

State Of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
472nd Regular Meeting

WASTE DISCHARGE REQUIREMENTS
FOR

AMERICAN REMEDIAL TECHNOLOGIES, INC.
(FILE NO. 95-029)

- ITEM:** 9.1
- SUBJECT:** WASTE DISCHARGE REQUIREMENTS (WDRs) (Non-NPDES Requirements) – American Remedial Technologies, Inc. (ART)
- ISSUE(S):** In response to comments raised by interested parties, Regional Board members requested further clarification regarding the proposed tentative WDRs for the relocation of American Remedial Technologies (ART) thermal desorption remediation facility from 2680 Seminole Avenue in the City of Lynwood to 2680 Imperial Highway, also in the City of Lynwood. In addition, Regional Board staff conducted an unannounced inspection of ART’s facilities on March 10, 2004. Violations were noted as a result of the inspection that bear upon the proposed tentative WDRs. This staff report clarifies responses to interested party comments, describes the violations discovered during the March 10, 2004 inspection, and incorporates corresponding changes to the tentative WDRs.
- PROPOSED CHANGES:** A change sheet proposing expanded containment systems at the relocated facility pursuant to the discussion below is included in this Board package.
- DISCUSSION:** Regional Board members expressed concern that containment features and monitoring requirements were being relaxed in the tentative WDRs as expressed in the comments received by V. John White and Associates. Regional Board members also requested additional information on comments raised by The Urban Affairs Council concerning potentially related environmental concerns at ART’s Seminole Avenue facility.

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The specific questions raised by Regional Board members consisted of: 1) eliminating limits for hydrocarbon contamination for soils accepted for remediation; 2) eliminating Class II wastepile containment system requirements for the Imperial Highway facility as currently exist for the Seminole Avenue facility; 3) eliminating vadose zone monitoring requirements; 4) introduction of soil amending or stabilization/fixation to recycle hydrocarbon and/or metal impacted soils; 5) lack of groundwater monitoring requirements for the proposed tentative WDRs; and 6) stockpiling of contaminated soil at ART's Imperial Highway facility for which there are currently no WDRs. With regard to related environmental concerns at ART's Seminole Avenue facility Regional Board staff contacted personnel from 1) the South Coast Air Quality Management District; 2) the Los Angeles County District Attorney Office; 3) the Los Angeles County Sanitation Districts; 4) the California Highway Patrol; and 5) the City of Lynwood. Staff responses to these concerns are as follows:

1)

ACCEPTANCE LIMITS:In the tentative WDRs, Regional Board staff agreed to eliminate the limits for hydrocarbon contamination for soils accepted for remediation because only nonhazardous materials would be continue to be allowed for treatment, and the limits in the existing WDRs are not based on a regulatory standard. The proposed tentative requirements focused on the treatment limits established for the reuse/disposal of the treated materials as well as expanded confirmatory testing of incoming treated soils as sufficiently protective of surface and groundwater quality within the Region. As noted in the staff presentation during the March 4, 2004 Board meeting, eliminating the limits for hydrocarbon contamination for incoming soils would allow for more flexibility in soil handling operations in acknowledgement that stockpiling of contaminated soils in strict adherence to the existing WDRs (soils from individual sources are to be segregated) are difficult and impractical to implement. Staff recognizes that stockpiled soils are partially blended during normal soil handling operations. Therefore soils acceptance limits will offer security that batches of highly contaminated soils are accepted, treated, tested and disposed pursuant to the requirement of the facility and will not exceed

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the disposal limits established in the WDRs. The soils acceptance limits will be reintroduced into the proposed tentative WDRs. A change to this effect has been prepared as part of the change sheet that is included in this Board package.

2)

CONTAINMENT
REQUIREMENTS:

Staff recognize that alternative containment facilities (stock pile areas contained within a building) offer a level of surface water and groundwater protection and thus agreed to eliminate Class II wastepile containment requirements as incorporated in title 27 of the California Code of Regulations which are the containment requirements for the existing facility WDRs. The focus of the proposed tentative WDRS is on the treatment limits established for the reuse/disposal of the treated materials as well as expanded confirmatory testing of incoming untreated soils as sufficiently protective of surface and groundwater quality within the Region. However, the Class II wastepile containment system requirements will be required in the proposed tentative WDRs. These effectively require a compacted clay soil liner and/or a geosynthetic membrane liner, or equivalent, for soil stockpile and materials processing facilities as exist at the Seminole Avenue facility. A change adding Class II wastepile containment system requirements to the tentative Order has been made in the change sheet prepared as part of this Board package.

3)

VADOSE ZONE
MONITORING:

Staff concurred that alternative containment facilities (stock pile areas contained within a building) offer a level of surface water and groundwater protection. In addition, nine years of vadose zone monitoring have not detected any release of contamination from the existing facility. Therefore, staff agreed to eliminate vadose zone monitoring requirements for the new facility. Also, vadose zone and groundwater monitoring are not a regulatory requirement for Class II wastepiles. However, in response to concerns expressed by Regional Board members, and since there is insufficient data available to confirm sufficient protection is offered from containment within a building, vadose zone monitoring requirements will be required in the proposed tentative WDRs. A change to this effect has been prepared as part of the change sheet that is included in this Board package.

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4)

SOIL AMENDING/
STABILIZATION:

As indicated in Staff response to comments to the initial version of the tentative WDRs, the tentative WDRs were revised to clarify that amendments to soils after thermal treatment to produce a more commercially viable end product would be allowed. Confirmatory testing and expanded monitoring parameters were included in the revised tentative WDRs to assure that the chemical characteristics of amended soils did not change from that of the processed soils.

5)

GROUNDWATER
MONITORING:

As indicated above, groundwater monitoring is not a requirement for Class II wastepiles. For this reason it has not previously been required for ART's existing facility and is not proposed for the proposed tentative WDRs. However, vadose zone monitoring will be required.

6)

SOIL STOCKPILING
AT NEW FACILITY:

As follow-up to the March 4, 2004 Board meeting, staff made an unannounced inspection of ART's facilities on March 10, 2004. Requirements for cleanup of the contaminated soil stockpiled at ART's Imperial Highway facility are included in the Regional Board's Notice of Violation (NOV) issued March 17, 2004. A copy of this NOV is included in this Board package. Other violations noted during the inspection include nuisance pollution from soils released to city streets surrounding the Seminole Avenue facility and failure to complete a stormwater pollution prevention plan for the Imperial Highway facility. The NOV also requested information relating to acceptance of soils with elevated polycyclic aromatic hydrocarbons (PAHs) contamination which may not be specifically addressed in the ART's current WDRs and ART's standard operating and monitoring procedures for vadose monitoring system to confirm compliance with monitoring requirements. Staff proposes that

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the proposed tentative WDRs allow for a method to evaluate the merit of thermal desorption remediation of contaminants similar to petroleum hydrocarbons such as PAH contaminated soils. A change to this effect has been prepared as part of the change sheet that is included in this Board package.

OTHER ENVIRONMENTAL CONCERNS RECEIVED BY REGIONAL BOARD STAFF

Staff received a letter from the Urban Environmental Affairs Council (UEAC) on February 18, 2004 (the last day that written comments were accepted) that references a September 25, 2003 letter from the Regional Board that was issued to clarify monitoring and reporting practices at ART's facility in preparation for the issuance of the proposed WDRs. This letter also required the submittal of all backup materials previously stored at ART's facility. All of these materials were received by the date required in the September 25, 2003 letter. In addition, UEAC raised the five following concerns:

1)
SOUTH COAST AIR
QUALITY DISTRICT
(SCAQMD):

The information presented by UEAC documents eight Notices of Violation (NOV) and three Notices to Comply (NTC) issued by SCAQMD. The NOV's are dated between January 9, 1998 and August 31, 2002 and generally relate to exceedances of dust and VOC emissions, improper record keeping and improper equipment operation. The NTC's are dated between January 9, 1998 and April 9, 2002 and generally relate to record keeping.

Staff confirmed the reported NOV's and NTC's with SCAQMD staff. SCAQMD indicated that they have no outstanding enforcement actions against ART.

2)
L.A. COUNTY D.A.

The information presented by the UEAC documents an investigation by the Los Angeles County District Attorney's Office into numerous odors, smoke and dust emission complaints to the SCAQMD and the improper disposal of hazardous waste. On May 24, 1999 the District Attorney's

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Office concluded that there was “insufficient evidence of serious criminal conduct” by ART and the case was referred to the SCAQMD for misdemeanor administrative proceedings.

Staff confirmed with the District Attorney’s Office that they have no outstanding investigations against ART.

3)

L.A. COUNTY
SANITATION:

The information presented by the UEAC documents three incidents of improper reporting to the Los Angeles County Sanitation Districts by ART between January 1998 and May 2002 and one violation for an exceeding pH limits on October 21 1998 for waste water released to the District’s waste water treatment system. ART’s industrial waste permit was active between 1997 and 2003. In 2003 ART installed a waste water recycling system and terminated the industrial waste discharge permit.

Staff confirmed with the Districts Office that they have no outstanding enforcement actions against ART.

4)

CA HIGHWAY
PATROL:

The information presented by the UEAC documents 85 traffic citations issued to the J. Torres Co., Inc between January 9 2001 and September 9, 2003 by the California Highway Patrol (CHP). As indicated in the UEAC comment, the trucking company “is also owned by the main shareholder of ART” and has previously been used to transport contaminated soils to the ART facility. ARTs Seminole Avenue facility address is listed with the CHP as a terminal location for J. Torres Co. Of the 85 citations, 10 were Notices to Appear, ten were dismissable by the court upon proof of correction, and 15 were dismissable by the CHP upon proof of correction. The Notices to Appear are for traffic related violation such as 1) exceeding allowable weights for consecutive axles; 2) vehicle on highway or off-street parking facility unregistered or with additional fees due 3) traffic control sign, failure to obey regulatory provisions; 4) following too closely, not reasonable and prudent; 5) vehicle subject to 22406 using left lane(s) or passing in lane other than lane immediately adjacent to right lane; 5) 55 mph limit, truck or truck tractor (3

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axle or any combo); 6) stop sign, failure to stop at limit line, crosswalk, or entrance to intersection. 7) lighting equipment of required type, maintain in good working order 8) brake system defective, not in good working order or proper adjustment; 9) motor carrier of property, operating without registering its carrier identification number with the DMV or failing to possess a valid motor carrier permit issued by DMV; 10) exceeding allowable weights for consecutive axles.

Staff has contacted the CHP to confirm whether the number of citations was excessive for a trucking company of comparable size. Information from the CHP is pending and will be presented at the April 1, 2004 Board meeting.

5)

LYNWOOD

PLANNING PERMIT: The information presented by the UEAC documents a Business Assistance Grant and Loan Agreement between the Lynwood Redevelopment Agency and ART. Information is also presented regarding ART's credit rating, a lien case against ART, and political contributions to Lynwood City elected public officials to support a statement that "the city ... approved loaning tax payer money to a company that appears to have difficulty meeting its current financial obligations." Articles from local publications are included in the UEAC documents to support a contention that the planning permit process did not fairly address citizen concerns.

Staff contacted the City of Lynwood to confirm satisfactory completion of the planning permit process by ART. The City indicated that ART has an active permit for the relocated facility and have no pending enforcement for violations of the permit. Also, the City is unaware of any pending legal challenges to the permitting process against the City and/or ART.

OPTIONS:

- a. No Action – If no action is taken, Regional Board Order No. 95-131 will remain in effect.
- b. Adopt the tentative WDRs – This will allow ART to continue thermal remediation of petroleum hydrocarbon contaminated soils at their new location with new more restrictive requirements in a manner protective of water

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quality and consistent with applicable State and Federal Regulations.

- c. Continue consideration of the tentative WDRs to a future meeting – This would allow the Regional Board time to consider testimony, written comments, and evidence received at the hearing.

RECOMMENDATION: The tentative Order with corresponding changes be adopted.