

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. ORDER NO. R5-2004-0147

NPDES NO. CA0080381

WASTE DISCHARGE REQUIREMENTS
FOR
MT. LASSEN TROUT FARMS, INC.
AND
DALE FAMILY PARTNERSHIP
MT. LASSEN TROUT FARMS' DALES FACILITY
TEHAMA COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Board) finds that:

1. Mt. Lassen Trout Farms, Inc., submitted a Report of Waste Discharge (ROWD), dated 25 October 1999, and applied for a permit renewal to discharge wastewater under the National Pollution Discharge Elimination System (NPDES) for the Mount Lassen Trout Farms, Inc.–Dales Facility (Facility). The permit renewal application was deemed complete on 13 November 2000.
2. The Facility, a flow-through, cold-water aquaculture operation, is owned and operated by Mt. Lassen Trout Farms, Inc. The Facility is approximately 14 miles east of Red Bluff, California in Section 35, T29N, R2W, MDB&M, as shown on Attachment A, which is incorporated herein and made part of this Order. The property, Assessor's Parcel Nos. 9-14-11 and 9-19-21 is owned by the Dale Family Partnership. Mt. Lassen Trout Farms, Inc leases a portion of the property for operation of the Facility. The partners in the Dale Family Partnership are listed as Shirley Carter, Audrey Nuechterlein, and Jim Dale. Mt. Lassen Trout Farms Inc., and the Dale Family Partnership are hereafter designated as the Discharger.
3. The discharge is presently governed by Order No. 96-110 (NPDES No. CA0080381), adopted by the Regional Board on 3 May 1996.
4. The U.S. Environmental Protection Agency (USEPA) and the Regional Board have classified this discharge as a minor discharge.
5. Based production data reported in annual reports from 1999 through 2003 the Facility has had an average annual production of 58,142 pounds of rainbow trout with an average annual feed usage of 87,034 pounds. Approximately 15,000 pounds of feed are used in March, the month of maximum feeding.
6. Based on monitoring reports from January 1999 through December 2003, an average of 3.96 million gallons per day (mgd) and a maximum of 4.46 mgd of water was diverted from four unnamed springs and flows in parallel through the Facility's two sets of 8 production

raceways (16 raceways total). The Discharger does not control water flow through the facility and flow from the springs varies seasonally and with weather conditions. The Discharger estimates 6.0 mgd is the maximum flow that could be discharged from the facility. Water from the production raceways flows through a concrete settling basin. The in-series settling basin removes fish fecal matter, unconsumed food, algae, and silt. Settled waste is periodically vacuum pumped from the raceways to a parallel drainage that is spring fed with an average flow of 1 cfs. Flows from this drainage join the discharge from the concrete settling basin (Discharge 001). Wastewater from the Facility travels approximately 1/4 mile through prior to entering Paynes Creek. During the irrigation season, portions of both flows from the Facility may be diverted to adjacent agricultural lands owned by the Dale Family Partnership. The Facility is shown on Attachment B, which is incorporated herein and made part of this Order.

7. Domestic wastewater from a private, on-site caretaker residence is discharged to a septic tank/leachfield system.
8. Wastes generated at the Facility include fish fecal material, unconsumed fish food, nutrients, algae, and silt. Based on monthly monitoring reports from January 1999 to December 2003, the effluent may be characterized as follows:

<u>Constituent</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Average</u>
Total suspended solids (TSS) (mg/L)	3	2	2.5
Settleable solids (ml/L)	Trace	Trace	Trace
Temperature (°F)	59	55	57
Dissolved oxygen (mg/L)	10	8	9
pH (standard units)	7	7	--

9. Aquaculture drugs and chemicals are used at the Facility to treat fish directly for parasites, fungi, and bacteria, as well as to clean rearing raceways in order to reduce the spread of disease among the confined fish population. In the previous Order No. 96-110, chemicals used at the Facility for disease preventative measures for adult fish are listed as sodium chloride (salt) and formalin (formaldehyde). Salt is used to control external parasites and as an osmoregulatory aid to relieve stress on confined fish. Maximum annual salt usage at the Facility was 1700 pounds in 2002, with a maximum month of salt usage of 900 pounds in November 2000. Formalin (a 37% formaldehyde, methanol-free solution) has not been used by the Facility since 2000, but may be used in the future to control outbreaks of fish diseases. Oxytetracycline (Terramycin[®]) an antibiotic has been used to treat disease.
10. Chemicals not currently used but may be used by the Discharger in the future include benzalkonium chloride, hydrogen peroxide, potassium permanganate, Chloramine-T, and acetic acid. Antibiotics such as Amoxicillin trihydrate, Romet-30[®] (Sulfadimethoxine-ormetoprim), erythromycin, and Florfenicol may be used during periods of disease

outbreak. Penicillin G, an antibiotic, may be used as an immersive bath treatment during periods of disease outbreak at the Facility. To treat enteric redmouth disease, the Discharger may administer enteric redmouth bacterin. The Discharger does not use copper sulfate and does not propose its use in the future.

APPLICABLE REGULATIONS, POLICIES, AND PLANS

11. A cold-water concentrated aquatic animal production (CAAP) facility is defined in Title 40 of the Code of Federal Regulations (40 CFR 122.24) as a fish hatchery, fish farm, or other facility which contains, grows, or holds cold-water fish species or other cold-water aquatic animals including, but not limited to, the Salmonidae family of fish (e.g. trout and salmon) in ponds, raceways, or other similar structures. In addition, the facility must discharge at least 30 calendar days per year, produce at least 20,000 pounds harvest weight (9,090 kilograms) of aquatic animals per year, and feed at least 5,000 pounds (2,272 kilograms) of food during the calendar month of maximum feeding. A facility that does not meet the above criteria may also be designated a cold water CAAP facility upon a determination that the facility is a significant contributor of pollution to waters of the United States [40 CFR 122.24(c)]. Cold-water, flow-through CAAP facilities are designed to allow the continuous flow of fresh water through tanks and raceways used to produce aquatic animals (typically cold-water fish species). Flows from CAAP facilities ultimately are discharged to waters of the United States and of the State. 40 CFR 122.24 specifies that CAAP facilities are point sources subject to the National Pollutant Discharge Elimination System (NPDES) program. The Discharger's Facility meets the definition of a cold-water, flow-through CAAP.
12. The operation of CAAP facilities may introduce a variety of pollutants into receiving waters. The USEPA identifies three classes of pollutants: (1) conventional pollutants (i.e., total suspended solids (TSS), oil and grease (O&G), biochemical oxygen demand (BOD), fecal coliform, and pH); (2) toxic pollutants (e.g., metals such as copper, lead, nickel, and zinc and other toxic pollutants; and (3) non-conventional pollutants (e.g., ammonia-N, formalin, and phosphorus). Some of the most significant pollutants discharged from CAAP facilities are solids from uneaten feed and fish feces that settle to the bottom of the raceways. Both of these types of solids are primarily composed of organic matter including BOD, organic nitrogen, and organic phosphorus.
13. Fish raised in CAAP facilities may become vulnerable to disease and parasite infestations. Various aquaculture drugs and chemicals are used periodically at CAAP facilities to ensure the health and productivity of the confined fish population, as well as to maintain production efficiency. Aquaculture drugs and chemicals are used to clean raceways and to treat fish for parasites, fungal growths and bacterial infections. Aquaculture drugs and chemicals are sometimes used to anesthetize fish prior to spawning or "tagging" processes. As a result of these operations and practices, drugs and chemicals may be present in discharges to waters of the United States or waters of the State.

14. In August 2004, U.S. EPA promulgated Effluent Limitation Guidelines and New Source Performance Standards for the Concentrated Aquatic Animal Production Point Source Category (hereafter “ELG”). The ELG regulation establishes national technology-based effluent discharge requirements for flow-through and recirculating systems and for net pens based on Best Practicable Control Technology Currently Available (BPT); Best Control Technology for Conventional Pollutants (BCT); Best Available Technology Economically Achievable (BAT); and New Source Performance Standards (NSPS). The requirements, however, are only applicable to facilities that produce 100,000 pounds or more per year of aquatic animals. The Discharger’s Facility has an average annual production of 58,142 pounds of rainbow trout. For facilities that do not meet this production threshold technology-based effluent limitations are determined on a case-by-case basis using best professional judgment (BPJ) in accordance with 40 CFR 125.3.
15. The Regional Board adopted a *Water Quality Control Plan, Fourth Edition, for the Sacramento and San Joaquin River Basins* (hereafter Basin Plan). The Basin Plan designates beneficial uses, establishes water quality objectives, and describes an implementation program and policies to achieve water quality objectives for all waters of the Basin. This includes plans and policies adopted by the State Water Resources Control Board (SWRCB) and incorporated by reference, such as Resolution No. 68-16, “Statement of Policy with Respect to Maintaining High Quality of Waters in California” (Resolution No. 68-16). These requirements implement the Basin Plan. The Basin Plans, as amended, designate beneficial uses, establish water quality objectives, and contain implementation plans and policies for waters of the Basins. Pursuant to the California Water Code §13263(a), waste discharge requirements must implement the Basin Plans.
16. USEPA adopted the *National Toxics Rule* (NTR) on 22 December 1992, which was amended on 4 May 1995 and 9 November 1999, and the *California Toxics Rule* (CTR) on 18 May 2000, which was amended on 13 February 2001. These Rules contain water quality standards applicable to this discharge. The SWRCB adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (known as the State Implementation Policy or SIP) on 2 March 2000, which contains policies and procedures for implementation of the NTR and the CTR.
17. Resolution No. 68-16 requires the Regional Board, in regulating discharges of waste, to maintain high quality waters of the State until it is demonstrated that any change in water quality will be consistent with the maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the Regional Board’s policies (e.g., water quality constituents in concentrations that exceed water quality objectives). Resolution No. 68-16 requires that discharges be regulated to meet best practicable treatment or control in order to assure that pollution or nuisance will not occur; and the highest water quality be consistently maintained for the maximum benefit to the people of the State. The Regional Board has considered Resolution

No. 68-16 and Federal antidegradation regulations at 40 CFR 131.12 and compliance with these requirements will result in the use of best practicable treatment or control of the discharge. The impact on existing water quality will be insignificant.

BENEFICIAL USES

18. The Basin Plan at page II-2.00 states: “Existing and potential beneficial uses which currently apply to surface waters of the basins are presented in Figure II-1 and Table II-1. The beneficial uses of any specifically identified water body generally apply to its tributary streams.” Furthermore, the Regional Board generally is required to apply the beneficial uses of municipal and domestic supply (MUN) to surface waters based on State Board Resolution No. 88-63, which was incorporated in the Basin Plan pursuant to Regional Board Resolution No. 89-056. The Basin Plan does not specifically identify beneficial uses for Paynes Creek, but does identify present and potential uses for the Sacramento River between Shasta Dam and the Colusa Basin Drain, to which Paynes Creek is tributary.

The Regional Board finds that the beneficial uses identified in the Basin Plan for the Sacramento River, from Shasta Dam to the Colusa Basin Drain are applicable to Paynes Creek. These beneficial uses are municipal and domestic supply (MUN), agricultural irrigation and stock watering (AGR), industrial service supply (IND), hydropower generation (POW), water contact recreation and canoeing and rafting (REC-1), non-contact water recreation (REC-2), warm freshwater aquatic habitat (WARM), warm fish migration habitat (MIGR – WARM), and warm spawning habitat (SPWN – WARM), cold freshwater aquatic habitat (COLD), cold fish migration habitat (MIGR – COLD), and cold spawning habitat (SPWN – COLD), wildlife habitat (WILD), and navigation (NAV). The Basin Plan on page II-1.00 states: “Protection and enhancement of existing and potential beneficial uses are primary goals of water quality planning...” and with respect to disposal of wastewaters states that “...disposal of wastewaters is [not] a prohibited use of waters of the State; it is merely a use which cannot be satisfied to the detriment of beneficial uses.”

In reviewing whether certain existing and/or potential uses of the Sacramento River apply to Paynes Creek, the Regional Board has considered the following facts:

- a. *Municipal and Domestic Supply (MUN) and Agricultural Irrigation (AGR):* The Regional Board is required to apply the beneficial uses of municipal and domestic supply to Paynes Creek based on State Board Resolution No. 88-63 which was incorporated in the Basin Plan pursuant to Regional Board Resolution No. 89-056. In addition, the SWRCB has issued water rights to existing water users along Paynes Creek and along the Sacramento River downstream of the confluence of Paynes Creek and the Sacramento River. Also, the discharge itself may, at times, be diverted for irrigation purposes.

- b. *Body Contact Water Recreation and Canoeing and Rafting (REC-1), and Non-Body Contact Recreation (REC-2)*: The Sacramento River, Battle Creek, and Paynes Creek provide opportunities for fishing, canoeing, rafting, motor boating, sightseeing, hiking, and hunting. Paynes Creek flows through a virtually undeveloped seven-mile long gorge on its way to the Sacramento River confluence in Iron Canyon. In addition, BLM has determined that 25 miles of the Sacramento River and 6.7 miles of Paynes Creek, downstream of the discharge, are eligible for National Wild and Scenic River status. A proposed Sacramento River National Conservation Area (SRNCA) would encompass 40,000 acres of land.
 - c. *Warm and Cold freshwater aquatic habitat (WARM and COLD), fish migration (MGR), and spawning habitat (SPWN)*: BLM manages 15,000 acres along the Sacramento River, Battle Creek, and Paynes Creek and plans to acquire from willing sellers additional properties within the proposed boundaries of the SRNCA (40,000 acres) to provide both recreational access and protect fish and wildlife habitat. Lower Paynes Creek has been identified by the National Marine Fisheries Services as habitat (opportunistic/intermittent spawning, holding, rearing) for fall run Chinook salmon.
 - d. *Wildlife Habitat (WILD)*: The Bureau of Land Management's (BLM's) Paynes Creek management area includes the confluence of Paynes Creek and the Sacramento River and other streams, wetlands and ponds, grasslands and oak woodland that attract a variety of wildlife. The area within the SRNCA includes high quality riparian habitat suitable for a diversity of wildlife species including the yellow-billed cuckoo, Swainson's hawk, bank swallow, valley elderberry longhorn beetle, Southern bald eagle, and osprey.
19. Beneficial uses of the underlying groundwater are municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).

EFFLUENT LIMITATIONS AND OTHER SPECIFICATIONS

20. Federal regulations at 40 CFR 122.44 require NPDES permits to contain effluent limitations, including technology-based and water quality-based limitations for specific constituents and limitations based on toxicity.

TECHNOLOGY-BASED EFFLUENT LIMITATIONS

21. The Facility creates wastes, including solids from algae, silt, fish feces, and uneaten feed. As noted above, USEPA's final ELG for the aquaculture industry does not include numeric effluent limitations on any conventional, non-conventional, or toxic constituents. Rather, USEPA promulgated qualitative limitations in the form of BMP requirements. The

Regional Board is establishing effluent limitations for discharges of total suspended solids (TSS) and settleable solids from this Facility. Technology-based requirements in this Order are based on a case-by-case numeric limitations developed using best professional judgment (BPJ) and carried over from the previous Order No. 96-110. These effluent limitations are 5.0 mg/L net TSS as an average monthly limitation and 15 mg/L net TSS as a maximum daily limitation; and 0.1 ml/L settleable solids as an average monthly limitation and 0.2 ml/L settleable solids as a maximum daily limitation. Removal of these numeric limitations for TSS and settleable solids would constitute backsliding under CWA Section 402(o). The Regional Board has determined that these numeric effluent limitations for TSS and settleable solids continue to be applicable to the Facility and that backsliding is not appropriate. These limitations are established as a means of controlling the discharge of solids from algae, silt, fish feces and uneaten food. This Order does not include mass effluent limitations for TSS because there are no standards that specifically require a mass-based effluent limitation, mass of the pollutant discharged is not specifically related to a measure of operation (40 CFR 122.45(f)(iii)), and, in addition, mass-based effluent limitations for TSS are not necessary because this Order includes both concentration-based limitations and a maximum flow limitation.

WATER QUALITY-BASED EFFLUENT LIMITATIONS

22. Federal regulations at 40 CFR 122.44(d)(1) require effluent limitations for all pollutants that are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an in-stream excursion above a numeric water quality criterion (such as a CTR criterion) or a narrative water quality criterion within a State water quality standard. These regulations also set forth a methodology for establishing effluent limitations based on narrative state water quality criteria [40 CFR 122.44(d)(1)(vi)(A-C)].
23. The USEPA, SWRCB, and Regional Board have adopted or published standards that are used to implement 40 CFR 122.44. The USEPA has promulgated the CTR and NTR that established water quality criteria. The SWRCB has adopted the SIP that implements the CTR and NTR. The USEPA also has published recommended ambient water quality criteria and the Basin Plan contains numeric and narrative water quality objectives. The Basin Plan contains an Implementation Policy (“Policy for Application of Water Quality Objectives”) that, in part, sets forth a process for translating narrative water quality objectives into numeric effluent limitations. The USEPA ambient water quality criteria, results of toxicity studies conducted by the California Department of Fish and Game, and the Basin Plan “Policy of Application of Water Quality Objectives” have been used to implement 40 CFR 122.44(d)(1)(v).
24. Based information submitted as part of the Report of Waste Discharge and discussions with the Discharger, in annual and monthly monitoring reports, and in independent studies, the Regional Board finds that the discharge has a reasonable potential to cause or contribute to an in-stream excursion above numeric or narrative water quality objectives for pH and

formaldehyde. Effluent limitations for these constituents are included in this Order. The Regional Board is not obligated to delegate the assimilative capacity of receiving waters to a Discharger. Therefore, the Regional Board establishes water quality-based effluent limitations without benefit of dilution in this Order. Water quality-based effluent limitations are based on the application of water quality criteria or objectives at the point of discharge.

CTR Effluent Limitations

25. During a compliance evaluation inspection on 23 April 2003, the Regional Board conducted influent and effluent sampling of the Facility's discharge. The parameters sampled included priority pollutant metals for which there are water quality criteria in the CTR. These metals are antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc. None of these constituents were found at detectable levels in the discharge. The effluent sample collected was representative of typical operating conditions. Copper is not used at the Facility and will not be used in the future. Based on these data, and the fact that the Discharger does not use, or plan to use chemicals containing these constituents the Regional Board finds that the discharge does not cause, have the reasonable potential to cause, or contribute to an in-stream excursion above the CTR criteria for these metals. The Monitoring and Reporting Program requires the Discharger to conduct effluent and receiving water monitoring for priority pollutant metals one time during the term of this Order.

Non-CTR Effluent Limitations

26. The Basin Plan contains water quality objectives for pH in the form of a range of acceptable pH values (measured in standard units). In the previous Order No. 96-110, the Regional Board established effluent limitations in the form of an acceptable range of pH between 6.5 and 8.5 standard units for discharges to the Receiving Waters. This pH limitation is carried over to this Order.
27. Numeric water quality criteria or Basin Plan numeric objectives currently are not available for the aquaculture drugs and chemicals used or proposed for use at this Facility. Therefore, the Regional Board used the narrative water quality objectives for toxicity and chemical constituents from the Basin Plan and applied the "Policy for Application of Water Quality Objectives" as a basis for determining "reasonable potential" for discharges of these drugs and chemicals. The chemical constituents objective states, in part: "Waters shall not contain chemical constituents in concentrations that adversely affect beneficial uses." The toxicity objective states, in part: "All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." The Basin Plan states that compliance with this objective will be determined by several factors, including biotoxicity tests of appropriate duration, or other analytical methods as specified by the Regional Board. (Biotoxicity testing involves measuring the toxic effects of an effluent on specified organisms according to nationally approved

protocols). USEPA's *Technical Support Document for Water Quality-based Toxics Control* or TSD (March 1991) specifies two toxicity measurement techniques that can be employed in effluent characterization; the first is Whole Effluent Toxicity (WET) testing, and the second is chemical-specific toxicity analyses. WET testing is used most appropriately when the toxic constituents in an effluent are not completely known; whereas chemical-specific analysis is more appropriately used when an effluent contains only one, or very few known constituents. Due to the nature of operations and chemical treatments at most CAAP facilities, CAAP facility effluents generally contain only one or two known chemicals at any given a time. Therefore, the Regional Board is using a chemical-specific approach to determine "reasonable potential" for discharges of aquaculture drugs and chemicals from CAAP facilities. The California Department of Fish and Game Pesticide Investigation Unit (DFG Pesticide Unit) has initiated biotoxicity studies to determine the aquatic toxicity of certain aquaculture drugs and chemicals commonly used at their CAAP facilities in the Region. The results of these studies are, in part, used to determine reasonable potential for aquaculture drugs and chemicals for this Facility.

28. Sodium chloride (salt) is used periodically at the Facility as a fish-cleansing agent to control the spread of fish disease in the raceways, and to reduce stress among the confined fish population. In recent monthly monitoring reports, the Discharger reports a maximum monthly salt use of 900 lbs (used in December 2002) and a maximum annual salt use of 1,700 lbs (2002). FDA considers sodium chloride an unapproved new animal drug of low regulatory priority (LRP drug) for use in aquaculture. Consequently, FDA is unlikely to take regulatory action if an appropriate grade is used, good management practices are followed, and local environmental requirements are met. The Regional Board has determined that the discharge of chloride from the Facility from sodium chloride application rates as described by the Discharger will not cause, have the reasonable potential to cause, or contribute to an in-stream excursion of applicable water quality criteria or objectives. Monitoring of conductivity and chloride is required and use of sodium chloride must be reported as specified in the Monitoring and Reporting Program.
29. Formalin (as a 37% formaldehyde solution) is not currently used but may be used by the Discharger in the future. Formalin (also known by the trade names Formalin-F[®], Paracide-F[®], PARASITE-S[®]) is approved through FDA's New Animal Drug Application (NADA) program for use in controlling external protozoa and monogenetic trematodes on fish, and for controlling fungi of the family *Saprolegniaceae* in food-producing aquatic species (including trout and salmon). For control of other fungi, formalin may be used under an Investigational New Animal Drug (INAD) exemption. Formalin is used as a "drip" treatment to control fungus on fish eggs, or as a "flush" treatment in raceways of 1-8 hours in duration. Formalin may be applied in multiple treatments over the course of a given month, or may be applied in raceways for up to 8 hours at a time.

The Basin Plan contains a narrative water quality objective for toxicity that states in part that "[a]ll waters shall be maintained free of toxic substances in concentrations that produce

detrimental physiological responses in human, plant, animal, or aquatic life” (narrative toxicity objective). The DFG Pesticide Unit conducted biotoxicity studies to determine the aquatic toxicity of formalin using *Pimephales promelas* and *Ceriodaphnia dubia* (*C. dubia*) in accordance with the analytical methods specified in EPA600/4-91-002, *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*. These “short-term chronic tests” measure effects such as reduced growth of the organism, reduced reproduction rates, or lethality. Results were reported as a No Observed Effect Concentration (NOEC) and a Lowest Observed Effect Concentration (LOEC). The DFG Pesticide Unit also conducted acute toxicity tests using *C. dubia* in accordance with methods specified in EPA600/4-90/027, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*. Acute toxicity test results typically are reported as the No Observed Adverse Effect Level (NOAEL), Lowest Observed Adverse Effect Level (LOAEL), and LC₅₀. The Regional Board considered the results of both acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limitations for formalin as formaldehyde were necessary.

Results of chronic toxicity tests indicated *C. dubia* was the most sensitive species, with a 7-day NOEC value of 1.3 mg/l formaldehyde for survival and less than 1.3 mg/l for reproduction (the Regional Board used an NOEC of 1.3 mg/L). Acute toxicity tests conducted using *C. dubia* showed a 96-hour NOAEL of 1.3 mg/l formaldehyde. Additional acute toxicity tests were conducted using only an 8-hour exposure, resulting in a 96-hour NOAEL concentration of 6.7 mg/L formaldehyde. Based on typical application rates for formalin, the Regional Board finds that if formalin is used at this Facility in the future, formaldehyde may be discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plan. Accordingly, this Order includes water quality-based effluent limitations for formaldehyde. Exposure to formaldehyde in the receiving water as a result of discharges from the Facility may be long-term because of potential application procedures (e.g., successive raceway treatments, drip treatments for eggs). Also, because of retention of the effluent in the settling ponds, exposure times could exceed treatment times. Therefore, an average monthly effluent limitation of 0.65 mg/L and a maximum daily effluent limitation of 1.3 mg/L are calculated based on the 96-hour NOAEL value and using the procedure in USEPA’s TSD for calculating water quality-based effluent limitations. These effluent limitations will ensure protection of aquatic life against effects from exposure to formaldehyde in the Discharge. The previous Order No. 96-110 includes a less stringent daily maximum limitation for formaldehyde of 5 mg/L based on a USEPA Health Advisory for acute 10-day exposure.

30. Acetic acid is not currently used but may be used by the Discharger in the future as a “flush” treatment in raceways for the control of external parasites on fish. The Basin Plan contains water quality objectives for pH in the form of a range of acceptable pH values (measured in standard units). Since acetic acid will lower the pH of the water the Regional Board has

included an effluent limit for pH. Monthly use of acetic acid must be reported as specified in the attached Monitoring and Reporting Program.

31. Hydrogen peroxide (35 % H₂O₂) is not currently used but may be used in the future for the control of external parasites at the hatchery. FDA considers hydrogen peroxide to be an LRP drug when used to control fungi on fish at all life stages, including eggs. Hydrogen peroxide may also be used under an INAD exemption to control bacterial gill disease in various fish, fungal infections, external bacterial infections, and external parasites. Hydrogen peroxide is a strong oxidizer that breaks down into water and oxygen; however, it exhibits toxicity to aquatic life during the oxidation process. Since there is limited short- and long-term toxicity information available at this time and no information regarding actual discharge concentrations of hydrogen peroxide, this permit does not include water quality-based effluent limitations for hydrogen peroxide. Use and monitoring of hydrogen peroxide must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available and this permit may be reopened to establish effluent limits based on additional use and toxicity information.
32. Potassium permanganate is not currently used but may be used in the future as a flush treatment to control external parasites and bacteria. Potassium permanganate has a low estimated lifetime in the environment, being readily converted by oxidizable materials to insoluble manganese dioxide (MNO₂). In non-reducing and non-acidic environments, MNO₂ is insoluble and has a very low bioaccumulative potential. Since there is limited toxicity information available for short- and long-term exposure and no information regarding actual discharge concentrations of potassium permanganate, this permit does not include water quality-based effluent limitations for potassium permanganate. Use and monitoring of potassium permanganate must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available and this permit may be reopened to establish effluent limits based on additional use and toxicity information.
33. Chloramine-T is not currently used by the Discharger but may be used in the future during outbreaks of bacterial gill disease. Chloramine-T is available for use in accordance with an INAD exemption by FDA. Chloramine-T breaks down into para-toluenesulfonamide (p-TSA) and unlike other chlorine based disinfectants does not form harmful chlorinated compounds. The Discharger has not conducted biotoxicity tests using Chloramine-T, however results of toxicity testing from other sources were submitted and showed a 96-hour LC₅₀ for rainbow trout of 2.8 mg/L. The 48-hour NOEC for *Daphnia magna* was reported as 1.8 mg/L. There is no toxicity information available for shorter exposure periods. Since there is limited toxicity information available for short- and long-term exposure and no information regarding actual discharge concentrations of Chloramine-T, this permit does not include water quality-based effluent limitations for Chloramine-T. However, use and monitoring of Chloramine-T must be reported as specified in the attached Monitoring and

Reporting Program. The Regional Board will review this information, and other information as it becomes available and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

34. The Discharger proposes to use benzalkonium chloride, a quaternary ammonium compound, as a disinfectant for the raceways. The Discharger is not proposing to discharge benzalkonium chloride to waters of the United States or waters of the State, but plans to use other means of disposal. Consequently, this Order does not include water quality-based effluent limitations for benzalkonium chloride, but use and means of disposal of this chemical must be reported as specified in the attached Monitoring and Reporting Program. Also, this Order includes a provision requiring that all aquaculture drugs and chemicals not discharged to receiving waters be disposed of in an environmentally safe manner, according to label guidelines, Material Safety Data Sheet guidelines and BMPs. Any other form of disposal requires approval from the Executive Officer. Furthermore, if the Discharger wishes to discharge this chemical, results of toxicity tests for benzalkonium chloride must be submitted as specified in Provision No. 3. The Regional Board will review this information, and other information as it becomes available, and this Order may be reopened to establish effluent limitations for these constituents.
35. Oxytetracycline, also known by the brand name Terramycin[®], is currently used by the Discharger. Oxytetracycline, is an antibiotic approved through FDA's NADA program for use in controlling ulcer disease, furunculosis, bacterial hemorrhagic septicemia, and pseudomonas disease in salmonids. Oxytetracycline is most commonly used as a feed additive. However, oxytetracycline may also be used as an extra-label use under a veterinarian's prescription in an immersion bath of approximately six to eight hours in duration. Because oxytetracycline may be applied in an immersion bath for up to eight hours at a time, the Regional Board considered the results of acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limits for oxytetracycline used in an immersion bath treatment were necessary in this Permit. Results of acute toxicity tests using *C. dubia* showed a 96-hour NOAEL of 40.4 mg/L. Results of chronic toxicity tests using *C. dubia* showed a 7-day NOEC for reproduction of 48 mg/L. The information available to the Regional Board regarding discharges of oxytetracycline indicates that it is discharged at levels well below the lowest NOEC and NOAEL. Therefore, at this time, the Regional Board determined that oxytetracycline, when used in feed or in an immersion bath treatment, is not discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plans. Accordingly, this Permit does not include an effluent limitation for oxytetracycline. However, monthly use of oxytetracycline must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available, and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

36. Penicillin G is not currently used by the Discharger but may be used in the future as a six hour bath for the control of bacterial infections. Penicillin G is not approved under FDA's NADA program and its extra-label use in aquaculture requires a veterinarian's prescription. Due to the length of treatment time, the Regional Board considered the results of acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limits for Penicillin G were necessary in this Permit. Results of acute toxicity tests using *C. dubia* showed a 96-hour NOAEL of 890 mg/L. Results of 7-day chronic toxicity testing using *Pimephales promelas* showed 7-day NOEC for survival of 350 mg/L. The information available to the Regional Board regarding discharges of Penicillin G indicates that if it is used it would be discharged at levels well below the lowest NOEC and NOAEL. Therefore, at this time, the Regional Board determined that Penicillin G, when used in an immersion bath treatment, would not be discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plan. Accordingly, this Permit does not include effluent limitations for Penicillin G. However, monthly use of Penicillin G must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available, and this permit may be reopened to establish effluent limits based on additional use and toxicity information.
37. Amoxicillin, erythromycin, florfenicol, and Romet-30[®] are not currently used but may be used by the Discharger in the future. Amoxicillin is injected into fish to control acute disease outbreaks through a veterinarian's prescription for extra-label use. Erythromycin (injected or used in feed formulations) and florfenicol (used in feed formulations) are antibiotics used to control acute disease outbreaks and must be used under an INAD exemption or a veterinarian's prescription for extra-label use. Romet-30[®], also known by the trade name Sulfadimethoxine-orentroprim, is an antibiotic used in feed formulations and is approved for use in aquaculture through FDA's NADA program for control of furunculosis in salmonids. In the NPDES General Permit for Aquaculture Facilities in Idaho (Idaho General Permit), USEPA Region 10 distinguishes between antibiotics applied in feed formulations and antibiotics applied in immersion baths. The Idaho General Permit concludes that drugs or chemicals administered via feed, and ingested by fish, pose little threat to aquatic life or beneficial uses because a majority of the drug is utilized by the fish, though some literature suggests otherwise. As stated in the Idaho General Permit, "USEPA believes that disease control drugs and other chemicals provided for ingestion by fish do not pose a risk of harm or degradation to aquatic life or other beneficial uses." The Regional Board determined that amoxicillin (when injected into fish), erythromycin (when injected into fish or used as a feed additive), florfenicol and Romet-30[®] (when used as feed additives) are used in a manner that reduces the likelihood of direct discharge of antibiotics to waters of the United States or waters of the State, particularly when Dischargers implement BMPs as required by this Permit. Therefore, the Regional Board determined that amoxicillin, florfenicol and Romet 30[®] are not discharged from CAAP facilities in the Region at levels that cause, have the reasonable potential to cause, or contribute to an

excursion of a narrative water quality objective for toxicity from the Basin Plan. Accordingly, this Permit does not include water quality-based effluent limitations for these substances; however, this Permit does require monitoring and reporting of the use of these substances as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

38. To treat enteric redmouth disease, the Discharger may administer enteric redmouth bacterin. Enteric redmouth (or yersiniosis) bacterins are formulated from inactivated *Yersinia ruckeri* bacteria and may be used as an immersion or vaccine to help protect salmonid species from enteric redmouth disease caused by *Yersinia ruckeri*. These bacterins stimulate the fish's immune system to produce protective antibodies. This veterinary biologic is licensed for use by the US Department of Agriculture's (USDA's) Center for Veterinary Biologics. Veterinarians should be consulted before beginning an immunization program. According to USDA, most biologics leave no chemical residues in animals and most disease organisms do not develop resistance to the immune response by a veterinary biologic. Based upon available information regarding the use of these substances at CAAP facilities, the Regional Board does not believe that enteric redmouth bacterin, when used according to label and veterinarian instructions, are discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of Basin Plan narrative water quality objectives for toxicity. Accordingly, this Order does not include water quality-based effluent limitations; however, use must be reported as specified in the attached Monitoring and Reporting Program. In the future, as additional information becomes available regarding the use or toxicity, the Regional Board will re-evaluate whether the discharge to receiving waters may cause, have the reasonable potential to cause, or contribute to an excursion of the Basin Plan objectives for toxicity and, if necessary, re-open this Order to include numeric effluent limitations.

OTHER CONSIDERATIONS

39. California Water Code Section 13267 states, in part, "*(a) A Regional Board, in establishing...waste discharge requirements... may investigate the quality of any waters of the state within its region*" and "*(b) (1) In conducting an investigation... the Regional Board may require that any person who... discharges... waste...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the Regional Board requires.*" California Water Code Section 13383 states in part, "a regional board may establish monitoring, inspection, entry, reporting, and record keeping requirements . . . for any person who discharges pollutants . . . to navigable waters." The attached Monitoring and Reporting Program No. R5-2004-0147 is necessary to assure compliance with waste discharge requirements and is incorporated by reference herein. The attached Monitoring and Reporting Program is established pursuant to California Water Code Sections 13267 and 13383.

40. Effluent limitations, and toxic and pretreatment effluent standards established pursuant to Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 304 (Information and Guidelines), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act (CWA) and amendments thereto are applicable to the discharge.
41. Best Management Practices plan requirements are established based on 40 CFR 122.44(k)(4) to help ensure adequate control of solids and other pollutants present in the discharge.
42. The Regional Board has considered the information in the attached Information Sheet in developing the findings in this Order. The attached Information Sheet is part of this Order.
43. The action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resources Code Section 21100, et seq., in accordance with Section 13389 of the California Water Code.
44. The Regional Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for this discharge and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
45. The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge.
46. This Order shall serve as an NPDES permit pursuant to Section 402 of the CWA, and amendments thereto, and shall take effect upon the date of hearing, provided USEPA has no objections.

IT IS HEREBY ORDERED that Order No. 96-110 is rescinded and that Mt. Lassen Trout Farms, Inc. and Dale Family Partnership, their agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, shall comply with the following:

A. Discharge Prohibitions

1. Discharge of wastes in a manner other than as described in this Order, or at a location different from that described in the Findings is prohibited, and may be considered a violation of the Clean Water Act and the California Water Code.
2. The by-pass or overflow of untreated wastewater or wastes into any surface water or surface water drainage course is prohibited, except as allowed by Standard Provision A.13.

3. Discharge of waste classified as “hazardous” as defined in Section 2521(a) of Title 23, California Code of Regulations (CCR), Section 2510, et seq., (hereafter Chapter 15), or “designated”, as defined in Section 13173 of the California Water Code (CWC), is prohibited.
4. Practices that allow accumulated sludge, grit, and solid residues to be discharged to surface waters or surface water drainage courses are prohibited.

B. Effluent Limitations – Discharge 001

1. Effluent discharged into a surface water from Discharge 001 shall not have a pH less than 6.5 nor greater than 8.5.
2. The maximum daily discharge of flow-through wastewater shall not exceed 6.0 million gallons per day (mgd).
3. Direct discharges to surface waters from Discharge 001 shall not exceed the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Average Monthly Effluent Limitation</u>	<u>Maximum Daily Effluent Limitation</u>
Total Suspended Solids (TSS) ¹	mg/L (net)	5.0	15.0
Settleable Solids	ml/L	0.1	0.2
Formaldehyde	mg/L	0.65	1.3

¹ Effluent limitations for total suspended solids are net values (Net TSS concentration =Effluent TSS concentration less Influent TSS concentration).

C. Discharge Specifications

1. The discharge shall not cause the degradation of any water supply or ground water.
2. Neither the treatment nor the discharge shall cause a nuisance or conditions of pollution as defined by California Water Code §13050.
3. Domestic sewage shall be maintained within the designated disposal area at all times, and there shall be no direct discharge to surface waters or surface water drainage courses.

D. Best Management Practices (BMP) Plan

Within 12 months of adoption of this Order, the Discharger shall certify in writing to the Regional Board that it has developed a Best Management Practices (BMP) plan. The Discharger shall develop and implement the BMP plan to prevent or minimize the generation and discharge of wastes and pollutants to the waters of the United States and waters of the State. The Discharger shall develop and implement a BMP plan consistent with the following objectives:

1. Solids Management

- a. Conduct fish feeding in raceways in a manner that limits feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth and minimizes the discharge of unconsumed food and waste products to surface waters.
- b. Clean raceways using procedures and at frequencies that minimize the disturbance and subsequent discharge of accumulated solids during routine activities such as inventorying, grading, and harvesting.
- c. Report the final disposition of all other solids and liquids, including aquaculture drugs and chemicals, not discharged to surface waters in the effluent.
- d. Collect, store, and dispose of fish mortalities and other solids in an environmentally safe manner and in manner so as to minimize discharge to waters of the United States or waters of the State.

2. Operations and Maintenance

- a. Maintain in-system production and wastewater treatment technologies to prevent the overflow of any floating matter or bypassing of treatment technologies.
- b. Inspect the production system and the wastewater treatment system on a routine basis in order to identify and promptly repair any damage.
- c. Ensure storage and containment of drugs, chemicals, fuel, waste oil, or other materials to prevent spillage or release into the aquatic animal production facility, waters of the United States, or waters of the State.
- d. Implement procedures for properly containing, cleaning, and disposing of any spilled material.

- e. Prevent fish from being released within the FDA-required withdrawal time of any drug or chemical with which they have been treated.

3. Training

- a. Adequately train all relevant Facility personnel in spill prevention and how to respond in the event of a spill in order to ensure the proper clean-up and disposal of spilled material.
- b. Train staff on the proper operation and cleaning of production and wastewater treatment systems, including training in feeding procedures and proper use of equipment.

The Discharger shall ensure that its operations staff are familiar with the BMP Plan and have been adequately trained in the specific procedures it requires.

E. Waste Disposal

1. Collected screenings, sludges, and other solids, including fish carcasses, shall be disposed of in a manner approved by the Executive Officer and consistent with *Consolidated Regulations for Treatment, Storage, Processing, or Disposal of Solid Waste*, as set forth in Title 27, CCR, Division 2, Subdivision 1, Section 20005, et seq.
2. All aquaculture drugs and chemicals not discharged to receiving waters in accordance with the provisions of this Order shall be disposed of in an environmentally safe manner, according to label guidelines, Material Safety Data Sheet guidelines and BMPs. Any other form of disposal requires approval from the Executive Officer.
3. Any proposed change in disposal practices, shall be reported to the Executive Officer at least **90 days** in advance of the change.

F. Receiving Water Limitations for the Paynes Creek

Receiving water limitations are site-specific interpretations of water quality objectives contained in the Basin Plan. As such, they are a required part of this Order. However, a receiving water condition not in conformance with the limitation is not necessarily a violation of this Order. The Regional Board may require an investigation to determine cause and culpability prior to asserting a violation has occurred. The discharge shall not cause the following in Paynes Creek:

1. Fecal coliform concentrations, based on a minimum of not less than five samples for any 30-day period, to exceed a geometric mean of 200/100 ml or more than ten

percent of the total number of samples taken during any 30-day period to exceed 400/100 ml.

2. Biostimulatory substances to be present which promote aquatic growths that cause nuisance or adversely affect beneficial uses.
3. Discoloration that causes nuisance or adversely affects beneficial uses.
4. Dissolved oxygen concentrations to fall below 7.0 mg/L, the monthly median of the mean daily dissolved oxygen concentration to fall below 85 percent of saturation in the main water mass or the 95th percentile concentration of dissolved oxygen to fall below 75 percent of saturation.
5. Floating material in amounts that cause nuisance or adversely affect beneficial uses.
6. Oils, greases, waxes, or other materials that result in a visible film or coating on the water surface or on objects in the water.
7. The normal ambient pH to fall below 6.5, exceed 8.5, or change by more than 0.5 units.
8. Pesticides to be present in concentrations in the receiving water, bottom sediments, or aquatic life in concentrations that adversely affect beneficial uses or in concentrations that exceed the lowest levels technically and economically achievable.
9. Radionuclides to be present in concentrations that exceed maximum contaminant levels specified in the California Code of Regulations, Title 22; that harm human, plant, animal or aquatic life; or that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.
10. Suspended sediment load and suspended sediment discharge rates to be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
11. Deposition of material that causes nuisance or adversely affects beneficial uses.
12. Suspended material in concentrations that adversely affect beneficial uses.
13. Taste or odor-producing substances to impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, or to cause nuisance or adversely affect beneficial uses.
14. An increase in the normal ambient temperature of waters by more than 5°F (3°C).

15. Toxic pollutants to be present in concentrations that adversely affect beneficial uses or that produce detrimental physiological responses in human, plant, animal, or aquatic life.
16. The turbidity of receiving waters to increase over background levels by more than:
 - a. 1 NTU when background turbidity is between 0 and 5 NTUs;
 - b. 20 percent when background turbidity is between 5 and 50 NTUs;
 - c. 10 NTUs when background turbidity is between 50 and 100 NTUs; and
 - d. 10 percent when background turbidity is greater than 100 NTUs.

In determining compliance with the above limitations, appropriate averaging periods may be applied upon approval by the Executive Officer.

17. Aquatic communities and populations, including vertebrate, invertebrate, and plant species, to be degraded.
18. Violation of any applicable water quality standard for receiving waters adopted by the Regional Board or the SWRCB pursuant to the CWA and regulations adopted thereunder.

G. Provisions

1. The Discharger shall comply with the attached Monitoring and Reporting Program No. R5-2004-0147, which is part of this Order, and any revisions thereto, as ordered by the Executive Officer. If sufficient information is collected and indicates that the discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numerical water quality standard, then this Order may be reopened to include effluent limitation(s) to achieve water quality standards. Additionally, if pollutants are detected in discharges from the Discharger's Facility, but insufficient information exists to establish an effluent limitation or determine if an effluent limitation is necessary, then the Discharger may be required to conduct additional monitoring to provide sufficient information.

When requested by USEPA, the Discharger shall complete and submit additional Discharge Monitoring Reports. The submittal date shall be no later than the submittal date specified in the Monitoring and Reporting Program for Discharge Self-Monitoring Reports.

2. The Discharger shall comply with all the items of the “Standard Provisions and Reporting Requirements for Waste Discharge Requirements (NPDES)”, dated February 2004, which are part of this Order. This attachment and its individual paragraphs are referred to as “Standard Provisions.”
3. This Order authorizes the discharge of sodium chloride (salt), acetic acid, potassium permanganate, hydrogen peroxide, Chloramine-T, formalin (formaldehyde), Oxytetracycline, Romet-30[®], Florfenicol, Penicillin G, amoxicillin, erythromycin, and enteric redmouth bacterin, in accordance with the effluent limitations and other conditions described herein. The Discharger shall submit to the Regional Board in writing the following information prior to the use of any other chemical or aquaculture drug that may enter the wastewater discharge:
 - a. The common name(s) and active ingredient(s) of the drug or chemical proposed for use and discharge.
 - b. The purpose for the proposed use of the drug or chemical (i.e. list the specific disease for treatment and specific species for treatment).
 - c. The amount proposed for use and the resulting calculated concentration in the discharge.
 - d. The duration and frequency of the proposed use.
 - e. Material Safety Data Sheets and available toxicity information.
 - f. Any related INAD, NADA information, extra-label use requirements and/or veterinarian prescriptions.

Prior to discharging the chemical or aquaculture drug, the Discharger also shall conduct and/or submit the results of acute toxicity test information on any new chemical or drug in accordance with *EPA-821-R-02-012*, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, *Fifth Edition, October 2002*, using *C. dubia*, to determine the NOAEL, and LOAEL.

If the toxicity testing, or above listed information submitted to the Regional Board indicates that the drug or chemical is, or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an in-stream excursion above any chemical-specific water quality criteria, narrative water quality objective for chemical constituents from the Basin Plan, or narrative water quality objective for toxicity from the Basin Plan, this Order may be reopened to established effluent limitations.

4. In accordance with the requirements in Section D. – Best Management Practices (BMP) Plan, of this Order, the Discharger shall develop and implement a BMP Plan which achieves the objectives and the specific requirements outlined in that section of the Order. Through implementation of a BMP Plan, the Discharger shall prevent

or minimize the generation and discharge of wastes and pollutants from the Facility to the waters of the United States. In the BMP Plan, each component of the Facility shall be evaluated by the Discharger for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to receiving waters due to the failure or improper operation of equipment. The examination shall include all normal operations, including raw material and product storage areas, feeding of fish, internal movement of fish, cleaning of rearing/holding units and settling systems, processing and product handling areas, loading or unloading operations, spillage or leaks from the processing floor and dock, and sludge and waste disposal. The BMP Plan shall contain an explicit quantification of the inputs and outputs of the Facility, including fish, feed, feed components, mortalities due to predation and disease, dissolved and solid pollutants, and water. The BMP Plan shall contain a description of specific management practices and standard operating procedures used to achieve the above objectives, including, for example, schedules for solids removal from each waste collection component including what procedures will be used to determine when cleaning is necessary to prevent accumulated solids from being discharged. The BMP Plan shall contain a statement that the BMP Plan has been reviewed and endorsed by the Facility Manager and the individuals responsible for implementation of the BMP operating plan. The Discharger shall ensure that its operations staff is familiar with the BMP Plan and have been adequately trained in the specific procedures which it requires. The Discharger shall maintain a copy of the BMP Plan at the Facility and shall make the plan available upon request to representatives of the Regional Board.

5. The Discharger may conduct studies pertaining to Facility operations, the effluent discharge, and the receiving water. For example, such studies may include a mixing zone and dilution study. The Regional Board will review such studies and, if warranted, will reopen this Order to make appropriate changes.
6. The Discharger shall report promptly to the Regional Board any material change or proposed change in the character, location, or volume of the discharge.
7. A copy of this Order shall be kept at the discharge Facility for reference by operating personnel. Key operating personnel shall be familiar with its contents.
8. This Order expires on **1 October 2009** and the Discharger must file a Report of Waste Discharge in accordance with Title 23, CCR, not later than **180 days** in advance of such date an application for renewal of waste discharge requirements if it wishes to continue the discharge.
9. The Dale Family Partnership, as owner of the real property at which the discharge will occur, is ultimately responsible for ensuring compliance with these requirements. Mt. Lassen Trout Farms, Inc., retains primary responsibility for

compliance with these requirements, including day-to-day operations and monitoring. Enforcement actions will be taken against the Dale Family Partnership only in the event that enforcement actions against Mt. Lassen Trout Farms, Inc. are ineffective or would be futile, or that enforcement is necessary to protect public health or the environment.

10. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be immediately forwarded to this office.

To assume operation under this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of the Order. The request must contain the requesting entity's full legal name, the State of Incorporation if a corporation, the name, address, and the telephone number of the persons responsible for contact with the Regional Board, and a statement. The statement shall comply with the signatory paragraph of Standard Provision D.6 and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the California Water Code. Transfer shall be approved or disapproved in writing by the Executive Officer.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Regional Board, Central Valley Region, on 15 October 2004.

THOMAS R. PINKOS, Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

NPDES NO. CA0080381

MONITORING AND REPORTING PROGRAM NO. R5-2004-0147

FOR
MT. LASSEN TROUT FARMS, INC.
AND
DALE FAMILY PARTNERSHIP
MT. LASSEN TROUT FARMS' DALES FACILITY
TEHAMA COUNTY

INTRODUCTION

This Monitoring and Reporting Program is issued pursuant to California Water Code §13267 and §13383 and includes: influent monitoring of raw water supply, effluent monitoring of discharges to waters of the United States and waters of the State. All water quality samples shall be representative of the volume and nature of the discharge, or representative of the matrix of material sampled. The time, date, and location of sample collection shall be recorded on a chain of custody (COC) form. COC forms shall be completed for each sample collected and copies provided to the Regional Board with the monthly monitoring reports.

Water quality samples do not need to be taken during months when there are no pollutant discharges to surface waters resulting from aquaculture operations. No monitoring is required if no fish are being held at the facility. Monitoring for specific chemicals or drugs only when being used and discharged to surface waters. However, monitoring forms are still required to be submitted on a quarterly basis during these periods documenting no discharge.

All water quality sampling and analyses shall be performed in accordance with the Monitoring and Reporting Requirements as outlined in Section C of the Standard Provisions of this Order. Water quality sample collection, storage, and analyses shall be performed according to 40 CFR Part 136, or other methods approved and specified by the Executive Officer in accordance with an approved Quality Assurance-Quality Control Program.

INFLUENT MONITORING

A sampling station shall be established and located where representative samples of the raw water supply can be obtained. Samples shall be collected at approximately the same time as effluent samples. Influent monitoring shall include at least the following:

<u>Constituent</u>	<u>Unit</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
pH	standard units	Grab	1/month
Dissolved Oxygen	mg/L	Grab	1/month
Turbidity	NTU	Grab	1/quarter
Conductivity @ 25°C (Specific Conductance) ¹	µmhos/cm	Grab	1/quarter ¹
Total Suspended Solids ²	mg/L	Grab	Annually ²

¹ In months when sodium chloride is added to waters of the Facility, conductivity shall be measured during sodium chloride use.

² During month of highest feeding.

EFFLUENT MONITORING (Discharge 001)

Effluent samples shall be collected from the Discharge 001 downstream of the raceways and settling basin. Effluent samples shall be representative of the volume and quality of the discharge and shall be taken at the same time as influent samples. Effluent samples shall be collected during or immediately following raceway cleaning or administration of drug or chemical treatments and must be representative of the volume and quality of the discharge at the time when representative levels of solids, drugs, chemicals, or other pollutants are present in the discharge. Time of collection of samples shall be recorded. Effluent monitoring shall include the following:

<u>Constituent</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Effluent Flow	cfs	Calibrated meter, weir, or other approved method	Recorded monthly
Settleable solids	ml/L	Grab	1/month
pH	standard units	Grab	1/month
Dissolved Oxygen	mg/L	Grab	1/month
Turbidity	NTU	Grab	1/quarter
Conductivity @ 25°C (Specific Conductance) ¹	µmhos/cm	Grab	1/quarter ¹
Chloride ¹	mg/L	Grab	1/quarter ¹

<u>Constituent</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Total suspended solids (TSS)	mg/L	Grab	Annually ²
Net TSS (effluent minus influent)	mg/L	Net calculation	Annually ²
Formaldehyde ³	mg/L	Grab	1/month during use ³
Hydrogen peroxide ⁴	mg/L	Grab	1/month during use ⁴
Potassium permanganate ⁴	mg/L	Grab	1/month during use ⁴
Chloramine-T ⁴	mg/L	Grab	1/month during use ⁴

¹ In months when sodium chloride is added to waters of the Facility, conductivity and chloride concentration shall be measured during sodium chloride use.

² During month of highest feeding.

³ In months when Formalin is added to the waters of the Facility, formaldehyde concentration shall be measured during Formalin use.

⁴ The analytical method used for hydrogen peroxide, potassium permanganate, and Chloramine-T, shall be approved by the Executive Officer. If no approved methods are available effluent concentrations may be determined by calculation as approved by the Executive Officer.

RECEIVING WATER MONITORING

The wastewater discharge when it leaves the Facility under control of the Discharger passes through agricultural land, which may contain grazing animals and other uses not under control of the Discharger. Therefore, receiving water conditions in Paynes Creek would be influenced by these other uses. In lieu of receiving water monitoring in Paynes Creek, the parameters normally sampled in the receiving water are monitored in the influent and effluent. In addition, the Discharger shall keep a log of the conditions of the water conditions immediately downstream of the last settling basin prior to leaving the Discharger's Facility. Attention shall be given to the presence or absence of:

- | | |
|---------------------------------|--|
| a. Floating or suspended matter | e. Visible films, sheens, or coatings |
| b. Discoloration | f. Fungi, slimes, or objectionable growths |
| c. Bottom deposits | g. Potential nuisance conditions |
| d. Aquatic life | |

Notes on water conditions shall be summarized in the monitoring report.

QUARTERLY DRUG AND CHEMICAL USE REPORT

The following information shall be submitted for all aquaculture drugs or chemicals used at the Facility:

- a. The name(s) and active ingredient(s) of the drug or chemical.
- b. The date(s) of application.
- c. The purpose(s) for the application.
- d. The method of application (e.g., immersion bath, administered in feed), duration of treatment, whether the treatment was static or flush (for drugs or chemicals applied directly to water), amount in gallons or pounds used, treatment concentration(s), and the flow in cubic feet per second (cfs) in the treatment units.
- e. The total flow through the facility in cubic feet per second (cfs) to the unnamed irrigation ditch after mixing with the treated water.
- f. For drugs and chemicals applied directly to water (i.e., immersion bath, flush treatment) and for which effluent monitoring is not otherwise required, the estimated concentration in the effluent entering the series of ponds.
- g. The method of disposal for drugs or chemicals used but not discharged in the effluent.

Calculation of Concentration:

For drugs or chemicals used in an immersion bath, “drip” treatment, or in other direct application to waters at the facility, use the following formula to estimate the concentration (C) at the point of discharge (not accounting for any dilution in the settling basins).

C = concentration of chemical or drug at the point of discharge

$C = (\text{treatment concentration}) \times (\text{flow in treatment area}) \div (\text{flow at point of discharge})$

Example: Potassium permanganate concentration

$C = 2.0 \text{ mg/L (potassium permanganate)} \times \frac{0.45 \text{ mgd (flow through treatment area)}}{5.0 \text{ mgd (flow at point of discharge)}}$

$C = 2.0 \text{ mg/L} \times 0.09$

C = 0.18 mg/L potassium permanganate at the point of discharge

This information shall be submitted monthly. If the analysis of this chemical use data compared with any toxicity testing results or other available information for the therapeutic agent, chemical or anesthetic indicates that the discharge may cause, have the reasonable potential to cause, or contribute to an excursion of a numeric or narrative water quality criterion or objective, the Executive

Officer may require site specific toxicity tests using *C. dubia* or reopen this Order to include an effluent limitation based on that objective.

SEPTIC TANK MONITORING AND INSPECTIONS

Septic tank maintenance inspections shall be performed at least once per year. Information concerning inspections and maintenance activities (including, but not limited to, pumping, replacement, and repairs) shall be included in the monitoring reports submitted to the Regional Board and the Annual Report.

LEACHFIELD MONITORING

The Discharger shall inspect leachfield areas and submit the results in the quarterly monitoring report. Monitoring shall include any observations of seeps, erosion, field saturation, ponding liquid, the presence of nuisance and other field conditions.

PRIORITY POLLUTANT METALS MONITORING

The State Water Resources Control Board (SWRCB) adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (known as the State Implementation Policy or SIP). The SIP states that the Regional Boards will require periodic monitoring (at least once prior to issuance and reissuance of a permit) for pollutants for which criteria or objectives apply and for which no effluent limitations have been established.

The Regional Board has determined that, based on priority pollutant data collected from this and similar facilities, discharge of priority pollutants other than metals is unlikely. Accordingly, the Regional Board is requiring, as part of this Monitoring and Reporting Program, that the Discharger monitor effluent and receiving water (at receiving water station R-1, upstream of the point of discharge) and analyze the sample for priority pollutant metals **one time at least 180 days but no more than 365 days prior to expiration of this Order.**

The Discharger must analyze pH and hardness of the effluent and receiving water at the same time as priority pollutant metals. The priority pollutant metals for which this one-time analysis is required are as follows:

▪ Antimony	▪ Lead
▪ Arsenic	▪ Mercury
▪ Beryllium	▪ Nickel
▪ Cadmium	▪ Selenium
▪ Chromium (III)	▪ Silver
▪ Chromium (IV)	▪ Thallium
▪ Copper	▪ Zinc

Metals shall be analyzed by the U.S. EPA methods listed below. Alternative analytical procedures may be used with approval by the Regional Board if the alternative method has the same or better detection level than the method listed.

Method Description	EPA Method	Constituents
Inductively Coupled Plasma/Mass Spectrometry (ICP/MS)	1638	Antimony, Beryllium, Cadmium, Copper, Lead, Nickel, Selenium, Silver, Thallium, Total Chromium, Zinc
Cold Vapor Atomic Absorption (CVAA)	1631	Mercury
Gaseous Hydride Atomic Absorption (HYDRIDE)	206.3	Arsenic
Flame Atomic Absorption (FAA)	218.4	Chromium VI

All priority pollutant metal analyses shall be performed at a laboratory certified by the California Department of Health Services. The laboratory is required to submit the Minimum Level (ML) and the Method Detection Limit (MDL) with the reported results for each constituent. The MDL should be as close as practicable to the U.S. EPA MDL determined by the procedure found in 40 CFR Part 136. The results of analytical determinations for the presence of chemical constituents in a sample shall use the following reporting protocols:

- a. Sample results greater than or equal to the reported ML shall be reported as measured by the laboratory.
- b. Sample results less than the reported ML, but greater than or equal to the laboratory's MDL, shall be reported as "Detected but Not Quantified," or DNQ. The estimated chemical concentration of the sample shall also be reported.
- c. For the purposes of data collection, the laboratory shall write the estimated chemical concentration next to DNQ as well as the words "Estimated Concentration." Numerical estimates of data quality may be by percent accuracy (+ or - a percentage of the reported value), numerical ranges (low to high), or any other means considered appropriate by the laboratory.
- d. Sample results that are less than the laboratory's MDL shall be reported as "Not Detected" or ND.

GENERAL REPORTING REQUIREMENTS

The Discharger shall implement this monitoring program on the first day of the month following adoption of the Order. The Discharger shall submit quarterly monitoring reports to the regional Board by the **first day of the second month** following each calendar quarter (i.e., **1 May, 1 August, 1 November, 1 February**). Annual monitoring reports shall be submitted by **1 February** each year.

All reports submitted in response to this Order shall comply with signatory requirements of Standard Provision D.6.

By **1 February** of **each year**, the Discharger shall submit a written Annual Report to the Executive Officer containing the following information:

1. A tabulation of the pounds of fish produced during the previous year.
2. A summary of information on land application and land disposal of solids and wastewater during the previous year.
3. A summary of feeding practices used at the facility including:
 - a. The amount of feed used during the previous year.
 - b. The percent of phosphorus in the feed(s) used (as available).
 - c. The method and frequency of feeding.
4. A summary documenting cleaning, inspections, maintenance, and repairs of all production and wastewater treatment systems.
5. Septic tank inspection and maintenance report.

In the event the Discharger becomes aware of a violation of the prohibitions, specifications, or limitations of this Order, the Discharger shall notify the Board by telephone within 24 hours of having knowledge of such noncompliance, and shall confirm this notification in writing within 5 days.

In the event that there is failure in or damage to the structure of an aquatic animal containment system that results in an unanticipated material discharge of pollutants to waters of the United States or waters of the State, the Discharger shall provide an oral report within 24 hours describing the cause of the failure or damage and identifying the materials that have been released to the environment as a result of the failure or damage. Within 7 days of discovery of the failure or damage, the Discharger shall provide a written report documenting the cause, the estimated time elapsed until the failure or damage was repaired, and steps being taken to prevent a recurrence.

If the Discharger monitors any pollutant more frequently than is required by this Order, the results of such monitoring shall be included in the calculation of the values required in the monthly monitoring report. Such increased frequency also shall be indicated on the monthly monitoring report.

Ordered by: _____
THOMAS R. PINKOS, Executive Officer

15 October 2004
(Date)

INFORMATION SHEET

ORDER NO. R5-2004-0147
MT. LASSEN TROUT FARMS INC.
AND DALE FAMILY PARTNERSHIP
MT. LASSEN TROUT FARMS' DALES FACILITY
TEHAMA COUNTY

FACILITY DESCRIPTION

Mt. Lassen Trout Farms, Inc. – Dales (Facility) is a flow-through, cold-water concentrated aquatic animal production (CAAP) facility located approximately seven miles southwest of Manton, California in Tehama County. The Facility is owned and operated by Mt. Lassen Trout Farms, Inc. and is located on land leased from the Dale Family Partnership on Assessor's Parcel Nos. 9-14-11 and 9-19-21, approximately 14 miles east of Red Bluff, California in Section 35, T29N, R2W, MDB&M. The partners in the Dale Family Partnership are listed as Shirley Carter, Audrey Nuechterlein, and Jim Dale.

Based on Annual and Monthly Reports (1999-2003), an average of 3.96 million gallons per day (mgd) and a maximum of 4.46 mgd of water is diverted from four unnamed springs and flows in parallel through the Facility's two sets of 8 production raceways (16 raceways total). The Discharger does not control water flow through the Facility and flow from the springs varies seasonally and with weather conditions. The Discharger in the ROWD estimates 6.0 mgd as the maximum flow that could be discharged from the Facility. Water from the production raceways flows through a concrete settling basin and travels approximately 1/4 mile to the confluence with Paynes Creek (Discharge 001). Settled waste is periodically vacuum pumped from the raceways to a parallel drainage that is spring fed with an average flow of 1 cfs. Flows from this drainage join the discharge from the fish raceways just before discharging into Paynes Creek. During the irrigation season, portions of both flows may be diverted to adjacent agricultural lands owned by the Dale Family Partnership. The discharge is presently governed by Order No. 96-110 (NPDES No. CA0080381), adopted by the Regional Board on 3 May 1996.

Based on Annual Reports for the past five years (1999-2003), the Facility has an average annual production of 58,142 pounds of rainbow trout. Average annual feed usage for this period was 87,034 pounds. The amount of fish raised and the amount of feed used in 1999 through 2003 is summarized in below:

Amount of fish raised and amount of feed used at the Mt. Lassen Trout Farms, Inc. – Dales Facility 1999-2003:

	1999	2000	2001	2002	2003
Amount of fish raised (lbs)	60,800	61,000	61,750	57,000	50,160
Amount of feed used (lbs)	96,000	97,920	86.250	81,500	73,500

Wastes generated at the Facility include fish fecal material, unconsumed fish food, nutrients, algae, silt, chemicals and therapeutic agents. Based on monthly monitoring reports from 1999 through December 2003, the effluent may be characterized as follows:

<u>Constituent</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Average</u>
Total suspended solids (TSS) (mg/L)	3	2	2.5
Settleable solids (ml/L)	Trace	Trace	Trace
Temperature (°F)	59	55	57
Dissolved oxygen (mg/L)	10	8	9
pH (standard units)	7	7	--

Aquaculture drugs and chemicals are used at the Facility to treat fish directly for parasites, fungi, and bacteria, as well as to clean rearing raceways in order to reduce the spread of disease among the confined fish population. In the previous Order No. 96-110, chemicals used at the Facility for disease preventative measures for adult fish are listed as sodium chloride (salt) and formalin (formaldehyde). Salt is used to control external parasites and as an osmoregulatory aid to relieve stress on confined fish. Maximum annual salt usage at the Facility was 1700 pounds in 2002, with a maximum month of salt usage of 900 pounds in November 2000. Formalin (a 37% formaldehyde, methanol-free solution) has not been used by the Facility since 2000, but may be used in the future to control outbreaks of fish diseases. Oxytetracycline (Terramycin[®]) an antibiotic has been used to treat disease.

Chemicals not currently used but may be used by the Discharger in the future include benzalkonium chloride, hydrogen peroxide, potassium permanganate, Chloramine-T, and acetic acid. Antibiotics such as Amoxicillin trihydrate, Romet-30[®] (Sulfadimethoxine-ormetoprim), erythromycin, and Florfenicol may be used during periods of disease outbreak. Penicillin G, an antibiotic, may be used as an immersive bath treatment during periods of disease outbreak at the Facility. To treat enteric redmouth disease, the Discharger may administer enteric redmouth bacterin. The Discharger does not use copper sulfate and does not propose its use in the future.

Domestic wastewater from a private, on-site caretaker residence is discharged to a septic tank/leachfield system.

APPLICABLE REGULATIONS, POLICIES, AND PLANS

A cold-water concentrated aquatic animal production (CAAP) facility is defined in Title 40 of the Code of Federal Regulations (40 CFR 122.24) as a fish hatchery, fish farm, or other facility which contains, grows, or holds cold-water fish species or other cold water aquatic animals including, but not limited to, the Salmonidae family of fish (e.g. trout and salmon) in ponds, raceways, or other similar structures. In addition, the facility must discharge at least 30 calendar days per year, produce at least 20,000 pounds harvest weight (9,090 kilograms) of aquatic animals per year, and feed at least 5,000 pounds (2,272 kilograms) of food during the calendar month of maximum feeding. A facility that does not meet the above criteria may also be designated a cold water CAAP facility upon a determination that the facility is a significant contributor of pollution to waters of the United States [40 CFR 122.24(c)]. Cold water, flow-through CAAP facilities are designed to allow the continuous flow of fresh water through tanks and raceways used to produce aquatic animals (typically cold-water

fish species). Flows from CAAP facilities ultimately are discharged to waters of the United States and of the State. 40 CFR 122.24 specifies that CAAP facilities are point sources subject to the National Pollutant Discharge Elimination System (NPDES) program. The Discharger's Facility meets the definition of a cold-water, flow-through CAAP.

The operation of CAAP facilities may introduce a variety of pollutants into receiving waters. The U.S. Environmental Protection Agency (USEPA) identifies three classes of pollutants: (1) conventional pollutants (i.e., total suspended solids (TSS), oil and grease (O&G), biochemical oxygen demand (BOD), fecal coliform, and pH); (2) toxic pollutants (e.g., metals such as copper, lead, nickel, and zinc and other toxic pollutants; and (3) non-conventional pollutants (e.g., ammonia-N, formalin, and phosphorus). The most significant pollutants discharged from CAAP facilities are solids from uneaten feed, as well as fish feces that settles to the bottom of the raceways. Both of these types of solids are primarily composed of organic matter including BOD, organic nitrogen, and organic phosphorus.

Fish raised in CAAP facilities may become vulnerable to disease and parasite infestations. Various aquaculture drugs and chemicals are used periodically at CAAP facilities to ensure the health and productivity of the confined fish population, as well as to maintain production efficiency. Aquaculture drugs and chemicals are used to clean raceways and to treat fish for parasites, fungal growths and bacterial infections. Aquaculture drugs and chemicals are also used to anesthetize fish prior to spawning or prior to the annual "tagging" process. As a result of these operations and practices, drugs and chemicals may be present in discharges to waters of the United States or waters of the State.

In August 2004, U.S. EPA promulgated Effluent Limitation Guidelines and New Source Performance Standards for the Concentrated Aquatic Animal Production Point Source Category (hereafter "ELG"). The ELG regulation establishes national technology-based effluent discharge requirements for flow-through and recirculating systems and for net pens based on Best Practicable Control Technology Currently Available (BPT); Best Control Technology for Conventional Pollutants (BCT); Best Available Technology Economically Achievable (BAT); and New Source Performance Standards (NSPS). The requirements, however, are only applicable to facilities that produce 100,000 pounds or more per year of aquatic animals. The Dischargers Facility which has an average annual production of 58,142 pounds of rainbow trout. For facilities that do not meet this production threshold, technology-based effluent limitations are determined on a case-by-case basis using best professional judgment (BPJ) in accordance with 40 CFR 125.3.

The Regional Board adopted a *Water Quality Control Plan, Fourth Edition, for the Sacramento and San Joaquin River Basins* (hereafter Basin Plan). The Basin Plan designates beneficial uses, establishes water quality objectives, and describes an implementation program and policies to achieve water quality objectives for all waters of the Basin. This includes plans and policies adopted by the State Water Resources Control Board (SWRCB) and incorporated by reference, such as Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California" (Resolution No. 68-16). These requirements implement the Basin Plan. The Basin Plans, as amended, designate beneficial uses, establish water quality objectives, and contain implementation

plans and policies for waters of the Basins. Pursuant to the California Water Code §13263(a), waste discharge requirements must implement the Basin Plans.

USEPA adopted the *National Toxics Rule* (NTR) on 22 December 1992, which was amended on 4 May 1995 and 9 November 1999, and the *California Toxics Rule* (CTR) on 18 May 2000, which was amended on 13 February 2001. These Rules contain water quality standards applicable to this discharge. The SWRCB adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (known as the State Implementation Policy or SIP) on 2 March 2000, which contains policies and procedures for implementation of the NTR and the CTR.

Resolution No. 68-16 requires the Regional Board, in regulating discharges of waste, to maintain high quality waters of the State until it is demonstrated that any change in water quality will be consistent with the maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the Regional Board's policies (e.g., water quality constituents in concentrations that exceed water quality objectives). Resolution No. 68-16 requires that discharges be regulated to meet best practicable treatment or control in order to assure that pollution or nuisance will not occur; and the highest water quality be consistently maintained for the maximum benefit to the people of the State. The Regional Board has considered Resolution No. 68-16 and Federal antidegradation regulations at 40 CFR 131.12.

REGULATION OF AQUACULTURE DRUGS AND CHEMICALS

CAAP facilities produce fish and other aquatic animals in greater numbers than natural stream conditions would allow; therefore, system management is important to ensure that fish do not become overly stressed, making them more susceptible to disease outbreaks. The periodic use of various aquaculture drugs and chemicals is needed to ensure the health and productivity of cultured aquatic stocks and to maintain production efficiency.

CAAP facilities may legally obtain and use aquaculture drugs in one of several ways. Some aquaculture drugs and chemicals used at CAAP facilities in the Region are approved by the U.S. Food and Drug Administration (FDA) for certain aquaculture uses on certain aquatic species. Others have an exemption from this approval process when used under certain specified conditions. Still others are not approved for use in aquaculture, but are considered to be of "low regulatory priority" by FDA (hereafter "LRP drug"). FDA is unlikely to take regulatory action related to the use of a LRP drug if an appropriate grade of the chemical or drug is used, good management practices are followed, and local environmental requirements are met (including NPDES permit requirements). Finally, some drugs and chemicals may be used for purposes, or in a manner not listed on their label (i.e., "extra-label" use) under the direction of licensed veterinarians for the treatment of specific fish diseases diagnosed by fish pathologists. It is assumed that veterinarian-prescribed aquaculture drugs are used only for short periods of duration during acute disease outbreaks. Each of these methods of obtaining and using aquaculture drugs is discussed in further detail below.

It is the responsibility of those using, prescribing, or recommending the use of these products to know which aquaculture drugs and chemicals may be used in CAAP facilities in the Region under all applicable federal, State, and local regulations and which aquaculture drugs and chemicals may be discharged to waters of the United States and waters of the State in accordance with this permit. A summary of regulatory authorities related to aquaculture drugs and chemicals is outlined below.

Summary of Regulatory Authorities

FDA is responsible for ensuring the safety, wholesomeness, and proper labeling of food products; ensuring the safety and effectiveness of both human and animal drugs; and ensuring compliance with existing laws governing these drugs. The Federal Food, Drug, and Cosmetic Act (FFDCA), the basic food and drug law of the United States, includes provisions for regulating the manufacture, distribution, and the use of, among other things, new animal drugs and animal feed. FDA's enforcement activities include correction and prevention of violations, removing illegal products or goods from the market, and punishing offenders. Part of this enforcement includes testing domestic and imported aquacultural products for drug and pesticide residues.

FDA's Center for Veterinary Medicine (CVM) regulates the manufacture, distribution, and use of animal drugs. CVM is responsible for ensuring that drugs used in food-producing animals are safe and effective and that food products derived from treated animals are free from potentially harmful residues. CVM approves the use of new animal drugs based on data provided by a sponsor (usually a drug company). To be approved by CVM, an animal drug must be effective for the claim on the label) and safe when used as directed for (1) treated animals; (2) persons administering the treatment; (3) the environment, including non-target organisms; and (4) consumers. CVM establishes tolerances and animal withdrawal periods as needed for all drugs approved for use in food-producing animals. CVM has the authority to grant investigational new animal drug (INAD) exemptions so that data can be generated to support the approval of a new animal drug.

There are several options for CAAP facilities to legally obtain and use aquaculture drugs. Aquaculture drugs and chemicals can be divided into four categories as outlined below: approved drugs, investigational drugs, unapproved drugs of low regulatory priority, and extra-label use drugs.

- ***FDA approved new animal drugs***

Approved new animal drugs have been screened by the FDA to determine whether they cause significant adverse public health or environmental impacts when used in accordance with label instructions. Currently, there are six new animal drugs approved by FDA for use in food-producing aquatic species. These six FDA-approved new animal drugs are:

1. Chorionic gonadotropin (Chlorulun[®]), used for spawning;
2. Oxytetracycline (Terramycin[®]), an antibiotic;
3. Sulfadimethoxine-orometrim (Romet-30[®]), an antibiotic;
4. Tricaine methanesulfonate (MS-222, Fiquel[®] and Tricaine-S), an anesthetic;

5. Formalin (Formalin-F[®], Paracide F[®] and PARASITE-S[®]), used as a fungus and parasite treatment; and
6. Sulfamerazine, an antibiotic.

Each aquaculture drug in this category is approved by FDA for use on specific fish species, for specific disease conditions, for specific dosages, and with specific withdrawal times. Product withdrawal times must be observed to ensure that any product used on aquatic animals at a CAAP facility does not exceed legal tolerance levels in the animal tissue. Observance of the proper withdrawal time helps ensure that products reaching consumers are safe and wholesome.

FDA-approved new animal drugs that are added to aquaculture feed must be specifically approved for use in aquaculture feed. Drugs approved by FDA for use in feed must be found safe and effective. Approved new animal drugs may be mixed in feed for uses and at levels that are specified in FDA medicated-feed regulations only. It is unlawful to add drugs to feed unless the drugs are approved for feed use. For example, producers may not top-dress feed with a water-soluble, over-the-counter antibiotic product. Some medicated feeds, such as Romet-30[®], may be manufactured only after the FDA has approved a medicated-feed application (FDA Form 1900) submitted by the feed manufacturer.

- ***FDA Investigational New Animal Drugs (INAD)***

Aquaculture drugs in this category can only be used under an investigational new animal drug or "INAD" exemption. INAD exemptions are granted by FDA CVM to permit the purchase, shipment and use of an unapproved new animal drug for investigational purposes. INAD exemptions are granted by FDA CVM with the expectation that meaningful data will be generated to support the approval of a new animal drug by FDA in the future. Numerous FDA requirements must be met for the establishment and maintenance of aquaculture INADs.

There are two types of INADs: standard and compassionate. Aquaculture INADs, most of which are compassionate, consist of two types: routine and emergency. A compassionate INAD exemption is used in cases in which the aquatic animal's health is of primary concern. In certain situations, producers can use unapproved drugs for clinical investigations (under a compassionate INAD exemption) subject to FDA approval. In these cases, CAAP facilities are used to conduct closely monitored clinical field trials. FDA reviews test protocols, authorizes specific conditions of use, and closely monitors any drug use under an INAD exemption. An application to renew an INAD exemption is required each year. Data recording and reporting are required under the INAD exemption in order to support the approval of a new animal drug or an extension of approval for new uses of the drug.

- ***FDA Unapproved new animal drugs of low regulatory priority (LRP drugs)***

LRP drugs do not require a new animal drug application (NADA) or INAD exemptions from FDA. Further regulatory action is unlikely to be taken by FDA on LRP drugs as long as an appropriate grade of the drug or chemical is used, good management practices are followed, and local

environmental requirements are met (such as NPDES permit requirements contained in this Permit). LRP drugs commonly used at CAAP facilities in the Region include the following:

1. Acetic acid, used as a dip at a concentration of 1,000-2,000 mg/L for 1-10 minutes as a parasiticide for fish.
2. Carbon dioxide gas, used for anesthetic purposes in cold, cool and warm water fish.
3. Hydrogen peroxide, used at 250-500 mg/L to control fungi on all species and life stages of fish, including eggs.
4. Povidone iodine (PVP) compounds, used as a fish egg disinfectant at rates of 50 mg/L for 30 minutes during egg hardening and 100 mg/L solution for 10 minutes after water hardening.
5. Sodium bicarbonate (baking soda), used at 142-642 mg/L for 5 minutes as a means of introducing carbon dioxide into the water to anesthetize fish.
6. Sodium chloride (salt), used at 0.5-1% solution for an indefinite period as an osmoregulatory aid for the relief of stress and prevention of shock. Used as 3% solution for 10-30 minutes as a parasiticide.

FDA is unlikely to object at present to the use of these LRP drugs if the following conditions are met:

1. The aquaculture drugs are used for the prescribed indications, including species and life stages where specified.
2. The aquaculture drugs are used at the prescribed dosages (as listed above).
3. The aquaculture drugs are used according to good management practices.
4. The product is of an appropriate grade for use in food animals.
5. An adverse effect on the environment is unlikely.

FDA's enforcement position on the use of these substances should be considered neither an approval nor an affirmation of their safety and effectiveness. Based on information available in the future, FDA may take a different position on their use. In addition, FDA notes that classification of substances as new animal drugs of LRP does not exempt CAAP facilities from complying with all other federal, state and local environmental requirements, including compliance with this Permit

- ***Extra-label use of an approved new animal drug***

Extra-label drug use is the actual or intended use of an approved new animal drug in a manner that is not in accordance with the approved label directions. This includes, but is not limited to, use on species or for indications not listed on the label. Only a licensed veterinarian may prescribe extra-label drugs under FDA CVM's extra-label drug use policy. CVM's extra-label use drug policy (CVM Compliance Policy Guide 7125.06) states that licensed veterinarians may consider extra-label drug use in treating food-producing animals if the health of the animals is immediately threatened and if further suffering or death would result from failure to treat the affected animals. CVM's extra-label drug use policy does not allow the use of drugs to prevent diseases (prophylactic use), improve growth rates, or enhance reproduction or fertility. Spawning hormones cannot be used under the extra-label policy. In addition, the veterinarian assumes the responsibility for drug safety and efficacy and for potential residues in the aquatic animals.

RECEIVING WATER BENEFICIAL USES

The Basin Plan at page II-2.00 states: "Existing and potential beneficial uses which currently apply to surface waters of the basins are presented in Figure II-1 and Table II-1. The beneficial uses of any specifically identified water body generally apply to its tributary streams." Furthermore, the Regional Board generally is required to apply the beneficial uses of municipal and domestic supply (MUN) to surface waters based on State Board Resolution No. 88-63, which was incorporated in the Basin Plan pursuant to Regional Board Resolution No. 89-056. The Basin Plan does not specifically identify beneficial uses for Paynes Creek, but does identify present and potential uses for the Sacramento River between Shasta Dam and the Colusa Basin Drain, to which Paynes Creek is tributary.

The Regional Board finds that the beneficial uses identified in the Basin Plan for the Sacramento River, from Shasta Dam to the Colusa Basin Drain are applicable to Paynes Creek. These beneficial uses are municipal and domestic supply (MUN), agricultural irrigation and stock watering (AGR), industrial service supply (IND), hydropower generation (POW), water contact recreation and canoeing and rafting (REC-1), non-contact water recreation (REC-2), warm freshwater aquatic habitat (WARM), warm fish migration habitat (MIGR – WARM), and warm spawning habitat (SPWN – WARM), cold freshwater aquatic habitat (COLD), cold fish migration habitat (MIGR - COLD), and cold spawning habitat (SPWN – COLD), wildlife habitat (WILD), and navigation (NAV). The Basin Plan on page II-1.00 states: "Protection and enhancement of existing and potential beneficial uses are primary goals of water quality planning..." and with respect to disposal of wastewaters states that "...disposal of wastewaters is [not] a prohibited use of waters of the State; it is merely a use which cannot be satisfied to the detriment of beneficial uses."

In reviewing whether certain existing and/or potential uses of the Sacramento River apply to Paynes Creek, the Regional Board has considered the following facts:

- a. *Municipal and Domestic Supply (MUN) and Agricultural Irrigation (AGR)*: The Regional Board is required to apply the beneficial uses of municipal and domestic supply to Paynes Creek based on State Board Resolution No. 88-63 which was incorporated in the Basin Plan pursuant to Regional Board Resolution No. 89-056. In addition, the SWRCB has issued water rights to existing water users along Paynes Creek and along the Sacramento River downstream of the confluence of Paynes Creek and the Sacramento River. Also, the discharge itself may, at times, be diverted for irrigation purposes.
- b. *Body Contact Water Recreation and Canoeing and Rafting (REC-1), and Non-Body Contact Recreation (REC-2)*: The Sacramento River, Battle Creek, and Paynes Creek provide opportunities for fishing, canoeing, rafting, motor boating, sightseeing, hiking, and hunting. Paynes Creek flows through a virtually undeveloped seven-mile long gorge on its way to the Sacramento River confluence in Iron Canyon. In addition, BLM has determined that 25 miles of the Sacramento River and 6.7 miles of Paynes Creek, downstream of the discharge, are

eligible for National Wild and Scenic River status. A proposed Sacramento River National Conservation Area (SRNCA) would encompass 40,000 acres of land.

- c. *Warm and Cold freshwater aquatic habitat (WARM and COLD), fish migration (MGR), and spawning habitat (SPWN):* BLM manages 15,000 acres along the Sacramento River, Battle Creek, and Paynes Creek and plans to acquire from willing sellers additional properties within the proposed boundaries of the SRNCA (40,000 acres) to provide both recreational access and protect fish and wildlife habitat. Lower Paynes Creek has been identified by the National Marine Fisheries Services as habitat (opportunistic/intermittent spawning, holding, rearing) for fall run Chinook salmon.
- d. *Wildlife Habitat (WILD):* The Bureau of Land Management's (BLM's) Paynes Creek management area includes the confluence of Paynes Creek and the Sacramento River and other streams, wetlands and ponds, grasslands and oak woodland that attract a variety of wildlife. The area within the SRNCA includes high quality riparian habitat suitable for a diversity of wildlife species including the yellow-billed cuckoo, Swainson's hawk, bank swallow, valley elderberry longhorn beetle, Southern bald eagle, and osprey.

Beneficial uses of the underlying groundwater are municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).

REASONABLE POTENTIAL ANALYSIS AND EFFLUENT LIMITATIONS

Federal regulations at 40 CFR Section 122.44 require NPDES permits to contain effluent limitations, including technology-based and water quality standards-based limitations and limitations based on toxicity.

Federal regulations at 40 CFR 122.44(d)(1) require effluent limitations for all pollutants that are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an in-stream excursion above a numeric water quality criterion (such as CTR criterion) or a narrative water quality criterion within a State water quality standard. These regulations also set forth a methodology for establishing effluent limitations based on narrative state water quality criteria [40 CFR 122.44(d)(1)(vi)(A-C)].

The USEPA, SWRCB, and Regional Board have adopted or published standards that are used to implement 40 CFR 122.44. The USEPA has promulgated the CTR and NTR that established water quality criteria. The SWRCB has adopted the SIP that implements the CTR and NTR. The USEPA also has published recommended ambient water quality criteria and the Basin Plan contains numeric and narrative water quality objectives. The Basin Plan contains an Implementation Policy ("Policy for Application of Water Quality Objectives") that, in part, sets forth a process for translating narrative water quality objectives into numeric effluent limitations. The USEPA ambient water quality criteria, results of toxicity studies conducted by the California Department of Fish and Game, and the Basin Plan "Policy of Application of Water Quality Objectives" have been used to implement 40 CFR 122.44(d)(1)(v).

TECHNOLOGY-BASED EFFLUENT LIMITATIONS

Total Suspended Solids and Settleable Solids

Based on information submitted as part of the application, in studies, and as directed by monitoring and reporting programs, the Regional Board determined that numeric technology-based effluent limitations for total suspended solids (TSS) and settleable solids are appropriate.

Background

As noted above, the requirements in USEPA's final ELG for the aquaculture industry do not apply to facilities that produce less than 100,000 pounds per year of aquatic animals. Order No. 96-110 established effluent limitations for TSS of 5 mg/L (net) and 15 mg/L (net) as a monthly average and daily maximum, respectively, based on BPJ in accordance with 40 CFR 125.3. In addition, the Order established effluent limitations for settleable solids of 0.1 ml/L and 0.2 ml/L, respectively, based on BPJ. The Regional Board has determined that these numeric effluent limitations for TSS and settleable solids continue to be applicable to the Facility and, therefore, the limitations have been carried over to this Order. This Order does not include mass effluent limitations for TSS because there are no standards that specifically require a mass-based effluent limitation, mass of the pollutant discharged is not specifically related to a measure of operation (40 CFR 122.45(f)(iii)), and, in addition, mass-based effluent limitations for TSS are not necessary because this Order includes both concentration-based limitations and a maximum flow limitation.

Relationship Between Technology-based and Water Quality-based Requirements

In addition to carrying over numeric technology-based requirements based on BPJ, the Regional Board considered the need for water quality-based limitations for TSS and settleable solids. The Regional Board determined that the numeric technology-based TSS and settleable solids limitations, along with the requirement for a BMP plan included in this Order, are sufficient to ensure attainment of Basin Plan water quality objectives for sediment, settleable material, and suspended material.

WATER QUALITY-BASED EFFLUENT LIMITATIONS

Based information submitted as part of the Report of Waste Discharge and discussions with the Discharger, in annual and monthly monitoring reports, and in independent studies, the Regional Board finds that the discharge has a reasonable potential to cause or contribute to an in-stream excursion above numeric or narrative water quality objectives for pH, and formaldehyde. Effluent limitations for these constituents are included in this Order. The Regional Board is not obligated to delegate the assimilative capacity of receiving waters to a Discharger. Therefore, the Regional Board establishes water quality-based effluent limitations without benefit of dilution in this Order. Water quality-based effluent limitations are based on the application of water quality criteria or objectives at the point of discharge.

CTR Constituents

During a compliance evaluation inspection on 23 April 2003, the Regional Board conducted influent and effluent sampling of the Facility's discharge. The parameters sampled included priority pollutant metals for which there are water quality criteria in the CTR. These metals are antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc. None of these constituents were found at detectable levels in the discharge. The effluent sample collected was representative of typical operating conditions. Copper is not used at the Facility and will not be used in the future. Based on these data, and the fact that the Discharger does not use, or plan to use chemicals containing these constituents the Regional Board finds that the discharge does not cause, have the reasonable potential to cause, or contribute to an in-stream excursion above the CTR criteria for these metals. The Monitoring and Reporting Program requires the Discharger to conduct effluent and receiving water monitoring for priority pollutant metals one time during the term of this Order.

Non-CTR Constituents

pH

The Basin Plan contains water quality objectives for pH in the form of a range of acceptable pH values (measured in standard units). The Regional Board determined that the discharge from this Facility may cause, have the reasonable potential to cause, or contribute to an in-stream excursion of the numeric water quality objective for pH from the Basin Plan. In the previous Order the Regional Board established effluent limitations in the form of acceptable range of pH between 6.5 and 8.5 standard units. This pH limit is carried over to this permit.

Aquaculture Drugs and Chemicals

Numeric water quality criteria, or Basin Plan numeric objectives are currently not available for most of the aquaculture drugs and chemicals proposed for use at this Facility. Therefore, the Regional Board used the narrative water quality objective for toxicity from the Basin Plans and applied the Policy for "Application of Water Quality Objectives" as a basis for determining "reasonable potential" for discharges of these drugs and chemicals. This objective states, in part: "All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." The Basin Plan states that compliance with this objective will be determined by several factors, including biotoxicity tests of appropriate duration, or other analytical methods as specified by the Regional Board. (Biotoxicity testing involves measuring the toxic effects of an effluent on specified organisms according to nationally approved protocols). USEPA's TSD specifies two toxicity measurement techniques that can be employed in effluent characterization; the first is Whole Effluent Toxicity (WET) testing, and the second is chemical-specific toxicity analyses. WET testing is used most appropriately when the toxic constituents in an effluent are not completely known; whereas chemical-specific analysis is more appropriately used when an effluent contains only one, or very few, well-known constituents. Due to the nature of operations and chemical treatments at most CAAP facilities in the Region, CAAP facility effluents

generally contain only one or two known chemicals at any given a time. Therefore, the Regional Board is using a chemical-specific approach to determine “reasonable potential” for discharges of aquaculture drugs and chemicals from CAAP facilities. The California Department of Fish and Game Pesticide Investigation Unit (DFG Pesticide Unit) has initiated biotoxicity studies to determine the aquatic toxicity of certain aquaculture drugs and chemicals commonly used at their CAAP facilities in the Region. The results of these studies are, in part, used to determine reasonable potential for aquaculture drugs and chemicals for this Facility.

Sodium Chloride

Sodium chloride (salt) is used periodically at the Facility as a fish-cleansing agent to control the spread of fish disease in the raceways, and to reduce stress among the confined fish population. In recent monthly monitoring reports, the Discharger reports a maximum monthly salt use of 900 lbs. and a maximum annual salt use of 1,700 lbs. FDA considers sodium chloride an unapproved new animal drug of low regulatory priority (LRP drug) for use in aquaculture. Consequently, FDA is unlikely to take regulatory action if an appropriate grade is used, good management practices are followed, and local environmental requirements are met. There are no numeric water quality objectives for conductivity, TDS, or chloride in the NTR, CTR, or Basin Plan for Coleman Canal or Battle Creek. The Basin Plan does contain a narrative objective for chemical constituents that states, in part, “Waters shall not contain chemical constituents in concentrations that adversely affect beneficial uses.” Agricultural irrigation is a beneficial use of the receiving water. *Water Quality for Agriculture, Food and Agriculture Organization of the United Nations—Irrigation and Drainage Paper No. 29, Rev. 1* (R.S. Ayers and D.W. Westcot, Rome, 1985), recommends that the conductivity level in waters used for agricultural irrigation not exceed 700 $\mu\text{mhos/cm}$ (Agricultural Water Quality Goal) because it will reduce crop yield for sensitive plants. The Agricultural Water Quality Goal for TDS is 450 mg/L. USEPA’s recommended ambient water quality criteria for chloride for the protection of freshwater aquatic life are 230 mg/l as a one-hour average, and 860 mg/l as a four-day average. The Agricultural Water Quality Goal for chloride is 106 mg/L. The Regional Board has determined that the discharge of chloride from the Facility from sodium chloride application rates as described by the Discharger will not cause, have the reasonable potential to cause, or contribute to an in-stream excursion of applicable water quality criteria or objectives. Monitoring of conductivity and chloride is required and use of sodium chloride must be reported as specified in the Monitoring and Reporting Program.

Formalin as Formaldehyde

Formalin (as a 37% formaldehyde solution) is not currently used but may be used by the Discharger in the future. Formalin (also known by the trade names Formalin-F[®], Paracide-F[®], PARASITE-S[®]) is approved through FDA’s New Animal Drug Application (NADA) program for use in controlling external protozoa and monogenetic trematodes on fish, and for controlling fungi of the family *Saprolegniaceae* in food-producing aquatic species (including trout and salmon). For control of other fungi, formalin may be used under an Investigational New Animal Drug (INAD) exemption. Formalin is used as a “drip” treatment to control fungus on fish eggs, or as a “flush” treatment in

raceways of 1-8 hours in duration. Formalin may be applied in multiple treatments over the course of a given month, or may be applied in raceways for up to 8 hours at a time.

The State of California Department of Health Services (DHS) does not have a Maximum Containment Level (MCL) for formaldehyde, however the DHS historic Drinking Water Action Level is listed as 0.1 mg/L based on calculation by standard risk assessment methods, with a Modifying Factor = 10. The USEPA Integrated Risk Information System (IRIS) lists a reference dose of 1.4 mg/L as a drinking water level. There are no recommended criteria for formaldehyde for protection of aquatic life.

The DFG Pesticide Unit conducted biotoxicity studies to determine the aquatic toxicity of formaldehyde using *Pimephales promelas*, and *Ceriodaphnia dubia* (*C. dubia*) in accordance with the analytical methods specified in EPA600/4-91-002, *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*. These “short-term chronic tests” measure effects such as reduced growth of the organism, reduced reproduction rates, or lethality. Results were reported as a No Observed Effect Concentration (NOEC) and a Lowest Observed Effect Concentration (LOEC). The DFG Pesticide Unit also conducted acute toxicity tests using *C. dubia* in accordance with methods specified in EPA600/4-90/027, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*. Acute toxicity test results typically are reported as the No Observed Adverse Effect Level (NOAEL), Lowest Observed Adverse Effect Level (LOAEL), and LC₅₀.

Results of chronic toxicity tests submitted by the DFG Pesticide Unit indicated *C. dubia* was the most sensitive species with a 7-day No Observable Effect Concentration (NOEC) value of 1.3 mg/L formaldehyde for survival and reproduction. Acute toxicity tests with *C. dubia* showed a 96-hour NOAEL of 1.3 mg/L. A summary of the data submitted follows:

Species	7-day LC50 (mg/L)	LOEC (mg/L)	NOEC (mg/L)	LOAEL (mg/L)	NOAEL (mg/L)
<i>Ceriodaphnia dubia</i>	2.4	5.8 ¹ 1.3 ²	1.3 ¹ <1.3 ²	5.8	1.3
<i>Pimephales promelas</i>	23.3	9.09	2.28	--	--
<i>Selenastrum capricornutum</i>	<5.2	--	--	--	--

¹ Survival

² Reproduction

Since formalin treatments are utilized as a batch or flush treatment which result in discharges from three to eight hours, short-term tests were conducted with *C. dubia*, exposing the organisms for 2-hour and 8-hour periods, removing them from the chemical, and continuing the observation period for 7 days in clean water. The results were as follows:

Species	7-day LC50 (mg/L)	LOAEL (mg/L)	NOAEL (mg/L)
<i>C. dubia</i> —2-hour exposure	73.65	46.3	20.7
<i>C. dubia</i> —8-hour exposure	13.99	15.3	6.7

The Regional Board considered the results of both acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limits for formalin as formaldehyde were necessary. Results of chronic toxicity tests indicated *C. dubia* was the most sensitive species, with a 7-day NOEC value of 1.3 mg/L formaldehyde for survival and less than 1.3 mg/L for reproduction (the Regional Board used an NOEC of 1.3 mg/L). Acute toxicity tests conducted using *C. dubia* showed a 96-hour NOAEL of 1.3 mg/L formaldehyde. The additional acute toxicity tests conducted using an 8-hour exposure resulted in a 96-hour NOAEL concentration of 6.7 mg/L formaldehyde.

Based on typical application rates for Formalin, the Regional Board determined that if Formalin is used at this Facility in the future, formaldehyde may be discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plan. Accordingly, this permit includes water quality-based effluent limitations for formaldehyde. Exposure to formaldehyde may be long-term because of potential application procedures (e.g., successive raceway treatments). Also, because of retention of effluent in settling ponds, exposure times could exceed treatment times. Therefore, an average monthly effluent limitation of 0.65 mg/L and a maximum daily effluent limit of 1.3 mg/L are calculated based on the 96-hour NOAEL value and using the procedure in USEPA's TSD for calculating water quality-based effluent limits. These effluent limits will ensure protection of aquatic life against effects from exposure to formaldehyde the Discharge. The previous Order No. 96-110 included a less stringent daily maximum limitation for formaldehyde of 5 mg/L based on a USEPA Health Advisory for acute 10-day exposure.

The Regional Board used USEPA's TSD guidance to calculate the MDEL and AMEL effluent limitations for formaldehyde as follows:

Assuming:

- No in-stream dilution allowance.
- Coefficient of Variation (CV) = 0.6 for the lognormal distribution of pollutant concentrations in effluent.

Effluent Concentration Allowance based on NOAEL (acute toxicity) with no dilution allowance

$$ECA_a = 1.3 \text{ mg/L}$$

Effluent Concentration Allowance based on NOEC (chronic toxicity) with no dilution allowance

$$ECA_c = 1.3 \text{ mg/L}$$

Long Term Average concentration based on acute ECA

$$LTA_a = 1.3 \text{ mg/L} \times 0.321 = 0.42 \text{ mg/L}$$

(where 0.321 = acute ECA multiplier at 99% occurrence probability and 99% confidence)

Long Term Average concentration based on chronic ECA

$$LTA_c = 1.3 \text{ mg/L} \times 0.527 = 0.69 \text{ mg/L}$$

(where 0.527 = chronic ECA multiplier at 99% occurrence probability and 99% confidence)

Most Limiting LTA concentration

$$LTA = 0.4173 \text{ mg/L}$$

Average Monthly Effluent Limit

$$AMEL = LTA \times 1.55$$

(where 1.55 = AMEL multiplier at 95% occurrence probability, 99% confidence, and $n = 4$)

$$AMEL = 0.42 \text{ mg/L} \times 1.55 = \mathbf{0.65 \text{ mg/L as formaldehyde}}$$

Maximum Daily Effluent Limit

$$MDEL = LTA \times 3.11$$

(where 3.11 = MDEL multiplier at 99% occurrence probability and 99% confidence)

$$MDEL = 0.42 \text{ mg/L} \times 3.11 = \mathbf{1.3 \text{ mg/L as formaldehyde}}$$

Acetic Acid

Acetic acid may be used by the Discharger as a “flush” treatment in raceways for the control of external parasites on fish. The Basin Plan contains water quality objectives for pH in the form of a range of acceptable pH values (measured in standard units). Since acetic acid will lower the pH of the water the Regional Board has included an effluent limit for pH. Use of acetic acid must be reported as specified in the attached Monitoring and Reporting Program.

Hydrogen Peroxide

Although not currently used, hydrogen peroxide (35 % H₂O₂) may be used in the future by the Discharger as a short-term immersion bath treatment in holding tanks, or as a raceway flush treatment. FDA considers hydrogen peroxide to be an LRP drug when used to control fungi on fish at all life stages, including eggs. Hydrogen peroxide may also be used under an INAD exemption to control bacterial gill disease in various fish, fungal infections, external bacterial infections, and external parasites. Hydrogen peroxide is a strong oxidizer that breaks down into water and oxygen; however, it exhibits toxicity to aquatic life during the oxidation process. The Regional Board considered the results of acute aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limits for hydrogen peroxide were necessary in this Permit. Results of a single acute toxicity test using *C. dubia* showed a 96-hour NOAEL of 1.3 mg/L. There is no toxicity information available for shorter exposure periods. The DFG Pesticide Unit is proposing to conduct additional toxicity testing on hydrogen peroxide to determine NOAEL concentrations for shorter exposure periods. Since there is limited short- and long-term toxicity information available at this time and no information regarding actual discharge concentrations of hydrogen peroxide, this Order does not include water quality-based effluent limitations for hydrogen peroxide. Use and monitoring of hydrogen peroxide must be reported as specified in the attached Monitoring and Reporting Program and the Regional Board may require additional sampling. The Regional Board will review this information, and other information as it becomes available and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

Potassium Permanganate

Although not currently used, potassium permanganate may be used in the future by the Discharger to control gill disease. Potassium permanganate has a low estimated lifetime in the environment, being readily converted by oxidizable materials to insoluble manganese dioxide (MNO₂). In non-reducing and non-acidic environments, MNO₂ is insoluble and has a very low bioaccumulative potential. Potassium permanganate is typically applied in a single, short-term treatment, or as a series of closely spaced, short-term treatments. Results of a single acute toxicity test conducted by the DFG Pesticide Unit using *C. dubia* showed a 96-hour NOAEL of 0.25 mg/L for potassium permanganate. Since there is limited toxicity information available at this time, the Discharger does not use hydrogen peroxide nor has near-future plans to use it, and no information is available regarding actual discharge concentrations of potassium permanganate, this Order does not include water quality-based effluent limitations for potassium permanganate. However, the Discharger shall notify the Regional Board prior to use of potassium permanganate and the Regional Board may require additional sampling. The Regional Board will review this information, and other information as it becomes available and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

Chloramine-T

Chloramine-T is not currently used by the Discharger but may be used in the future during outbreaks of bacterial gill disease. Chloramine-T is available for use in accordance with an INAD exemption by FDA. Chloramine-T breaks down into para-toluenesulfonamide (p-TSA) and unlike other chlorine based disinfectants does not form harmful chlorinated compounds. The Discharger has not conducted biotoxicity tests using Chloramine-T, however results of toxicity testing from other sources were submitted and showed a 96-hour LC₅₀ for rainbow trout of 2.8 mg/L. The 48-hour NOEC for *Daphnia magna* was reported as 1.8 mg/L. There is no toxicity information available for shorter exposure periods. Since there is limited toxicity information available for short- and long-term exposure and no information regarding actual discharge concentrations of Chloramine-T, this permit does not include water quality-based effluent limitations for Chloramine-T. However, use and monitoring of Chloramine-T must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

Benzalkonium chloride

The Discharger proposes to potentially use benzalkonium chloride, a quaternary ammonium compound, as a disinfectant for the raceways. The Discharger is not proposing to discharge benzalkonium chloride to waters of the United States or waters of the State, but plans to use other means of disposal. Consequently, this Order does not include water quality-based effluent limitations for benzalkonium chloride, but use and means of disposal of this chemical must be reported as specified in the attached Monitoring and Reporting Program. Also, this Order includes a provision requiring that all aquaculture drugs and chemicals not discharged to receiving waters be disposed of in an environmentally safe manner, according to label guidelines, Material Safety Data Sheet guidelines and BMPs. Any other form of disposal requires approval from the Executive Officer. Furthermore, if the Discharger wishes to discharge this chemical, results of toxicity tests for benzalkonium chloride must be submitted as specified in Provision No. 3. The Regional Board will review this information, and other information as it becomes available, and this Order may be reopened to establish effluent limitations for these constituents.

Oxytetracycline

Oxytetracycline, also known by the brand name Terramycin[®], is currently used by the Discharger. Oxytetracycline, is an antibiotic approved through FDA's NADA program for use in controlling ulcer disease, furunculosis, bacterial hemorrhagic septicemia, and pseudomonas disease in salmonids. Oxytetracycline is most commonly used as a feed additive. However, oxytetracycline may also be used as an extra-label use under a veterinarian's prescription in an immersion bath of approximately six to eight hours in duration. Because oxytetracycline may be applied in an immersion bath for up to eight hours at a time, the Regional Board considered the results of acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based

effluent limits for oxytetracycline used in an immersion bath treatment were necessary in this Permit. Results of acute toxicity tests using *C. dubia* showed a 96-hour NOAEL of 40.4 mg/L. Results of chronic toxicity tests using *C. dubia* showed a 7-day NOEC for reproduction of 48 mg/L. The information available to the Regional Board regarding discharges of oxytetracycline indicates that it is discharged at levels well below the lowest NOEC and NOAEL. Therefore, at this time, the Regional Board determined that oxytetracycline, when used in feed or in an immersion bath treatment, is not discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plans. Accordingly, this Permit does not include an effluent limitation for oxytetracycline. However, monthly use of oxytetracycline must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available, and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

Penicillin G

Penicillin G is not currently used by the Discharger but may be used in the future as a six hour bath for the control of bacterial infections. Penicillin G is not approved under FDA's NADA program and its extra-label use in aquaculture requires a veterinarian's prescription. Due to the length of treatment time, the Regional Board considered the results of acute and chronic aquatic life toxicity testing conducted by the DFG Pesticide Unit when determining whether water quality-based effluent limits for Penicillin G were necessary in this Permit. Results of acute toxicity tests using *C. dubia* showed a 96-hour NOAEL of 890 mg/L. Results of 7-day chronic toxicity testing using *Pimephales promelas* showed 7-day NOEC for survival of 350 mg/L. The information available to the Regional Board regarding discharges of Penicillin G indicates that if it is used it would be discharged at levels well below the lowest NOEC and NOAEL. Therefore, at this time, the Regional Board determined that Penicillin G, when used in an immersion bath treatment, would not be discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plan. Accordingly, this Permit does not include effluent limitations for Penicillin G. However, monthly use of Penicillin G must be reported as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information, and other information as it becomes available, and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

Antibiotics in Feed Formulations and Injected

Amoxicillin, erythromycin, florfenicol, and Romet-30[®] are not currently used but may potentially be used by the Discharger. Amoxicillin is injected into fish to control acute disease outbreaks through a veterinarian's prescription for extra-label use. Erythromycin (injected or used in feed formulations) and florfenicol (used in feed formulations) are antibiotics used to control acute disease outbreaks and must be used under an INAD exemption or a veterinarian's prescription for extra-label use. Romet-30[®], also known by the trade name Sulfadimethoxine-orentroprim, is an antibiotic used in feed formulations and is approved for use in aquaculture through FDA's NADA program for control of furunculosis in salmonids. In the NPDES General Permit for Aquaculture Facilities in Idaho (Idaho

General Permit), USEPA Region 10 distinguishes between antibiotics applied in feed formulations and antibiotics applied in immersion baths. The Idaho General Permit concludes that drugs or chemicals administered via feed, and ingested by fish, pose little threat to aquatic life or beneficial uses because a majority of the drug is utilized by the fish, though some literature suggests otherwise. As stated in the Idaho General Permit, "USEPA believes that disease control drugs and other chemicals provided for ingestion by fish do not pose a risk of harm or degradation to aquatic life or other beneficial uses." The Regional Board determined that amoxicillin (when injected into fish), erythromycin (when injected into fish or used as a feed additive), florfenicol and Romet-30[®] (when used as feed additives) are used in a manner that reduces the likelihood of direct discharge of antibiotics to waters of the United States or waters of the State, particularly when Dischargers implement BMPs as required by this Permit. Therefore, the Regional Board determined that amoxicillin, florfenicol, and Romet 30[®] are not discharged from CAAP facilities in the Region at levels that cause, have the reasonable potential to cause, or contribute to an excursion of a narrative water quality objective for toxicity from the Basin Plan. Accordingly, this Permit does not include water quality-based effluent limitations for these substances; however, this Permit does require monthly monitoring and reporting of these substances as specified in the attached Monitoring and Reporting Program. The Regional Board will review this information and this permit may be reopened to establish effluent limits based on additional use and toxicity information.

Enteric Redmouth Bacertin

To treat enteric redmouth disease, the Discharger may administer enteric redmouth bacterin. Enteric redmouth (or yersiniosis) bacterins are formulated from inactivated *Yersinia ruckeri* bacteria and may be used as an immersion or vaccine to help protect salmonid species from enteric redmouth disease caused by *Yersinia ruckeri*. These bacertins stimulate the fish's immune system to produce protective antibodies. This veterinary biologic is licensed for use by the US Department of Agriculture's (USDA's) Center for Veterinary Biologics. Veterinarians should be consulted before beginning an immunization program. According to USDA, most biologics leave no chemical residues in animals and most disease organisms do not develop resistance to the immune response by a veterinary biologic. Based upon available information regarding the use of these substances at CAAP facilities, the Regional Board does not believe that enteric redmouth bacertins, when used according to label and veterinarian instructions, are discharged at levels that cause, have the reasonable potential to cause, or contribute to an excursion of Basin Plan narrative water quality objectives for toxicity. Accordingly, this Order does not include water quality-based effluent limitations; however, use must be reported as specified in the attached Monitoring and Reporting Program. In the future, as additional information becomes available regarding the use or toxicity, the Regional Board will re-evaluate whether the discharge to receiving waters may cause, have the reasonable potential to cause, or contribute to an excursion of the Basin Plan objectives for toxicity and, if necessary, re-open this Order to include numeric effluent limitations.

BASIS FOR WASTE DISPOSAL PROVISIONS

Solid waste disposal provisions in this Permit are based on the requirements of CCR Title 27 and prevention of unauthorized discharge of solid wastes into waters of the United States or waters of the State.

BASIS FOR BEST MANAGEMENT PRACTICES PROVISIONS

Best Management Practices plan requirements are established based on 40 CFR 122.44(k)(4) to help ensure adequate control of solids and other pollutants present in the discharge.

BASIS FOR RECEIVING WATER LIMITATIONS

Receiving water limitations are interpretations of water quality objectives from the Basin Plans. Receiving water limitations in this Permit are included to ensure protection of beneficial uses of receiving waters. A receiving water condition not in conformance with a limitation is not necessarily a violation of the Permit. However, the Regional Board may require an investigation to determine cause and culpability prior to asserting that a violation has occurred.

MONITORING AND REPORTING PROGRAM

Receiving water monitoring requirements are based on the Basin Plan and authorized by California Water Code Section 13267 and 13383. Receiving water monitoring requirements are standard requirements in almost all NPDES permits issued by the Regional Board. However, the wastewater discharge when it leaves the Discharger's Facility passes through agricultural land, which may contain grazing animals and other uses not under control of the Discharger. Therefore, receiving water conditions in Paynes Creek may be influenced by these other uses. In lieu of receiving water monitoring in Paynes Creek, the parameters normally monitored in the receiving water are included in the influent and effluent monitoring, as well as visual observations of the flow leaving the Facility.

15 October 2004



