effluent limitations for cadmium, chromium, lead, silver, and zinc will not be established in the proposed Order. However, the proposed Order requires the Discharger to continue to monitor for these pollutants, to provide data to evaluate reasonable potential in the future.

It is worthy to note that 1,2,3,4,6,7,8 HpCDD and OCDD were detected (5.5 pg/L and 19.3 pg/L, respectively). However, only one set of data was submitted; therefore, reasonable potential could not be determined.

b. Calculating WQBELs

If a reasonable potential exists to exceed applicable water quality criteria or objectives, then a WQBEL must be established in accordance with one of three procedures contained in section 1.4 of the SIP. These procedures include:

i. If applicable and available, use of the wasteload allocation (WLA) established as part of a total maximum daily load (TMDL).

ii. Use of a steady-state model to derive maximum daily effluent limitations (MDELs) and average monthly effluent limitations (AMELs).

iii. Where sufficient effluent and receiving water data exist, use of a dynamic model which has been approved by the Regional Board.

c. Impaired Water Bodies in 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 on point sources. For all 303(d)-listed water bodies and pollutants, the Regional Board plans to develop and adopt TMDLs that will specify WLAs for point sources and load allocations (LAs) for non-point sources, as appropriate.

U.S. EPA approved the State's 303(d) list of impaired water bodies on July 25, 2003. Certain receiving waters in the Los Angeles and Ventura County watersheds do not fully support beneficial uses and therefore have been classified as impaired on the 2002 303(d) list, some of which have been scheduled for TMDL development.

The 2002 State Board's California 303(d) List classifies Ballona Creek as impaired. The pollutants of concern include cadmium (sediment), ChemA (tissue) [refers to the sum of aldrin, dieldrin, chlordane, endrin, heptachlor, heptachlor epoxide, HCH (including lindane), endosulfan, and toxaphene], chlordane (tissue), dissolved copper, DDT (tissue), dieldrin (tissue) enteric viruses, high colfiorm count, dissolved lead, PCBs (tissue), pH, sediment toxicity, total selenium, silver (sediment), toxicity, and dissolved zinc. The Trash TMDL for the Ballona Creek and Wetland was adopted by the Regional Board on September 19, 2001. It designates Waste Load Allocations for Permittees and Co-Permittees of the Los Angeles County Municipal Stormwater Permit that are located within (entirely or partially) the Ballona Creek Watershed. Waste Load allocations are based on a phased reduction from the estimated current discharge over a 10-year period until the final Waste Load Allocation (currently set at zero) is met. Because the discharge from this facility is primarily untreated groundwater seepage and reflection pool drainage, it is not likely to contribute trash to the Ballona Creek Watershed. However, because the facility discharges to the Los Angeles County municipal separate storm sewer system, Los Angeles County may invoke requirements on the facility in order to meet the waste load allocation.

d. Whole Effluent Toxicity

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 measures mortality, reproduction, and growth.

The Basin Plan specifies a narrative objective for toxicity, requiring that all waters be maintained free of toxic substances in concentrations that are lethal to or produce other detrimental response on 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 existing Order does not contain acute toxicity effluent limitations or monitoring requirements.

In accordance with the Basin Plan, acute toxicity limitations dictate that the average survival in undiluted effluent for any three consecutive 96-hour static or continuous flow bioassay tests shall be at least 90%, with no single test having less than 70% survival. Consistent with the Basin Plan, this Order establishes acute toxicity limitations and monitoring requirements.

4. Specific Rationale for Each Numerical Effluent Limitation

Section 402(o) of the Clean Water Act and 40 CFR section 122.44(l) require that effluent limitations standards or conditions in re-issued permits are at least as stringent as in the existing permit. Therefore, existing effluent limitations for total suspended solids, turbidity, BOD_5, oil and grease, settleable solids, detergents as methylene blue active substances (MBAS), and methyl tertiary butyl ether (MTBE) are carried over to this permit. The effluent limitations for pH, residual chlorine, and acute toxicity are based on the Basin Plan. The effluent limitation for temperature is based on the Thermal Plan. Further, the MDELs for total suspended solids and turbidity have been revised to be consistent with Orders authorizing similar discharges (i.e., reflection pool drainage, groundwater seepage, and storm water runoff from facilities in the Los Angeles Region) recently adopted by the Regional Board. In addition to these limitations, the Regional Board is implementing the CTR and SIP, and additional effluent limitations are required for those regulated priority pollutants that show reasonable potential to exceed water quality standards. For those that show reasonable potential and for which existing effluent limitations exist (i.e., copper), a comparison between existing effluent limitations and CTR-based WQBELs was made

and the most stringent limitation included in the Order. The existing effluent limitations for copper are less stringent; therefore, the CTR-based WQBELs are included in the Order. There were no limitations in the existing permit for bis(2-ethylhexyl)phthalate; therefore, CTR-based WQBELS for bis(2-ethylhexyl)phthalate are established in this Order. As stated previously, a hardness value of 350 mg/L (as $CaCO_3$) was used in calculations of CTR-based WQBELs for metals.

Further, as stated previously, certain pollutants did not show reasonable potential based on effluent data, and therefore effluent limitations for cadmium, chromium, lead, silver, and zinc will not be established in the proposed Order. The removal of these effluent limitations is not considered backsliding because the current effluent monitoring data serve as "new information" that was not available at the time of the issuance of the previous permit. The Regional Board determines that the anti-backsliding exception for new information applies where new monitoring data indicate that the discharge of a pollutant does not have reasonable potential to cause or contribute to a water quality standards violation.

In compliance with 40 CFR section 122.45(d) and supported by the TSD, permit limitations shall be expressed, unless impracticable, as both average monthly effluent limitations (AMELs) and maximum daily effluent limitations (MDELs). The AMELs for total suspended solids, turbidity, BOD_5, and oil and grease are based on similar NPDES permits recently issued by the Regional Board. The AMELs for copper and bis(2-ethylhexyl)phthalate are calculated according to the requirements in the CTR. There are no criteria for developing AMELs for MBAS and MTBE; therefore, effluent limitations for these constituents will be expressed as MDELs only.

Effluent limitations established in this Order are applicable to groundwater seepage, reflection pool drainage, and storm water through the NPDES Discharge Serial No. 001, (Latitude 34°03'34", Longitude 118°25'00").

Constituent (units)	Maximum Daily Discharge Limitations	Average Monthly Discharge Limitations	Rationale
	Concentration	Concentration	
pH (standard units)	Between 6.5 – 8.5	--	BP
Temperature (degrees Fahrenheit)	86	--	TP
Total suspended solids (mg/L)	75	50	E
Turbidity (NTU)	75	50	E

Constituent (units)	Maximum Daily Discharge Limitations	Average Monthly Discharge Limitations	Rationale
	Concentration	Concentration	
BOD_5 @ 20°C (mg/L)	30	20	E
Oil and grease (mg/L)	15	10	E
Settleable solids (ml/L)	0.3	0.1	E
Residual chlorine (mg/L)	0.1	--	E
Detergents (as Methylene Blue Active Substances) (mg/L)	0.5	0.25	E
Copper [1] (µg/L)	18	9	CTR, SIP
Bis(2-ethylhexyl)Phthalate (µg/L)	12	6	CTR, SIP
Methyl Tertiary Butyl Ether (µg/L)	35	17	E
Acute toxicity (% survival)	--[2]	--	BP

BP = Basin Plan; TP = Thermal Plan; E = Existing Order; CTR = California Toxics Rule; SIP = State Implementation Policy.

1. Discharge limitation for copper is expressed as total recoverable.

2 For any three consecutive 96-hour static or continuous flow bioassay tests must be at least 90%, with no single test producing less than 70% survival (more information can be found in section I.B.3.a. of the tentative permit.)

5. Compliance Schedule

Based on effluent monitoring data submitted by the Discharger, a comparison between the MEC and calculated AMEL values shows that the Discharger will be unable to consistently comply with effluent limitations established in the proposed Order for bis(2-ethylhexyl)phthalate and copper. Hence, interim limitations have been prescribed for these constituents. As a result, the proposed Order contains a compliance schedule that allows the Discharger up to three years to comply with the revised effluent limitations. Within one year after the effective date of the Order, the Discharger must prepare and submit a compliance plan that describes the steps that will be taken to ensure compliance with applicable limitations.

40 CFR section 131.38(e) provides conditions under which interim effluent limitations and compliance schedules may be issued. The SIP allows inclusion of an interim

limitation with a specific compliance schedule included in a NPDES permit for priority pollutants if the limitation for the priority pollutant is CTR-based. Because the CTR-based effluent limitations for bis(2-ethylhexyl)phthalate and copper appear infeasible for the Discharger to achieve at this time, interim limitations for bis(2-ethylhexyl)phthalate and copper are contained in this Order.

The SIP requires that the Regional Board establish other interim requirements such as requiring the discharger to develop a pollutant minimization plan and/or source control measures and participate in the activities necessary to achieve the final effluent limitations. This Order establishes interim requirements such as requiring the Discharger to develop a pollutant minimization plan and/or source control measures and participate in the activities necessary to achieve final effluent limitations. Once final limitations become effective, the interim limitations will no longer apply. These interim limitations shall be effective until December 31, 2007, after which, the Discharger shall demonstrate compliance with the final effluent limitations.

The Discharger will be required to develop and implement a compliance plan that will identify the measures that will be taken to reduce the concentrations bis(2-ethylhexyl)phthalate and copper in their discharge. This plan should evaluate options to achieve compliance with the revised Order limitations. These options can include, for example, installation of treatment unit processes and best management practices to minimize the potential for the discharge of the pollutants of concern.

Pursuant to the SIP (Section 2.2.1, Interim Requirements under a Compliance Schedule), when compliance schedules are established in an Order, interim limitations must be included based on current treatment facility performance or existing permit limitations, whichever is more stringent, to maintain existing water quality. Order No. 97-094 contains effluent limitations for copper, which are less stringent than the MEC; therefore, the MEC will serve as the basis for the interim effluent limitations for copper. Order No. 97-094 does not contain effluent limitations for bis(2-ethylhexyl)phthalate; therefore, the corresponding MEC will serve as the basis for the interim effluent limitations for bis(2-ethylhexyl)phthalate. It should be noted that the Board may take appropriate enforcement actions if interim limitations and requirements are not met.

From the effective date of this Order until December 31, 2007, the discharge of effluent from Discharge Serial No. 001 in excess of the following is prohibited:

Constituent	Daily Maximum Concentration (ì g/L)	Rationale
Copper [1]	31	MEC [2]
Bis(2-ethylhexyl)Phthalate	11	MEC [2]

1. Discharge limitation for copper is expressed as total recoverable.

2. MEC = Maximum Effluent Concentration

6. Monitoring Requirements

The previous Order for Pine Realty required monthly monitoring for flow, and quarterly monitoring for total suspended solids, turbidity, oil and grease, settleable solids, and residual chlorine. Annual monitoring was required for BOD_5, detergents as methylene blue active substances, cadmium, chromium, copper, lead, silver, zinc, and methyl tertiary butyl ether.

On August 3, 2001 the Regional Board sent a letter to Pine Realty requiring the monitoring of priority pollutants regulated in the CTR, and submit the data by April 15, 2003. As stated previously, Pine Realty has submitted data for five quarters and one quarter of dioxin data.
Monitoring requirements are discussed in greater detail in section III of the Monitoring and Reporting Program CI-5854 (hereinafter *MRP*).

a. Effluent Monitoring

To demonstrate compliance with effluent limitations established in the Order, this Order carries over the existing monitoring requirements for most parameters. Monitoring once per month for flow and once per quarter for total suspended solids, turbidity, oil and grease, settleable solids, and residual chlorine as required in the existing Order is required to ensure compliance with final effluent limitations. Annual monitoring for BOD_5, detergents (as methylene blue active substances), lead, and methyl tertiary butyl ether, as required in the existing Order is required to ensure compliance with final effluent limitations. Monitoring requirements for copper have been increased from annually to monthly to ensure compliance with interim and final effluent limitations. This Order also establishes monthly monitoring requirements for pH, temperature, and bis(2-ethylhexyl)phthalate to ensure compliance with interim and final effluent limitations. In addition, this Order carries over annual monitoring requirements for cadmium, chromium, silver, and zinc to determine their presence in the effluent, and establishes annual monitoring requirements for acute toxicity to determine compliance with the acute toxicity effluent limitation, consistent with the Basin Plan.

As discussed previously, the Discharger has submitted data for priority pollutants for five quarters and one quarter of data for dioxin. These data in addition to monitoring data required in the previous permit for some of the priority pollutants were used to conduct the RPA. The SIP states that the Regional Board will require periodic monitoring for pollutants for which criteria or objectives apply and for which no effluent limitations have been established.

This Order will combine the periodic reporting requirements of the SIP with the existing permit monitoring requirements. The Regional Board is requiring, as part of the Monitoring and Reporting Program, that the Discharger conduct annual effluent monitoring for the priority pollutants (except for 2,3,7,8-TCDD) for which there are no effluent limitations established in the permit.

Effluent discharge point (Discharge Serial No. 001). The sample shall be collected prior to the effluent entering the storm drain in the Avenue of the Stars.

The effluent monitoring program for discharge of groundwater seepage, storm water, and reflection pool drainage through NPDES Discharge Serial No. 001, (Latitude 34° 03'34" North; Longitude 118° 25'00" West), a storm drain in Avenue of the Stars is described in section III of the *MRP* (No. CI-5854).

b. Receiving Water Monitoring

The Discharger is required to monitor the receiving water for the California Toxics Rule priority pollutants, to determine reasonable potential. Pursuant to the California Water Code, section 13267, the Discharger is required to submit data sufficient for: (1) determining if WQBELs for priority pollutants are required, and (2) to calculate effluent limitations, if required. The *Policy for the Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (March 2, 2000) requires that the Regional Boards require periodic monitoring for pollutants for which criteria or objectives apply and for which no effluent limitations have been established. Accordingly, the Regional Board is requiring that the Discharger conduct receiving water monitoring of the priority pollutants listed in section VI of the *MRP* annually for first two years after adoption of the permit.. The results of monitoring for reasonable potential determination shall be submitted in accordance with section I.A of the Monitoring and Reporting Program. Receiving water sampling shall be conducted, annually, at the same time as the effluent monitoring. The monitoring stations shall be within 50 feet upstream from the discharge point into the receiving water (i.e., storm drain discharge into Ballona Creek).

Monitoring requirements for receiving water are discussed in greater detail in sections V and VI of the *MRP*.

c. 2,3,7,8-TCDD Monitoring for Reasonable Potential

The Regional Board is requiring, as part of the Monitoring and Reporting Program, that the Discharger conduct effluent monitoring for 2,3,7,8 TCDD, twice during the Order term. The SIP requires monitoring for 2,3,7,8-TCDD and the 16 congeners listed in the table in section VI of the *MRP*. The Discharger is required

to calculate Toxic Equivalence (TEQ) for each congener by multiplying its analytical concentration by the appropriate Toxicity Equivalence Factors (TEF) provided in the *MRP*.