

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 96-026

APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL
PLAN FOR THE SAN DIEGO BASIN REVISING LANGUAGE
CONCERNING CONDITIONS FOR WAIVER OF WASTE
DISCHARGE REQUIREMENTS FOR SUBSURFACE DISPOSAL
SYSTEMS, SPECIFIED CONTAMINATED SOILS, AND
INCIDENTAL DISCHARGES ASSOCIATED WITH
OIL SPILL RESPONSE ACTIVITIES

WHEREAS:

1. The California Regional Water Quality Control Board, San Diego (SDRWQCB), adopted a revised Water Quality Control Plan for the San Diego Basin (Basin Plan) on September 8, 1994.
2. On October 12, 1995, following a public hearing, the SDRWQCB adopted Resolution No. 95-115 (Attachment 1) which amended the Basin Plan by clarifying the language concerning the waiver conditions outlined in Table 4-4 of the Basin Plan, "Types of Discharges Identified for Conditional Waiver of Waste Discharge Requirements" for subsurface disposal systems, adding a new Appendix D containing the waiver conditions for specified contaminated soils, disposal/reuse of dredge soils in industrial and commercial applications, and adding a new category and conditions to Table 4-4 for incidental discharges associated with oil spill response activities.
3. The State Water Resources Control Board (SWRCB) finds that the proposed amendment complies with requirements of SWRCB Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California).
4. Section 13240 of the Water Code specifies that basin plans be periodically reviewed and, if appropriate, revised.
5. The SDRWQCB staff prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.
6. SDRWQCB Resolution No. 95-115 pertains to waiver requirements and is not subject to the approval of the Office of Administrative Law under the State Administrative Procedures Act.
7. SDRWQCB Resolution No. 95-115 pertains to waiver requirements and is not subject to the approval of the U.S. Environmental Protection Agency under the Federal Clean Water Act.

8. This Basin Plan amendment does not become effective until approved by the SWRCB.

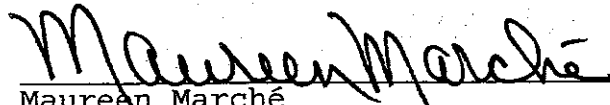
THEREFORE BE IT RESOLVED THAT:

The SWRCB:

Approves SDRWQCB Resolution No. 95-115 amending the Water Quality Control Plan for the San Diego Region.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 18, 1996.



Maureen Marché
Administrative Assistant to the Board

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

RESOLUTION NO. 95 - 115

A RESOLUTION ADOPTING AMENDMENTS
TO THE
WATER QUALITY CONTROL PLAN
FOR THE
SAN DIEGO REGION

TABLE 4-4. TYPES OF DISCHARGES IDENTIFIED
FOR
CONDITIONAL WAIVER OF
WASTE DISCHARGE REQUIREMENTS

WHEREAS, in accordance with Section 13240 et seq. of the CALIFORNIA WATER CODE, the California Regional Water Quality Control Board, San Diego Region, caused to be developed a Water Quality Control Plan for the San Diego Water Quality Control Region; and

WHEREAS, the Regional Board, acting in accord with Section 13244 of the CALIFORNIA WATER CODE, on September 8, 1994, adopted the *Water Quality Control Plan, San Diego Basin (9)* (hereinafter Basin Plan) which was subsequently approved by the SWRCB on December 13, 1994; and

WHEREAS, Section 13240 of the California Water Code specifies that Basin Plans be periodically reviewed and, if appropriate, revised; and

WHEREAS, the Regional Board periodically considers changes to this Basin Plan as necessary; and

WHEREAS California Water Code Section 13269 provides that the Regional Board may waive the requirement to obtain waste discharge requirements for a specific type of discharge, where such waiver is not against the public interest; and

WHEREAS, the "*Memorandum of Understanding between the Department of Fish and Game's Office of Oil Spill Prevention and Response and the State Water Resources Control Board relating to discharges associated with response activities conducted pursuant to ch. 7.4, Division 1 of the Government Code*" (MOU) was signed and approved by the State Water Resources Control Board; and

WHEREAS, the State Board has pursuant to the MOU recommended that the Regional Board add incidental discharges associated with oil spill response activities to the Basin Plan Table 4-4 list of discharges for which waste discharge requirements are waived; and

WHEREAS, the Regional Board has waived waste discharge requirements for conventional septic tank/ subsurface disposal systems and alternative individual sewerage systems since 1983. The waiver was subject to the conditions specified in Resolution No. 79-44, "*Guidelines for New Community and Individual Sewerage Facilities*". The Regional Board incorporated and updated the terms of Resolution No. 79-44 policy into the Basin Plan in 1994. The updated policy supersedes Resolution No. 79-44 and is contained in Chapter 4 of the Basin Plan under the title of "*Guidelines for New Community and Individual Sewerage Facilities*" ; and

WHEREAS, the Regional Board inadvertently failed to delete the Basin Plan Table 4-4 reference to the rescinded Resolution No. 79-44, and replace it with a reference to the updated policy at the time the Basin plan was adopted; and

WHEREAS, a staff report describing the proposed amendment and containing environmental documentation functionally equivalent to the California Environmental Quality Act requirements was prepared and made available to interested individuals and public agencies for review and comment prior to the public hearing; and

WHEREAS, the Regional Board held a public hearing on October 12, 1995, for the purpose of receiving testimony on the Basin Plan amendments described in the October, 1995 Regional Board Staff report, BASIN PLAN AMENDMENT MODIFYING PORTIONS OF CHAPTER 4, IMPLEMENTATION, TABLE 4-4, "TYPES OF DISCHARGES IDENTIFIED FOR CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS"; and

WHEREAS, a copy of the Notice of Filing was sent to the following agencies and persons: (1) those who normally receive notices of proposed basin plan amendments; (2) those federal, state and local agencies who have jurisdiction by law or expertise with respect to the subject of the proposed basin plan amendment; (3) anyone who has requested notification or who the staff believes would be interested in the proposed amendment; (4) the Resources Secretary; and (5) the general public.

WHEREAS, the Regional Board has reviewed and carefully considered all comments and testimony received relative to the proposed amendments; and

WHEREAS, the Regional Board has determined that the proposed amendments would be consistent with the State Board's Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California", (hereinafter Antidegradation Policy).

RESOLVED, that the Water Quality Control Plan for the San Diego Water Quality Control Region be amended as follows:

1. Table 4-4, "Types of Discharges Identified for Conditional Waiver of Waste Discharge Requirements", appearing in Chapter 4, Implementation, is modified as shown in Attachment 1 to this Order.

I, John Norton, Acting Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Diego Region, on October 12, 1995.


JOHN NORTON
Acting Executive Officer

ATTACHMENT 1

The proposed modifications to the Basin Plan are shown on the pages which follow in redline and
strikeout text.

Table 4 - 4. Types of Discharges Identified for Conditional Waiver of Waste Discharge Requirements.

TYPE OF WASTE DISCHARGE	CONDITION(S)	REFERENCES, REMARKS, ETC.
1. Conventional septic tank/ subsurface disposal systems for residential units	Subject to the conditions set forth in the <i>Basin Plan, Chapter 4, (Implementation), section entitled: Guidelines for New Community and Individual Sewerage Facilities</i> adopted by the Regional Board on June 26, 1979.	<i>Basin Plan, Chapter 4, (Implementation), section entitled: Guidelines for New Community and Individual Sewerage Facilities</i> (Regional Board Resolution No. 79-44)
2. Conventional septic tank/ subsurface disposal systems for commercial/ industrial establishments	Subject to the conditions set forth in the <i>Basin Plan, Chapter 4, (Implementation), section entitled: Guidelines for New Community and Individual Sewerage Facilities</i> adopted by the Regional Board on June 26, 1979.	<i>Basin Plan, Chapter 4, (Implementation), section entitled: Guidelines for New Community and Individual Sewerage Facilities</i> (Regional Board Resolution No. 79-44)
3. Alternative individual sewerage systems	Subject to the conditions set forth in the <i>Basin Plan, Chapter 4, (Implementation), section entitled: Guidelines for New Community and Individual Sewerage Facilities</i> adopted by the Regional Board on June 26, 1979.	<i>Basin Plan, Chapter 4, (Implementation), section entitled: Guidelines for New Community and Individual Sewerage Facilities</i> (Regional Board Resolution No. 79-44)
4. Conventional septic tank/ subsurface disposal systems for campgrounds	Where no facilities are provided which would enable recreational vehicles to connect with the campground sewerage system.	
5. Construction and test pumping of water wells	Where the well water pumped is uncontaminated; and where the well was not constructed for and is not to be used in ground water cleanup operations.	
6. Air conditioner condensate		
7. Animal feeding operations for the following: goats, swine, sheep, horses, buffalo, and poultry.	Where the animal feeding operation is not a "concentrated animal feeding operation" under United States Environmental Protection Agency regulations pertaining to the National Pollutant Discharge Elimination System.	United States Environmental Protection Agency Consolidated Permit Regulations, 40 CFR 122.54
8. Plant crop residues	Where such residues are plowed into fields (as opposed to being disposed of en masse, e.g. in a pit).	For the purposes of this document, "plant crop residues" shall be defined as waste plant crops and nonmarketable portions of plants.
9. Storm water runoff	Where no NPDES permit is required.	
10. Sand and gravel mining operations	Where operations are not conducted in flowing streams; and where Department of Fish and Game requirements established pursuant to Fish and Game Code Sections 1600-1603 are satisfied.	This waiver does not apply to wash water or other discharges from sand and gravel processing operations.
11. Intermittent swimming pool discharges	Where pool filter backwash is not discharged.	
12. Dredging project wastes	Where the dredging project does not involve more than 5,000 yd ³ of material.	
13. Short-term construction dewatering operations	Where there is no discharge to surface waters.	
14. Telephone, natural gas and electric utility vault and conduit flushing and draining		

TYPE OF WASTE DISCHARGE	CONDITION(S)	REFERENCES, REMARKS, ETC.
15. Discharges from flushing and draining potable water lines and tanks		
16. Manure composting and soil amendment operations	Where State Water Resources Control Board <i>Minimal Guidelines for Protection of Water Quality from Animal Wastes</i> are followed.	Adopted by the State Water Resources Control Board on March 1, 1973.
17. Solid waste disposal facilities accepting only inert wastes	Where State Water Resources Control Board regulations, requirements, and guidelines for disposal of such wastes are satisfied; and Where Fish and Game Code Section 5650 is not violated.	The applicable document as of the date of adoption of the Resolution is <i>Discharges of Waste to Land</i> (CCR Title 23, Division 3, Chapter 15).
18. Stream channel alterations	Where Department of Fish and Game requirements established pursuant to Fish and Game Code Section 1600-1603 are satisfied.	
19. Agricultural irrigation return water	Where discharge originates from an agricultural operation in which best management practices for control of salts, nutrients, pesticides and other pollutants in irrigation return water have been implemented.	For the purposes of this document, "agriculture" shall be defined as the production of fiber and/or food (including food for animal consumption, e.g., alfalfa).
20. Nursery irrigation return water	Where there is no surface discharge from nursery property.	For the purposes of this document, a "nursery" shall be defined as a facility engaged in growing plants (shrubs, trees, vines, etc.) for sale.
21. Short-term use of reclaimed wastewater for soil compaction, dust control, and other construction purposes	Where applicable Department of Health Services (DOHS) guidelines are followed.	Applicable DOHS guidelines as of the date of adoption of this Resolution are <i>Guidelines for Worker Protection of Water Reclamation Use Areas and Guidelines for the Use of Reclaimed Water for Construction Purposes</i> .
22. On-site drilling mud discharge	Where discharge is to a sump with a minimum freeboard of two feet; and Where sump is not to be used for ultimate disposal of drilling mud (unless discharger demonstrates that material is nontoxic and does not contain dissolved or soluble salts in quantities which could adversely affect basin ground water quality); and Where sump site is restored to predrilling state within 60 days of completion or abandonment of well.	
23. Timber harvesting	Where harvesting occurs on National Forest System lands managed by the United States Forest Service in accordance with the practices and procedures set forth in the document entitled <i>Water Quality Management for National Forest System Lands in California</i> .	Management Agency Agreement between State Water Resources Control Board and the United States Forest Service (United States Department of Agriculture.)
24. Temporary Discharge of Specified Contaminated Soils	See below Appendix D	
25. Disposal/Reuse of Dredge Spoils in Industrial or Commercial Applications	See below Appendix D	
26. Green Waste Composting Facilities	See below Appendix D	

TABLE 4 - 4
IMPLEMENTATION

TYPE OF WASTE DISCHARGE	CONDITION(S)	REFERENCES, REMARKS, ETC.
27. Incidental Discharges within a Response Area during a Spill Response	The discharge must meet the definition of "incidental discharge" as this, and related, terms are defined in the "Memorandum of Understanding Between the Department of Fish and Game's Office of Oil Spill Prevention and Response and the State Water Resources Control Board Relating to Discharges Associated with Response Activities Conducted Pursuant to Ch. 7.4, Division 1 of the Government Code"	

APPENDIX D

CONDITION(S) FOR CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS OF ITEMS IN TABLE 4-4

CONDITIONS FOR ITEM 24. TEMPORARY DISCHARGE OF SPECIFIED CONTAMINATED SOILS:

a. General Conditions for All Temporary Waste Piles

- (1) The discharger shall file a Report of Waste Discharge which provides the technical information necessary to demonstrate that the discharge meets the criteria set forth herein. The discharger shall submit a fee of \$750.00 pursuant to Section 2200, Title 23 of the California Code of Regulations.
- (2) This waiver specifically does not apply to hazardous waste, as defined in Section 66261.3, Division 4.5, Title 22 of the California Code of Regulations, or as amended.
- (3) All waste piles used for treatment or storage shall be bermed to prevent surface runoff/runon from contacting wastes and to prevent erosion and transport of contaminated soils by surface runoff. Berm material shall consist of clean, noncontaminated soil.
- (4) All waste piles used for treatment or storage shall be protected against 100-year peak stream flows as defined by the County flood control agency.
- (5) Wastes discharged to waste piles established under this waiver, together with any containment materials used at the temporary waste pile, and any underlying geologic materials contaminated by the discharge, shall be removed within the maximum time period allowed under the applicable Special Conditions. Subsequently the site shall be restored to its original state within 30 days following the removal of all treatment facilities, related equipment, etc. and shall be disposed of or stored in accordance with applicable regulations.
- (6) If return water or ponded water contained within the treatment or storage area of the temporary waste pile will be disposed of at a location other than to a sanitary sewer system, then the discharger shall submit written notification to the Executive Officer prior to initiating the discharge and either: 1) obtain waste discharge requirements; 2) obtain a waiver of waste discharge requirements or 3) obtain a written determination from the Executive Officer that the disposal of the return water or ponded water is not subject to regulation by the Regional Board.

b. Special Conditions Applicable to Waste Piles for Treatment or Storage of Soils Contaminated with Petroleum Hydrocarbons

- (1) Temporary waste piles established under this waiver shall be limited to a maximum time period of four months or 120 days.
- (2) All waste piles shall be overlain by a suitable heavy gauge plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances.
- (3) All waste piles shall be underlain by either a suitable heavy gauge plastic sheeting (not less than 10 mils thick) or a liner of low permeability approved by the Executive Officer.
- (4) Unless otherwise stated herein, waste piles shall conform to provisions in the state's Local Oversight Program (LOP) for Orange, Riverside, and San Diego Counties.

c. Special Conditions Applicable to Waste Piles for Treatment or Storage of Dredge Spoils Contaminated with Heavy Metals

- (1) Temporary waste piles established under this waiver shall be limited to a maximum time period of nine months or 270 days.
- (2) All waste piles shall be overlain by either a suitable heavy gauge plastic sheeting or an alternative approved by the Executive Officer to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances. The control methods shall be subject to approval by the Executive Officer.
- (3) All waste piles shall be underlain by a liner of low permeability (not less than 20 mils thick). The liner and containment facility shall be designed to contain all waste and fluids, and shall be subject to approval by the Executive Officer.
- (4) Materials used in containment structures shall have the appropriate chemical and physical properties to ensure that such structures do not fail to contain waste because of: the stress of installation, pressure gradients, physical contact with the waste or leachate, or chemical reactions with soil and rock.

CONDITIONS FOR ITEM 25. DISPOSAL / REUSE OF DREDGE SPOILS IN INDUSTRIAL OR COMMERCIAL APPLICATIONS

a. General Conditions for Disposal/Reuse of Treated Dredge Spoil in Industrial or Commercial Applications

- (1) The discharger shall file a report of waste discharge which provides the technical information necessary to demonstrate that the residual concentrations of constituents of concern meet the criteria set forth herein. The discharger shall submit a fee of \$750.00 pursuant to CCR Title 23, Section 2200.
- (2) All sampling and analytical procedures, including documentation of waste characterization, shall be in accordance with the indicated methods described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, SW-846, U.S. Environmental Protection Agency (current edition). Reported concentrations levels shall be mean average, with an 80% upper confidence interval, and the total range within each constituent.
- (3) The Waste Extraction Test (WET) shall be used for all metal elements, polychlorinated biphenols (PCB's), tributyltin (TBT), and their compounds to determine the amount of extractable substance from a contaminated soil. Procedures for the WET are described in Section 66261.24, Article 3, Chapter 11, Division 4.5, Title 22 of the California Code of Regulations, or as amended. Concentration limits are based on the modified WET methodology (using deionized water in place of sodium citrate buffer solution) and then multiplied by the ten fold dilution rate used in the test.
- (4) The Toxicity Characteristic Leaching Procedure (TCLP) shall be used for all volatile organic compounds to determine the amount of extractable substance from a contaminated soil. Procedures for the TCLP are described in Appendix I, Chapter 18, Division 4.5, Title 22 of the California Code of Regulations, or as amended. Concentration limits are based on the modified TCLP methodology (using deionized water in place of sodium acetate buffer solution) and then multiplied by the twenty fold dilution rate used in the test.
- (5) This waiver specifically does not apply to hazardous waste, as defined in Section 66261.3, Division 4.5, Title 22 of the California Code of Regulations, or as amended.

- (6) The discharge shall meet the additional conditions outlined under the exact type of discharge proposed. The levels of contaminants in the soil shall not exceed any of the maximum concentration limits listed under the type of discharge proposed for the soil.
- (7) The discharge shall be protected against 100-year peak stream flows as defined by the County flood control agency.
- (8) The discharger shall file a certification report when disposal/reuse is completed, on a form approved by the Executive Officer.
- (9) This waiver applies only to the contaminants specified under each disposal use category. These may not be the only pollutants found in contaminated soils that could threaten water quality. Contaminated soils from other sources including, but not limited to; solvents, pesticides, other metals, salts, and nutrients, are excluded from this waiver. Contaminants that are suspected constituents of concern that are not listed may need to be evaluated based on knowledge of the site cleanup and on a case by case basis until such time as numerical limits applicable for a waiver can be established.

b. Special Conditions Applicable to Use of Treated Dredge Spoil for Industrial or Commercial Reuse/Fill near Groundwater, Bays and Estuaries, and Pacific Ocean

- (1) Soil shall be covered by either (1) constructed materials (e.g. used as roadbase, fill beneath buildings, bridge abutments), or (2) not less than 2 feet of noncontaminated clean fill to minimize surface water infiltration, preclude exposure by erosion, and control leaching effects.
- (2) Soil shall be placed a minimum of 100 feet away from any surface water.
- (3) Soil shall be placed a minimum of 5 feet above the highest anticipated elevation of ground water [CCR, Title 23, Section 2530 (c)].
- (4) This waiver does not apply to basins that are designated for municipal and domestic supply.
- (5) The applicable standards for the underlying ground water basins shall not only be based upon the water quality of those basins, but also the surface water of an enclosed bay, estuary, or Pacific Ocean that it is in contact with.
- (6) The average concentration of contaminants in the soil shall not exceed any of the following concentration limits (mean average with an 80% upper confidence interval):

<u>Constituents</u>	<u>Ground Water¹</u>	<u>Bays and Estuaries⁴</u>	<u>Pacific Ocean^{5a}</u>
	<u>Concentration Limit (Numerical Objective Multiplied by 10-fold Attenuation)</u>		
Metals			
Chromium (VI)	500 ug/l	500 ug/l ^{4a}	20 ug/l
Copper	10000 ug/l ³	29 ug/l ^{4b}	30 ug/l
Lead	500 ug/l	56 ug/l ^{4a}	20 ug/l
Mercury	20 ug/l	0.25 ug/l ^{4c}	0.4 ug/l
Silver	500 ug/l	23 ug/l ^{4d}	7 ug/l ^{5c}
Zinc	50000 ug/l ³	860 ug/l ^{4a}	200 ug/l
Synthetic Organics			
PCBs	5 ug/l	0.0007 ug/l ^{4c}	0.00019 ug/l ^{5b}
TBT	0.2 ug/l	0.05 ug/l ^{4c}	0.014 ug/l ^{5b}
Hydrocarbons			
TPH	100 mg/kg ⁵	100 mg/kg ⁵	100 mg/kg ⁵
TRPH	1000 mg/kg ⁵	1000 mg/kg ⁵	1000 mg/kg ⁵
Benzene	10 ug/l	210 ug/l ^{4c}	59 ug/l ^{5b}
Toluene	10000 ug/l	3000000 ug/l ^{4c}	850000 ug/l ^{5b}
Ethylbenzene	6800 ug/l	290000 ug/l ^{4c}	4300 ug/l ^{5b}
Total Xylenes	17500 ug/l	--	--
Naphthalene	200 ug/l ²	200 ug/l ²	200 ug/l ²

Water Quality Objectives are derived from the following sources.

1. California Drinking Water Standards, primary maximum contaminant levels
2. US EPA suggested no adverse response levels (SNARLs)
3. California Drinking Water Standards, secondary maximum contaminant levels
4. Best Professional Judgement for Bays and Estuaries
 - a. 4-day Average Concentration - Saltwater Aquatic Life Protection
 - b. 1-hour Average Concentration - Saltwater Aquatic Life Protection
 - c. 30-day Average Concentration - Human Health Protection
 - d. Instantaneous Maximum Concentration - Saltwater Aquatic Life Protection
5. California Ocean Plan Criteria, Marine Aquatic Life Protection
 - a. 6-month Median Concentration - Saltwater Aquatic Life Protection
 - b. 30-day Average Concentration - Human Health Protection
 - c. Instantaneous Maximum Concentration - Saltwater Aquatic Life Protection
6. No Numerical Objectives Used - Constituent is an Indicator of Other Contaminants

DEFINITION OF TERMS

Total Petroleum Hydrocarbon (TPH): Determination of concentration of residual gasoline and diesel in a soil shall utilize US EPA test method 8015 (carbon ranges C₄ through C₂₄), based on wet-weight total concentrations.

Total Recoverable Petroleum Hydrocarbons (TRPH): Determination of concentration of residual hydrocarbons in a soil shall utilize US EPA test method 418.1, based on wet-weight total concentrations.

Solute concentrations: Concentrations of the constituents of concern in deionized water using modified Waste Extraction Test (WET) or the Toxicity Characteristic Leaching Procedure (TCLP) methodologies.

Solute: Deionized water used as extraction solution in the WET and TCLP methodologies.

Limit: A concentration value not to be exceeded which is necessary to protect water quality and beneficial uses for the San Diego Region (This limit may be based on water quality objectives or a water quality objective multiplied by an appropriate attenuation factor).

Clean Fill: Soil containing no waste or leachate in accordance with CCR Title 23 Section 2581 (a)(3).

Attenuation: The amount of reduction in the concentration of a constituent as it moves through a soil. The reduction may result from a combination of processes, including; assimilation, adherence, adsorption, degradation, and separation of the waste from water.

CONDITIONS FOR ITEM 26. GREEN WASTE COMPOSTING FACILITIES

- a. The facility shall only compost green material which includes but is not limited to, leaves, grass clippings, weeds, tree trimmings, untreated wood waste, or shrubbery cuttings. The composting shall not include any additives, amendments, municipal solid waste, sludge, manure, liquid waste, hazardous waste or other waste; and
- b. The facility must obtain a *General Industrial Storm Water Permit*, if applicable, and if subject to such a permit, shall have a storm water pollution prevention plan in order to mitigate any adverse impact to surface waters; and
- c. The facility must obtain a Green Composting Permit from the California Integrated Waste Management Board pursuant to Chapter 3.1, Division 7, Title 14 of the California Code of Regulations.
- d. Prior to commencement of the green waste composting operation the project proponent must submit a letter to the Regional Board staff certifying that the facility is in compliance with conditions a. through c. above.

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Resolution No. 90-28. Adopted March 12, 1990 April 23, 1990. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region, for a Portion of the San Clemente Hydrologic Subunit.*

Resolution No. 90-53. Adopted September 24, 1990. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for Portions of the Santa Margarita Hydrologic Unit (2.00), San Diego Region.* This resolution establishes a biostimulatory substances water quality compliance methodology for part of the Santa Margarita River.

Resolution No. 90-61. Adopted November 5, 1990. *A Resolution Amending Resolution No. 90-40, A Regionwide Groundwater Amendment to the Comprehensive Water Quality Control Plan for the San Diego Region.* This resolution revised the language regarding use of reclaimed water contained in Resolution No. 90-40, *A Resolution Reconsidering and Amending Resolution No. 90-26, 'A Regionwide Groundwater Amendment to the Comprehensive Water Quality Control Plan for the San Diego Region,'* and Resolution No. 90-26, *A Resolution Adopting A Regionwide Groundwater Amendment to the Comprehensive Water Quality Control Plan for the San Diego Region.*

Resolution No. 91-23. Adopted March 11, 1991. *A Resolution Amending Resolution No. 90-27, 'A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region, for the Mission San Diego and a Portion of the Santee Hydrologic Subareas.'*

Resolution No. 91-46. Adopted May 20, 1991. *A Resolution Rescinding and Replacing Resolution No. 88-91 and Addenda, and Establishing a Regional Board Drought Policy.*

Resolution No. 91-79. Adopted December 9, 1991. *A Resolution Amending Resolution No. 90-55, 'Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region.'* This resolution establishes revised Basin Plan chapters for beneficial uses and water quality objectives.

Resolution No. 92-21. Adopted April 6, 1992. *A Resolution Concerning the Agreement Between the California Regional Water Quality Control Board, San Diego Region, and the Resource Conservation Districts of San Diego County Regarding the Erosion and Sediment Control Policy.*

Resolution No. 93-02. Adopted February 1, 1993. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region for the Escondido Hydrologic Subarea (4.62).*

Resolution No. 94-09. Adopted February 10, 1994. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region, Portions of the Pauba (2.51) and Wolf (2.52) Hydrologic Subareas.*

Resolution No. 94-25. Adopted February 10, 1994. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Region for the Laguna (1.10), Mission Viejo (1.20), and San Clemente (1.30) Hydrologic Areas.*

Resolution No. 94-139. Adopted October 13, 1994. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for a portion of the Poway Hydrologic Area (6.20).*

Resolution No. 95-115. Adopted October 12, 1995. *A Resolution Adopting Amendments to the Comprehensive Water Quality Control Plan for the San Diego Basin (9), Table 4-4. Types of Discharges Identified for Conditional Waiver of Waste Discharge Requirements.*

REGIONAL BOARD WATER QUALITY MANAGEMENT POLICY

This policy consists of five general water quality policy statements and is described in Chapter 1 of this Basin Plan.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
DEPARTMENT OF FISH AND GAME'S
OFFICE OF OIL SPILL PREVENTION AND RESPONSE
AND THE
STATE WATER RESOURCES CONTROL BOARD
RELATING TO
DISCHARGES ASSOCIATED WITH RESPONSE ACTIVITIES
CONDUCTED PURSUANT TO CH. 7.4, DIVISION 1
OF THE GOVERNMENT CODE



WHEREAS, The Administrator of the Office of Oil Spill Prevention and Response (hereinafter referred to as OSPR) and the Executive Director of the State Water Resources Control Board (hereinafter referred to as SWRCB), acting for the SWRCB and the Regional Water Quality Control Boards (RWQCBs), are directed by Government Code section 8670.7, as amended by Stats. 1993, ch. 736, to enter into a memorandum of understanding (MOU) to address discharges, other than dispersants, that are incidental to, or directly associated with, the response, containment, and clean up of an existing or threatened oil spill in marine waters, conducted pursuant to Chapter 7.4, Division 1 of the Government Code; and

WHEREAS, It is the intent of this MOU that all incidental discharges as defined herein shall occur within the response area in or proximate to the area in which the oil recovery activities are taking place for the purpose of returning any oily water back into the response area; and

WHEREAS, Both the Administrator of OSPR and the SWRCB share the same goal of minimizing any unnecessary deleterious impacts to the environment, or to the public health and safety; and

WHEREAS, The Administrator of OSPR has the primary authority to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in or threatening the marine waters of the State; and

WHEREAS, The SWRCB and the RWQCBs have the primary authority for regulating and ensuring the quality of the waters of the State; and

WHEREAS, This MOU is not effective until approved by the SWRCB and the Administrator of OSPR; and

NOW, THEREFORE, the Administrator of OSPR and the Executive Director of SWRCB (the Parties) have reached the following

agreement and clarification of existing law concerning discharges, other than dispersants, that are incidental to, or directly associated with, the response, containment, and clean up of an oil spill in marine waters, pursuant to Chapter 7.4, Division 1 of the Government Code.

I. Definitions

The Parties agree that for the purposes of this MOU the following definitions shall apply:

a. Incident Command System or Unified Command Structure

For the purpose of this section the terms "Incident Command System or Unified Command Structure" mean the procedures established for directing personnel, facilities, equipment, and communications during the response, containment, and cleanup of an oil spill incident in marine waters.

b. Incidental Discharge

"Incidental discharge" means the release of oil and/or oily water within the response area in or proximate to the area in which the oil recovery activities are taking place during and attendant to oil spill response activities. Incidental discharges include, but are not limited to, the decanting of oily water, in order to conserve oil storage capacity, and the wash down of vessels, facilities, and equipment used in the response.

c. Marine Waters

"Marine waters" include all waters defined as marine waters in California Government Code Section 8670.3(h) and all water otherwise within the jurisdiction of the Administrator of OSPR, under Chapter 7.4, Division 1 of the Government Code.

d. National Pollution Discharge Elimination System Permit (NPDES Permit)

An NPDES Permit is any permit issued by the SWRCB or the RWQCBs pursuant to California Water Code section 13370 et seq., as required or authorized by the Federal Clean Water Act, Title 33 U.S.C. 1251 et seq.

e. Oily Water

Oily Water means any substance, matter, or medium containing or permeated with any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas. Waste includes, but is not limited to, seaweed, driftwood, debris, and other similar types of materials.

f. Response

Response means the time period when response personnel, acting under the authority of the Administrator, the Federal On-Scene Coordinator, the State On-Scene Coordinator, through the Incident Command System or Unified Command Structure, are performing Response Activities that are reasonably necessary to prevent, reduce, or mitigate damages to persons, property, and/or natural resources of this State due to an oil spill incident in marine waters.

g. Response Activities

Response Activities means those activities, consistent with the National Contingency Plan, the State Oil Spill Contingency Plan, or taken at the direction of the Administrator or Federal On-Scene Coordinator through the Incident Command System or Unified Command Structure, in response to a spill, that entail the removal of oil from marine waters of the State. This includes all activities conducted on-water or onshore relating to the separation, recovery, containment, transfer, or treatment of marine waters of the State contaminated by oil and/or oily materials.

h. Response Area

Response Area means the area of marine waters where response activities are occurring as defined by the daily work plan approved under the Incident Command System or Unified Command Structure by the Administrator, Federal On-Scene Coordinator, or State On-Scene Coordinator.

i. Waste Discharge Requirements

"Waste Discharge Requirements" are a set of requirements issued by the RWQCBs, pursuant to California Water Code section 13260 et seq., regulating the discharge of waste which could affect state waters. Waste Discharge Requirements may be issued by the SWRCB upon the review of an action or failure to act by a RWQCB, pursuant to Water Code section 13320.

II. NPDES Permits

The Parties agree that:

The incidental discharges covered by this MOU are consistent with the State Contingency Plan and the National Contingency Plan. Incidental discharges as described in this MOU which are in compliance with the instructions of the On-Scene Coordinator, pursuant to the National Contingency Plan or the applicable Coast Guard regulations, are excluded from regulation under an NPDES permit, as provided by the Federal Environmental Protection Agency regulation 40 C.F.R. 122.3(d), are consistent with Federal laws and regulations, and do not constitute a prohibited discharge.

III. Waste Discharge Requirements

The Parties agree that:

- a. It is in the public interest for the RWQCBs for the North Coast, San Francisco Bay, Central Coast, Los Angeles, Santa Ana and San Diego Regions to waive the issuance of waste discharge requirements for incidental discharges, within the response area during a spill response as provided in Water Code section 13269. The SWRCB will recommend such action to the RWQCBs.
- b. Such discharges do not create a vested right to discharge, but rather such discharges are privileges, as provided by California Water Code section 13263(g).

IV. Miscellaneous

- a. The terms of this agreement may be changed at any time by the Parties by a written, signed amendment hereto with or without notice to any other person.
- b. The agreement may be terminated by either party at any time without notice to any person other than the other party.

- c. No rights, duties, obligations, or liabilities enforceable at law are created by this agreement.
- d. This agreement does not alter, modify, abridge, or in any way affect any rights, duties, obligations, or liabilities of any person under the laws of the State of California.
- e. In the event that individual and severable portions of this agreement are found to be in conflict with either state or federal law, regulations or policies, and, therefore, of no effect, the agreement will remain in effect without those provisions unless either party notifies the other in writing that the entire agreement is terminated.
- f. Any action to modify, amend, or terminate this agreement may only be taken by the Administrator of OSPR and the Executive Director of SWRCB, or persons to whom this authority is specifically delegated by them. Any such modification is not effective until approved by the SWRCB.

FOR THE OFFICE OF OIL SPILL
PREVENTION AND RESPONSE:

Pete Bontadelli
Pete Bontadelli
Administrator

Date: 17 Jan 95

FOR THE STATE WATER RESOURCES
CONTROL BOARD:

Walt Pettit
Walt Pettit
Executive Director

Date: 9 Dec 94