CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

ORDER NO. R3-2010-0036
(Adopted September 2, 2010)

GENERAL CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE MANAGEMENT OF PETROLEUM-IMPACTED SOILS AT AUTHORIZED WASTE PILE MANAGEMENT FACILITIES ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

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

1. Oil mining, production, and delivery operations generate large volumes of soils degraded by petroleum hydrocarbons and non-hazardous spent sandblasting aggregates. Oil-field operators need areas to temporarily store waste soils, treat and process them for reuse or disposal. This General Waste Pile Waiver conditionally authorizes the operation and management of Waste Pile Management Facilities on "active" oil leases and fee properties. Authorized Waste Pile Management Facilities will serve as staging areas for waste soil screening and storing while chemistry analytical data is obtained to make decisions about the ultimate treatment, disposal or reuse options for the impacted soil material. If Waste Pile Management Facilities are managed properly, with well-established and maintained erosion and run-on/off control Management Practices, petroleum-impacted soils will not pose a significant threat to Water Quality.

2. California Water Code (CWC) § 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board.

3. Many wastes generated at oil exploration and production facilities are exempt from regulation as hazardous wastes by the United States Environmental Protection Agency (USEPA) and CalEPA's Departement of Toxic Substances Control (DTSC). *DTSC Management Memo #EO-94-015-MM* (**Attachment A**) adopts the federal Comprehensive Environmental Response, Compensation and Liability Act petroleum exclusion and grants a variance from hazardous waste management requirements for petroleum, crude oil and fractions of crude oil. The Water Boards have jurisdiction to order cleanup at sites where contamination, including unrefined and refined petroleum, threatens water quality.

4. CWC § 13263(a) states that Water Boards shall prescribe requirements for existing and proposed waste discharges in their respective areas of jurisdiction that could affect water quality. Title 27, Division 2 of the California Code of Regulations (Title 27) sets forth requirements for waste piles.

5. CWC § 13267 (Investigations; inspections) states:

(a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

6. CWC § 13269(a) states:

(1) On and after January 1, 2000, the provisions of subdivisions (a) and (c) of § 13260, subdivision (a) of § 13263, or subdivision (a) of § 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to § 11125 of the Government Code.

(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall 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 monitoring requirements, the regional 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-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

(3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

7. Pursuant to CWC § 13269, waivers may be granted for discharges to land and may not be granted for point source discharges to surface waters or conveyances thereto.

8. In accordance with CWC § 13269, the Water Board shall regulate discharges of unrefined and refined petroleum-impacted soils at Waste Pile Management Facilities through the requirements of this general conditional waiver, or, for petroleum-impacted waste pile operations that are not eligible for this waiver, through individual waste discharge requirements (WDRs) or individual conditional waivers.

9. Relevant factors in determining whether a waiver is in the public interest include the following:

   a. Whether the Discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
   b. Whether a feasible treatment method exists to control the pollutants in the discharge;
   c. Whether the waiver will have other positive environmental effects; and
   d. Whether conditionally waiving ROWDs and/or WDRs will adequately protect beneficial uses while allowing the Water Board to utilize more of its scarce resources to conduct field oversight, public outreach and, where necessary, enforcement.

10. **Basin Plan -** The Water Quality Control Plan, Central Coast Basin (Basin Plan), was adopted by the Water Board on September 8, 1994, and approved by the State Water Board on November 17, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of surface and groundwater throughout the Region. This General Waiver requires Dischargers to comply with all applicable provisions of the Basin Plan.

11. This General Waiver establishes minimum standards for maintenance and monitoring of Waste Pile Management Facilities. This Waiver requires each Discharger to comply with any more stringent relevant standards in the Basin Plan. In the event of a conflict between the provisions of this Waiver and the Basin Plan, the more water quality protective provision will prevail.

12. **Beneficial Uses --** The Basin Plan (1994) identifies the following present and anticipated beneficial uses of the groundwater underlying the oil field areas where the Waste Pile Management Facilities will be located:

    a. Municipal and domestic supply,
    b. Agricultural supply,
    c. Industrial process and service supply.

13. Existing and potential beneficial uses of surface waters within the Central Coast region are specified by water body, in Table 2-1 of the Basin Plan. Surface waters that do not have beneficial uses designated in Table 2-1 of the Basin Plan have potential beneficial uses of municipal and domestic water supply, and recreation and aquatic life.

14. The Water Board, in establishing the requirements contained herein, considered factors including, but not limited to the following:

    a. Past, present, and probable future beneficial uses of water.
    b. Environmental characteristics of the hydrologic unit under consideration, including the quality of water available thereto.
    c. Water quality conditions that could reasonably be achieved through the coordinated control of all factors, which affect water quality in the area.
    d. Economic considerations.
    e. Beneficial uses to be protected and water quality objectives reasonably required for that purpose.
    f. Other waste discharges.
    g. The need to prevent nuisance.

15. Monitoring and Reporting Program No. R3-2010-0036 (hereafter "**MRP No. R3-2010-0036**") is part of this General Waiver and is included as **Attachment B**. MRP No. R3-2010-0036 requires the Discharger to perform regular monitoring and reporting of surface water quality. MRP No. R3-2010-0036 may be modified by the Executive Officer to fit site-specific conditions. The monitoring and reporting requirements, including requirements to submit monitoring reports, are necessary to assess compliance with the conditions of the General Waiver and to determine whether and to what extent each Waste Pile Management Facility is impacting waters of the state and to ensure clean closure.

16. **Anti-Degradation** – This Order is consistent with the provisions of State Water Resources Control Board (State Water Board) Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California." Water Boards, in regulating the discharge of waste, must maintain high quality waters of the state unless it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a Water Board's policies. This conditional Waiver will result in improved water quality throughout the region. Dischargers must comply with all applicable provisions of the Basin Plan, including water quality objectives, and implement Management Practices to prevent pollution or nuisance and to maintain the highest water quality consistent with the maximum benefit to the people of the state. The conditions of this Waiver will protect high quality waters.

17. **California Environmental Quality Act (CEQA) and Other Legal References** - The Central Coast Water Board is initiating the project of issuing a general waiver of WDRs for oil field Waste Pile Management Facilities. The action to adopt this General Waiver is intended to maintain or improve water quality. This General Waiver contains conditions (Attachment "C") intended to protect the environment by mitigating or avoiding impacts to water quality and the environment. This General Waiver is for existing and future oil field Waste Pile Management Facilities. Existing Waste Pile Management Facilities are exempt from provisions of the California Environmental Quality Act (Public Resources Code, § 21000, et seq.) in accordance with Title 14, California Code of Regulations, Chapter 3, § 15301. Future projects shall comply with the California Environmental Quality Act pursuant to direction from the local lead agency.

18. The Central Coast Water Board followed appropriate procedures to satisfy the environmental documentation requirements of CEQA. In Resolution R3-2005-089, the Central Coast Water Board approved an Initial Study and adopted a Negative Declaration for this project in accordance with CEQA and the CEQA Guidelines (Title 14, California Code of Regulations, § 15000 et seq.). The Negative Declaration concludes that the waiver of WDRs for the specific types of waste pile management facilities addressed by this Order will not have a significant impact on the environment. Copies of the Negative Declaration were transmitted to all agencies and persons known to be interested in this matter according to the applicable provisions of CEQA.

19. This Order requires the Discharger to implement practices to control water quality impacts, including erosion and sedimentation. Local ordinances also require various controls. The conditions of this Order protect beneficial uses by:

    a. Prohibiting pollution, contamination or nuisance;
    b. Requiring monitoring and compliance with applicable water quality control plans and Title 27;
    c. Requiring the Discharger to grant access to Central Coast Water Board staff to perform inspections.

20. The Central Coast Water Board finds that the adoption of "General Conditional Waiver of WDRs for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region" will not have a significant impact on the environment and will be in the public interest provided that dischargers:

    a. Comply with the conditions of this Order;
    b. File with the Central Coast Water Board the applicable eligibility documents as described herein, to demonstrate that compliance with the waiver conditions will be achieved; and
    c. Comply with applicable State Water Board and Central Coast Water Board plans and policies and as those plans and policies may be amended from time to time through the amendment process.

21. Pursuant to CWC § 13269, the action of waiving the issuance of WDRs for certain specific types of discharges (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Coast Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.

22. A waiver of WDRs for this type of discharge may be superseded by the adoption by the State Water Board or Central Coast Water Board of specific WDRs or general WDRs for that type of discharge.

23. Requirements of this Waiver include Management Practices to minimize water quality impacts. Management Practices that control erosion and sedimentation and contain storm water runoff are more feasible and more effective than treatment methods and will be required. Waste Pile Management Facilities must be equipped with features that will ensure full and complete containment of the waste for the

treatment or storage period. The waiver protects the environment because it encourages the appropriate management of petroleum-impacted soils by providing a staging area where waste soils may be temporarily stored while they are screened and analyzed to make environmentally sound decisions about the ultimate treatment, disposal or reuse options. The adoption of the waiver is also in the public interest because it includes conditions that will reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the state; and it contains more specific and more stringent conditions for protection of water quality compared to existing regulatory programs.

24. The issuance of this Order establishing a General Waiver of WDRs is consistent with the goal to provide water resources protection, enhancement, and restoration, while balancing economic and environmental impacts, as stated in the Strategic Plan of the State Water Board and the Central Coast Water Board.

25. **Attachment "C"** to this Order identifies the types and conditions of discharges for which a waiver of WDRs is granted by this Order. These discharges will not have a significant effect on the quality of waters of the state provided the corresponding criteria and conditions are met.

26. Waiving WDRs for the discharge of petroleum-impacted soils at authorized Waste Pile Management Facilities, as defined and conditioned in **Attachment "C,"** is in the public interest.

27. The adoption of General Waiver of WDRs for managing petroleum-impacted soils at authorized Waste Pile Management Facilities will assist in:

    a. Protecting groundwater and surface waters of the state from pollution or contamination.
    b. Simplifying and expediting the application process for the Discharger.
    c. Reducing Central Coast Water Board time preparing and considering individual waivers for individual waste pile projects.

28. Issuance of this Waiver does not preempt or supersede the authority of municipalities, flood control agencies, or other federal, state or local agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.

29. On **June 3, 2010,** the Central Coast Water Board notified the Dischargers and interested agencies and persons of its intention to issue a general conditional waiver of WDRs for the discharge. All parties known to be interested in this matter were provided with a copy of the proposed General Order and an opportunity to submit written views and comments.

30. On September 2, 2010, the Central Coast Water Board held a public hearing and considered all the evidence concerning this matter. Notice of this hearing was given to all interested parties in accordance with the California Code of Regulations, Title 14, § 15072.

THEREFORE, IT IS HEREBY ORDERED:

1. In accordance with CWC § 13269, the waste discharges related to the operation and management of petroleum-impacted soils at authorized Waste Pile Management Facilities, that are not subject to individual conditional waivers or WDRs, shall be regulated by this Order, and WDRs are hereby waived subject to the waiver conditions outlined in **Attachment "C"** to this Order. The Central Coast Water Board will regulate discharges of petroleum-impacted soils at Waste Pile Management Facilities by implementing the conditions of **Attachment "C."**

2. Applicants seeking enrollment in this Waiver shall submit a report of waste discharge (ROWD) or other application form approved by the Executive Officer that provides sufficient information to demonstrate that compliance with waiver conditions can and will be achieved. This Waiver shall not take effect as to a particular Waste Pile Management Facility until the Executive Officer approves the application. The application shall serve as the ROWD under CWC § 13260.

3. Enrollment in the General Waiver shall terminate for cause, including, but not limited to, the following, upon written notice from the Executive Officer:

   a. Violation of any terms or conditions of this General Waiver.
   b. Obtaining enrollment in this General Waiver by misrepresentation or failure to fully disclose all relevant facts.

4. The Executive Officer may revoke or terminate the applicability of the general conditional waiver requirements to any petroleum-impacted waste pile activities at any time when the waste pile management activities could adversely affect the quality or beneficial uses of the waters of the State. The Central Coast Water Board may terminate this Waiver in its entirety or for any type of discharge or any specific discharge at any time.

5. The Discharger shall comply with all requirements of the Executive Officer pursuant to Monitoring and Reporting Program (MRP) No. R3-2010-0036.

6. The Discharger shall comply with all requirements of applicable water quality control plans and these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Central Coast Water Board and approved by the State Water Board, and water quality control plans and policies adopted by the State Water Board.

7. It is not necessary at this time to adopt individual or general WDRs for waste discharges related to Waste Pile Management Facility activities that meet the eligibility criteria specified in this General Waiver.

8. This Waiver shall terminate on September 2, 2015, unless this Waiver is extended by Central Coast Water Board action. Dischargers who have gained eligibility under the general conditional waiver requirements prior to September 2, 2010, may continue the discharge until September 2, 2015, unless the Central Coast Water Board terminates this Waiver before September 2, 2015, or its applicability to a specific discharge is terminated by the Executive Officer or the Central Coast Water Board.

9. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC § 13263. Authorization to discharge waste is conditioned upon the Discharger complying with provisions of Division 7 of the California Water Code and with any more stringent limitations necessary to implement the Basin Plan, to protect beneficial uses, and to prevent nuisance. Compliance with this General Waiver should ensure conditions are met and mitigate any potential changes in water quality due to the project.

10. The discharge of any waste not specifically regulated by the general conditional waiver described herein is prohibited unless the Discharger complies with CWC § 13260(a) and the Central Coast Water Board either issues WDRs pursuant to CWC § 13263 or an individual waiver pursuant to CWC § 13269 or the time frames specified in CWC § 13264(a) have elapsed.

11. As provided by CWC § 13350(a), any person who, in violation of any waiver condition, discharges waste, or causes or permits waste to be deposited where it is discharged, into the Waters of the State, is subject to administrative or civil liability for the violation.

12. Upon receipt of notice of termination of waiver applicability, the Discharger shall immediately cease all activities related to the discharge of petroleum-impacted soils at Waste Pile Management Facilities. Upon notice of termination, the Discharger shall initiate site closure activities by filing a report of waste discharge and application fee.

13. "Discharger" means the property owner (surface rights owner) and, if not the same person or entity, the operator of the oil field lease or fee property.

14. "Active Oil Field" refers to any lease or fee property located within an active oil field. An active oil field is a lease or fee property that has not received formal closure approval from the Regional Board, DOGGR, and the local regulatory agency with jurisdictional authority.

15. The term "Waste Pile" means any pile of petroleum-impacted earthen materials, including non-hazardous spent sandblasting aggregates. Petroleum-impacted soils include soil, silt, sand, clay and rock, unrefined "crude" oil, a variety of refined petroleum products, and to a lesser degree, chemical solvents, stabilizers, acids, metals, anti-fouling biocides, anti-rust and corrosion-inhibiting compounds.

16. The term "Waste Pile Management Facility" means any Executive Officer approved staging area for the purpose of screening petroleum-impacted materials.

17. The term "Management Practices" means a practice, or combination of practices, that is the most effective and feasible means of controlling pollution generated by point or nonpoint sources for the attainment of water quality objectives.

18. The definition of all other undefined terms used in this Order shall be as set forth in the California Water Code.

19. The General Conditional Waiver shall become effective on September 2, 2010, and shall expire on September 2, 2015, unless terminated or renewed by the Central Coast Water Board.

I, Roger W. Briggs, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of the General Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on **September 2, 2010**.

Roger W. Briggs
Executive Officer

9-2-10
Date

ATTACHMENTS:

Attachment A: Department of Toxic Substances Control Management Memo #EO-94-015-MM.

Attachment B: Monitoring and Reporting Program No. R3-2010-0036 for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region.

Attachment C: Waiver Conditions for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region.

ATTACHMENT A

SITE MITIGATION PROGRAM

MANAGEMENT MEMO

MANAGEMENT MEMO: EO-94-015-MM (Supersedes OPP 92-2/EO-92-001-PP)

TITLE: Interpretation of the Petroleum Exclusion (Health and Safety Code section 25317)

AFFECTED PROGRAMS: Site Mitigation
Permitting
Surveillance and Enforcement
Office of Legal Counsel

PURPOSE:

This memo supersedes and rescinds the prior Department of Toxic Substances Control Program Policy and Procedure concerning the Departmental Interpretation of the Petroleum Exclusion (OPP 92-2/EO-92-001-PP) dated July 10, 1992. This memo implements the California Court of Appeal's ruling in KFC Western, Inc., v. Meghrig (1994) 23 Cal.App. 4th 1167. The KFC Western decision does not impact the Department of Toxic Substances Control's (Department's) continuing authority to regulate petroleum-contamination which is a hazardous waste under the Hazardous Waste Control Law (HWCL), Chapter 6.5, (commencing with section 25100), Division 20 of the Health and Safety Code.

BACKGROUND:

The Department has the authority to respond to and enforce the cleanup of hazardous substance releases pursuant to the Hazardous Substance Account Act (HSA Act), Chapter 6.8 (commencing with section 25300), Division 20 of the Health and Safety Code. The HSA Act contains a "petroleum exclusion" which provides that the term "hazardous substance" does not include "[p]etroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance ...." (Health and Safety Code section 25317.)

Previously, the Department applied an interpretation of the exclusion which was more stringent than the federal Environmental Protection Agency's interpretation of a similarly worded exclusion under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. section 9601 et seq. The Department's more stringent interpretation provided that although unrefined petroleum and crude oil were excluded

from regulation, once petroleum and crude oil were refined, the refined petroleum was subject to state regulation if it was a specifically listed hazardous substance or if it contained specifically listed hazardous substances.

In March of 1994, the California Court of Appeal for the Second Appellate District reviewed and expressly rejected the Department's interpretation in KFC Western. The Court held that the petroleum exclusion set forth in Health and Safety Code section 25317 applies to refined petroleum products such as gasoline. Thus, like CERCLA, the HSA Act excludes regulation of refined petroleum. This means that the Department no longer has the authority to respond to or enforce the cleanup of releases of refined petroleum products, except in the situations where the Department is able to assert its authority under Chapter 6.5, or in situations where the release may be subject to regulation as discussed below.

ACTION:

Henceforth, the Department will apply the "petroleum exclusion" in Chapter 6.8, Division 20 of the Health and Safety Code in a manner which is consistent with the decision in KFC Western.

Releases Excluded From Regulation

Petroleum, crude oil and fractions of crude oil are not hazardous substances for purposes of Chapter 6.8. Because they are not hazardous substances the Department does not have the authority under Chapter 6.8 to regulate sites contaminated solely with petroleum, crude oil or fractions of crude oil unless the material is specifically listed or designated as a hazardous substance under Health and Safety code sections 25316 (a) - (f). Crude oil fractions include, but are not limited to, gasoline, jet fuel, diesel fuel, asphalt and other refined petroleum products. These crude oil fractions are excluded from Chapter 6.8 even if they contain listed hazardous substances such as toluene, benzene, or PNA/PAHs, which are indigenous to the petroleum. Crude oil fractions are also excluded from Chapter 6.8 if they contain hazardous substances which are normally mixed with or added to the petroleum or crude oil fractions during the refining process. The exclusion also applies to crude oil fractions which contain indigenous hazardous substances, the concentrations of which may have increased during the refining process.

Releases Subject to Regulation

Hazardous substances which are added to petroleum, crude oil, or crude oil fractions after the refining process, or hazardous substances which increase in concentration solely as a result of contamination of the petroleum during use, are not part of the petroleum, crude oil or crude oil fractions and thus are not excluded from regulation by the petroleum exclusion contained in the HSA Act. The Department will continue to regulate petroleum, crude oil, or crude oil fractions which have been contaminated by use. This means that petroleum products which contain hazardous substances which have been added to or mixed with the product during or after use are subject to regulation. In addition, materials, such as waste oil, which contain hazardous substances such as heavy metals as a result of use, are subject to regulation under the HSA Act.

If a hazardous substance release and a petroleum product release are so commingled that, as a practical matter, they cannot be separated, then the entire release would come under the HSA Act's jurisdiction.

Finally, it is again emphasized that the Department has the authority under the HWCL, Chapter 6.5 of the Health and Safety Code, to regulate petroleum-contaminated sites if there are listed or characteristic hazardous wastes present at the site.

Case Examples

The following examples have been provided to assist program staff in determining whether a particular petroleum release is excluded from regulation under the HSA Act. Although these examples are based on federal court decisions interpreting CERCLA, the same reasoning can be applied in determining whether a particular petroleum release is within the HSA Act's jurisdiction.

--The Department has no authority under Chapter 6.8 to regulate releases of refined and unrefined gasoline which contain components and additives which are designated hazardous substances that were added during the refining process. (See, Wilshire Westwood Assoc. v. Atlantic Richfield (1989) 881 F.2d 801.)

--The Department has no authority under Chapter 6.8 to regulate releases of petroleum fuels, heating oil, kerosene, aviation gasoline, jet fuel or diesel fuel which are unused products and have not been contaminated through use. (See, Zoufal v. Amoco Oil Co. 1993 U.S. Dist. Lexis 4920; Equitable Life Assurance Society v. Greyhound 1990 U.S. Dist. Lexis 762; Bunger v. Hartman (1992) 797 F.Supp. 968.)

--The Department has authority under Chapter 6.8 to regulate releases of waste oil containing aged gasoline, trichloroethylene, and 1,1,1 trichloroethane which comes from an oil re-refining process whereby waste oil from the automotive industry is processed to produce a product equivalent to virgin lube oil. (See, Lockhart Chemical Co. v. Moreco Energy 1192 U.S. Dist. Lexis 19404.)

--The Department has authority under Chapter 6.8 to regulate crude oil tank bottoms. Tank bottoms are not "petroleum", in that they are water and sedimentary solids which settle out of crude oil and create a layer of waste at the bottom of tanks which accumulates naturally before the crude oil reaches the refinery. The court noted that the tank bottoms are intended for waste discard rather than for reuse. (See, Cose v. Getty Oil Co. (1993) 4 F.3d 700.)

--The Department has authority under Chapter 6.8 to regulate releases of the sludge (consisting of petroleum residue, sand, rust, chromium, nickel and lead) from leaded gas storage tanks, diesel oil tanks and unleaded gas tanks. Rust which collects in tanks during storage constitutes contamination through use. The Department can also regulate releases of the waste oil resulting from rinsing and cleaning oil storage tanks, because nickel and chromium oxides scraped from the tank interiors and added to the waste oil during the cleaning process constitute contamination by use. (See, U.S. v. Western Processing Co., Inc. (1991) 761 F. Supp. 713.)

--The Department has authority under Chapter 6.8 to regulate a release of an oil/water emulsion that averages 5% oil (containing lead, cadmium, chromium and other metals), used as a coolant for machinery in a manufacturing process. The lead, cadmium, chromium,

copper aluminum and zinc occurred in increased concentrations in the waste oil as a result of use. (See, New York City v. Exxon Corp. (1990) 744 F.Supp. 474.)

--The Department has authority under Chapter 6.8 to regulate releases of petroleum where hazardous substances in the petroleum are found at concentration levels which exceed the concentration levels of the hazardous substances attributable to the refining process. (See, Washington v. Time Oil Co. (1988) 687 F.Supp. 529.)

--The Department has authority under Chapter 6.8 to regulate releases from underground storage tanks containing gasoline, diesel and waste oil where soil samples reveal elevated levels of zinc, lead and thallium beyond those concentrations found in unadulterated petroleum products. (See, Mid Valley Bank v. Time Oil Co. (1991) 764 F. Supp. 1377.)

--The Department has authority under Chapter 6.8 to regulate releases of fuel oil mixed with creosote leaked from a wood treating processing plant. (See, U.S. v. Amtreco (1994) 846 F.Supp. 1578.)

Future Release Sites

The Department should not undertake work on any new sites which are excluded by the petroleum exclusion. The Regional Water Quality Control Boards (RWQCB) and the State Water Resources Control Board (SWRCB) have jurisdiction to order cleanup at sites where contamination, including refined petroleum, threatens water quality. At any new site where the Department does not have jurisdiction under Chapter 6.8 because of the petroleum exclusion, the Department should determine whether it has authority to regulate the site under Chapter 6.5. In the absence of Chapter 6.5 authority, the site should be referred pursuant to the August 1, 1990, Memorandum of Understanding (MOU) between the Department and the SWRCB or any other applicable agreement between the Department and that agency.

At Department of Defense sites, the SWRCB's regulatory authority is to be utilized for the remediation of petroleum-contamination. The Department shall continue to be the designated lead responsible for providing general oversight and coordination.

The Department is reviewing existing sites on which it is currently working and will make a determination as to whether these sites should be referred to the appropriate RWQCB.

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ATTACHMENT B
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

GENERAL MONITORING AND REPORTING PROGRAM NO. R3-2010-0036 FOR THE MANAGEMENT OF PETROLEUM-IMPACTED SOILS AT AUTHORIZED WASTE PILE MANAGEMENT FACILITIES ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

A. SITE INSPECTIONS AND OBSERVATIONS

The Discharger shall inspect all waste piles, treatment and/or processing areas (Waste Pile Management Facility) according to the following schedule, recording, at a minimum, the following standard observations.

1. Site Inspection Schedule:
During the rainy season **(October 1 through April 1),** visual observations shall occur during scheduled facility operating hours and daylight hours. Visual observations are not required during adverse climatic conditions. The Discharger shall perform a minimum of one inspection prior to, during, and after the rainy season, or at any time a failed management measure and/or discharge is reported or observed.

2. Standard Observations: Standard observations shall be performed as follows:

a. Along the perimeter of the Waste Pile Management Facility:
   i. Evidence of liquid leaving or entering the project area, estimated size of affected area, and flow rate (show affected area on map).
   ii. Evidence of erosion and/or sedimentation.
   iii. Inspection around the entire perimeter of the Waste Pile Management Facility to ensure the integrity of all containment features (e.g., berms) is maintained during wet seasons.

b. Within and around the Waste Pile Management Facility boundary:
   i. Evidence of ponded water at any point on or adjacent to a waste pile, treatment or processing area (show affected area on map).
   ii. Evidence of erosion and/or sedimentation in the immediate vicinity of a waste pile, treatment or processing area.

B. DATA LOGGING AND REPORTING REQUIREMENTS

1. LOGBOOKS: The Discharger shall maintain logbooks for recording all visual and water analysis data. Logbooks shall include documentation of maintenance and repair of management practices. These logbooks shall be available for inspection to Central Coast Regional Water Quality Control Board (Central Coast Water Board), Santa Barbara County, and Division of Oil and Gas and Geothermal Resources (DOGGR) staff.

2. If at any time offsite erosion or washout (storm water, sediments, etc.) is observed, the Discharger shall determine and identify the failed management measures and/or source of discharge. Management measure failure is defined as: 1) whenever an implemented management measure creates a condition of pollution, contamination, or condition of nuisance, as defined by California Water Code (CWC) § 13050, or 2) when lack of implementation of a necessary management measure creates a condition of pollution, contamination, or condition of

nuisance, as defined by CWC § 13050.

3. If management measures fail, the Discharger shall photo[1] document them and shall implement management practices immediately to prevent discharge and impacts to water quality.

4. **ANNUAL REPORT:** Unless otherwise indicated, the reporting period shall be July 1st through June 30th. By October 1 of each year, the Discharger shall submit an Annual Report to the Water Board summarizing all preparedness measures performed to ensure discharges to surface or groundwater do not occur during the impending rainy season, and ensure all relevant Management Practices have been successfully implemented. The Annual Report shall include the following information:

   a. A status of active Waste Pile Management Facility operations. This section must include an accounting of all petroleum-impacted soils placed within the Waste Pile Management Facility including:

      i. The source(s) of all materials imported;
      ii. The approximate volume (cubic yards) of materials imported;
      iii. The approximate volume of all materials processed (i.e., volume that meets reuse standards, require offsite disposal or require further processing and treatment);
      iv. The results of all soil chemical characterization performed.

   b. A summary of all Management Practices implemented in preparation for the upcoming rainy season. Specifically, describe any actions taken to reduce or prevent pollutants in storm water discharges escaping from or flowing in to the Waste Pile Facility boundary.

   c. An evaluation of the previous year's Management Practices implemented and their effectiveness. Provide a description of any changes/improvements or planned activities that will be implemented based on the previous year's observation of wet weather problems.

   d. Visual storm water observations and observation dates.

   e. Stabilization and erosion control measures implemented.

   f. A summary of all violations.

   g. A summary of all standard observations performed.

   h. A summary of the actions implemented for the protection of water quality and beneficial uses.

   i. Documentation of rainfall amounts, measurement procedures, and locations. If requested to do so, the Discharger shall use data from the nearest atmospheric station to provide all requested rainfall data pertinent to the Waste Pile Management Facility.

   j. A summary of the water quality monitoring performed during the previous year. A location map showing the sampling locations must be provided. All water quality data collected must be presented in table form and copies of the certified analytical reports and chain of custody forms for all analyses performed must be included.

[1] Monitoring photos need to be of sufficient quality to record the effectiveness of the implemented measure.

k. Recommendations for improving the monitoring and reporting program.

l. Maps:
   i. A map or aerial photograph clearly showing the locations of all monitoring locations (if any) and relevant physical features (e.g. drainage ways, hills, roads, buildings).
   ii. A map showing the area(s), in which waste materials have been placed and the location(s) of waste pile projects completed during the previous calendar year.

m. Laboratory Results:
Laboratory statements, concerning the results of all analysis, demonstrating compliance with the most recent Executive Officer approved sampling protocol. Additionally, results of all sampling and analysis performed, outside the requirements of this monitoring and reporting program, shall be summarized and reported. The following information must also be presented:
   i. All monitoring analytical data obtained during the previous year, presented in tabular form and electronic format.
   ii. The evaluation and interpretation of all available data.

5. Electronic Data Submittals: The Annual Report must be submitted electronically to the State Water Resources Control Board GeoTracker program. https://geotracker.waterboards.ca.gov/

6. The Discharger shall maintain records of all monitoring information and results. Records shall be maintained for a minimum of three years. This period may be extended during the course of any unresolved litigation or when requested by the Water Board.

7. The Central Coast Water Board Executive Officer may modify or rescind this Monitoring and Reporting Program at any time, or may modify or rescind the monitoring and reporting program as to a specific discharger. Any such modification or rescission must comply with CWC §13269.

PHOTO-POINT MONITORING POINTS Photo-point monitoring points shall be at locations within and outside the Waste Pile Management Facility boundary where petroleum-impacted soil storage or processing activities have the greatest risk of potential discharge (sites may be established by Central Coast Water Board Executive Officer during or after the pre-winter inspection). All photo-point monitoring points shall be documented in the logbooks. Monitoring photos need to be of sufficient quality to record the effectiveness of the implemented management practice.

C. NOTIFICATION REQUIREMENTS

The Discharger is responsible for ensuring that all monitoring is done in a safe manner. The Discharger shall notify the Executive Officer within 48 hours by telephone or e-mail and within 14 days in writing, of:

1. Any noncompliance potentially or actually endangering health or the environment.

2. Any flooding, equipment failure, or other change in site conditions, which could impair the integrity of the site or any portion thereof.

3. Any time the Discharger observes a discharge (sediment, soil, other organic material, fluids [oil, hydraulic fluid, etc], from the Waste Pile Management Facility). The Discharger shall immediately correct the source(s) of the discharge if possible, or schedule corrective action at an appropriate time given the site conditions. The written report shall include photo documentation, water quality data, and the management measures or corrective actions and a description of their effectiveness. Upon review of the written report, the Central Coast Water Board Executive Officer will determine

completeness of the report and the need for additional actions necessary for the protection of water quality and beneficial uses.

4. VIOLATIONS: Any violation of the waiver conditions: The written report shall include photo documentation and water quality data (if discharge enters waters of the state) before and after remedial action. Upon review of the report, the Central Coast Water Board Executive Officer will determine completeness of the report and the need for additional actions necessary for the protection of water quality and beneficial uses. The Discharger shall complete any additional monitoring the Executive Officer determines is necessary.

All reports required in this monitoring and reporting program are required pursuant to CWC § 13267. Pursuant to CWC § 13268, a violation of a request made pursuant to CWC § 13267 may subject you to civil liability of up to $1,000 per day for each day in which the violation occurs. The Central Coast Water Board will base all enforcement action, pursuant to this General Waiver, on the date the General Waiver becomes effective. The Central Coast Water Board needs the requested information to evaluate the overall water quality improvements resulting from implementation of the conditional Waiver. The information will ensure that compliance with the conditions of this Waiver is achieved.

ORDERED BY

Roger W. Briggs
Executive Officer

9-2-10
Date

S:\Site Cleanup Program\Non-site specific Issues\HC soils reuse\Oil Field Waivers\2010 - Oil Field Orders\Waste Pile\General Waste Pile MRP No. R3-2010-0036 revised 7-2010.docx

ATTACHMENT C

WAIVER CONDITIONS FOR THE MANAGEMENT OF PETROLEUM-IMPACTED SOILS AT AUTHORIZED WASTE PILE MANAGEMENT FACILITIES ON ACTIVE OIL FIELD LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

GENERAL WAIVER CONDITIONS

The following conditions apply to all discharges enrolled in the General Waste Pile Management Waiver in accordance with Order No. R3-2010-0036, as of the adoption date of this Order:

A. Prohibitions

1. Discharge of materials classified as "hazardous," as defined in California Code of Regulations (CCR), Title 23, § 2521, or hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to § 25143 of the Health and Safety Code, or hazardous materials and hazardous wastes defined per CCR Title 22, Division 4, Chapter 30, and Article 1-1, or Resource Conservation and Recovery Act hazardous waste defined per 42 USCA § 6903, or chemical substances or mixtures regulated under § 6 of the Toxic Substances Control Act (15 USCA § 2605), is prohibited.

2. Any discharge of waste to land, except at a licensed disposal facility that is not specifically authorized by this Waiver or individual waste discharge requirements, is prohibited. Discharge to areas outside the boundary of the designated Waste Pile Management Facility as approved by the Executive Officer is prohibited. The Discharger shall identify the proposed Waste Pile Management Facility boundaries in its report of waste discharge (ROWD) and shall provide survey locations for the facility boundaries. When these limits are identified to the satisfaction of the Executive Officer, these coordinates will define the limits of the corresponding Waste Pile Management Facility boundary for the purposes of this prohibition.

3. Petroleum-impacted soil stockpiling and/or establishment of a treatment/processing area of petroleum-impacted soils and spent aggregates without written notification and full disclosure of the proposed activities to the property owner, a copy of which must be provided to the Water Board, is prohibited.

4. Discharge and treatment of petroleum impacted soils and spent sandblasting aggregates within five feet of the highest anticipated elevation of underlying groundwater (including perched water) is prohibited.

5. Creation of a condition of pollution, contamination, or nuisance, as defined by California Water Code (CWC) § 13050, is prohibited.

6. Activities posing a threat to public health and safety or water quality are prohibited.

7. Discharge of waste, other than petroleum-impacted soils and spent sandblasting aggregates, is prohibited, except in compliance with CWC § 13264.

8. Discharge of radioactive substances or chemical and biological warfare agents is prohibited.

9. Discharge (including overflow, bypass, seepage, erosion, sediment deposition and over spray) of solid waste, liquid waste or leachate to ponded water or waters of the State, including surface water, perched water, ephemeral drainages or groundwater, is prohibited.

10. Permanent disposal (e.g., landfilling) under the authority of this General Waiver is prohibited.

11. The placement of permanent inhabited structures on petroleum-impacted materials is prohibited.

12. The discharge of petroleum-impacted materials to the habitat of a sensitive, special status or candidate species without proper permitting and mitigation is prohibited.

13. The discharge of petroleum-impacted materials shall not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

14. The discharge of petroleum-impacted materials shall not conflict with any applicable habitat conservation plan or natural community conservation plan.

15. The discharge of petroleum-impacted materials shall not cause a substantial adverse change in the significance of a historical or archaeological resource as defined in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.

16. The discharge of petroleum-impacted materials shall not directly or indirectly destroy a unique paleontological resource or sites of unique geologic feature, nor disturb any human remains, including those interred outside of formal cemeteries, as defined in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.

17. Waste Pile Management Facilities shall not be located in the upper parts of known landslides or in landslide prone areas without a prior geologic evaluation.

B. Specifications

1. Design and construction of containment features and monitoring systems shall be approved by the Executive Officer prior to construction. The Discharger shall contact the appropriate city or county planning and building authorities to obtain construction permits, if needed.

2. At termination of this General Order's applicability to the site, the Discharger shall restore the Waste Pile Management Facilities to the same condition as before the discharge and to the Executive Officer's satisfaction.

3. Waste Pile Management Facilities shall be operated so that no pollutants are discharged to surface water or groundwater.

4. Waste Pile Management Facilities shall be designed, constructed, operated and maintained such that precipitation falling directly on the waste piles and/or treatment/processing areas will be contained and managed within the designated waste pile facility boundaries. The

Discharger shall implement Management Practices to effectively control run-on and contain run-off within the facility (including feedstock and product stockpile areas).

6. Waste Pile Management Facilities shall maintain an impervious working area (deck) to prevent stormwater infiltration. Suitable impervious materials must be approved by the Executive Officer and may include a two-feet-thick low permeability soil layer (not greater then 10-6 cm/sec), an adequate thickness of appropriately constructed reuse material or appropriate geologic site conditions.

7. The Discharger shall not violate Basin Plan prohibitions.

8. All liquids used within Waste Pile Management Facilities shall be limited to the minimum amount necessary for dust control, construction, and soil treatment activities. All standing liquids shall be promptly removed and disposed of legally and appropriately. All other liquids shall be appropriately managed or removed within 48 hours.

9. Water collected in any storm water catchment basin may be used in minimum amounts within the Waste Pile Management Facility boundary as necessary for dust control and compaction provided that the water does not infiltrate past a depth where effective evaporation can occur and no discharge from the site (outside the waste management unit containment area) is allowed absent coverage under and compliance with an industrial general permit.

10. By **October 1 of each year**, the Discharger shall complete implementation of all necessary Management Practices and maintenance activities in preparation for the upcoming rainy season (October 1 through April 30), including but not limited to the following:
    - Completion of all necessary run-on and run-off diversion and erosion prevention measures.
    - Completion of all necessary construction (grading), maintenance or repairs of precipitation and drainage control facilities.
    - Ensure the structural integrity and effectiveness of all containment structures are maintained.

11. The Discharger shall empty storage facilities associated with precipitation and drainage control systems immediately following each storm, or otherwise manage storage facilities to maintain the 100-year, 24-hour storm design capacity of the system. The Discharger shall maintain a minimum of two feet of freeboard in all storm water/sediment basins at all times.

12. The Discharger shall repair all Waste Pile Management Facilities with visible erosion damage, cracking, or ponding as soon as practicable.

13. Any applicable exemption from permitting requirements for industrial facilities under the National Pollutant Discharge Elimination System (NPDES) regulations or the Clean Water Act does not exempt Waste Pile Management Facilities from the storm water requirements of this general conditional waiver.

14. The design and construction of Waste Pile Management Facilities including all impervious working areas, and diversionary and containment structures (berms, curbing, etc.) shall be performed by experienced personnel and in accordance with "Good and Workmanlike" construction standards, as determined by oversight agency inspections. Specifications and

plans shall be signed by a principal executive officer of at least the level of vice-president or their duly authorized representative.

15. The Discharger shall promptly chemically characterize (within 90 days) all petroleum-impacted soils placed within authorized Waste Pile Management Facilities for the purpose of determining the appropriate end use of the impacted soils (i.e., which soils meet reuse standards, require offsite disposal or require further processing and treatment). Chemical characterization shall be performed by analyzing a sufficient number of samples and analyzing them for all expected constituents of concern. The Discharger shall specify in its report of waste discharge, the proposed number and analyses needed based on the nature and volume of the impacted soils. Waste piles shall be analyzed for Total Petroleum Hydrocarbons (TPH), full TPH range (gas, diesel, heavy oil), pH, Biotoxicity (fish bioassay), polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenols (PCBs), and California Code of Regulations (CCR) Title 22 metals, with identification of all identified and tentatively identified compounds. Any deviation from the analyses requirements must be supported by appropriate justification.

16. The Discharger shall implement the attached Monitoring and Reporting Program (MRP) No. R3-2010-0036, or any individual MRP issued by the Executive Officer, in order to detect any impacts on waters of the state associated with and or caused by the discharge, past disposal practices and to ensure implementation of all necessary Management Practices and associated maintenance activities.

C. Water Quality Protection Standards

1. Discharge of waste shall not adversely impact the quality of state waters. Discharge of waste shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Water Board or the State Water Board. Discharge of waste shall not cause concentrations of metals, salts, chemicals, hydrocarbons or radionuclides in groundwater underlying and down-gradient of the Waste Pile Management Facility to exceed the State Department of Health Services latest recommended Drinking Water Action Levels or Maximum Contaminant Levels of the California Code of Regulations Title 22, Division 4, Chapter 15, Article 5.5. Discharge of waste shall not cause the concentration of any constituents of concern or monitoring parameter to exceed its respective background value in any monitored media (e.g., surface water or groundwater) at any monitoring point pursuant to MRP No. R3-2010-0036.

2. The Discharger shall install groundwater and surface water monitoring devices, as deemed necessary by the Executive Officer, to comply with this Order.

3. The Discharger is responsible for waste containment, monitoring, and maintenance so long as the waste poses a threat to water quality. The Discharger is also responsible for correcting any problems that may arise in the future as a result of the waste discharged. This responsibility continues as long as the waste has the potential to discharge to or affect waters of the state, as determined by the Executive Officer.

4. Discharge of waste shall comply with all applicable requirements contained in the Basin Plan. If any applicable requirements overlap or conflict in any manner with the requirements of this General Waiver, the most water quality protective requirement shall govern in all cases, unless specifically stated otherwise in this Order.

D. Provisions

1. The Discharger shall maintain records of:
   - Weights or volumes of waste material received
   - Where (specifically, maps and GPS coordinates) the waste material came from and,
   - A complete chemical characterization of the waste soils.

2. The Discharger shall maintain a copy of this General Waiver at the Discharger's local offices and shall be available to on-site operating personnel.

3. The Discharger shall furnish any information that the Executive Officer may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the applicability of this General Waiver. The Discharger shall also furnish to the Executive Officer, upon request, copies of records required to be kept by this General Waiver.

4. The Water Board and its authorized representatives shall be allowed to:
   - Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must he kept under the conditions of this Waiver.
   - Have access to and copy any records that must be kept under the conditions of this Waiver.
   - Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Waiver.
   - Photograph, sample or monitor for the purposes of assuring compliance with this Waiver, or as otherwise authorized by the California Water Code.

5. The Discharger must notify the Water Board when the documents listed below have been placed in or added to the operating record unless an alternate method is approved in writing. All information contained in the operating record must be furnished upon request to the Water Board. The Discharger must compile and maintain the following information (as applicable and appropriate) as it becomes available:
   - Site health and safety plan.
   - Inspection records and training and notification procedures.
   - Results from any monitoring performed,
   - Records of the volumes and sources of materials processed at the Waste Pile Management Facility.

6. The Discharger shall have a continuing responsibility for waste containment, monitoring, maintenance, and to ensure protection of usable waters from discharged wastes, so long as the reuse materials pose a threat to water quality.

7. The Discharger shall furnish the Water Board, within a reasonable time, any information that the Water Board may request to determine compliance with this Waiver.

8. Dischargers seeking coverage by this General Waiver shall submit an application package to the Water Board for Executive Officer approval. This package will serve as a Report of Waste Discharge (ROWD). The Discharger shall provide a minimum of one application package (ROWD) per lease or fee property. Multiple Waste Pile Management Facilities located within a single lease or within the Discharger's existing Business Plan, as defined by

the respective County or Certified Unified Public Agency in which the facility is located, may be addressed in a single ROWD.

The ROWD must contain at a minimum, but not limited to the following information:

a. Source -The source(s) of the petroleum-impacted soil material must be identified by name of the lease or fee property and description of location where material was generated. Include maps and latitude and longitudinal coordinates, if known and when readily available.
b. Facility Location -The proposed Waste Pile Management Facility location must be identified by name of the lease or fee property and a positional description with reference to oil wells or other existing landmarks,
c. A site plan including: i) location; ii) size (acreage) and shape; iii. Limits (physical boundaries) of Waste Pile Management Facility, and iv. Storm water run-on and run-off control device locations.
d. A proposed facility construction plan, which, at a minimum, shall include the facility's topographical contours, all proposed infrastructure, storage, processing, and treatment locations, and proposed liner details.
e. A Compliance Plan -This plan shall describe the proposed strategy/plan of action to achieve compliance with the conditions of the General Waiver and General MRP
f. A schedule for the installation of any proposed monitoring system/devices. If monitoring devices are
g. A proposed Implementation Plan, designed specifically for the proposed water quality-monitoring program and as required by the General MRP, as specified by the Executive Officer.
h. A discussion of the Waste Pile Management Facility and waste characteristics including:
    i. Description of Waste Pile Management Facility's proposed storage, operation, treatment, processing (mixing) and maintenance activities and associated locations for each.
    ii. Description of types of waste handled and proposed processing/screening procedures. This section must include a specific description of the proposed sampling and analyses protocol to be utilized to characterize the petroleum-impacted soil waste piles. This section must also include a description of the proposed soil screening procedures to be used (i.e., criteria and sampling protocol to determine which soils meet beneficial reuse standards, require offsite disposal or require further processing and treatment must be clearly defined).
    iii. Identification of the total volume of waste handling capacity.
    iv. Identification of the expected time period during which petroleum-impacted soils will be handled/processed, reused or disposed at the Waste Pile Management Facility.
    v. Present and future (if known) land use of the Waste Pile Management Facilities
    vi. A topographical scale map showing the location, users and uses of all water wells and surface water bodies (creeks, rivers, lakes, etc.,) located within y, mile of the Waste Pile Management Facility.
    vii. Any other information pertinent to protection of water quality or public health and prevention of nuisance.

i. A proposed Management Practices (MP) Plan addressing the entire Waste Pile Management Facility. The MP Plan shall include the following items:

i. A location map depicting all proposed structural management practices for the entire Waste Pile Management Facility

ii. Proposed non-structural Management Practices. These typically include processes, prohibitions, procedures, activity schedules, etc., that prevent pollutants from contacting storm water discharges. Examples include good housekeeping, preventative maintenance, spill response, material handling and storage, employee training, waste handling, record keeping, inspections, and quality assurance.

iii. Proposed structural Management Practices. These generally consist of structural devices that reduce or prevent pollutants in storm water discharges. Examples may include control devices such as berms, secondary containment structures, and treatments such as erosion and sediment control, inlet controls, vegetative swales, etc.

iv. A liquids management strategy with provided details on how liquid wastes (oily liquids, produced water and storm water) will be managed throughout the active life of the Waste Pile Management Facility. The proposed liquids management strategy must address the intended disposal method(s).

j. Fee -The application shall include a one-time fee corresponding to the lowest "threat" and "complexity" ratings, as identified in the State Water Board's fee schedule.

k. Landowner Notification - copy of the formal notification letter sent to the property landowner noticing the proposed waste pile project.

l. Local Agency Certification – A letter from the local permitting agency with jurisdictional authority certifying that it has permitted the proposed Waste Pile Management Facility.

9. Upon receipt of a complete application (i.e. ROWD), the Executive Officer will notify the applicant of Waiver enrollment if the facility meets the conditions of this Order, or will deny enrollment. The applicant may initiate construction and operation of the Waste Pile Management Facility activities upon receipt of the Executive Officer approval. The Executive Officer will inform the Water Board of all Waiver enrollments in the agenda of its next regularly scheduled hearing.

10. The Discharger shall not discharge waste to the Waste Pile Management Facility before receiving notification from the Executive Officer stating that this General Waiver covers the Waste Pile Management Facility and that an individual conditional waiver is not required. The notification letter will specify the following:

a. Any modification to MRP No. R3-2010-0036 or, if applicable, to the Dischargers existing individual MRP.

b. If applicable, that the Discharger's existing individual MRP (including any necessary modifications) shall continue in force in lieu of MRP No. R3-2010-0036.

11. Where the Discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Water Board, it shall promptly submit such facts or information.

12. By October 1 of each year, the Discharger shall submit an Annual Report summarizing all preparedness measures performed to ensure discharges to surface or groundwater do not occur during the impending rainy season, and ensure all relevant Management Practices (Provision 8.i) have been successfully implemented. The report shall be submitted in accordance with MRP No. R3-2010-0036.

13. The filing of a request by the Discharger for the modification or termination of this Waiver, or notification of planned changes, or anticipated noncompliance, does not stay any condition of this Waiver.

14. Within 60 days following the cessation of waste pile management operations or the effective date of change in property ownership/responsibility, the Discharger shall submit a notice of termination and a facility closure report detailing the proposed facility closure procedures that will ensure the entire facility is restored to its original state. Specifically, the closure report shall outline the proposed steps and implementation schedule to completely remove and appropriately dispose of all petroleum-impacted soils from all storage, treatment, or processing areas. Reuse materials that may have been used as a liner for the facility may be left in-place provided that the surface rights owner agrees with the operator in writing to accept joint and several future liability, including maintenance, monitoring, and if necessary, disposal, for the Reuse materials at the site. Such agreement shall not relieve the operator of any liability the operator would have had absent the written agreement. All Reuse materials that are removed shall be handled and disposed in accordance with applicable local and state requirements in effect at the time of such removal. For those facilities where Reuse materials are to be left in-place, the Discharger shall record a deed notice with the Recorder of the County in which the site is located, that identifies the prior use of the property as an oil field facility where Reuse materials were left in-place. The notice shall include a description of the Reuse materials and a map that identifies the location of the Reuse materials. Confirmation of recordation and a copy of the deed notice shall be provided to the Executive Officer as a condition of final closure and decommissioning approval.

15. The Water Board may require any Discharger covered under this General Waiver to apply for and obtain individual conditional waivers. A Discharger covered under this General Waiver may apply for individual conditional waivers.

16. Discharger shall obtain all required federal, state and local agency permits or variances prior to discharging any waste to the Waste Pile Management Facility.

17. At any time, the Discharger may file a written request (including appropriate supporting documents) with the Water Board Executive Officer, proposing appropriate modifications to the monitoring and reporting program. The Executive Officer shall either incorporate the proposed changes into a revised Monitoring and Reporting Program, or .reject the proposal for reasons listed. The Discharger shall implement any changes in the monitoring and reporting program, upon issuance by the Executive Officer.

19. Except for data determined to be confidential under CWC § 13267(b), all technical reports prepared in accordance with this General Waiver are non-exempt public records and shall be sent by the Discharger to the appropriate local agencies with jurisdictional authority (e.g., County Protective Services Division, County Environmental Health Department, Planning Dept., etc.,) and the Division of Oil, Gas & Geothermal Resources. All reports shall be signed as follows:

a. For a public agency – by either a principal executive officer or ranking elected official*.
b. For a partnership or proprietorship – by a general partner or the proprietor, respectively*.
c. For a corporation – by a principal executive officer of at least the level of a vice-president*.

* or a duly authorized representative. A "duly authorized representative" means a person who has a written authorization from the Discharger to sign the required reports on behalf of the Discharger. The written authorization must be signed by one of the individuals described in a., b., or c.

20. This General Waiver is not transferable. The Discharger shall notify the Water Board in writing of any proposed change in ownership or responsibility of the property where an authorized Waste Pile Management Facility is located. Notification shall be performed by filing a notice of termination within 30 days following the effective date of change in ownership or responsibility. Failure to submit a Notice of Termination shall be considered a violation of CWC § 13264.

21. This General Waiver does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Discharger from liability under federal, State, or local laws, nor create a vested right for the owner and operator to continue the regulated activity.

22. Provisions of this General Waiver are severable. If any provision of this General Waiver is found invalid, the remainder of this General Waiver shall not be affected.

23. Any person signing a document under this Section shall make the following certification:

" 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."

24. The Discharger shall submit reports required under this General Waiver and other information requested by the Executive Officer, to:

Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

25. Except for data determined to be confidential under CWC § 13267(b), all reports and electronic data submissions must be uploaded to the California State Water Resources Control Board GeoTracker database: https://geotracker.waterboards.ca.gov/

26. The Discharger shall comply with all conditions of this General Waiver and any additional conditions prescribed by the Water Board in amendments thereto. Any noncompliance with this Waiver constitutes a violation of the CWC and is grounds for: (a) enforcement action [CWC § 13261, 13263, 13265, 13267, 13268, 13300, 13301, 13304, 13340, 13350]; (b)

termination or modification of this Waiver; or (c) denial of a Report of Waste Discharge in application for a new or revised Waiver.

26. The requirement that the Discharger submit a report of waste discharge is also pursuant to CWC § 13260.. CWC § 13261 states that a violation of a request made pursuant to CWC § 13260 may subject the Discharger to administrative civil liability of up to $1,000 per day.

27. As provided by CWC § 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements; discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.

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