

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**ORDER NO. 94-038
NPDES NO. CAS617001**

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
SPECIAL AREA WIDE STORM WATER PERMIT
AND
WASTE DISCHARGE REQUIREMENTS
FOR THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)**

The California Regional Water Quality Control Board, Colorado River Basin Region, finds that:

1. On June 7, 1993, Caltrans District 8, headquarters address at 247 W. 3rd Street, P.O. Box 231, San Bernardino, CA 92492, and Caltrans District 11, headquarters address at 2829 Juan Street, P.O. Box 85406, San Diego, CA 92186-5406 (hereinafter referred to as the dischargers) submitted an NPDES application for storm water discharges from their highways in the Colorado River Basin Region. The application was modified on November 22, 1993, to contain the information required by Title 40 of the Code of Federal Regulations, Part 122, Section 26(d) (40 CFR 122.26 (d)).
2. In 1972, the Federal Water Pollution Control Act (also referred to as the Clean Water Act (CWA)) was amended to provide that the discharge of pollutants to waters of the United States from any point source is effectively prohibited, unless the discharge is in compliance with an NPDES Permit. The 1987 amendments to the CWA added Section 402(p) which establishes a framework for regulating municipal and industrial storm water discharges under the NPDES program.
3. On November 16, 1990, the U.S. Environmental Protection Agency published final regulations that establish application requirements for storm water permits. Title 40 of the Code of Federal Regulations, Part 122, Section 26 (40 CFR 122.26) defines municipal storm water permit requirements. Title 40 of the Code of Federal Regulations, Part 122, Section 26(a)(iii) and (iv) require that NPDES storm water permits be issued for discharges from large and medium municipal separate storm sewer systems. The regulations define "municipal separate storm sewer" to mean "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains)".
4. The Coachella Valley area, located in western Riverside County, California, has an approximate population of 250,000 persons. This area has been designated by the Regional Water Quality Control Board staff as a medium sized area (an area with more than 100,000 persons but less than 250,000 persons) and is therefore required to have NPDES storm water permits for all separate storm sewer systems in the area.
5. The dischargers are only required to obtain NPDES Permits for their storm drainage systems located within the urbanized area of the Colorado River Basin Region. Therefore, this Board Order covers all the storm drainage systems from their highways within the urbanized area of the Colorado River Basin Region.

6. The Coachella Valley is a deep valley bordered on the northeast by the San Bernardino and Little San Bernardino Mountains and on the southwest by the San Jacinto and Santa Rosa Mountains (see attached map). It is oriented approximately northwest to southeast from Banning to the Salton Sea. The two primary highway segments owned and operated by The discharger in the urbanized portion of the Coachella Valley are Highway 10 from Banning to Indio and Highway 111 from Palm Springs to Coachella. For this reason, the Board Order will primarily focus on these two highway segments.
7. Storm water outlets from the dischargers highways in the Coachella Valley drain directly or indirectly to the Coachella Valley Storm Water Channel. The Whitewater River originates in the San Bernardino Mountains and drains into the Coachella Valley to percolation ponds near Palm Springs in order to recharge the groundwater supply. The Whitewater River and the Coachella Valley Storm Water Channel are usually dry from Palm Springs to Indio, and are used primarily for flood control and for municipal dry weather flow. In the lower Valley, the Coachella Valley Storm Water Channel is used for agricultural drainage conveyance.
8. Separate storm sewer systems not owned and operated by the dischargers in the Coachella Valley are owned and operated by either Riverside County, Riverside County Flood Control and Water Conservation District, Coachella Valley Water District, or one of the ten cities located in the Coachella Valley. The above-named entities and the ten cities have joined together as a group to be regulated under a single NPDES Permit for their storm water discharges. They have submitted both Part I and Part II of their NPDES Permit application to the Regional Board.
9. Discharges of storm water from the dischargers/owned right-of-way and properties, including storm water management activities in construction, maintenance, and operation of state-owned highways, within the Colorado River Basin Region may be potential contributors of pollutants to waters of the United States and, as such, may be causing or threatening to cause violations of water quality objectives.
10. Federal regulations (40 CFR 122.26) require discharges of storm water associated with construction activity including clearing, grading, and excavation activities (except operations that result in disturbance of less than five acres of total land area and which are not part of a larger common plan of development or sale) to obtain an NPDES Permit and to implement Best Management Practices (BMPs) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate storm water pollution.
11. The dischargers occasionally perform construction activities in this Region that are required to have NPDES Permits for storm water discharges from the construction site. This Board Order will effectively regulate all storm water discharges from construction projects in this Region within the dischargers' right of way.
12. The following is a list of all the State highways and highway segments owned and operated by the dischargers in the Colorado River Basin Region:

<u>HIGHWAY</u>	<u>COUNTY</u>	<u>POST MILES</u>
10	Riverside	08.00 - 73.00
62	Riverside	00.00 - 09.24
74	Riverside	71.74 - 96.01

<u>HIGHWAY</u>	<u>COUNTY</u>	<u>POST MILES</u>
86	Riverside	00.00 - 22.85
111	Riverside	00.00 - 37.86
195	Riverside	00.00 - 07.42
243	Riverside	12.00 - 29.70

13. The Water Quality Control Plan for the Colorado River Basin Region of California (Basin Plan) was adopted on November 17, 1993, and designates the beneficial uses of ground and surface waters in this Region.
14. The beneficial uses of waters in the Whitewater River are:
 - a. Municipal supply (MUN)
 - b. Agricultural supply (AGR)
 - c. Ground Water Recharge (GWR)
 - d. Water Contact Recreation (REC I)
 - e. Noncontact Water Recreation (REC II)
 - f. Freshwater Habitat (FRSH)
 - g. Wildlife Habitat (WILD)
 - h. Hydropower Generation (POW)
15. The beneficial uses of waters in the Coachella Valley Storm Water Channel are:
 - a. Fresh Water Replenishment for Salton Sea (FRSH)
 - b. Water Contact Recreation (REC I)
 - c. Noncontact Water Recreation (REC II)
 - d. Warm Water Habitat (WARM)
 - e. Wildlife Habitat (WILD)
 - f. Preservation of Rare, Endangered or Threatened Species (RARE)
16. The beneficial uses of waters in the Salton Sea are:
 - a. Aquaculture (AQ)
 - b. Water Contact Recreation (REC I)
 - c. Noncontact Water Recreation (REC II)
 - d. Warm Water Habitat (WARM)
 - e. Wildlife Habitat (WILD)
 - f. Preservation of Rare, Endangered or Threatened Species (RARE)
17. The beneficial uses of the waters in the San Geronio River are:
 - a. Municipal supply (MUN)
 - b. Agricultural supply (AGR)
 - c. Ground Water Recharge (GWR)
 - d. Water Contact Recreation (REC I)
 - e. Non-Contact Recreation (RECII)
 - f. Warm Freshwater Habitats (WARM)
 - g. Wildlife Habitat (WILD)

18. The impact of storm water runoff from highway facilities on the water quality of receiving waters has not been fully determined due to limited research on the subject. For this reason, there will be no effluent limitations. Instead, this Board Order will emphasize the use of Best Management Practices (BMPs) to control storm water pollution and the establishment of a monitoring program to determine the impact of storm water runoff from highways within the Region on receiving water bodies.
19. The Board has notified the dischargers, and all known interested agencies and persons of its intent to prescribe an NPDES Permit and waste discharge requirements for said discharge and has provided them with an opportunity for a public meeting and an opportunity to submit comments.
20. The Board in a public meeting heard and considered all comments pertaining to this discharge.
21. The action to adopt an NPDES Permit is exempt from the provisions of the California Environmental Quality Act (CEQA: Public Resources Code Section 21100, et. seq.), pursuant to Section 13389 of the California Water Code.
22. Receiving water limitations in this Board Order are based on the Federal Clean Water Act, Basin Plan, States Water Resources Control Board's plans and policies, U. S. Environmental Protection Agency Guidance, Best Professional Judgement, and Best Management Practices.

IT IS HEREBY ORDERED that in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Federal Clean Water Act and the regulations and guidelines adopted thereunder, the dischargers shall comply with the following:

A. Prohibitions

1. Discharges of material other than storm water, which are not otherwise regulated by an NPDES Permit, to a discharger owned separate storm sewer system or waters of the nation are prohibited, except as allowed by the Executive officer of this Regional Board, when necessary for performance and completion of construction projects and where such dischargers do not cause or contribute to a violation of any water quality standard. Also, such discharges must be described in the Storm Water Pollution Prevention Plan and, wherever feasible, alternatives which do not result in discharge of non-storm water shall be implemented.
2. Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.
3. Storm water discharges regulated by this Board Order shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or 40 CFR Part 302.
4. The discharge shall not cause the deposition of objectional bottom deposits along the banks or the bottom of the receiving waters.
5. The discharge shall not cause visible oil, grease, scum, floating or suspended material or foam in the receiving waters.
6. Storm water discharges shall not cause or contribute to a violation of any applicable water quality standards contained in the Basin Plan or any applicable state or Federal regulations.

B. Receiving Water Limitations

- 1. Storm water discharges to surface waters from the dischargers' outfalls shall not:**
 - a. Depress the dissolved oxygen content of any receiving water below 5.0 mg/L. During any period when the receiving water's dissolved oxygen content is already below 5.0 mg/L, the discharge shall not cause any further depression.**
 - b. Contain metals, chemicals, pesticides, herbicides, or other constituents in concentrations which are toxic to or which produce detrimental physiological responses in human, plant, animal, or indigenous aquatic life.**
 - c. Cause an increase in turbidity, unless it can be demonstrated to the satisfaction of the Regional Board's Executive Officer that such alteration in turbidity does not adversely affect beneficial uses.**

C. Provisions

- 1. If pollutants are found in storm water from Caltrans owned right-of-ways, pollutants in storm water discharges from the said right-of-ways and properties within the Colorado River Basin Regional shall be reduced to the maximum extent practicable.**
- 2. If pollutants are found in storm water from Caltrans activities, pollutants in storm water discharges from the said activities shall be reduced or eliminated through implementation of Best Management practices (BMPs) for toxic pollutants and Best Conventional Pollutant Control Technology for conventional pollutants.**
- 3. Storm waters discharged to any receiving waters shall be monitored for toxicity using bioassays as specified in "Monitoring and Reporting Program No. 94-038", attached.**
- 4. If the data indicates that a discharge is acutely toxic, the dischargers will be required to perform a toxicity reduction evaluation (TRE) at the said discharge. The TRE shall include all reasonable steps to identify the source(s) of toxicity. Once the source(s) of toxicity is identified, the dischargers shall take all reasonable steps necessary to reduce toxicity to the required level.**
- 5. The dischargers shall comply with "Monitoring and Reporting Program No. 94-038", as specified by the Regional Board's Executive Officer.**
- 6. The dischargers shall comply with "Standard Provisions for National Pollutant Discharge Elimination System Permit", dated October 1990.**
- 7. The dischargers are the responsible party for the waste discharge requirements and the monitoring and reporting program for the facility. The dischargers must comply with all conditions of these waste discharge requirements. Violations may result in enforcement actions, including Regional Board Orders or court orders, requiring corrective action or imposing civil monetary liability, or in modification or revocation of these waste discharge requirements by the Regional Board.**
- 8. The dischargers must comply with lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to separate storm sewer systems or other watercourses under their jurisdiction, including applicable requirements in municipals storm water programs developments to comply with NPDES Permits issued by the Regional Water Boards to local agencies.**

9. The dischargers shall allow the Regional Board, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the premises regulated by this Board Order, or the place where records must be kept under the conditions of this Board Order;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Board Order;
 - c. Inspect at reasonable times any facilities, construction site, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Board Order; and
 - d. Sample or monitor at reasonable times, for the purpose of assuring compliance with this Board Order or as otherwise authorized by the California Water Code, any substances or parameters at any discharge locations.
10. The dischargers shall maintain adequate fiscal resources to maintain compliance with this Board Order. This includes but is not limited to 1) implementing and maintaining all BMPs identified in the Storm Water Management Plan, 2) maintaining an effective storm water monitoring program, and 3) retaining adequate personnel to manage the storm water program. A fiscal analysis of the capital, operational and maintenance expenditures shall be included in the Storm Water Management Plan.
11. The dischargers shall at all times properly operate and maintain any facilities and systems of treatment and control (and related appurtenances) which are installed or used by the dischargers to achieve compliance with the conditions of this Board Order and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.
12. This Board Order does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

D. Storm Water Management Plan

1. The dischargers shall maintain and implement an effective Storm Water Management Plan. The Storm Water Management Plan shall identify and describe the Best Management Practices (BMPs) used to control or reduce pollutants to waters of the United States to the maximum extent practicable. The Storm Water Management Plan shall be reviewed annually and modified as necessary to maintain an effective program. The Storm Water Management Plan shall be submitted to the Regional Board's Executive Officer by August 1 of each year for approval. The Storm Water Management Plan shall include or describe procedures for implementing the following:
 - a. Program Management Structure - Description of the program management structure in sufficient detail to provide assurances for full implementation of the Storm Water Management Plan and revisions to the Storm Water Management Plan in both District 8 and District 11. This shall include a clear definition of the relationship between the Environmental Engineering Branch and the designated storm water coordinator and the other functional offices and branches and identifying responsible parties for implementing the Storm Water Management Plan in each functional office and branch including the discharger's personnel and contractors;

- b. Communication - Improvement in the lines of communication among functional offices and branches; education and training of staff of each functional branch regarding storm water management; and improvement of the discharger's procedures for enforcement, monitoring, and record-keeping of actions by each functional office and branch;
- c. Legal Authority - Demonstration of adequate legal authority for prevention, control, and prohibition of storm water discharges, non-storm water discharges, and spills including, but not limited to, the establishment, or ability to establish, contractor compliance requirements and appropriate inspection authority;
- d. Policies - Policies needed to resolve conflicts between implementation of storm water controls and current standard practices and policies (such as fire safety issues, building codes, etc.);
- e. Inspection Program - An inspection program to insure actions are implemented and facilities are constructed, operated, and maintained in accordance with this Board Order and the Storm Water Management Plan that includes training for inspectors, financial guarantees to ensure compliance, checklists for field activities, a reporting system that can be used to track effectiveness of control measures, enforcement procedures (or referral for enforcement) for non-compliance, and responsibilities and responsible personnel of all affected functional offices and branches;
- f. Fiscal Resources - Pursuant to 40 CFR 122.26 (d)(vi) existing and planned funding mechanisms necessary for implementation of the Storm Water Management Plan and revisions to the Storm Water Management Plan including resources and staff; and
- g. All other plans required by this Board Order upon submittal to the Regional Board and acceptable to the Executive Officer.

E. Maintenance Operations

- 1. The dischargers shall submit a general plan to the Regional Board, acceptable to the Executive Officer, by August 1, 1995, for management of storm water from all maintenance activities and maintenance facilities. The plan shall include or describe procedures for implementing the following:
 - a. Maintenance Activities - Current practices and policies, including responsibilities and responsible parties for all maintenance activities on the dischargers-owned right-of-way and properties that may affect storm water discharges;
 - b. Storm Drain Inlet, Catch Basin, Storm Drain, and Channel Maintenance - Cleaning and clearing methods, locations and schedule of maintenance, justification of maintenance frequency, improvements in operations to remove fine particles and pollutants, and methods and locations of waste disposal and records to be maintained specific to the level of effort, performance, and effectiveness for storm drain inlet, catch basin, storm drain, and channel maintenance; and
 - c. Vegetation Control - Vegetation maintenance practices to optimize erosion control, pollutant removal, and prevention of the discharge of pollutants associated with vegetation maintenance, including a plan to minimize the use of chemicals, such as herbicides, in the maintenance of vegetation.

A Vegetation Control Plan for all highway segments in the Colorado River Basin Region shall be submitted to the Regional Board's Executive Officer by August 1 of each year and shall be incorporated into the Storm Water Management Plan. Logs of all chemicals applied shall be maintained. The logs shall list the chemical name, the reason for application, the amount of chemical applied, the specific areas where the chemicals were applied, and the dates of application. A summary of the logs shall be submitted to the Regional Board along with other required annual reports.

A review of the aquatic toxicity data of all herbicides which are applied by the dischargers shall be discussed in the Vegetation Control Plan including a description of how the herbicides are managed and applied to prevent toxicity of storm water discharges and receiving waters. A report containing all applicable aquatic toxicity data shall be submitted to the Regional Board's Executive Officer by August 1, 1995.

F. Maintenance Facilities

1. The dischargers shall submit a report to the Regional Board by August 1, 1995, that lists and describes the functions of all maintenance facilities in the urbanized portion of the Colorado River Basin Region, identifies facilities that are scheduled for reconstruction, upgrade, or other improvements, and provides a description of and schedule for such improvements.
2. General Storm Water Pollution Prevention Plans shall be prepared and implemented for all maintenance facilities in the urbanized portion of Colorado River Basin Region in accordance with the conditions and provisions contained in Appendix A of this Board Order and submitted to the Regional Board's Executive Officer for review and approval by August 1, 1995.

The General Storm Water Pollution Prevention Plan shall identify control measures and a schedule for implementation. The Stormwater Pollution Prevention Plan shall address all potential sources of storm water contaminants and list Best Management Plans to be implemented on those sources.

G. Construction

1. The following items apply to construction activities:
 - a. All construction projects in this Region shall be reported to the Regional Board. The dates and location of construction, resident engineer in charge of the project, and telephone number of the resident engineer shall be reported. This information shall be reported to the Regional Board at least 30 days prior to the start of construction.
 - b. A Storm Water Pollution Prevention Plan shall be developed and implemented for all construction projects in the urbanized area of this Region which consist of five (5) acres or more or pose a threat to water quality. The Storm Water Pollution Prevention Plan shall be submitted to the resident engineer before construction begins. The resident engineer shall be responsible for assuring that the Storm Water Pollution Prevention Plan is implemented. The Storm Water Pollution Prevention Plan shall contain all of the elements listed in Appendix A of this Board Order.
 - c. Discharges of non-storm water are allowed only when necessary for performance and completion of construction projects when permitted by the Executive Officer of this Regional Board or his designee and where they do not cause or contribute to a violation of any water quality standard. Such discharges must be described in the Storm Water Pollution Prevention

Plan. Wherever feasible, alternatives which do not result in discharge of non-storm water shall be implemented.

- d. Monitoring shall be performed for all construction projects in accordance with "Monitoring and Reporting Program No. 94-038".
- e. A Notice of Completion shall be submitted to the Regional Board within 30 days of completion of all construction projects.

H. Illicit Discharges

1. The dischargers shall submit a plan to the Regional Board, acceptable to the Executive Officer, by August 1, 1995, that describes a program and a plan for implementation to prevent non-storm water discharges and to eliminate or seek permit authorization for existing discharges. The plan shall include or describe procedures for implementing the following:
 - a. Prohibited Discharges - The plan shall specifically identify, describe, and provide a schedule for permit authorization, prevention and elimination of the following:
 - illegal dumping;
 - vehicle and equipment washwater discharges from maintenance facilities;
 - discharges associated with waste disposal from street sweeping and other maintenance activities;
 - discharges associated with applications of herbicides, and other pesticides and chemicals;
 - discharges associated with the cutting, repair, and replacement of paved surfaces including saw-cut slurry; and
 - discharges associated with construction practices including concrete washwater.

In addition to the types of discharges listed above, the plan shall identify, describe, and provide a schedule for prevention and elimination any other non-storm water discharges associated with activities by the dischargers or which occur or may occur on the dischargers-owned right-of-way and properties.

- b. **Non-Prohibited Discharges** - The plan shall also identify and describe all existing major discharges, as defined in 40 CFR 122.26, to surface water bodies. Furthermore, the discharger shall identify and describe other discharge points on a due diligence basis and as funding allows. For each such discharge, or category of discharge, the plan shall describe the appropriate control measures and management practices and schedule of implementation, procedures for notifying the Regional Board and affected municipal storm water management agencies of these discharges and future planned or unplanned discharges, and procedures for monitoring and record management. Should discharges which are not capable of being managed by Caltrans be identified, those discharges shall be referred to the appropriate regulatory agency.

I. Local Agencies

1. The dischargers shall submit a plan to the Regional Board, acceptable to the Executive Officer, by August 1, 1995, that describes communication, coordination, cooperation, and collaboration of the discharger's storm water management and other pertinent activities with municipal storm water management programs including establishing agreements or policies with municipalities, flood control departments, or districts as necessary or appropriate.

J. Public Information and Participation

1. The dischargers shall submit a plan to the Regional Board, acceptable to the Executive Officer, by August 1, 1995, for development and implementation of a Public Information Program that includes education of the general public, Caltrans' employees and contractors, and commercial and industrial entities whose actions may impair storm water quality discharged from Caltrans-owned right-of-way and properties. Specific areas of action that shall be addressed include prevention of illegal discharges.

K. Spills

1. Hazardous or toxic materials spilled on all the dischargers facilities regulated by this Board order shall be cleaned so that they do not create a source of storm water pollution. If the spill has not been adequately cleaned, the dischargers shall be responsible for spill material which enters surface water bodies from the dischargers facilities. A summary of all said materials spilled on highways in this Region shall be submitted to the Regional Board along with other required annual reports. The Regional Board's Executive Officer may require storm water monitoring at any location downstream of where a hazardous materials spill has taken place. However, it is recognized that the dischargers are not legally or financially responsible for contamination or cleanup outside the state right-of-way and not conveyed by storm water.

L. Training

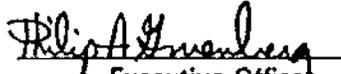
1. The dischargers shall provide all necessary storm water pollution prevention training to employees in order to reduce or eliminate the impact of the dischargers activities on storm water contamination.

M. Other Provisions

1. This Board Order will be rescinded upon the adoption by the State Water Resources Control Board of a statewide or a multi-district regional storm water permit for the dischargers covering all highways in the Colorado River Basin Region.
2. The dischargers shall ensure that all personnel whose decisions or activities could affect storm water quality are familiar with the contents of this Board Order.

3. Upon adoption of this Board Order, the dischargers shall comply with all conditions and limitations of this Board Order. Any Board Order noncompliance constitutes a violation of the Federal Clean Water Act and the California Water Code and is grounds for enforcement action, Board Order termination, or denial of a renewal application.
4. This Board Order does not authorize violation of any federal, state, or local laws or regulations.
5. This Board Order expires five years from date of adoption, on November 17, 1999, and the dischargers shall file a complete Report of Waste Discharge in accordance with Title 23, California Code of Regulations, at least 180 days in advance of such date as an application for issuance of a new Board Order.
6. This Board Order shall serve as a National Pollutant Discharge Elimination System Permit pursuant to Section 402 of the Federal Clean Water Act, as amended, and shall become effective at the end of ten (10) days from the date of the hearing at which this Board Order was adopted by the Regional Board, provided the Regional Administrator, U. S. Environmental Protection Agency, has no objections.
7. This Board Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the dischargers for a Board Order modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Board Order condition. Causes for modification include the promulgation of new regulations, or adoption of new regulations by the State Board or the Regional Board, including revisions to the Basin Plan.

I, Philip A. Gruenberg, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of a Board Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on November 15, 1994.


Executive Officer

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**MONITORING AND REPORTING PROGRAM NO. 94-038
FOR
SPECIAL AREA WIDE STORM WATER PERMIT
FOR THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)**

MONITORING

1. At least two sampling stations shall be established within the Region for the purpose of collecting storm water. A report shall be submitted to the Regional Board's Executive Officer within 90 days of the adoption of this Board Order identifying the locations that will be used for storm water monitoring. The stations shall only be established at locations approved by the Regional Board's Executive Officer.
2. Storm water samples shall be collected at the sampling stations for at least two storm events per year that are at least one month apart. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measured (greater than 0.1 inch) storm event.
3. The sampling stations shall be installed so that the collected samples consist primarily of roadway drainage runoff. Cross drains or culverts are not acceptable sampling locations unless the sampling station is installed so that the sample is collected before it reaches the cross drain or culvert.
4. Automatic storm water samplers may be used to collect the samples provided that the samples are retrieved within 24 hours of the storm event.
5. Samples collected shall be analyzed for all the constituents listed in Table II (organic pollutants) and Table III (toxic metals, cyanide, and total phenols) of Appendix D of 40 CFR 122, and for the following constituents (the pesticides listed in Table II need not be tested):

Total Suspended Solids (TSS)
Total Dissolved Solids (TDS)
Chemical Oxygen Demand (COD)
Oil and Grease
Hydrogen Ion (pH)
Total Kjeldahl Nitrogen
Nitrate
Nitrite
Total Ammonia
Organic Nitrogen
Dissolved Phosphorus
Total Phosphorus
Turbidity

- The collection, preservation and holding times of all samples shall be in accordance with U. S. Environmental Protection Agency approved procedures. All analyses shall be conducted by a laboratory certified by the State Department of Health Services to perform the required analyses. All analyses shall be conducted in accordance with the latest edition of "Guidelines Establishing Test Procedures for Analysis of Pollutants", promulgated by the United States Environmental Protection Agency.

EFFLUENT TOXICITY TESTING

The dischargers shall conduct toxicity testing on the storm water samples effluent as follows:

<u>Test</u>	<u>Units</u>	<u>Type of Samples</u>	<u>Minimum Frequency Test</u>
Chronic Toxicity	% Survival	Grab	Twice Per Year

Both test species given below shall be used to measure toxicity:

<u>Species</u>	<u>Effect</u>	<u>Test Duration (Days)</u>	<u>Reference</u>
Fathead Minnow (Pimephales promelas)	Larval Survival	4	Peltier & Weber, 1985
Water Flea (Ceriodaphnia dubia)	Survival	4	Peltier & Weber, 1985

Toxicity Test Reference: Peltier, W. B. and C. I. Weber (eds) 1985. Methods for Measuring the Acute Toxicity of Effluents to Freshwater Waters to Marine Organism. Third Edition. U. S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4-89/013.

Acute toxicity shall be expressed as percent survival of test organism over a ninety-six period. When sufficient data exist, the dischargers may be allowed to reduce their frequency.

CONSTRUCTION MONITORING

- The dischargers are required to conduct inspections before and after storm events. Other than reporting incidents of noncompliance, the dischargers are not required to submit reports.
- The Regional Water Board may require the dischargers to conduct additional site inspections, submit reports and certifications, or to perform sampling and analysis.
- The dischargers shall conduct inspections of the construction site prior to anticipated storm events and after actual storm events to identify areas contributing to a discharge of storm water associated with construction activity and to evaluate whether control practices to reduce pollutant loadings identified in the Storm Water Pollution Prevention Plan are adequate and properly implemented or whether additional control practices are needed. A record of the

inspections must include the date of the inspection, the individual(s) who performed the inspection, and the observations.

4. Any noncompliance or anticipated noncompliance shall be reported to the Regional Board. The notifications shall identify the type(s) of noncompliance, describe the actions necessary to achieve compliance, and include a time schedule, subject to the modifications by the Regional Water Board, indicating when compliance will be achieved. Noncompliance notifications must be submitted within 30 days of identification of noncompliance.
5. Records of all inspections, compliance certifications, and noncompliance reporting must be retained for a period of at least three years. With the exception of noncompliance reporting, the dischargers are not required to submit these records.

REPORTING

1. An annual report shall be submitted to the Regional Board's Executive Officer stating the results of all monitoring performed (except construction monitoring). This report shall be submitted to the Regional Board by January 15 of each year.
2. The dischargers shall arrange the data in tabular form so that the specified information is readily discernible. The data shall be summarized in such a manner as to clearly illustrate whether the facility is operating in compliance with waste discharge requirements.
3. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurement(s);
 - b. The individual(s) who performed the sampling or measurement(s);
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or method used; and
 - f. The results of such analyses.

4. Each report shall contain the following statement:

"I declare under the penalty of law that I have personally examined and am familiar with the information submitted in this document, 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 for knowing violations."

5. The dischargers shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Board Order, and records of all data used to complete the application for this Board Order, for a period of at least 5 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board's Executive Officer.

6. Submit monitoring reports to:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring, Suite 100
Palm Desert, CA 92260

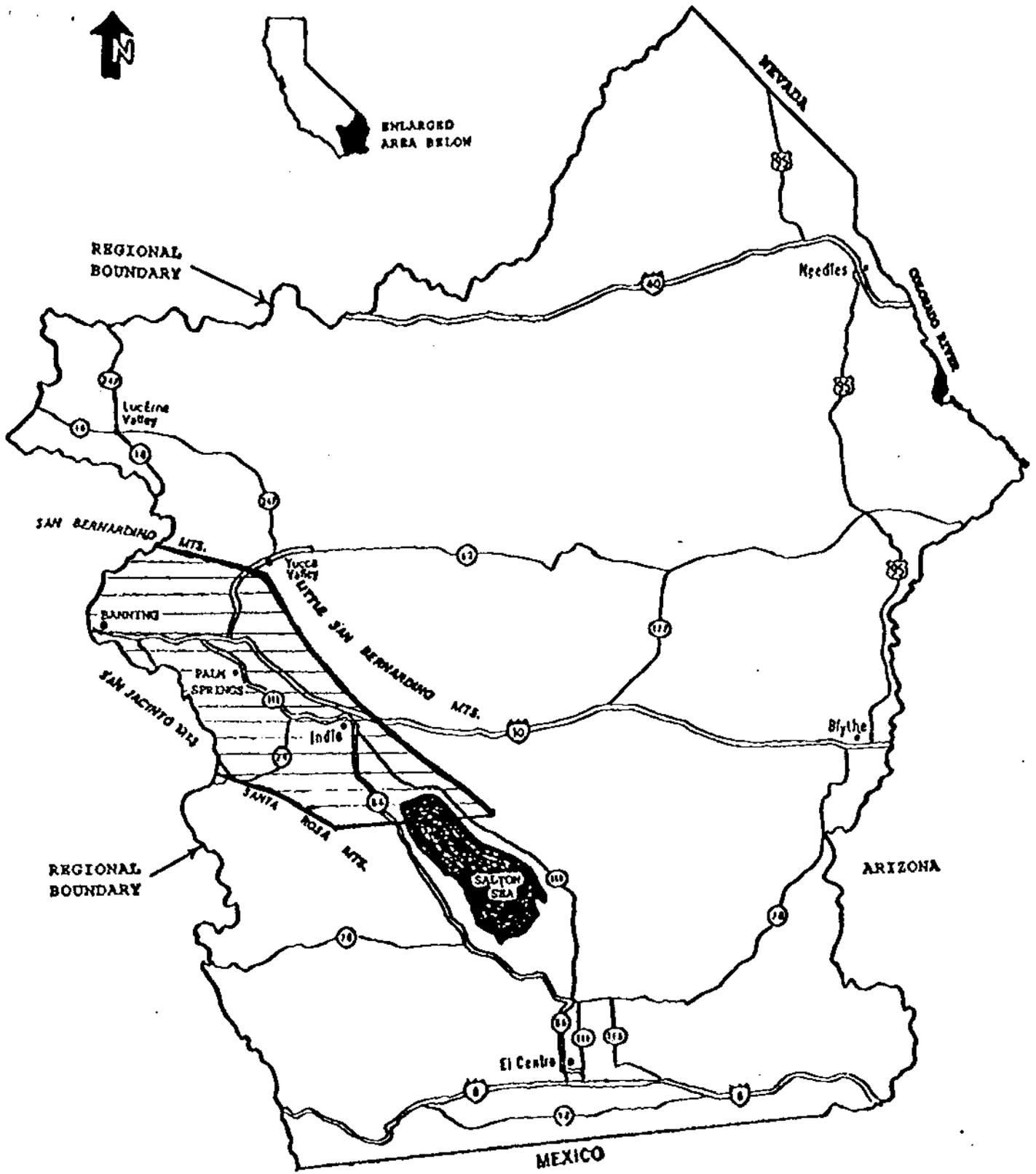
7. A copy of the Monitoring Report shall also be sent to:

Regional Administrator
U. S. Environmental Protection Agency
Region 9, Attn: 65/MR, W-3
75 Hawthorne Street
San Francisco, CA 94105

ORDERED BY: Philip A. Guelberg

November 15, 1994

Date



ENLARGED
AREA BELOW

REGIONAL
BOUNDARY

REGIONAL
BOUNDARY

AREA WIDE MAP



SPECIAL AREA WIDE STORM WATER PERMIT
FOR THE

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

Board Order No. 94-038

APPENDIX A

STORM WATER POLLUTION PREVENTION PLAN FOR CONSTRUCTION ACTIVITIES

1. Objectives

A Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented for each construction site in this Region. The SWPPP shall be developed and amended, when necessary, to meet the following objectives:

- a. To identify pollutant sources that may affect the quality of discharges of storm water associated with construction activity (storm water discharges) from the construction sites, and
- b. To identify, construct, and implement storm water pollution prevention measures (control practices) to reduce pollutants in storm water discharges from the construction site both during construction and after construction is completed.

2. Availability

The SWPPP shall be kept on site during construction activity and made available upon request of a representative of the Regional Water Board and/or local agency.

3. Required Changes

- a. The discharger shall amend the SWPPP whenever there is a change in construction or operations which may affect the discharge of significant quantities of pollutants to surface waters, ground water, or a municipal separate storm sewer system. The SWPPP should also be amended if it is in violation of any condition of this general permit or has not achieved the general objective of reducing pollutants in storm water discharges.
- b. The Regional Water Board, or local agency with the concurrence of the Regional Water Board, may require the discharger to amend the SWPPP.

4. Source Identification

The SWPPP shall provide a description of potential sources which are likely to add significant quantities of pollutants to storm water discharges or which may result in non-storm water discharges from the construction site. The SWPPP shall include, at a minimum, the following items:

- a. A map extending approximately one-quarter mile beyond the property boundaries of the construction site showing: the construction site, surface water bodies (including known springs and wetlands^{1/}), known wells, an outline of off-site drainage areas that discharge into the construction site, general topography, and the anticipated discharge location(s) where the construction site's storm water discharges to a municipal storm sewer system or other

^{1/} The determination of whether wetlands exist shall be made by the person who prepares the SWPPP and shall not be binding upon any other person.

water body. The requirements of this paragraph may be included in the site map required under the following paragraph if appropriate.

- b. A site map(s) showing:
 - i. Location of control practices used during construction;
 - ii. Areas used to store soils and wastes;
 - iii. Areas of cut and fill;
 - iv. Drainage patterns and slopes anticipated after major grading activities are completed;
 - v. Areas of soil disturbance;
 - vi. Surface water locations;
 - vii. Areas of potential soil erosion where control practices will be used during construction;
 - viii. Existing and planned paved areas and buildings;
 - ix. Locations of post-construction control practices;
 - x. An outline of the drainage area for each on-site storm water discharge point;
 - xi. Vehicle storage and service areas; and
 - xii. Areas of existing vegetation.

- c. A narrative description of the following:
 - i. Toxic materials that are known to have been treated, stored, disposed, spilled, or leaked in significant quantities onto the construction site;
 - ii. Practices to minimize contact of construction materials, equipment, and vehicles with storm water;
 - iii. Construction material loading, unloading, and access areas;
 - iv. Preconstruction control practices (if any) to reduce sediment and other pollutants in storm water discharges;
 - v. Equipment storage, cleaning, and maintenance areas;
 - vi. Methods of on-site storage and disposal of construction materials; and
 - vii. The nature of fill material and existing data describing the soil and the construction site.

- d. A list of pollutants (other than sediment) that are likely to be present in storm water discharges in significant quantities. Describe the control practices (if different from Item b below) appropriate to reduce these pollutants in the storm water discharges.

- e. An estimate of the size of the construction site (in acres or square feet), an estimate of the runoff coefficient of the construction site before and after construction, and an estimate of the percentage of the area of the construction site that is impervious (e.g., pavement, buildings, etc.) before and after construction.

6. Erosion and Sediment Control

The SWPPP shall include:

- a. A description of soil stabilization practices. These practices shall be designed to preserve existing vegetation where feasible and to revegetate open areas as soon as feasible after grading or construction. In developing these practices, the discharger shall consider: temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer strips, protection of trees, or other soil stabilization practices. At a minimum, the operator must implement these practices on all disturbed areas during the rainy season.
- b. A description or illustration of control practices which, to the extent feasible, will prevent a net increase of sediment load in storm water discharge. In developing control practices, the discharger shall consider a full range of erosion and sediment controls such as detention basins, straw bale dikes, silt fences, earth dikes, brush barriers, velocity dissipation devices, drainage swales, check dams, subsurface drain, pipe slope drain, level spreaders, storm drain inlet protection, rock outlet protection, sediment traps, temporary sediment basins, or other controls. At a minimum, sandbag dikes, silt fences, straw bale dikes, or equivalent controls practices are required for all significant sideslope and downslope boundaries of the construction area. The discharger must consider site-specific and seasonal conditions when designing the control practices.
- c. Control practices to reduce the tracking of sediment onto public or private roads. These public and private roads shall be inspected and cleaned as necessary.
- d. Control practices to reduce wind erosion.

6. Non-Storm Water Management

The SWPPP shall include provisions which eliminate or reduce to the extent feasible the discharge of materials other than storm water to the storm sewer system and/or receiving waters. Such provisions shall ensure, to the extent feasible, that no materials are discharged in quantities which will have an adverse effect on receiving waters. Materials other than storm water that are discharged shall be listed along with the estimated quantity of the discharged material.

7. Post-Construction Storm Water Management

The SWPPP shall describe the control practices to reduce pollutants in storm water discharges after all construction phases have been completed at the site. These must be consistent with all local post-construction storm water management requirements, policies, and guidelines. The discharger must consider site-specific and seasonal conditions when designing the control practices. Operation and maintenance of control practices after construction is completed shall be addressed, including short - and long-term funding sources and the responsible party.

8. Waste Management and Disposal

All wastes (including equipment maintenance waste) disposed at the site or removed from the site for disposal shall be disposed of in compliance with Federal, State, and local laws, regulations, and ordinances.

9. Maintenance, Inspection, and Repair

The SWPPP shall include maintenance, inspections, and repair procedures to ensure that all grade surfaces, walls, dams and structures, vegetation, erosion and sediment control measures, and other protective devices identified in the site plan are maintained in good and effective condition and are promptly repaired or restored.

10. Training

The SWPPP shall include procedures to ensure that all inspections required in Section B.4 of the Monitoring Program and Reporting Requirements of this general permit and maintenance and repair required in Paragraph 10 of this Section are done by trained personnel.

11. List of Contractors/Subcontractors

The SWPPP shall include a list of all contractors (or subcontractors) responsible for implementing the SWPPP.

12. Other Plans

This SWPPP may incorporate, by reference, the appropriate elements of other plans required by local, State, or Federal agencies. A copy of any requirements incorporated by reference shall be kept at the construction site.

13. Public Access

The SWPPP is considered a report that shall be available to the public under Section 308(b) of the CWA. Upon request by members of the public, the discharger shall make available for review a copy of the SWPPP either to the Regional Water Board or directly to the requestor.

14. Preparer

The SWPPP shall include the signature and title of the person responsible for preparation of the SWPPP and include the date of initial preparation and each amendment, thereto.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**STANDARD PROVISIONS
FOR
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
OCTOBER 1990**

FOR ALL PERMIT HOLDERS

1. Duty to Comply

- a. The discharger must comply with all of the conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [40 CFR Part 122.41(a)]
- b. The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not been modified to incorporate the requirement. [40 CFR Part 122.41(a)(1)]

2. Duty to Reapply:

If the discharger wishes to continue an activity regulated by this permit after the expiration date of this permit, the discharger must apply for and obtain a new permit. [40 CFR Part 122.41(b)]

- a. Any publicly owned treatment works (POTW) with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Board. (The Regional Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) [40 CFR Part 122.41(d)(1)]
- b. All other dischargers with currently effective permits shall submit a new application 180 days before the existing permit expires except that:
 1. The Regional Administrator of the Environmental Protection Agency may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date; and
 2. The Regional Administrator of the Environmental Protection Agency may grant permission to submit the information after the permit expiration date required by paragraphs (g)(7), (9), and (10) of 40 CFR Part 122.21.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [40 CFR part 122.41(c)]

4. Duty to Mitigate

The discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. [40 CFR Part 122.41(d)]

5. Proper Operation and Maintenance

The discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the discharger to achieve compliance with this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a discharger only when necessary to achieve compliance with the conditions of this permit. [40 CFR Part 122.41(e)]

6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit; or
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or
- d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

The Regional Board may also review and revise this permit at any time upon application of any person, or on the Regional Board's own motion [CWC 13263(e)]

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant to this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the discharger so notified [40 CFR Part 122.41(f)]

The filing of a request by the discharger for a permit modification, revocation, and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit conditions. [40 CFR Part 122.41(f)]

7. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, State, or local laws or regulations. [40 CFR Part 122.41(g)]

8. Duty to Provide Information

The discharger shall furnish the Regional Board, State Board, or EPA, within a reasonable time, any information which the Regional Board, State Board, or EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit or to determine compliance with a permit. The discharger shall also furnish to the Regional Board, upon request, copies of records required to be kept by this permit. [40 CFR Part 122.41(h)]

The discharger shall conduct analysis on any sample provided by EPA as part of the Discharge Monitoring Quality Assurance (DMQA) program. The results of any such analysis shall be submitted to EPA's DMQA manager.

9. Inspection and Entry

The discharger shall allow the Regional Board, State Board, EPA, and/or other authorized representatives upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location. [40 CFR Part 122.41(i)]

10. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. The discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 5 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board, State Board, or EPA at any time.
- c. Records of monitoring information shall include:
 1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) analyses were performed;
 4. The individual(s) who performed the analyses;

6. The analytical techniques or methods used; and
 6. The results of such analyses.
- d. Monitoring must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this permit.

11. Signatory Requirements

- a. All permit applications, reports, or information submitted to the Regional Board, State Board, and/or EPA shall be signed as follows;
1. For a corporation: by a responsible corporate officer. For the purpose of this provision, a responsible corporate officer means: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 3. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a Federal agency includes: the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA). [40 CFR Part 122.22(a)]
- b. All reports required by this permit, other information requested by the Regional Board, State Board, or EPA, and all permit applications submitted for Group II stormwater discharges under 40 CFR Part 122.26(b)(3) shall be signed by a person described in paragraph a. of this provision, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
1. The authorization is made in writing by a person described in paragraph a. of this provision;
 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
 3. The written authorization is submitted to the Regional Board. [40 CFR Part 122.22(b)]

- c. **Changes to authorization.** If an authorization under paragraph b. of this provision is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph b. of this provision must be submitted to the Regional Board prior to or together with any reports, information, or applications to be signed by an authorized representative. [40 CFR Part 122.22(c)]
- d. **Certification.** Any person signing a document under paragraph a. or b. of this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment of knowing violations." [40 CFR Part 122.22(d)]
- e. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

12. Reporting Requirements

- a. **Planned changes.** The discharger shall give notice to the Regional Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when:
 - 1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or
 - 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged.
- b. **Anticipated noncompliance.** The discharger will give advance notice to the Regional Board of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c. **Transfers**
 - 1. This permit is not transferable to any person except after notice to the Regional Board. The Regional Board may require modification or revocation and reissuance of the permit to change the name of the discharger and incorporate such other requirements as may be necessary under the Clean Water Act and the Porter-Cologne Water Quality Control Act.

2. **Transfer by modification.** Except as provided in paragraph (3) below, a permit may be transferred by the discharger to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new discharger and incorporate such other requirements as may be necessary under the Clean water Act (CWA).
3. **Automatic transfers.** As an alternative to transfers under paragraph (2) of this provision, any NPDES may be automatically transferred to a new discharger if:
 - a. The current discharger notifies the Regional Board at least 30 days in advance of the proposed transfer date in paragraph (3)(b) of this provision.
 - b. The notice includes a written agreement between the existing and new dischargers containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The Regional Board does not notify the existing discharger and the proposed new discharger of its intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under 40 CFR Part 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (3)(b) of this provision.
- d. **Definitions.** The following definitions shall apply unless specified in this permit:
 1. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during the sampling day.
 2. "Daily Average" discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
 3. "Daily Maximum" discharge limitations means the highest allowable "daily discharge" during the calendar month.
- e. **Monitoring reports.** Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 1. Monitoring results must be reported on a Discharge Monitoring Report (DMR).
 2. If the discharger monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b. Bypass not exceeding limitations. The discharger may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is essential maintenance to assure efficient operation. These bypasses are not subject to paragraphs c. and d. of this provision.
- c. Notice
 1. Anticipated bypass. If the discharger knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 2. Unanticipated bypass. The discharger shall submit notice of an unanticipated bypass as required in paragraph g. of provision 12 above (24-hour notice).
- d. Prohibition of bypass. Bypass is prohibited, and the Regional Board may take enforcement action against the discharger for bypass, unless:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The discharger submitted notices as required under paragraph c. of this provision.
- e. Approval of anticipated bypass. The Regional Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Board determines that it will meet the three conditions listed above in paragraph d. of this provision. [40 CFR Part 122.41(m)]

14. Upset

- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph c. of this provision are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

- c. Conditions necessary for a demonstration of upset. A discharger that wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 1. An upset occurred and that the discharger can identify the cause(s) of the upset;
 2. The permitted facility was at the time being properly operated;
 3. The discharger submitted notice of the upset as required in paragraph g. of provision 12 (24-hour notice); and
 4. The discharger complied with any remedial measures required under provision 4.
 - d. Burden of proof. In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof. [40 CFR Part 122.41(n)]
15. Enforcement

The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of violation. Any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than 1 year, or both. Higher penalties may be imposed for knowing violations and for repeat offenders. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided under the Clean Water Act.

EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Regional Board as soon as they know or have reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 µg/l);
 - b. Two hundred microgram per liter (200 µg/l) for acrolein and acrylonitrile; five hundred microgram per liter (500 µg/l) for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR Part 122.21(g)(7); or
 - d. The level established by the Regional Board in accordance with 40 CFR Part 122.44(f). [40 CFR Part 122.42(a)(1)]

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred microgram per liter (500 µg/l);
 - b. One milligram per liter (1 mg/l) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR Part 122.21(g)(7)
 - d. The level established by the Regional Board in accordance with 40 CFR Part 122.44(f) [40 CFR Part 122.42(a)(2)]

PUBLICLY OWNED TREATMENT WORKS (POTWs)

1. **Notice of Changes**

All POTWs must provide adequate notice to the Regional Board of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to Section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
- b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the OTW at the time of issuance of the provision.

For purposes of this provision, adequate notice shall include information on (1) the quality and quantity of effluent introduced into the POTW, and (2) any anticipated impacts on the quantity or quality of effluent to be discharged from the POTW. [40 CFR Part 122.42(b)]

2. **Pretreatment**

Any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from industrial users pollutants which pass through or interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program. The Regional Board may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if it finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent interference with the POTW or Pass Through. [40 CFR Part 403.8]

3. **National Pretreatment Standards: Prohibited Discharges**

- a. **General Prohibitions.** No source may introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph b. of this provision apply to all non-domestic sources introducing pollutants into a POTW whether or not the source is subject to other National Pretreatment Standards or any national, state, or local Pretreatment Requirements.

- b. **Specific prohibitions.** In addition, the following pollutants shall not be introduced into a POTW:
1. Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Part 261.21;
 2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such Discharges;
 3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
 4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW; and
 5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C(104°F) unless the Regional Board, upon request of the POTW, approves alternate temperature limits.
 6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
 7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- c. **When specific limits must be developed by a POTW.**
1. POTWs developing POTW Pretreatment Programs pursuant to 40 CFR Part 403.8 shall develop and enforce specific limits to implement the prohibitions listed in paragraphs a. and b. of this provision.
 2. All POTWs shall, in cases where pollutant contributed by user(s) result in interference or pass through, and such violation is likely to recur, develop and enforce specific effluent limits for industrial user(s), and all other users, as appropriate, which, together with appropriate changes in the POTW treatment plant's facilities or operations, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices.
 3. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.
- d. **Local limits.** Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with paragraph c. above, such limits shall be deemed Pretreatment Standards for the purposes of Section 307(d) of the Clean Water Act. [40 CFR Parts 403.5 (a) through (d)].