

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

ORDER No. R9-2014-0041

**CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR
LOW THREAT DISCHARGES IN THE SAN DIEGO REGION**

The Discharger, as described in the following table is subject to the waiver of waste discharge requirements as set forth in this Order:

Table A. Discharger Information

Discharger	Any person responsible for the discharge of low threat discharges which in accordance with the general and specific conditions specified in each of the waivers are unlikely to affect the quality of the waters of the State.
Dischargers regulated under this Order and the applicable waivers contained within, must be subject to application and annual fees assessed relative to their assigned threat and complexity ranking or other discharge specific conditions identified in California Code of Regulations, Title 23, section 2200.7.	

Discharges of wastes by persons from their locations in the San Diego Region are subject to the requirements set forth in this Order. Administrative information regarding this Order is contained in Table B below.

Table B: Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, San Diego Region on:	June 26, 2014
This Order shall become effective on the date of adoption.	

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all appendices is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on June 26, 2014.

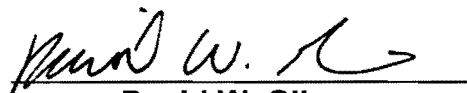

David W. Gibson
Executive Officer

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CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR
LOW THREAT DISCHARGES IN THE SAN DIEGO REGION

ORDER NO. R9-2014-0041

PART I GENERAL FINDINGS

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

- A. **LEGAL AUTHORITY TO ISSUE WAIVERS.** Water Code section 13260(a) and (c) require persons proposing to discharge waste,¹ or proposing to make a material change in the character, location, or volume of a discharge to file a report of waste discharge (ROWD) with the appropriate California Regional Water Quality Control Board (Regional Water Board). Water Code section 13264 prohibits persons from initiating any new discharge of waste or making any material changes in any discharge prior to the filing of a ROWD and being issued waste discharge requirements (WDRs) by the appropriate Regional Water Board.

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

Pursuant to Water Code section 13269(a)(1), the San Diego Water Board may waive the provisions of sections 13260(a) and (c), or 13264(a) for a specific discharge or type of discharge, if it determines the waiver is consistent with the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) and is in the interest of the public. Water Code section 13269(a)(2) stipulates a waiver may not exceed five years in duration, but may be renewed by the San Diego Water Board. Waivers must be conditional and may be terminated at any time by, the State Water Resources Control Board (State Water Board), or the San Diego Water Board.

In accordance with the Basin Plan, Chapter 4, a waiver of WDRs would not be against the public interest if either of the following circumstances apply to the discharges in that category:

1. *The type of discharge does not adversely affect the quality² or the beneficial uses³ of the waters of the State.⁴*
2. *The type of discharge is not readily amenable to regulation through the adoption of individual WDRs but warrants San Diego Water Board oversight to ensure compliance with mandated conditions.*

Water Code section 13269 does not authorize the San Diego Water Board to issue waivers of WDRs for waste discharges subject to federal regulations⁵ implementing the federal Clean Water Act and the federal National Pollutant Discharge Elimination System (NPDES) regulations.

- B. **PURPOSE.** The purpose of this Order is to:

¹ The term "waste" is as defined in Water Code section 13050(d).

² The term "quality of the water" is as defined in Water Code section 13050(g).

³ The term "beneficial uses" is as defined in Water Code section 13050(f).

⁴ The term "waters of the State" is as defined in Water Code section 13050(e).

⁵ Water Code section 13370 et seq.

1. revise and renew several waivers adopted by the San Diego Water Board as an amendment to the Basin Plan in Resolution No. R9-2007-0104, which expired on February 3, 2014;
 2. incorporate a waiver for discharges from aquatic animal production facilities;
 3. issue new waivers for specific types of discharges within the San Diego Region, which pose a low threat to the waters of the State, and are not currently regulated by the San Diego Water Board;
 4. reorganize the waivers by grouping the specific types of discharge into discharge classifications;
 5. provide general waiver conditions applicable to a discharge or discharge operations for all specific types of discharge within a discharge classification; and
 6. provide specific waiver conditions for each specific type of discharge within a discharge classification, if applicable.
- C. **DISCHARGER.** As the term applies in this Order, a “Discharger” is any person or persons that discharge, have the potential to discharge, or propose to discharge waste that could directly or indirectly affect the quality and/or beneficial uses of the waters of the State.
- D. **DISCHARGE LOCATION.** All discharges subject to this Order are located within the boundaries of the San Diego Region.
- E. **WASTE DISCHARGES SUBJECT TO THIS ORDER.** Where specified in this Order, for a specific type of waste discharge or discharge classification (i.e., waiver), the filing of a ROWD is required. For the purposes of this Order, a completed Notice of Intent (NOI) may serve as the Dischargers’ ROWD. Discharges which do not exceed certain qualifying criteria specified in each specific waiver, are not required to file an NOI.⁶ As documented in the Technical Report, *Information Sheet for Order No. R9-2014-0041*, waivers for these specific types of discharges are in the public interest.
1. Discharges from on-site graywater disposal systems;
 2. Discharges of recycled water to land from short-term projects;
 3. Discharges of recycle water to land from permanent projects;
 4. Discharges from construction and test pumping of water wells to land;
 5. Discharges of air conditioner condensate and non-contact cooling water to land;
 6. Swimming pool discharges to land;
 7. Discharges from short-term construction dewatering operations to land;
 8. Discharges from utility vaults and underground structures to land;
 9. Miscellaneous “Low threat” discharges to land and/or groundwater;

⁶ For those discharges requiring the submittal of an NOI, enrollment in the waiver begins upon submittal of the NOI, unless otherwise specified in the waiver’s conditions.

10. Discharges of winery process water to lined evaporation ponds at small wineries;
11. Discharges of waste to land at composting facilities;
12. Discharges of storm water runoff from silvicultural operations;
13. Discharges from timber harvesting projects;
14. Discharges from wildfire suppression and fuels management activities;
15. Discharges from small animal feeding operations;
16. Discharges from medium animal feeding operations;
17. Discharges of storm water runoff from animal operations;
18. Discharge/application of manure to soil as an amendment or mulch;
19. Discharges from grazing lands;
20. Discharges of wastewater from facilities producing less than 9,090 harvest weight kilograms per year of cold water aquatic species;
21. Discharges of wastewater from facilities producing less than 45,454 harvest weight kilograms per year of warm water aquatic species;
22. Discharges of drilling muds to land;
23. Discharges of concrete grinding residues to land;
24. Discharges of slurries from sand and gravel mining operations to land;
25. Discharge/application of amendments and/or mulches to soil;
26. Discharges/disposal of inert waste to solid waste disposal facilities only accepting inert wastes;
27. Discharges of soils containing wastes to temporary waste piles;
28. Discharges/Disposal/Reuse of soils characterized as inert from contaminated sites to land;
29. Discharges of waste related to fireworks displays over land;
30. Other periodic aerial discharges of wastes over land;
31. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
32. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
33. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
34. Discharges of dredge or fill material into non-federal waters of the State;
35. Emergency repair and protection activities in non-federal waters of the State; and
36. Other discharges of emergency/disaster related wastes.

Each of the discharge types listed above may originate from a single Discharger, have similar discharge sources and/or environmental settings, and have similar waiver conditions. Therefore, these types of discharges are grouped together into 12 discharge classifications. Discharges which comply with the waiver conditions in this Order are not expected to pose a threat to the quality of waters of the State.

F. **THREAT TO WATER QUALITY.** Discharges from the proceeding categories can and/or do contain wastes, as defined in Water Code section 13050, that could affect the beneficial uses and quality of the waters of the State. If not properly managed, these discharges can percolate to groundwater or runoff to surface waters, adversely affecting both surface water and groundwater. Such wastes that enter or threaten to enter into waters of the State include, but may not be limited to:

1. earthen wastes (e.g., soil, silt, sand, clay, and rocks);
2. inorganic wastes (e.g., metals, salts, nutrients, etc.);
3. organic wastes (e.g., organic pesticides, hydrocarbons, etc.); and
4. biological wastes (e.g., bacteria and pathogens).

Discharges which comply with the waiver conditions in this Order are not expected to pose a threat to the quality of waters of the State.

G. **ANTIDegradation Policy.** This Order is consistent with the provisions of Resolution No. 68-16 "*Statement of Policy with Respect to Maintaining High Quality Waters in California*" (Antidegradation Policy). Likewise, this Order is consistent with the federal Antidegradation Policy.⁷ The San Diego Water Board, in regulating the discharge of waste, must have sufficient ground to adopt findings which demonstrate that any water quality degradation resulting from this Order will:

1. be consistent with the maximum benefit to the people of the State;
2. not unreasonably affect existing and potential beneficial uses of such water; and
3. not result in water quality less than that described in the Basin Plan.

Dischargers, who enroll in these waivers are required to manage their wastes in a manner that protects beneficial uses, and prevent nuisance⁸ by implementing management measures (MMs) and best management practices (BMPs).

H. **MONITORING.** Water Code section 13269(a)(2) requires waivers be conditioned upon the performance of individual, group, or watershed-based monitoring unless the San Diego Water Board determines the discharges do not pose a significant threat to water quality. Monitoring requirements in this Order must be designed to support the development and implementation of the waiver program including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing requirements, the San Diego Water Board may consider the volume, duration, frequency, and constituents of the discharge, the extent and type of existing monitoring activities including, but not limited to, existing watershed-

⁷ Code of Federal Regulations Title 40, section 131.12.

⁸ The term "nuisance" is as defined in Water Code section 13050(m).

based compliance and effectiveness monitoring efforts, the size of the project area; and other relevant factors.

The only waiver conditioned upon performance of monitoring is Waiver No. 8. If the waste discharges enrolled in a specific waiver are determined to pose a potential threat to water quality, the San Diego Water Board may require the Dischargers to perform monitoring to verify compliance with the waiver conditions.

The San Diego Water Board adopted *A Framework for Monitoring and Assessment in the San Diego Region*, dated November 2012, to facilitate the transition from discharge-oriented monitoring and assessment to water body-oriented monitoring and assessment in the Region. The monitoring requirements of Waiver No. 8 are consistent with the Framework.

All monitoring and reporting requirements specified in Waiver No. 8 are issued pursuant to Water Code sections 13267 and 13269; and are necessary to evaluate:

1. compliance with the terms and conditions of the Waiver No. 8;
2. effectiveness of any measures or actions taken in accordance with Waiver No. 8 and/or the San Diego Basin Plan; and
3. whether revisions of Waiver No. 8, additional regulatory programs, or enforcement actions are warranted.

Failure to submit a report in accordance with schedules established by the waivers, Monitoring and Reporting Requirements approved by the San Diego Water Board Executive Officer, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, or failure to comply with the conditions of the waivers, may subject a Discharger to enforcement action pursuant to Water Code section 13268 and/or 13350 and/or the requirements to submit a ROWD.

The burden, including cost, of these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

In accordance with Water Code sections 13267(b)(1) and 13269(a)(2), the San Diego Water Board has considered the costs of implementing the monitoring requirements specified in Waiver No. 8, and finds they will not result in any additional economic burden for dischargers.

- I. **WATER QUALITY STANDARDS.** The Basin Plan and relevant statewide water quality control plans (collectively Plans) establish water quality standards for the San Diego Region. These water quality standards consist of designated beneficial uses, WQOs, and the antidegradation policy. These Plans also contain implementation plans and policies for interpreting and achieving water quality standards.

Table 2 below identifies the beneficial uses designated in the Basin Plan for groundwater and surface water in the San Diego Region.

Table 2: Beneficial Uses for Groundwater and Surface Waters

Beneficial Uses	Abbreviations
Agricultural Supply	AGR
Aquaculture	AQUA
Preservation of Biological Habitats of Special Significance	BIOL
Cold Freshwater Habitat	COLD
Commercial and Sport Fishing	COMM
Estuarine Habitat	EST
Freshwater Replenishment	FRSH
Ground Water Recharge	GWR
Industrial Process Supply	PROC
Industrial Service Supply	IND
Inland Saline Water Habitat	SAL
Marine Habitat	MAR
Migration of Aquatic Organisms	MIGR
Municipal and Domestic Supply	MUN
Navigation	NAV
Hydropower Generation	POW
Noncontact Recreation	REC2
Preservation of Rare and Endangered Species	RARE
Shellfish Harvesting	SHELL
Spawning, Reproduction, and/or Early Development	SPWN
Warm Freshwater Habitat	WARM
Water Contact Recreation	REC1
Wildlife Habitat	WILD

The requirements of this Order implement the Basin Plan by ensuring discharge types maintained and monitored to prevent releases of wastes or waste constituents to waters of the State in a manner which could impair these beneficial uses.

- J. **ENFORCEMENT ACTIONS.** Any person in violation of any waiver condition, prohibition issued or reissued, or amended by the San Diego Water Board, may be subject to informal and formal enforcement actions, including, but not limited to, administrative civil liability under Water Code sections 13323 and 13350(d) and (e).
- K. **APPEAL.** Any person aggrieved 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 the Calif. Code of Regs. title 23, section 2050 et seq. The State Water Board must receive the petitions by 5:00 p.m., within 30 days after the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the State Water Board’s website.⁹

⁹ http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

- L. **CALIFORNIA ENVIRONMENTAL QUALITY ACT.**¹⁰ In accordance with California Code of Regulations Title (Calif. Code Regs. title) 14, section 15000 et seq., the San Diego Water Board is the lead agency for this project and has adopted a negative declaration for the project.
- M. **HOMELAND SECURITY ACT.** Any information provided to the San Diego Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted.
- N. **ANNUAL FEES.** Dischargers may be required to pay an annual fee (i.e., waste discharge permit fee) established by the State Water Board in accordance with Water Code sections 13260(d)(1) and 13269(a)(4). Pursuant to Water Code section 13269(a)(4), the annual fee must be assessed in accordance with any fee schedule established by the State Water Board pursuant to Calif. Code Regs. title 23, section 2200.7.

At this time, the State Water Board has not established a fee schedule for waivers. When such a fee schedule is established, Dischargers will be required to pay an annual fee if enrolled in the following waivers.

- Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries (Waiver No. 4);
- Discharges of Waste to Land at Composting Facilities (Waiver No. 5);
- Discharges from Animal Operations (Waiver No. 7);
- Discharges from Aquatic Animal Production Facilities (Waiver No. 8); and
- Discharges/Disposal of Solid Wastes to Land (Waiver No. 10).

- O. **PUBLIC PARTICIPATION.** All of the findings contained within this Order, supplemental information and details in the attached Technical Report, and incorporated references were considered in establishing the following conditions, requirements, provisions, and specifications.

All known Dischargers and other interested parties and persons were notified of the intent to adopt this Order, 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.

- P. **STRATEGIC PLAN.** The issuance of this Order and the requirements herein are 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 Water Board and the San Diego Water Board.
- Q. **APPLICABILITY.** Order No. R9-2014-0041 supersedes the waivers adopted as a Basin Plan amendment in Resolution No. R9-2007-0104 except for enforcement purposes regarding violations of Resolution No. R9-2007-0104. All Dischargers

¹⁰ Codified in PRC section 21000 et seq., and promulgated in Calif. Code of Regs. title 14, Chapter 3, Division 6.

previously regulated by waivers in Resolution No. R9-2007-0104 and renewed in this Order are automatically enrolled under Order No. R9-2014-0041.

Order No. R9-2014-0041 does not preempt or supersede the authority of municipalities, flood control agencies, or other State or local agencies to prohibit, restrict, or control specific types of discharges subject their jurisdictions.

Waiver No. 12 – Discharges of Emergency/Disaster Related Wastes

A. Specific Findings for Discharges of Emergency/Disaster Related Wastes

1. This conditional waiver for Discharges of Emergency/Disaster Related Wastes (Emergency Waste Waiver) is for discharges of wastes resulting from a regional emergency or disaster and the Governor of California issues a proclamation, pursuant to Government Code sections 8625 and 8558(b), identifying a portion of the San Diego Region as being in a state of emergency. Waste streams from regional disasters may be a source of pollutants that can adversely affect the quality of waters of the State.
2. Emergency situations, as defined by the California Environmental Quality Act (CEQA), can create extraordinary conditions within any waters of the State posing imminent threats to life, health, property, the delivery of public services, and beneficial uses of waters of the State. Under CEQA,⁸¹ an “emergency” is defined to be:

*“a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.
“Emergency” includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.”*
3. Except as provided under Water Code section 13269, subdivision (d), and upon notification of the San Diego Water Board, Water Code section 13269, subdivision (c) provides that neither submittal of a ROWD, nor the adoption of WDRs is required for discharges resulting from certain emergency activities. The emergency activities described in Water Code section 13269, subdivision (c) are:
 - a. *Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the Government Code, section 8550 et seq.; and*
 - b. *Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in the Vehicle Code, section 360, except for a highway designated as an official state scenic highway pursuant to the Vehicle Code, section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood,*

⁸¹ Public Resources Code, section 21060.3.

storm, earthquake, land subsidence, gradual earth movement, or landslide.

4. The following types of discharge not regulated under WDRs may be eligible for the Emergency Waste Waiver:
 - a. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
 - b. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
 - c. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
 - d. Emergency repair and protection activities in non-federal waters of the State;
 - e. Discharges of dredge or fill material into non-federal waters of the State, under emergency conditions; and/or
 - f. Other discharges of emergency/disaster related wastes.
5. These types of discharge are generated during emergency and disaster related situations, requiring expedited handling and disposal of wastes or emergency discharges of dredge or fill material into, or emergency repair and protection activities in non-federal waters of the State. Therefore, emergency/disaster related waste discharges were grouped into one discharge classification. Emergency/disaster related waste discharges or discharges of dredge or fill material into, or emergency repair and protection activities in non-federal waters of the State that comply with the waiver conditions should minimize the potential impact and should not pose a significant threat to the quality of waters of the State.
6. In the event of an emergency or disaster, significant amounts of wastes may be generated. Cleanup, management and disposal of emergency/disaster related waste can result in the discharge of multiple waste streams which can adversely affect the quality of surface water and/or groundwater. The issuance of WDRs would significantly impede the cleanup of emergency/disaster related wastes, which would likely increase the threat to public health and the environment. Therefore, in the interest of expediting the cleanup of emergency/disaster related wastes, issuing a waiver for these types of discharge would be in the public interest.
7. The issuance of waiver conditions should be developed in order for members of the public, cities, counties, local agencies and organizations, and/or the San Diego Water Board to determine if discharges of emergency/disaster related wastes are in conformance with this waiver. If dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to be eligible for the Emergency Waste Waiver. If dischargers of emergency/disaster related wastes violate any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge

and begin regulating the discharge with individual WDRs and/or take other enforcement actions.

8. Discharges of dredged or fill material into non-federal waters of the State⁸² may be necessary for repair and protection measures associated with an emergency situation to mitigate and abate threats caused by emergencies, as defined under CEQA.⁸³
9. Discharges of dredged or fill material for emergency repair and protection measures may constitute discharges of waste that could affect the quality of waters of the State. Repair and protection activities that may result in such discharges can include, but are not limited to, the cleaning of culverts and associated concrete aprons, bank or slope stabilization, removal of debris (e.g., trash, dead vegetation, structural debris, etc.), repair of transportation routes, and the construction of check dams and sediment basins. Discharges that may occur during the conduct of emergency repair and protection activities can include, but are not limited to, earth, rock, or similar inert materials and discharges of pollutants associated with construction equipment or materials.
10. Eligible discharges to non-federal waters of the State, associated with emergency repair and protection activities, in normal circumstances may be able to be permitted pursuant to *Water Quality Order No. 2004-0004-DWQ, Statewide General Waste Discharge Requirements for Dredged or Fill Discharges To Waters Deemed by The U.S. Army Corps of Engineers To Be Outside of Federal Jurisdiction*.⁸⁴ Notwithstanding, this Emergency Waste Waiver can be used to expedite projects required by emergency situations even though they may otherwise be eligible for enrollment in Order No. 2004-0004-DWQ.
11. In order to be eligible for the Emergency Waste Waiver, discharges must comply with both the general and specific waiver conditions of this waiver.
 - a. Incidental Discharges During an Oil Spill Response;
 - b. Disaster Related and Mass Mortality Wastes Disposed at Regulated Waste Disposal Facilities;

⁸² Non-federal waters of the State include surface waters determined by the U.S. Army Corps of Engineers and / or the U.S. Environmental Protection Agency to be outside of federal jurisdiction (e.g., certain vernal pools, other isolated water bodies, and certain intermittent or ephemeral streambeds that lack a significant nexus to traditionally navigable waters).

⁸³ In addition, wildfires can exacerbate the risk of flooding, erosion, debris flows, and slope failures as a result of the loss of vegetated cover within a watershed. Likewise, damage from earthquakes/after shocks, and landslides can affect vital infrastructure and threaten beneficial uses of waters of the State.

⁸⁴ For instance, the General WDRs in Water Quality Order No. 2004-0004-DWQ are restricted to dredged or fill discharges of not more than two-tenths (0.2) of an acre and 400 linear feet for fill and excavation discharges, and of not more than 50 cubic yards for dredging discharges. Projects that may be covered include land development, detention basins, disposal of dredged material, bank stabilization, revetment, channelization, and other similar projects.

- c. Disaster Related and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities;
 - d. Disaster Related Wastes Discharged to Temporary Waste Piles not Located at Regulated Waste Disposal Facilities;
 - e. Disaster Related Wastes Discharged to Temporary Surface Impoundments not Located at Regulated Waste Disposal Facilities;
 - f. Mass Mortality Wastes Discharged to Emergency Landfills not Located at Regulated Waste Disposal Facilities; and
 - g. Discharges of Dredge or Fill Materials into Non-Federal Waters of the State, Under Emergency Conditions.
12. Discharges of emergency/disaster related wastes that comply with both the general and specific waiver conditions in the Emergency Waste Waiver are not expected to pose a significant threat to the quality of waters of the State. Therefore, monitoring requirements for dredge and fill discharges to non-federal waters of the State associated with repair and protection activities in emergency situations are not necessary.
 13. Coverage under the Emergency/Disaster Related Waste Waiver begins upon submittal of the NOI.

IT IS HEREBY ORDERED, that any Discharger proposing to discharge emergency/disaster related wastes, in order to meet the provisions contained in Division 7 of the Water Code, section 13269, must comply the following requirements

B. General Conditions for Discharges of Emergency/Disaster Related Wastes

1. Discharges made pursuant to the Emergency Waste Waiver cannot occur until after one of the following:
 - a. The Governor of California issues a proclamation, pursuant to Government Code sections 8625 and 8558(b), identifying a portion of the San Diego Region as being in a state of emergency;⁸⁵ or
 - b. An oil spill incident occurs in the marine waters of the San Diego Region requiring a response authorized by the Administrator of the Office of Spill Prevention and Response; or
 - c. A discharge occurs resulting from emergency activities that are waived of the requirements of Water Code sections 13260(a) and (c), 13263(a), and 13264(a), which are described in Water Code sections 13269(c)(1) and 13269(c)(2).
2. This waiver is only in effect temporarily and must expire under the following conditions:
 - a. The state of emergency declared by the Governor expires; or

⁸⁵ The Emergency Waste Waiver is only applicable to disaster related waste streams from disaster-impacted areas.

- b. The San Diego Water Board takes action to terminate enrollment of individual or all dischargers/Units temporarily enrolled in the waiver; or
 - c. Six months has elapsed since the Governor issued a declaration of the state of emergency for any portion of the San Diego Region, or the oil spill incident occurred, or emergency activities began, unless otherwise directed by the San Diego Water Board.
3. Discharges of emergency/disaster related wastes to land
- a. Emergency/disaster related waste management and cleanup activities must minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of the waters of the State.
 - b. Temporary waste piles and surface impoundments used to manage emergency/disaster related waste must: prevent the direct or indirect discharge of emergency/disaster related wastes to any MS4s, or surface waters of the State (including ephemeral streams and vernal pools).
 - c. Emergency/disaster related waste management operations must not be:
 - i. Performed in a manner that creates or contributes to a condition of pollution or nuisance;
 - ii. Performed in a manner that creates or contributes to conditions which violate the waste discharge prohibitions promulgated in the Basin Plan;
 - iii. Managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit;⁸⁶ and/or
 - iv. Managed in a manner that mixes or commingles other wastes that can produce a violent reaction (including heat, pressure, fire or explosion), that can produce toxic byproducts, or that can produce any reaction products requiring a higher level of containment, or that results in the mixture being classified as a restricted waste.⁸⁷
 - d. Liquid hazardous wastes or “restricted hazardous wastes”⁸⁸ cannot be discharged to municipal solid waste (MSW) landfills, temporary waste piles, or temporary surface impoundments.
 - e. Temporary waste piles must be covered to adequately prevent rainwater infiltration and runoff, and control fugitive dust, vectors,

⁸⁶ Pursuant to Calif. Code Regs title 27 section 20200(b)(1)

⁸⁷ Pursuant to Calif. Code Regs title 27 section 20200(b)(2)

⁸⁸ Defined in Health and Safety Code section 25122.7

- odors, blowing litter and scavenging. The cover must not consist of or contain material classified as a designated waste.⁸⁹
- f. Inert wastes⁹⁰ that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill).
 - g. Waste streams must only originate from disaster-impacted areas of the San Diego Region. These waste streams must be discharged for treatment and permanent disposal **only** into:
 - i. Waste management or treatment units (e.g., liquid wastes into wastewater treatment plants) as allowed by WDRs issued by the San Diego Water Board; or
 - ii. Solid waste management units or disposal facilities (e.g., solid wastes into Class III MSW landfills underlain with engineered composite liners and leachate collection systems, and that satisfy the requirements of State Water Board Resolution No. 93-62);
 - iii. Emergency landfills established in accordance with the conditions of this waiver; or
 - iv. As allowed by valid WDRs issued by the San Diego Water Board for other categories of waste management units.
4. Discharges of Dredge or Fill Material into, or Emergency Repair and Protection in Non-Federal Waters of the State, under Emergency Conditions.
- a. Discharge activities must not:
 - i. Create or contribute to a condition of pollution or nuisance, as defined by Water Code section 13050;
 - ii. Create or contribute to conditions which violate the discharge prohibitions of the Basin Plan for the San Diego Region; and/or
 - iii. Result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of such a species, unless the activity is authorized by the Department of Fish and Wildlife pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.
 - b. Discharges must not consist of unsuitable material (e.g., asphalt, hazardous wastes,⁹¹ nonhazardous wastes,⁹² designated wastes⁹³

⁸⁹ Defined in Calif. Code Regs title 27 section 20210

⁹⁰ Defined in Calif. Code Regs title 27 section 20230

⁹¹ Wastes that are required to be managed as hazardous wastes pursuant to Calif. Code Regs title 22, Division 4.5

⁹² Nonhazardous wastes are defined in Calif. Code Regs title 27, section 20220.

- etc.) and material discharged must be free from toxic pollutants in toxic amounts.
- c. This waiver is limited to emergency actions that meet the CEQA definition of “emergency” (Public Resources Code section 21060.3),
 - d. Emergency projects exempt from the requirements of CEQA are defined by the Administrative Code (CEQA Guidelines), Calif. Code Regs. title 14, section 15269 as:
 - i. *Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.*
 - ii. *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.*
 - iii. *Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.*
 - iv. *Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.*
 - v. *Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.*
 5. This Order supersedes conditional waiver requirements, previously adopted on May 27, 2014, in Order No. R9-2014-0059.

⁹³ Designated wastes are defined in Water Code section 13173.

C. Specific Conditions for Discharges of Emergency/Disaster Related Wastes

1. Incidental Discharges During an Oil Spill Response
 - a. Incidental discharges⁹⁴ are confined to the response area which is 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.
 - b. Oil spill response must be in marine waters.⁹⁵
2. Disaster Related and Mass Mortality Wastes Disposed of at Regulated Waste Disposal Facilities
 - a. Waste (not otherwise suitable for recycling or reuse) derived from cleanup of emergency/disaster-impacted areas in the San Diego Region and managed under provisions of this waiver must only be discharged *for permanent disposal into units that are underlain with an engineered composite liner system and a leachate collection meeting the requirements of State Water Board Resolution No. 93-62.*
 - b. Wastes derived from cleanup of disaster-impacted areas in the San Diego Region and discharged into regulated waste disposal facilities must be isolated, to the extent practicable, from areas of the facility that are not lined.
 - c. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of disaster-impacted areas in the San Diego Region must be discharged for disposal in compliance with conditions of this waiver and covered expeditiously.
 - d. Inert wastes contained in mixed emergency wastes derived from cleanup of disaster-impacted areas in the San Diego Region, must be separated and recycled when appropriate and practicable.
 - e. The discharger is responsible for accurately classifying disaster related waste streams in accordance with the applicable regulatory requirements.⁹⁶
 - f. The regulated waste disposal facility owner/operator is responsible for properly identifying disaster related waste streams⁹⁷ and identifying wastes that may be suitable for use as alternative daily cover (ADC). Solid wastes that may be used as ADC at a regulated disposal facility are as follows:
 - i. Solid wastes that are classified as inert wastes.

⁹⁴ "Incidental discharge" is defined as "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."

⁹⁵ "Marine waters" defined in Government Code section 8670.3(i) as "those waters subject to tidal influence"

⁹⁶ Requirements are provided in Calif. Code Regs title 27, title 23,, Chapter 15, and/or title 22 Division 4.5.

⁹⁷ Pursuant to Calif. Code Regs title 27 section 20200(c).

- ii. Solid wastes that meet the criteria for ADC as prescribed in Calif. Code Regs title 27 sections 20690 to 20705, and
 - iii. Other solid wastes identified by the Local Enforcement Agency (LEA) as being suitable for use as ADC; as long as the waste could be accepted at a Class III MSW landfill without special permission from the San Diego Water Board.
 - g. Disposal of large numbers of animal carcasses, and other high-moisture waste streams from mass mortality (e.g., natural disaster, agricultural disease, etc.), may cause wastes to exceed moisture holding capacity at regulated MSW landfills. To limit the impacts from the additional moisture content associated with a mass mortality waste load, the owner/operator responsible for the regulated waste disposal facility should implement the following procedures:
 - i. Discharge high-moisture wastes (animal carcasses, animal related wastes, etc.) only in areas of the composite lined unit with a considerable thickness of other waste.
 - ii. Limit the thickness of the high-moisture waste stream (e.g., animal carcasses, animal related wastes, etc.) to no more than 2 feet.
 - iii. Cover each layer of high-moisture wastes (e.g., animal carcasses, animal related wastes, etc.) with an even thicker layer of absorbent wastes or soil.
 - iv. For disaster related mass mortality wastes streams that are in a liquid form (e.g. raw eggs, etc.) reduce the moisture content prior to discharge by mixing with an absorbent material (e.g., saw dust, mulch, soil, etc.).
 - h. Within 60 days after the expiration in this waiver (see section B of the Emergency Waste Waiver) the owner/operator of the a regulated waste disposal facility that accepted waste from disaster-impacted areas in the San Diego Region must submit an amendment to their ROWD or Joint Technical Document (JTD) describing the material change to their discharge, pertaining to the temporary acceptance, management, and disposal of waste derived from cleanup of disaster-impacted areas of the San Diego Region.
- 3. Disaster Related and Mass Mortality Wastes Discharged to Temporary Waste Piles Located at Regulated Waste Disposal Facilities
 - a. Owners/operators of regulated waste management or disposal facilities proposing to accept discharges of waste from disaster-impacted areas in the San Diego Region to a temporary waste staging area located at a regulated facility must submit a NOI⁹⁸ within

⁹⁸ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Attachment A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

30 days of the initial discharge of any disaster related wastes. The NOI must contain:

- i. The name and contact information of the owner/operator of the regulated waste management or disposal facility property;
 - ii. The facility address and contact information;
 - iii. A description of the temporary waste management unit; and
 - iv. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- b. Owners/operators of regulated waste management or disposal facilities must prevent surface runoff and run on from contacting wastes derived from cleanup of disaster-impacted areas in the San Diego Region and must prevent erosion and transport of soils containing disaster related wastes or waste constituents by surface runoff from all temporary waste piles. The facility owner/operator must implement management measures (MMs) and/or best management practices (BMPs) for storm water conveyance and control.
 - c. All wastes derived from disaster-impacted areas in the San Diego Region must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet⁹⁹ from, and at an elevation that is higher than, any surface waters of the State, or MS4s facilities.
 - d. All waste derived from disaster-impacted areas in the San Diego Region must be protected from flooding and inundation, in compliance with the current WDRs for the affected unit, or units, at the regulated facility.
 - e. Owners/operators of regulated waste management or disposal facilities must manage temporary waste piles for disaster related mass mortality wastes as follows:
 - i. Temporary waste piles of mass mortality wastes can only be located in areas underlain by a composite liner system (or approved engineered alternative) and a significant thickness of other types of solid wastes.

⁹⁹ Other federal, State, or local requirements may require larger setbacks. This condition does not excuse the discharger from complying with other applicable setback requirements.

- ii. Owner/operator must implement a plan to prevent wild animals (e.g., birds, mammals, reptiles, etc.) from coming into contact with mass mortality wastes (e.g., provide and maintain adequate cover for temporary waste piles).
 - iii. Owner/operator must ensure that all temporary waste piles containing mass mortality wastes are discharged into the landfill prior to the end of the working day, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health for a given temporary waste pile.
 - iv. Owner/operator must ensure that all mass mortality wastes are covered with soil or other waste immediately after it is discharged into the landfill.
 - v. Owner/operator must ensure that any storm water runoff that comes into contact with the disaster related wastes or containing waste constituents is managed as leachate.
- f. Disaster related and mass mortality wastes discharged to temporary waste piles at regulated waste management or disposal facilities temporarily enrolled in the Emergency Waste Waiver, together with any materials used to contain the temporary waste piles, must be removed from the site. The site must be restored to its original state no later than the 60 days after expiration of this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board. Alternatively, the facility owner/operator must file an amended ROWD/JTD and obtain amended WDRs from the San Diego Water Board for any waste piles that will continue to exist past the expiration date in this waiver.¹⁰⁰
- g. Owners/operators of regulated waste management or disposal facilities must submit a Notice of Termination (NOT) to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
- i. The name and contact information of the owner/operator of the regulated facility property;
 - ii. The facility address and contact information;
 - iii. A description of waste that was temporarily stored/staged in the temporary waste management unit;
 - iv. The final waste disposal location; and
 - v. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the

¹⁰⁰ The Emergency Waste Waiver expires with the Governor of California lifting the declared state of emergency, or six months have elapsed since the state of emergency was declared by the Governor.

statement, "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

4. Disaster Related Wastes Discharged to Temporary Waste Piles not Located at Regulated Waste Disposal Facilities
 - a. Any agency, jurisdiction or person proposing to establish a temporary waste pile not located at a regulated facility must submit a NOI¹⁰¹ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. The name and contact information of the owner/operator the property where the temporary waste pile facility is located;
 - ii. The facility address and contact information;
 - iii. A description of temporary waste management unit; and
 - iv. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
 - b. Owners/operators of temporary waste piles not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance with the following minimum prescriptive and performance standards:
 - i. The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet¹⁰² from, and at an elevation that is higher than, any immediately adjacent surface waters of the State, or MS4s facilities.
 - ii. Temporary waste piles must be protected from inundation or washout due of floods with a 100-year return frequency.

¹⁰¹ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Attachment A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

¹⁰² Other federal, State, or local requirements may require larger setbacks. This condition does not excuse the discharger from complying with other applicable setback requirements.

- iii. Temporary waste piles cannot be located on a known Holocene fault.
 - iv. Temporary waste piles cannot be located in areas of potential rapid geologic change (e.g., landslides, debris flows, flashflood areas, etc.).
 - v. Temporary waste piles must be underlain by a temporary impermeable barrier (e.g., heavy gauge plastic) or located in an area covered by a relatively impermeable surface (e.g., asphalt, concrete, etc.). The liner must be installed prior to establishing a temporary waste pile to protect all natural geological materials from contact with the waste and from contact with leachate.
 - vi. Temporary waste piles must be covered daily with either a heavy gage plastic or material that meets the classification criteria for inert wastes. A material that would be classified as a designated waste cannot be utilized for daily cover at a temporary waste staging area. Cover on the temporary waste piles must be designed, installed, and maintained to prevent rainwater infiltration and runoff, and control of fugitive dust, vectors, odors, blowing litter, and scavenging.
 - vii. Temporary waste management operations that include wastes with a liquid content exceeding its moisture-holding capacity and/or containing free liquids, must comply with requirements for temporary surface impoundments (see section C.5 of the Emergency Waste Waiver).
 - viii. Temporary waste piles must be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary waste pile must be diverted from the location of the temporary waste pile through implementation of MMs/BMPs for storm water control and conveyance.
- c. Owners/operators of temporary waste piles not on regulated facilities must submit written notification to the San Diego Board at least 30 days prior to initiating the discharge of return water or ponded water contained within the temporary waste pile if the discharge is to a location other than a sanitary sewer system. Based on the San Diego Water Board determination, the discharger may receive: 1) WDRs; 2) a waiver of WDRs, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the San Diego Water Board.
- i. Owners/operators of temporary waste piles not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information:

- (A) Project name;
- (B) Brief project description; and
- (C) Operator name and phone number.

The discharger must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while temporary waste piles remain on site.

- d. Solid wastes discharged to temporary waste piles not at regulated waste management or disposal facilities temporarily granted a waiver, together with any materials used to contain the temporary waste piles, must be removed from the site. The site must be restored to its original state no later than the 60 days after expiration of this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board.
 - e. Owners/operators of temporary waste piles not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. The name and contact information of the owner/operator the property;
 - ii. Where the temporary waste pile facility was located;
 - iii. The facility address and contact information;
 - iv. A description of waste that was temporarily stored/staged in the temporary waste management unit;
 - v. The final waste disposal location; and
 - vi. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
5. Disaster Related Wastes Discharged to Temporary Surface Impoundments not Located at Regulated Waste Disposal Facilities
- a. Any agency, jurisdiction or person proposing to establish a temporary surface impoundment not located at a regulated facility must submit a

NOI¹⁰³ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain

- i. The name and contact information of the owner/operator the property;
 - ii. Where the temporary surface impoundment facility is located;
 - iii. The facility address and contact information;
 - iv. A description of the temporary waste management unit; and
 - v. A certification, and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*
- b. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance the following minimum prescriptive and performance standards:
- i. The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet¹⁰⁴ from, and at an elevation that is higher than, any immediately adjacent surface waters of the State, or MS4s facilities.
 - ii. Temporary surface impoundments must be protected from inundation or washout due of floods with a 100-year return frequency.
 - iii. Temporary surface impoundments cannot be located on a known Holocene fault.
 - iv. Temporary surface impoundments cannot be located in areas of potential rapid geologic change (e.g., landslides, debris flows, flashflood areas, etc.).
 - v. Temporary surface impoundments must be underlain by a temporary impermeable barrier (e.g., heavy gauge plastic) or a relatively impermeable surface (e.g., asphalt, concrete, etc.). The liner must be installed prior to establishing a temporary

¹⁰³ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Attachment A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

¹⁰⁴ Other federal, State, or local requirements may require larger setbacks. This condition does not excuse the discharger from complying with other applicable setback requirements.

- surface impoundment to protect all natural geological materials from contact with the waste.
- vi. Berms and containment structures of temporary surface impoundments must be composed of inert materials that will not cause adverse reactions (*e.g.*, corrosion, decay, or otherwise reduce or impair the integrity of the containment structure) when placed in contact with the liquid wastes stored within the temporary surface impoundment.
 - vii. Temporary surface impoundments must be designed, operated and maintained to ensure that liquid wastes are at least 2 feet below the top of the impoundment (measured vertically from the surface of the liquid up to the point on the surrounding lined berm or dike having the lowest elevation), and must be designed and constructed to prevent overtopping as a results of wind conditions likely to accompany precipitation conditions.
 - viii. Direct pipeline discharges of liquid can occur only into temporary surface impoundments with automatic or manually operated fail-safe systems to prevent overfilling.
 - ix. Temporary surface impoundments must be designed and constructed to prevent scouring of containment structures at points of liquid discharge into the impoundments.
 - x. Temporary surface impoundments must be designed, constructed and operated to limit, to the greatest extent possible, inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary surface impoundments must be diverted from the location of the temporary surface impoundment through implementation of MMs/BMPs for storm water control and conveyance.
- c. Owners/operators of temporary surface impoundments not on regulated facilities must submit written notification to the San Diego Board at least 30 days prior to initiating the discharge of return water or ponded water contained within the temporary waste pile if the discharge is to a location other than a sanitary sewer system. Based on the San Diego Water Board determination, the discharger may receive: 1) WDRs; 2) a waiver of WDRs, or 3) written determination that the disposal of the return water or ponded water is not subject to regulation by the San Diego Water Board.
 - d. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that only disaster related waste streams are discharged into temporary surface impoundments.
 - e. All visible portions of synthetic liner systems in temporary surface impoundments must be inspected weekly (daily, if necessary), until all free liquid is removed from the surface impoundment as part of

- closure.¹⁰⁵ If, during the active life of the temporary surface impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection must be made of the bottom of the liner, and observed defects noted prior to refilling the impoundment.
- f. Owners/operators of temporary surface impoundments not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information: a) project name, b) brief project description, and c) operator name and phone number. The facility owner/operator must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while temporary surface impoundments remain on site.
 - g. Solid wastes discharged to temporary surface impoundments not at regulated waste management or disposal facilities, together with any materials used to contain the temporary surface impoundments, must be removed from the site. The site must be restored to its original state no later than the 60 days after the expiration date in this waiver (see section B of the Emergency Waste Waiver), or as required by the San Diego Water Board.
 - h. Owners/operators of temporary surface impoundments not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
 - i. The name and contact information of the owner/operator the property;
 - ii. Where the temporary surface impoundment facility was located;
 - iii. The facility address and contact information;
 - iv. A description of waste that was temporarily stored/staged in the temporary waste management unit;
 - v. The final waste disposal location; and
 - vi. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for*

¹⁰⁵ Pursuant to Calif. Code Regs title 27 section 21400(a)

obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

6. Mass Mortality Wastes Discharged to Emergency Landfills not Located at Regulated Waste Disposal Facilities
 - a. Any agency, jurisdiction or person proposing to establish an emergency landfill not located at a regulated facility must submit a NOI¹⁰⁶ to the San Diego Water Board within 30 days of the initial discharge of any disaster related wastes. The NOI must contain:
 - i. The name and contact information of the owner/operator the property where the emergency landfill facility is located,
 - ii. The facility address and contact information,
 - iii. A description of the emergency waste management unit, and
 - iv. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*
 - b. Owners/operators of emergency landfills not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance the following minimum prescriptive and performance standards:
 - i. The bottom of an emergency landfill must be placed at least 10 feet above the highest historically known or anticipated level of groundwater, and more than 500 feet from any immediately adjacent surface waters of the State, or MS4s facilities.
 - ii. Emergency landfills must be protected from inundation or washout due to floods with a 100-year return frequency.
 - iii. Emergency landfills cannot be located on a known Holocene fault.
 - iv. Emergency landfills cannot be located in areas of potential rapid geologic change (e.g., landslides, debris flows, flashflood areas, etc.).

¹⁰⁶ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Attachment A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

- v. Emergency landfills cannot be located in areas underlain by a fractured bedrock aquifer or highly permeable soils (e.g., gravels, sands, and loamy sands) or in facilities that are characterized by such deposits (e.g., gravel quarry).
 - vi. For disaster related mass mortality wastes streams that are in a liquid form (e.g. raw eggs, etc.) the moisture content must be reduced prior to discharge by mixing with an absorbent material (e.g., saw dust, mulch, soil, etc.).
 - vii. The thickness of each layer of mass mortality wastes must be limited to less than 2 feet.
 - viii. Lime (or another liquid abatement material) must be added to each layer to help reduce the generation of liquid by the mass mortality wastes.
 - ix. Each layer of lime-covered mass mortality wastes must be covered by at least 3 feet of soil before adding another layer of mass mortality wastes.
 - x. Mass mortality wastes must be discharged for disposal in compliance with the conditions of this waiver and covered at the end of each working day.
 - xi. The final layer of disaster related mass mortality wastes discharged into the emergency landfill must be overlain by a final layer of not less than 3 feet of soil; or alternatively the unit may be covered by a relatively impermeable engineered surface (e.g., asphalt, concrete, etc.). The final soil layer must be placed in a mound configuration so that the final soil layer:
1) Overlaps the mass mortality wastes by several feet on each edge of the emergency landfill; 2) is at least 3 feet thick over all portions of the mass mortality wastes; and 3) is sloped to provide drainage that will not impair the integrity of the emergency landfill.
 - xii. The owner/operator should also evaluate, implement, and document other effective waste isolation and waste moisture reducing methods in conjunction with the procedures identified above.
- c. The emergency landfill must be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, and washout. The owner/operator must protect the integrity of the final cover from adverse impacts from erosion by installing and maintaining MMs/BMPs, including:
- i. Installation of run on control features on the up gradient side of the emergency landfill to divert offsite storm water from the emergency landfill.

- ii. Installation of an effective runoff collection and conveyance ditch.
 - iii. Grading and maintenance of the final cover to eliminate ponding of water over the emergency landfill.
 - iv. Installation and maintenance of erosion control measures on the cover of the emergency landfill (e.g., install straw mulch and/or a vegetative cover).
 - v. Installation of a deer fence around the perimeter of the emergency landfill to discourage access by digging of carnivores.
- d. Owners/operators of emergency landfills not on regulated facilities must post at least one clearly visible sign (in English) listing the following minimum information: a) clearly identify the area as an emergency landfill for animal and agricultural wastes, b) a warning against trespass, c) a description of the reason for the emergency landfill (e.g., Exotic Newcastle, Avian Flu, etc.), d) the type(s) of waste buried at the site (e.g., types of carcasses, egg wastes, manure, etc.), and e) the name and telephone number of the current property owner. The facility owner/operator must post additional signs as necessary (in languages other than English) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) must be maintained as required to keep them legible and must remain in place while the emergency landfill remains on site.
- e. Owners/operators of emergency landfills not on regulated facilities must submit a NOT to the San Diego Water Board within 10 working days of completing removal of all disaster related wastes and restoring the site to its original condition. The NOT must contain:
- i. The name and contact information of the owner/operator of the property where the temporary emergency landfill facility was located;
 - ii. The facility address and contact information;
 - iii. A description of waste that was temporarily stored/staged in the temporary emergency landfill;
 - iv. The final waste disposal location; and
 - v. A certification and signature of the owner, operator, and/or authorized representative. The certification must include the statement, *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant*

penalties for submitting false information, including the possibility of fine and imprisonment.”

- f. Owners/operators of emergency landfills not on regulated facilities must submit a ROWD to the San Diego Water Board and apply for WDRs (using Form 200). The ROWD and application for WDRs must be provided to the San Diego Water Board within 6 months of creating the emergency landfill for disposal of disaster related mass mortality wastes. At a minimum, the ROWD must include the following information:
 - i. A short description of the emergency conditions that made the emergency landfill necessary.
 - ii. The identity, physical address, mailing address, and telephone number of the current land owner.
 - iii. Photographs taken to document the location of the emergency landfill, practices used for placement of wastes and soil layers, and the appearance of the emergency landfill after installation of the final cover.
 - iv. A map showing the location and perimeter of the emergency landfill, its location relative to local topographical, geographical, biological, and cultural features (e.g. roads, streams, etc.), and Geographical Information System (GIS) data if available.
 - v. A simple cross section of the emergency landfill and a description of the construction (depth, thickness of layers and final cover).
 - vi. An estimate of the amount of wastes in pounds or tons discharged into the emergency landfill.
 - vii. A description of measures taken to ensure that wastes and waste constituents do not migrate outside the emergency landfill.
 - viii. Any other site-specific or discharger related information requested by the San Diego Water Board.
7. Discharges of Dredge or Fill Material into, or Emergency Repair and Protection in Non-Federal Waters of the State, under Emergency Conditions
 - a. Discharge activities must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction does not result in significantly increased impacts to aquatic resources, and logistical concerns indicate such reconstruction is as expedient, considering the condition of the project site, and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered by the San Diego Water Board, if the applicant proposes to use bioremediation or

other environmentally sensitive solutions.¹⁰⁷ The Emergency Waste Waiver may not be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources. Such upgrade projects are separate activities for which a ROWD is required.

- b. Dischargers must make every effort to ensure materials dredge or excavated from non-federal waters of the State are not likely to be washed back into any waters of the State. When feasible, erosion and siltation controls, designed to minimize turbidity in the watercourse above background levels existing at the time of construction, must be used and maintained in effective operating condition during construction unless conditions preclude their use, or if conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of work. All exposed soil and other fills, as well as any work below bankfull stage, or high tide line, must be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation.
- c. To ensure the project is being or has been accomplished in compliance with the terms and conditions of this waiver, representatives from the San Diego Water Board, or its authorized representatives, must be allowed at all times, upon presentation of credentials:¹⁰⁸
 - i. To enter onto project premises, including all areas on which fill or compensatory mitigation is located, or in which records are kept;
 - ii. To access and copy any records required to be kept under the terms and conditions of this certification;
 - iii. To inspect any treatment equipment, monitoring equipment, or monitoring method required by this certification; and
 - iv. To sample any discharge or surface water covered by the Emergency Waste Waiver for discharge of fill material.
- d. Work with heavy equipment must be avoided whenever feasible. If necessary, projects requiring heavy equipment to work in wetlands must implement effective measures to minimize soil disturbance. Such measures may include, but are not limited to, the use of wide-treaded equipment, mats, or flotation devices.
- e. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.

¹⁰⁷ For example, it may be determined that reconstruction of a bridge crossing or a roadway damaged by flood flows is a more appropriate course of action than temporarily shoring up the facility to allow an immediate return to its use. When continued public safety is an issue, such reconstruction will remain a viable option for consideration under this waiver.

¹⁰⁸ Pursuant to statutory authority granted under Water Code section 13267.

- f. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
- g. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
- h. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water except within the existing river plain (unless the primary purpose of the activity is to impound waters).
- i. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow must be minimized to the maximum extent practicable.
- j. Any structure or fill subject to the Emergency Waste Waiver for the discharge of fill material must be maintained; including maintenance to ensure public safety, unless it is later determined by federal, State, or local agencies, that the structure is further contributing to other adverse conditions to private or public property. Corrective measures must be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination by the discharger and appropriate resource agencies. Temporary levees constructed to control flows must not be maintained beyond the current storm season (i.e., maintenance of temporary levees is not authorized after the storm season in which the need arose).
- k. Notification conditions.
 - i. Any person proposing dredge or fill discharges to non-federal waters of the State associated with repair and protection activities resulting from emergency situations in the San Diego Region must send the San Diego Water Board a signed, completed NOI¹⁰⁹ as described below:
 - (A) As early as practicable, but not later than 30 days following initiation of the discharge, in the following circumstances:
 - (1) A situation described in section A.2 of this waiver (Water Code section 13269(c)(1) and (2)). This includes immediate work in response to a disaster when a state of emergency has been proclaimed by the Governor;
 - (2) A clear and imminent threat demanding immediate action exists in response to an emergency as described in section A.2 of this waiver (CEQA-defined emergencies), where prior notification to the

¹⁰⁹ A Notice of Intent required to be submitted for enrollment in the Emergency Waste Waiver is located in Attachment A of Order No. R9-2014-0041 (*Appendix B of this Technical Report*).

San Diego Water Board is impractical. This can include emergencies that do not result in a state of emergency being declared by the Governor; or

- (3) A repair and protection activity in response to an emergency as described in section A.2 of this waiver (CEQA-defined emergencies) would result in an insignificant or temporary (less than 120 days) discharge of inert material (e.g., sand bags or other erosion control material).
 - (B) As early as possible, but not later than two days prior to the initial discharge activity in all other situations.
 - ii. If part or all of a discharge activity that is enrolled in RGP No. 63 is determined to occur in non-federal waters of the State prior to the completion of the activity (i.e. submittal of RGP No. 63 completion report), the discharger shall submit an NOI¹¹⁰ to the San Diego Water Board within 30 days of notification of jurisdictional changes by the USACE.
 - iii. The discharger must send the San Diego Water Board a signed, completed Notice of Termination (Attachment E of the Order) within 10 working days of completing the discharge activities and restoring the site to its original condition. Sites must be restored by the expiration date of this waiver.

¹¹⁰ Ibid.