

TENTATIVE GENERAL ORDER NO. R9-2012-0003

**WASTE DISCHARGE REQUIREMENTS FOR THE MAINTENANCE OF
CLOSED, ABANDONED, OR INACTIVE BURN SITES
WITHIN THE SAN DIEGO REGION**

A. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter, **San Diego Water Board**), finds that:

1. **DISCHARGER.** A Discharger is defined as any person responsible for wastes discharged to a Closed, Abandoned, or Inactive Burn Site (**CAI Burn Site**), as defined in Finding No. 6 of **General** Order No. R9-2012-0003 (hereinafter referred to as the **Order**), which could affect the quality of the waters of the State; any person who owns a CAI Burn Site; and any person responsible for ensuring compliance with the maintenance operations (as required under this Order) at a CAI Burn Site.
2. **FACILITY LOCATION.** All CAI Burn Sites subject to the ~~specifications of the~~ Order are located within the boundaries of the San Diego Water Board.
3. **WASTE DISCHARGE.** CAI Burn Sites are waste reservoirs that do not contain significant quantities of decomposable waste. This waste stream (i.e., burn ash) is the byproduct of the open burning of refuse.
4. **THREAT TO WATER QUALITY.** CAI Burn Sites are existing reservoirs of solid wastes, and waste constituents derived from the open burning of refuse. The residual waste materials may contain soluble constituents that are leachable to waters of the State under acidic conditions. Potential water quality impacts from this waste stream may occur if the cover material is not adequately maintained to prevent erosion and exposure of waste.
5. **LEGAL AUTHORITY.** This Order is issued pursuant to the Water Code (commencing with section 13000) and implements the: (1) regulations and policies adopted by the State Water Resources Control Board (**State Water Board**) in California Code of Regulations (**CCR**) Titles 23 and 27, and (2) applicable provisions of the ~~California~~-Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control).

Under the authority of Water Code section 13263(d), the San Diego Water Board may prescribe waste discharge requirements (WDRs) although no report of waste discharge (ROWD) has been filed.

Water Code section 13263(i) authorizes the San Diego Water Board to issue general WDRs for a category of discharges if all of the following criteria apply to the discharges in that category:

- a. *The discharges are produced by the same or similar operations.* CAI Burn Sites contain similar waste materials and/or waste constituents as a result of past waste management practices;
- b. *The discharges involve the same or similar types of waste.* CAI Burn Sites may contain wastes categorically classified as hazardous wastes (CCR Title 22, Division 4.5), non-hazardous solid wastes (CCR Title 27, section 20220), inert wastes (CCR Title 27, section 20230), and “designated wastes” pursuant to Water Code section 13173.
- c. *The discharges require the same or similar treatment standards.* Dischargers responsible for CAI Burn Sites commonly implement the same or similar maintenance requirements, and are subject to similar site-specific criteria for the protection of water quality.
- d. *The dischargers are more appropriately regulated under general discharge requirements than individual discharge requirements.* This Order would reduce San Diego Water Board time expended on preparing and considering individual WDRs for each CAI Burn Site and would significantly simplify and expedite the application process for Dischargers. Further, this Order allows the San Diego Water Board to more effectively and efficiently regulate historical discharges of wastes to CAI Units located within the San Diego Region.

Because discharges of waste at CAI Burn Sites meet the four criteria in Water Code section 13263, regulations of these discharges under general WDRs is appropriate.

6. **CLASSIFICATION OF UNIT.** [Consistent with CCR Title 27, section 20080\(g\).](#) CAI Burn Sites are comprised of any area of land where open burning of refuse occurred on or before November 27, 1984, and where residual wastes and/or waste constituents remain in place. CAI Burn Sites may include waste containment features and ancillary features for precipitation, drainage control, and monitoring.
7. **SOIL STOCKPILES.** In order to prevent adverse impacts to groundwater and surface water, the Discharger must maintain the cover system for the CAI Unit. The Discharger may find it necessary to stockpile soils onsite in order to conduct grading operations to perform regular site maintenance. These stockpiles, if not managed properly, can cause waste to be deposited in areas that could affect

- surface waters and groundwater. Provisions designed to prevent adverse impacts from these stockpiles are included in this Order.
8. **INDUSTRIAL STORM WATER DISCHARGES.** CAI Burn Sites are not required to enroll under State Water Board Order No. 97-03-DWQ, *National Pollutant Discharge Elimination System (NDPES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* because this Order provides sufficient requirements for erosion and storm water run-on and run-off controls, and because CAI Burn Sites are no longer active industrial facilities.

 9. **STORM WATER MANAGEMENT.** CCR Title 27, section 20365(f) and Table 4.1 provide the design basis for drainage and erosion control facilities for CAI Burn Sites, and require Dischargers to design these facilities to carry the peak discharge anticipated for the specified return frequency. For CAI Burn Sites, erosion and drainage control facilities must be designed to carry peak flows associated with a 100-year, 24-hour storm event.

 10. **WATER QUALITY CONTROL PLAN.** The San Diego Water Board adopted a Water Quality Control Plan for the San Diego Basin (hereinafter **Basin Plan**) on September 8, 1994, which was subsequently approved by the State Water Board on December 13, 1994. Subsequent revision to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Board. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives in all receiving waters addressed through the plan.

Releases from CAI Burn Sites could affect the quality of groundwater and surface waters, impairing one or more of the beneficial uses listed below (Tables 1 and 2), depending on the site and where it is located.

Table 1: Beneficial Uses – Ground Waters

Beneficial Uses	Abbreviations
Agricultural Supply	(AGR)
Industrial Process Supply	(PROC)
Industrial Service Supply	(IND)
Municipal and Domestic Supply	(MUN)

Table 2: Beneficial Uses – Surface Waters

Beneficial Uses	Abbreviations
Agricultural Supply	(AGR)
Cold Freshwater Habitat	(COLD)
Commercial and Sport Fishing	(COMM)
Estuarine Habitat	(EST)
Freshwater Replenishment	(FRSH)

Industrial Process Supply	(PROC)
Industrial Service Supply	(IND)
Inland Saline Water Habitat	(SAL)
Marine Habitat	(MAR)
Municipal and Domestic Supply	(MUN)
Noncontact Recreation	(REC2)
Preservation of Rare and Endangered Species	(RARE)
Warm Freshwater Habitat	(WARM)
Water Contact Recreation	(REC1)
Wildlife Habitat	(WILD)

The requirements of this Order implement the Basin Plan by ensuring that CAI Burn Sites are maintained to prevent releases of wastes or waste constituents from the Unit to waters of the State.

11. **ENFORCEMENT ACTIONS.** Pursuant to Water Code section 13350, any person who is in violation of any WDRs, or prohibition issued, reissued, or amended by the San Diego Water Board, discharges waste, or causes or permits waste to be deposited where it is discharged into the waters of the State, shall be liable civilly under Water Code section 13323, and remedies may be proposed, in accordance with Water Code sections 13350(d) and (e).
12. **CALIFORNIA ENVIRONMENTAL QUALITY ACT.** CAI Burn Sites are existing facilities and, as such, regulatory actions related to CAI Burn Sites are exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with CCR Title 14, section 15301.
13. **RESPONSIBILITY FOR MAINTENANCE AND MONITORING.** CCR Title 27, sections 20080(a)(1) and 20385 et seq. require Dischargers to conduct regular maintenance to ensure the protection of water quality and beneficial uses. Dischargers are financially responsible for covering the costs associated with these activities until the San Diego Water Board has determined that the CAI Burn Site no longer poses a threat to water quality.
14. **ANNUAL FEES.** Dischargers are required to pay an annual fee (i.e., waste discharge permit fee) as determined by the San Diego Water Board, and pursuant to Water Code section 13260, et seq. The annual fee shall be assessed in accordance with the current fee schedule prescribed in CCR Title 23, section 2200, et seq.
15. **WATER RESOURCE FACTORS.** The San Diego Water Board has considered all water resource related environmental factors associated with the existing discharges of wastes associated with CAI Burn Sites.

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16. **PUBLIC PARTICIPATION.** All of the findings contained within this Order, supplemental information and details in the attached Information Sheet, and incorporated references were considered in establishing the following WDRs. All applicable Dischargers and other interested parties and persons were notified of the intent to prescribe these general WDRs for CAI Burn Sites within the San Diego Region, and were provided with an opportunity for a public hearing and an opportunity to submit written comments.

In a public meeting, all comments pertaining to this Order were heard and considered.

17. **STRATEGIC PLAN.** The issuance of this Order establishing general waste discharge requirements, is consistent with the goal to provide water resources protection, enhancement, and restoration while balancing economic and environmental impacts as stated in the Strategic Plan of the State and the Regional Water Boards.
18. **APPLICABILITY.** General Order No. R9-2012-0003 supersedes General Order No. 97-11 except for enforcement purposes regarding violations of General Order No. 97-11. All CAI Burn Sites previously regulated by Order No. 97-11 are automatically enrolled under General Order No. R9-2012-0003.

IT IS HEREBY ORDERED, pursuant to Water Code, Division 7, sections 13263 and 13267, and regulations-requirements adopted thereunder, that any Discharger subject to the provisions of this Order shall comply with the following:

B. ENROLLMENT PROCEDURES

1. Dischargers currently enrolled under General Order No. 97-11 are automatically enrolled under and subject to the requirements of this Order. Enrollment under this Order is effective on May 9, 2012. Dischargers automatically enrolled pursuant to this section shall receive a Notice of Enrollment (**NOE**) from the San Diego Water Board.
2. Existing CAI Burn Sites currently enrolled under individual WDRs may request to be enrolled under these General WDRs. This request shall be made in writing and submitted to the Executive Officer.
3. All other Dischargers applying for enrollment under this Order shall submit a complete Report of Waste Discharge (**ROWD**) and an appropriate filing fee for each CAI Burn Site to be enrolled under this Order. The ROWD shall include the following information:
 - a. Form 200, Application for Facility Permit/Waste Discharge, filled out in accordance with the instructions.

- b. A discussion of the CAI Burn Site and waste characteristics including:
 - i. Identification of the period during which waste was disposed of at the site;
 - ii. Description of maintenance activities;
 - iii. Description of types and quantities of waste disposed of at the site (if known);
 - iv. Identification of the total volume of waste disposed of at the site (if known);
 - v. Any Description of any closure or post-closure activities conducted at the CAI Burn Site subsequent to ceasing operations; and
 - vi. Description of Present and future land use of the CAI Burn Site.
- c. Documentation of how the Discharger will comply with all applicable requirements of this Order.
- d. A discussion of the local hydrology that includes, but may not be limited to, identification of water-bearing formations, hydraulic gradients and direction of flow, depths to groundwater, identification and delineation of existing groundwater contamination, description of any and all surface water bodies (i.e., streams, creeks, vernal pools, estuaries, etc.), and a description of surface and groundwater interactions;
- e. A discussion of all existing and potential ~~future~~ groundwater and surface water beneficial uses at, and in the general vicinity of, the CAI Burn Site;
- f. A topographical map of appropriate scale showing the location, users and uses of all wells located within one mile of the CAI Burn Site; and
- g. Any additional information pertinent to the protection of water quality, public health, or the prevention of nuisance.

4. Dischargers shall be enrolled under this Order upon receipt of an NOE issued by the San Diego Water Board. The NOE will specify the effective date of enrollment under this Order.
5. At any time, the San Diego Water Board may terminate enrollment under this Order and require the Discharger to apply for and obtain individual WDRs.
6. The Discharger may, at any time, apply for individual WDRs. The filing of a request by the Discharger for modification, revocation and reissuance, or termination of this Order does not stay any condition of this Order.
7. The Discharger shall provide, within a specified timeframe, any information the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the Discharger's enrollment under this Order, or to determine compliance with this Order pursuant to ***Reporting Requirement F.6.4***

C. CAI BURN SITE MAINTENANCE SPECIFICATIONS

1. **Water Use.** Water used for maintenance shall be limited to the minimum volume necessary for dust control and shall only be applied:
 - a. By spraying;
 - b. On covered areas and not on exposed wastes; and
 - c. In quantities not to exceed those necessary to reduce immediate dust hazards.
2. **Irrigation System Control.** For CAI Burn Sites with water supply or irrigation lines overlying waste, the Discharger shall consider utilizing flexible connectors, secondary containment of water supply and irrigation system components, moisture sensors within secondary containment, rain sensors to minimize water application to cover, annual leak testing, automatic shutoff valves, or other measures to adequately control the water supply or irrigation systems. The Discharger shall provide the justification for, and a thorough description of, any other water supply measures utilized at the site, in the annual *Site Conditions Certification Report*.
3. **Cover Maintenance.**
 - a. **Site Conditions Certification Report.** The Discharger shall submit a report certifying under penalty of perjury, that the CAI Burn

Site conditions and cover system are protective of water quality and beneficial uses. The report shall be submitted annually, in accordance with **Reporting Requirement F.2** of this Order. The report shall include, at a minimum, the following information:

- i. The persons, companies, or agencies responsible for each aspect of landfill maintenance, along with their addresses and phone numbers;
- ii. A site map indicating property boundaries and the existing limits of waste, internal roads, the location of any temporary soil stockpiles, and structures inside the property boundary;
- iii. A site map of the current monitoring and control systems, including drainage and erosion control systems, and landfill gas monitoring and control systems (if applicable);
- iv. A description of the general site conditions and any methods, procedures, schedules, and processes that will be used to maintain, monitor, and inspect the burn site. The description shall include any structural or non-structural Best Management Practices (**BMPs**), grading, and any other maintenance or repair activities completed to bring the site into compliance with the requirements of this Order; ~~and~~
- v. A description of the maintenance or repair activities completed during the dry season to maintain compliance with this Order;
- vi. - A copy of all inspection reports completed during the reporting period (i.e. one year) and a discussion of any significant findings;
- vii. All observed deficiencies. These deficiencies shall be photographed and discussed in the Report and in a permanent log that is kept at the office of the Discharger. The Report shall also contain photographs and a discussion of how these deficiencies were corrected to maintain compliance with the requirements of this Order;
- viii. Documentation of compliance with the maintenance requirements listed in **Section C** of this Order; and
- ix. The volume of liquids collected at any containment structure shall be, at a minimum, recorded on a quarterly basis and included in the Report.

- b. **Site Conditions Re-Certification Report.** Should the Discharger become aware of any area of non-compliance with this Order, during the rainy season (October 1 through April 30), either through the Discharger's inspection, or an inspection report provided by the LEA or San Diego Water Board, the Discharger shall take immediate steps to implement temporary measures to mitigate these areas. The Discharger shall provide the San Diego Water Board with a *Site Conditions Re-Certification Report*. This report shall detail the temporary and permanent steps taken (either through photographs or an inspection report) to mitigate the areas of non-compliance and recertify that the CAI Burn Site site conditions and cover system are protective of water quality and beneficial uses in compliance with this Order. The *Site Conditions Re-Certification Report* must be received by the San Diego Water Board within **30 days** of completing all mitigation measures, or by 5:00 pm on **June 30** of that year, whichever is earliest.
- c. **Maintenance.** The Discharger shall prevent various conditions that may result in discharges of wastes to waters of the State which may include, but are not necessarily limited to:
- i. Erosion of the CAI Burn Site cover materials to a degree that residual wastes located beneath those cover materials are exposed to the environment; and
 - ii. The transport of wastes, or waste constituents via storm water discharges from the CAI Burn Site, ~~resulting in continuing discharges of waste,~~ which may cause conditions of pollution and nuisance in surface water; and
- d. **Cover Design.** The Discharger shall properly design and maintain the CAI Burn Site cover to function with minimal maintenance, while minimizing the potential percolation of liquids into the underlying waste. Adequate cover systems shall protect the waters of the State from conditions of pollution and prevent the exposure of waste at the surface and the creation of potential nuisance conditions. The CAI Burn Site cover shall comply with the following minimum requirements:
- i. **Thickness.** The Discharger shall maintain the cover at an adequate thickness to prevent the exposure of wastes at the surface or percolation of liquids into the waste.

- ii. **Permeability.** All portions of the cover shall be maintained to minimize infiltration, in order to prevent the potential percolation of liquids through the cover, and subsequently into the underlying waste.
 - iii. **Slope.** The cover and any other ancillary containment features that exist at the site shall be managed to maintain a slope that promotes positive lateral drainage at all times, and prevents the potential for ponding and infiltration of surface water.
 - iv. **Grade.** All cover materials shall be graded to divert precipitation off and away from the CAI Burn Site, to prevent ponding of surface water over wastes, and to resist erosion resulting from a 100-year, 24-hour storm event (see **CAI Burn Site Maintenance Specification C.86**). The cover shall be designed, constructed, and maintained to intersect with the drainage system for the CAI Burn Site in a manner promoting free drainage of surface water from all portions of the cover.
 - v. **Vegetation.** Vegetation used at the site shall be selected to require minimum irrigation and maintenance, and shall not impair the integrity of waste containment structures including the existing cover system. The use of plants native to the area is encouraged.
4. **Management of Soil Stockpiles.** Soil materials imported and/or stockpiled to perform regular maintenance work on the CAI Burn Site cover system shall comply with the specifications contained within this section of the Order. The soil stockpile area shall be clearly identified/labeled on a plot plan included with each *Site Conditions Maintenance Report*. The location of soil materials stockpiled on a temporary basis (i.e., 90 days or less) does not need to be included on the site map. Stockpiles of soils to be used for maintenance of the CAI Burn Site cover system shall comply with the following minimum requirements:
 - a. **Site Conditions.** The location of all soil stockpiles shall meet the following minimum general site conditions:
 - i. **Run-on/Runoff Protection.** Surface drainage shall be diverted away from the soil stockpiles.
 - ii. **Best Management Practices.** The Discharger shall implement effective BMPs to prevent contact with surface

water run-on, and the erosion and transport of soils by surface water runoff. The Discharger shall amend the *Site Conditions Certification Report*, as needed, to include effective BMPs for control of soil erosion and discharge of soils from soil stockpiles under this Order.

- iii. **Surface Water Protection.** All soil stockpiles established under this Order shall be located more than 100 feet from any surface waters of the State.
- iv. **Flood Plain Protection.** All soil stockpiles shall be protected against 100-year peak stream flows as defined by the local County flood control agency.
- b. **Inspection and Maintenance.** The Discharger shall regularly inspect and maintain all soil stockpiles ~~established under this Order~~. Inspections shall be conducted at a frequency that will ensure the discharge of soils does not create a condition of pollution or nuisance in waters of the State. The Discharger shall report on the condition and location of all onsite soil stockpiles in the *Site Conditions Maintenance Report*, as applicable.
- c. **Cover.** The Discharger shall ensure that all soil stockpiles are adequately protected from erosion by storm water, and do not cause conditions of nuisance (i.e., dust). All soil stockpiles shall be overlain by Plastic sheeting with a thickness of not less than 10 mils, or managed with adequately maintained runoff/erosion control BMPs including, but not limited to, tackified straw, bonded fiber matrix, wattles, and silt fence.
- d. **Source(s) of Stockpile Soils.** The Discharger shall provide the San Diego Water Board with information regarding the source(s) of all imported stockpiled soils. This information shall include, but is not limited to:
 - i. Name and address of the supplier;
 - ii. Address of the source location; and
 - ii. Volume of soil provided from that source.

The required information shall be included in the *Site Conditions Certification Report*. Soils stockpiled and used for the purposes of maintaining the CAI Burn Site cover system shall not contain wastes.

5. **Public Notification Requirement.** The Discharger shall post at least one clearly visible sign (in English), at any undeveloped CAI Burn Site's facility's entrance, listing the following minimum information:
- i. Site name;
 - ii. Name and address of the Discharger; and
 - iii. 24-hour emergency contact information, including name, address, facsimile, and telephone number for the CAI Burn Site.

The Discharger shall post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information prescribed in this section, to the local community. Sign(s) shall be maintained to remain legible and in place.

6. **Surface Drainage.** CAI Burn Sites shall be adequately protected from any washout or erosion of wastes or cover material. The surface drainage system shall be designed to manage CAI Burn Site related runoff from a 100-year, 24-hour storm event. The following measures shall be implemented to control surface drainage at the CAI Burn Site:
- a. Surface water runoff within the boundary of the Burn Site (i.e., precipitation that falls on the CAI Burn Site cover) shall be collected by a system of berms, ditches, downchutes, swales, and drainage channels, and shall be diverted off the CAI Burn Site without coming in contact with any waste.
 - b. Surface drainage from tributary areas and internal site drainage from surface and subsurface sources shall not contact or percolate through any waste, and shall either be contained onsite or be discharged in accordance with applicable storm water regulations.
 - c. Where surface water flows result in erosive flow velocities, erosion control materials shall be used for protection of drainage conveyance features. Effective erosion control BMPs shall be implemented on sideslopes and interim bench ditches to control erosion when necessary.
 - d. Where high surface water flow velocities occur at terminal ends of downchutes, or where downchutes cross access roads, effective erosion control BMPs shall be implemented.

- e. All areas, including surface drainage courses shall be maintained to minimize erosion.
 - f. The CAI Burn Site cover shall be maintained to minimize percolation of liquids through wastes.
7. **Erosion Control.** Annually, prior to the anticipated rainy season but no later than **October 1**, the Discharger shall implement any necessary erosion control measures, and shall complete any necessary construction, maintenance, or repairs of erosion control measures to prevent erosion, ponding, flooding, or to prevent surface drainage from contacting or percolating through wastes at the CAI Burn Site. This specification shall not preclude the Discharger from performing necessary maintenance and repairs, resulting from changing site conditions throughout the year. The Discharger shall provide a description of the following erosion control measures in the annual *Site Conditions Certification Report*:
- a. The Discharger shall develop and implement structural and non-structural BMPs to promote surface drainage, and minimize the erosion of all CAI Burn Site cover surface materials in areas undergoing containment system construction and/or maintenance.
 - b. Effective BMPs shall be implemented on a site-specific basis and may include, but are not limited to the use of bonded fiber matrix, anchored fiber rolls, fiber blankets, hydroseeding/vegetating, or other equivalent engineered alternatives approved by the San Diego Water Board.
 - c. All areas, including surface water drainage courses shall be maintained, to minimize erosion. The CAI Burn Site cover system shall be maintained to minimize percolation of liquids through wastes.
- D. CLEAN-CLOSURE SPECIFICATIONS.** The purpose of clean-closure is to render the CAI Burn Site (including all surrounding environs contaminated by wastes from the Burn Site) no longer capable of posing a threat to water quality.

~~1. Any Discharger proposing to clean-close a CAI Burn Site shall meet the requirements set forth in CCR Title 27, section 21090(f). All clean closure activities shall be conducted by, or under the direct supervision of, a California registered civil engineer or certified engineering geologist in accordance with CCR Title 27, section 21090(d).~~

21. Any Discharger proposing to clean-close a CAI Burn Site, shall submit to the San Diego Water Board a *Clean-Closure Plan*, as specified in **Reporting Requirements F.8** of this Order, proposing a series of actions, the sum of which ~~will shall~~ result in compliance with the performance standards found in CCR Title 27, section 21090(f).
32. If the San Diego Water Board finds that the Discharger has successfully completed clean-closure ~~under CCR Title 27, section 21090(f)~~, the CAI Burn Site shall no longer be subject to the requirements of this Order, or other applicable requirements promulgated under CCR Title 27. The enrollment of the CAI Burn Site under this Order shall then be terminated by the San Diego Water Board, pursuant to **Notification G.6** of this Order.
43. If the San Diego Water Board finds that the Discharger's attempt to clean-close the CAI Burn Site does not meet the performance standards found in requirements of CCR Title 27, section 21090(f), to the satisfaction of the San Diego Water Board, the Discharger shall cover the CAI Burn Site and comply with the maintenance specifications contained within this Order.
54. The Discharger shall have successfully clean-closed a CAI Burn Site only if:
 - a. All waste materials, contaminated components of the containment system, and affected geologic materials, including soils and rock beneath and surrounding the CAI Burn Site, and groundwater polluted by a release from the CAI Burn Site, are either removed and discharged to an appropriate waste management unit, as specified ~~under CCR Title 27, Division 2 in the approved Clean Closure Plan~~, or treated to the extent that the San Diego Water Board finds they no longer pose a threat to water quality; and
 - b. All remaining containment features are inspected for contamination and, if contaminated, the wastes or waste constituents are discharged in accordance with CCR Title 27, Division 2.

E. PROVISIONS

1. **General Provision.** Wastes discharged at any CAI Burn Sites shall not cause or contribute to conditions of pollution, contamination, or nuisance, as defined in the Water Code, section 13050. The discharge of waste shall at all times be in conformance with applicable water quality standards, including but not limited to, all applicable provisions and prohibitions contained in the ~~San Diego~~-Basin Plan, including beneficial uses, water quality objectives, and implementation plans. This Order does not preempt or supersede the authority of municipalities, flood control

[agencies, or other State or local agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.](#)

2. **Duty to Comply.** Any noncompliance with this Order constitutes a violation of the Water Code and is grounds for: (a) enforcement action, and (b) revocation and re-issuance, or modification of this Order, or termination of enrollment under this Order.
3. **Corrective Action.** The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including accelerated or additional monitoring necessary to determine the nature and impact of the noncompliance.
4. **Responsibility for Monitoring and Maintenance.** Dischargers shall be responsible for covering the costs associated with the activities necessary to maintain compliance with this Order until the San Diego Water Board has determined that the CAI Burn Site no longer poses a threat to water quality.
5. **Proper Maintenance.** The Discharger shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the specifications of this Order. Proper maintenance includes effective performance, adequate laboratory and process controls, including appropriate quality assurance procedures.
6. **Maintenance Period.** The CAI Burn Site maintenance period shall continue until the San Diego Water Board finds that any remaining solid wastes, and waste constituents will not threaten the waters of the State.
7. **Revision of Waste Discharge Requirements.** This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - a. Violation of any terms or conditions of this Order;
 - b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the Discharger for the modification, revocation and re-issuance, or termination of enrollment under this Order, or

notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

8. **Change in Ownership.** This Order is not transferable to any person except after notice to the San Diego Water Board. ~~The San Diego Water Board may require modification, or revocation and reissuance of this Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the Water Code.~~ The Discharger shall submit a notice of any proposed transfer of responsibility for this Order in accordance with **Reporting Requirement F.5** of this Order. The Discharger shall also inform the transferee of the status of the Discharger's annual fee account.
9. **Property Rights.** This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Discharger from liability under federal, State, or local laws, nor create a vested right for the owner and operator to continue the regulated activity.
10. **Entry and Inspection.** Under the authority of Water Code section 13267, the Discharger shall allow the San Diego Water Board, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
 - a. Enter upon the Discharger premises where a regulated facility or activity is located or conducted, or where records must be kept under the specifications of this Order;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the specifications of this Order;
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or specified under this Order;
 - d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code, any substances or parameters at any location; and
 - e. Photograph or videotape any structures, facilities, activities, or other conditions that could result in adverse impacts to water quality and that are pertinent to compliance with this Order.

The San Diego Water Board ~~shall~~will notify Dischargers at least **24-hours** in advance of any planned inspection or sampling of any media at the site.

11. **Repository for Waste Discharge Requirements.** A complete and correct copy of this Order shall be maintained at the local offices of the Discharger, and shall be available to maintenance personnel at all times.
12. **Severability.** The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
13. **Effective Date.** This Order becomes effective on May 9, 2012.
14. **Applicability.** This Order supersedes Order No. 97-11, and shall be implemented by all Dischargers of CAI Burn Sites previously enrolled under Order No. 97-11 and subject to regulation under CCR Title 27 by the San Diego Water Board.

F. REPORTING REQUIREMENTS

1. **Report of Waste Discharge.** The Discharger shall file a ROWD at least **120 days** prior to any the following:
 - a. Any significant changes at the CAI Burn Site (e.g., excavation and relocation of waste on site etc.);
 - b. Any planned changed in the regulated facility or activity which may result in noncompliance with this Order; and
 - c. Any changes in land use other than as described in this Order.
2. **Site Conditions Certification Report.** The Discharger shall submit to the San Diego Water Board, a *Site Conditions Certification Report* on an annual basis, beginning October 2012. The *Site Conditions Certification Report* must contain the information specified in **Maintenance Specification C.3** of this Order, and must be received by the San Diego Water Board no later than **5:00 pm on October 30th** of each year.
3. **Notification.** The Discharger shall notify the San Diego Water Board, either in writing, or via e-mail, facsimile, or telephone, at least **2 working days** prior to initiating any significant site maintenance activities. Significant site maintenance activities may include those activities that could alter existing surface drainage patterns or change existing slope

configurations. The San Diego Water Board should be notified prior to the implementation of any of the following activities:

- a. Significant grading activities; and/or
- b. The installation or destruction of soil borings, groundwater monitoring wells (if applicable), or landfill gas probes or wells (if applicable).

A description of these activities shall be included in the annual *Site Conditions Certification Report*.

4. **General Reporting Requirement.** The Discharger shall furnish to the San Diego Water Board, within a reasonable time, any information that the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating enrollment under this Order. The Discharger shall also furnish, upon request by the San Diego Water Board copies of records required to be kept by this Order.
5. **Change in Ownership.** The Discharger shall notify the San Diego Water Board in writing at least **30 days** in advance of any transfer of this Order's responsibility and coverage from the current owner to a new owner for maintenance of the CAI Burn Site. The notification shall include an acknowledgement that the current owner is liable for violations up to the transfer date and that the new owner is liable after the date that ownership of the property transfers. The notification shall include an acknowledgement that the new owners shall accept responsibility for compliance with this Order, including financial assurances as the State may require, for implementation of maintenance of the CAI Burn Site.
6. **Incomplete Reports.** Where the Discharger becomes aware that it failed to submit any relevant facts or submitted incorrect information in a ROWD, NOI, or any other report to the San Diego Water Board; the Discharger shall promptly submit such additional facts or corrected information.
7. **Endangerment of Health and Environment.** The Discharger shall report any noncompliance which may endanger human health or the environment. Any such information shall be provided orally to the San Diego Water Board **within 24 hours** from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within **5 days** of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, or prevent recurrence of the noncompliance. The

San Diego Water Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within **24 hours**.

8. **Notification of Clean-Closure.** The Discharger shall simultaneously notify the San Diego Water Board and the LEA that the CAI Burn Site is to be clean-closed in accordance with ~~CCR Title 27, section 21090(f)~~ the approved Clean Closure Plan. This notification shall occur at least **180 days** prior to beginning any clean-closure activities (for the entire CAI Burn Site or portion thereof). The Discharger shall include a statement that all clean-closure activities will conform to the most recently approved clean-closure plan and that the plan provides for clean-closure in compliance with all applicable federal and State regulations. The Discharger shall notify the San Diego Water Board within **30 days** of completing all clean-closure activities for a CAI Unit, or any portion thereof; ~~in the case of incremental closure under CCR Title 27, section 21090(b)(1)(D)~~. The Discharger shall certify under penalty of perjury that all clean-closure activities were performed in accordance with the most recently approved clean-closure plan and in accordance with all applicable regulations.
9. **Reporting Declaration.** All applications, reports, or information submitted to the San Diego Water Board are part of the public record and shall be signed and certified as follows:
 - a. The ROWD/NOI shall be signed as follows:
 - i. *For a corporation* – by a principal executive officer of at least the level of vice president;
 - ii. *For a partnership or sole proprietorship* – by a general partner or the proprietor, respectively;
 - iii. *For a municipality, State, federal, or other public agency* – by either a principal executive officer or ranking elected official; and
 - iv. *For a military facility* – by the base commander or the person with overall responsibility for environmental matters in that branch of the military.
 - b. All other reports required by this Order and other information required by the San Diego Water Board shall be signed by a person designated in paragraph (a) of this section, or by a duly authorized

representative of that person. An individual is a duly authorized representative only if:

- i. The authorization is made in writing by a person described in paragraph (a) of this provision;
- ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
- iii. The written authorization is submitted to the San Diego Water Board.

The authorization, in the form of a Signature Authority Statement, shall be submitted to the San Diego Water Board within **30 days** from the: (1) adoption of this Order; (2) enrollment under this Order; or (3) change in duly authorized representative.

- c. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

- d. ***Duty to Use Registered-Licensed Professionals***. Pursuant to CCR Title 27, section 21710(d), any report submitted in compliance with CCR Title 27 and this Order, which proposes a design or design change (or which notes occurrences) that might affect the CAI Burn Site’s containment features shall be approved by a licensed civil engineer or a certified engineering geologist appropriately licensed by the State of California.

The Discharger shall provide documentation that plans and reports required under this Order are prepared by or under the direction of, appropriately qualified professionals. CCR Title 27, sections 20324(b) and 21090(b)(1)(C); and the California Business and

Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of licensed professionals. A statement of qualifications and license numbers of the responsible lead professionals shall be included in all plans and reports submitted by the Discharger. The lead professional shall sign and affix their registration stamp to the report, plan or document.

10. **San Diego Water Board Address.** The Discharger shall submit all paper or electronic copies of reports and notifications required under this Order and other information requested by the San Diego Water Board to:

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
Attn: Land Discharge Unit Supervisor

Larger documents shall be divided into separate files at logical places in the report to keep the file sizes under 150 megabytes. The Discharger shall continue to provide a paper transmittal letter, a paper copy of all figures larger than 8.5 inches by 14 inches (legal size), and an electronic copy (on CD or other appropriate media) of all reports to the San Diego Water Board. All correspondence and documents submitted to the San Diego Water Board shall include the reference code "<staff name>" in the header or subject line, where "<staff name>" is the first initial and last name of the San Diego Water Board case manager.

11. **Electronic Data Submittal.** The State's Electronic Reporting Regulations (CCR Title 23, Chapter 30, Division 3, section 3890 et seq.) mandate the electronic submission of any report of data required by a regulatory agency for any discharge of waste to land subject to CCR Title 27. All information submitted to the San Diego Water Board in compliance with this Order is also required to be submitted electronically via the internet into the GeoTracker database at <http://geotracker.waterboards.ca.gov/>. The electronic data must be uploaded on or prior to the regulatory due dates set forth in the Order or addenda thereto. To comply with these requirements [CCR title 23, section 3893(b)], the Discharger must upload a complete copy (as a searchable PDR document) of all workplans, assessment reports, including the signed transmittal letter, professional certifications, and any data presented in the reports.

G. NOTIFICATIONS.

1. **Penalties for Investigation, Monitoring, or Inspection Violations.**

The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.

2. **Civil Monetary Remedies.** Water Code section 13350 provides that any person who intentionally or negligently violates any Waste Discharge Requirements issued, or amended by the San Diego Water Board, is subject to administrative civil liability of up to 10 dollars per gallon of waste discharged, or if no discharge occurs, up to 100 dollars per day of violation. Water Code section 13268 further provides that failure or refusal to submit technical reports required by this Order is subject to administrative civil liability of up to 1,000 dollars per day of the violation.
3. **Other Requirements.** Dischargers enrolled under this Order may be subject to additional federal, State, or local regulations.
4. **Requesting Administrative Review by the State Water Board.** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320, and CCR Title 23, section 2050. The petition must be received by the State Water Board (Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812) **within 30 days** of the date of this Order or enrollment therein. Copies of the law and regulations applicable to filing petitions will be provided upon request.
5. **Definitions.** Definitions of terms used in this Order shall be as set forth in CCR Title 27, section 20164, and in Water Code section 13050.
6. **Delegation of Authority.** The San Diego Water Board has delegated to the Executive Officer by resolution, all the powers and authority that may be delegated pursuant to Water Code section 13223. The San Diego Water Board intends for the Executive Officer to grant Dischargers enrollment or termination under this Order pursuant to the eligibility criteria and termination criteria established in this Order.