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Description of processes

Give a brief description of your sewage sludge treatment and use/disposal practices

Sludge in the WWTP is collected and pumped to two (2) aerobic digesters. The facility then moves the sludge to a sludge thickener. Sludge is drained from the sludge thickener to three (3) lined sludge drying beds. Dried sludge is stored on site until the District contracts for hauling and disposal.

Describe any changes to your operations, any unique features or operational issues encountered during past year

No changes to the operation.

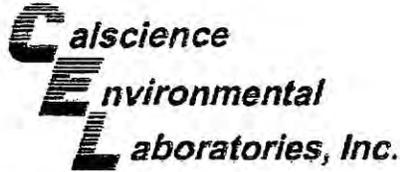
Describe any instances of non-compliance and measures taken to correct it.

The sludge had high levels of Chromium and Copper.

The District intends to proceed with more frequent hauling of the sludge for disposal so that the concentrations of metals do not reach hazardous

concentrations.

Please enter the calendar date when the location data were collected, in mm/dd/yyyy format in the cell to the right (if the date is not known, please type UNKNOWN):



Analytical Report



Liberty Composting, Inc.
P.O. Box 80727
Bakersfield, CA 93380-0727

Date Received: 07/09/12
Work Order No: 12-07-0370
Preparation: T22.11.5. All
Method: EPA 6010B
Units: mg/L

Project: MALAGA CWD

Page 1 of 1

Client Sample Number	Lab Sample Number	Date /Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
MALAGA CWD	12-07-0370-1-A	07/06/12 10:15	Solid	ICP 7300	07/12/12	07/16/12 15:44	120716LA1

Parameter	Result	RL	DF	Qual	Parameter	Result	RL	DF	Qual
Chromium	9.31	0.100	1		Lead	2.94	0.100	1	
Copper	30.2	0.100	1						

Method Blank	097-05-006-6,302	N/A	Aqueous	ICP 7300	07/12/12	07/16/12 15:20	120716LA1
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Parameter	Result	RL	DF	Qual	Parameter	Result	RL	DF	Qual
Chromium	ND	0.100	1		Lead	ND	0.100	1	
Copper	ND	0.100	1						

RL - Reporting Limit , DF - Dilution Factor , Qual - Qualifiers



PACIFIC ECORISK

ENVIRONMENTAL CONSULTING & TESTING

Ronald Boquist
 Moore Twining Associates, Inc.
 2527 Fresno Street
 Fresno, CA 93721

January 9, 2009

Dear Mr. Boquist:

I have enclosed two copies of the report "NPDES Compliance Chronic Toxicity Testing of the Malaga WWTF Final Effluent" for testing performed of the effluent samples collected on December 15, 17, 19, and 22, 2008. The results of these tests can be summarized as follows:

Chronic Effects of Malaga Effluent on *Selenastrum capricornutum*

There were no significant reductions in algal growth in the Malaga effluent; the NOEC was 100% effluent, resulting in 1.0 TUc (where TUc = 100/NOEC).

Chronic Effects of Malaga Effluent on *Ceriodaphnia dubia*

There were significant reductions in *Ceriodaphnia* reproduction in the Malaga effluent; the NOEC was 50% effluent, resulting in 2.0 TUc (where TUc = 100/NOEC).

Chronic Effects of Malaga Effluent on Larval Fathead Minnows

There were no significant reductions in fathead minnow survival or growth in the Malaga effluent. The NOEC was 100% effluent, resulting in 1.0 TUc (where TUc = 100/NOEC) for both test endpoints.

If you have any questions regarding the performance or interpretation of these tests, please feel free to contact me at (707) 207-7760.

Sincerely,

R. Scott Ogle, Ph.D.

Principal & Special Projects Director

This testing was performed under Lab Order 14256. The test results reported herein conform to the most current NELAC standards, where applicable, unless otherwise narrated in the body of the report, and only relate to the sample(s) tested. This report shall not be reproduced, except in full, without the written consent of Pacific EcoRisk.

CORPORATE HEADQUARTERS
 2250 Cordelia Road
 Fairfield, CA 94534
 phone : 707.207.7760
 fax : 707.207.7916

CENTRAL VALLEY
 6820 Pacific Avenue, Ste. 3D
 Stockton, CA 95207
 phone : 209.952.1180
 fax : 209.952.1180

SOUTHERN CALIFORNIA
 2792 W. Loker Avenue, Ste. 100
 Carlsbad, CA 92010
 phone : 760.602.7919
 fax : 760.602.9119

www.pacificecorisk.com

3.2 Effects of Malaga Effluent on *Ceriodaphnia dubia*

The results of this test are summarized below in Table 4. There was 100% survival at the Lab Control treatment. There were no significant reductions in survival in the Malaga effluent; the survival NOEC was 100% effluent, resulting in 1.0 TUc (where TUc = 100/NOEC).

There was a mean of 19.4 offspring per female in the Lab Control. There were significant reductions in reproduction in the Malaga effluent; the reproduction NOEC was 50% effluent, resulting in 2.0 TUc (where TUc = 100/NOEC).

The test data and summary of statistical analyses for this test are presented in Appendix D.

Table 4. Effects of Malaga effluent on <i>Ceriodaphnia dubia</i> survival and reproduction.		
Test Treatment	% Survival	Reproduction (# neonates/female)
Lab Control	100	19.4
12.5% effluent	100	20.1
25% effluent	100	19.7
50% effluent	100	18.4
75% effluent	80	14.4*
100% effluent	100	15.2*
Summary of Statistics		
No Observable Effect Concentration (NOEC) =	100% effluent	50% effluent
TUc (100/NOEC) =	1.0	2.0
Survival EC25 or Reproduction IC25 =	could not be determined, can be assumed to be >100% effluent	74.9% effluent

* Significantly less than the Lab Control treatment response (p < 0.05).



PACIFIC ECORISK

ENVIRONMENTAL CONSULTING & TESTING

Tony Morales
 Malaga Wastewater Treatment Facility
 3580 S. Frank Street
 Fresno, CA 93725-2511

April 22, 2011

Dear Mr. Morales:

I have enclosed a copy of the report "NPDES Compliance Chronic Toxicity Testing of the Malaga WTF Final Effluent" for testing performed of the effluent samples collected on March 21, 23, and 25, 2011. The results of these tests can be summarized as follows:

Chronic Effects of Malaga Effluent on *Selenastrum capricornutum*

There was a significant reduction in algal growth in the Malaga effluent; the NOEC was 75% effluent, resulting in 1.3 TUc.

Chronic Effects of Malaga Effluent on *Ceriodaphnia dubia*

There were no significant reductions in *Ceriodaphnia* survival or reproduction in the Malaga effluent; the NOEC was 100% effluent, resulting in 1.0 TUc for both test endpoints.

Chronic Effects of Malaga Effluent on Larval Fathead Minnows

There were no significant reductions in fathead minnow survival or growth in the Malaga effluent; the NOEC was 100% effluent, resulting in 1.0 TUc for both test endpoints.

If you have any questions regarding the performance or interpretation of these tests, please feel free to contact my colleague Stephen Clark or myself at (707) 207-7760.

Sincerely,

Drew
 Gantner

Digitally signed by Drew Gantner
 DN: cn=Drew Gantner, o=Pacific
 EcoRisk, ou,
 email=dgantner@pacificecorisk.c
 om, c=US
 Date: 2011.04.25 17:30:43 -0700

Drew Gantner
 Sr. Aquatic Ecotoxicologist

This testing was performed under Lab Order 18130. The test results reported herein conform to the most current NELAC standards, where applicable, unless otherwise narrated in the body of the report, and only relate to the sample(s) tested. This report shall not be reproduced, except in full, without the written consent of Pacific EcoRisk.



PACIFIC ECORISK

ENVIRONMENTAL CONSULTING & TESTING

Tony Morales
Malaga Wastewater Treatment Facility
3580 S. Frank Street
Fresno, CA 93725-2511

April 24, 2012

Dear Mr. Morales:

I have enclosed two copies of our report "NPDES Compliance Chronic Toxicity Testing of the Malaga WTF Final Effluent: Accelerated Monitoring Test #2 with *Selenastrum capricornutum*" for testing performed on the effluent sample collected on March 13, 2012. The results of this test follow:

Chronic Effects of Malaga Effluent on *Selenastrum capricornutum*

There was a significant reduction in algal growth in the 100% Malaga effluent; the NOEC of 75% effluent resulted in 1.3 TUC (where TUC = 100/NOEC). The IC₂₅ was 87% effluent.

If you have any questions regarding the performance and interpretation of this test, feel free to contact Stephen Clark or myself at (707) 207-7760.

Sincerely,

Drew Gantner

Digitally signed by Drew Gantner
DN: cn=Drew Gantner, o=Pacific EcoRisk,
ou, email=dgantner@pacificecorisk.com,
c=US
Date: 2012.04.25 09:19:40 -08'00'

Drew Gantner
Sr. Aquatic Ecotoxicologist

This testing was performed under Lab Order 19289. The test results reported herein conform to the most current NELAC standards, where applicable, unless otherwise narrated in the body of the report, and only relate to the sample(s) tested. This report shall not be reproduced, except in full, without the written consent of Pacific EcoRisk.

6. Control Mechanisms

To ensure compliance with applicable pretreatment standards, the federal pretreatment regulations at 40 CFR 403.8(f)(1)(iii) require POTWs to control the discharges from nondomestic dischargers by using control mechanisms (permits or other similar means). The control mechanisms must include, at a minimum, the following:

- Statement of duration (in no case more than 5 years)
- Statement of no transferability
- Effluent limits, including BMPs based on applicable pretreatment standards
- Self-monitoring, sampling, reporting, and record-keeping requirements
- Statement of penalties
- Compliance schedules (if applicable)
- Required resampling within 30 days after noticing a violation
- Slug control requirements (if necessary)
- Notification requirements
 - Notice of slug loadings
 - Notification of spills, bypasses, or upsets
 - Notification of significant change in discharge
 - Notification within 24 hours after noticing a violation.

Permits for CIUs must also properly use the combined wastestream formula, properly convert mass-based limits to concentration-based limits, and properly apply production-based limits (if applicable) and must include a prohibition on dilution as a substitute for treatment.

6.1 Reissuance of SIU permits

The Tetra Tech inspector could not find the 2009 Calpine permit. District personnel indicated that all SIU permits are issued for a duration of one year. The Tetra Tech inspector could find only an unsigned draft 2009 permit for Calpine. The District personnel could not explain why there was no final and signed 2009 permit in the files. According to Section 2.8.01 of the District's SUO, all SIUs discharging to the WWTF must have a permit. Without documentation of a final and signed permit in the files, it could be perceived that Calpine discharged illegally in 2009. Therefore, the District is required to ensure that every SIU is issued a signed and final permit prior to the expiration of the previous permit.

6.2 Effluent Limits

The iron limit in Calpine's permit is inconsistent with the limit established in the District's SUO. The iron limit in the permit is listed as 10 parts per million (milligrams per liter, mg/L) but the SUO specifies that the local limit for iron is 1 part per million. Therefore, the District is required to revise Calpine's permit to include the iron limit established in the SUO.

7.5 Effluent Limits

According to the 2010 inspection report, the iron limit in Calpine's permit was inconsistent with the limit established in the District's SUO. The iron limit in the permit was listed as 10 mg/L, but the SUO specified that the local limit for iron was 1 mg/L. Therefore, the District was required to revise Calpine's permit to include the iron limit established in its SUO. In response to this requirement, the District stated that the District, legal counsel, and Contract Engineer will review the limits identified in the SOU [sic] and the individual SIU permits. If exceptions to the SOU [sic] are not allowed, the necessary modifications to limits will be incorporated into the updated SOU [sic].

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2014 audit, the RockTenn CP, LLC (formerly Calpine Corrugated, LLC) permit was reviewed. It was determined that the effluent limit for iron is not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn is required to collect a grab sample for iron in June from measurement location 001. The District is required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3).

7.6 Self-monitoring Requirements

According to the 2010 inspection report, the permits reviewed contained inconsistent self-monitoring requirements. Therefore, the District was required to review all monitoring requirements to ensure that they were consistent throughout each permit. In response to this requirement, the District stated that the current SIU permits contain consistent monitoring requirements throughout. The District also stated that this item was addressed prior to the issuance of the NOV from the Central Valley Water Board. Current copies of permits assigned to each SIU were included in the report of September 30, 2013.

As a component of the 2014 audit, it was determined that part 3.2(a) of the permits reviewed stated the specific monitoring requirements for the user, including sample parameters, measurement location, frequency, and sample type. The audit team found the self-monitoring requirements in each permit reviewed to be consistent throughout the IU permit.

According to the 2010 inspection report, the permits did not clearly specify what types of samples must be collected for each pollutant. Therefore, the District was required to review all SIU permits to ensure that the appropriate sampling technique was clearly identified for each pollutant that the discharger was required to self-monitor. In response to this requirement, the District stated that the sample type and frequency were contained in SIU permits in Part 3—Monitoring and Reporting Requirements. The District also stated that this item was addressed prior to the issuance of the NOV. Current copies of permits assigned to each SIU were included in the report of September 30, 2013.

As a component of the 2014 audit, the self-monitoring requirements included in the SIU permits were reviewed. It was determined that Part 3.2, Self Monitoring Requirements

SECTION III: EVALUATION AND SUMMARY (Continued)

Description	Regulatory Citation	Checklist Question(s)	Action	
			Rec.	Req.
C. CONTROL MECHANISM EVALUATION (Continued)				
2. Ensure control mechanisms contents include:	403.8(f)(1)(B)	I.B.2.a-j		✓
<ul style="list-style-type: none"> a. A statement of duration b. A statement of nontransferability c. Effluent limits d. Self-monitoring requirements e. A statement of penalties f. Compliance schedules g. Notice of slug loading h. Notification of spills, bypasses, upsets, etc. i. Notification of significant change in discharge j. 24-hour notification of violation/resample requirement <p><i>C. Error of Fe limit in Calhoun Permit</i></p> <p><i>d. Self monitoring requirements are listed in "Reporting Requirements"</i></p> <p><i>⊖ No sample type</i></p>				
D. APPLICATION OF PRETREATMENT STANDARDS AND REQUIREMENTS				
1. Apply all applicable pretreatment standards	403.8(f)(1)(iii)	I.B.2.a-j		
2. Evaluate the need for SIUs to develop slug discharge control plans	403.8(f)(2)(vi); 403.5	I.C.1 - 6; II.D.2		✓
<p><i>No document slug evaluations</i></p> <p><i>↳ need to send slug evaluation forms to District</i></p>				
E. COMPLIANCE MONITORING				
1. Inspect and sample each SIU in accordance with approved program	Approved program	I.D.2 & 7; II.E.1		✓
<p><i>No documented compliance inspections or monitoring</i></p>				

7.3 Sampling Location

According to the 2010 inspection report, the permits reviewed did not specify the correct sampling points. Therefore, the District was required to revise each SIU permit to include a specific description of where the sampling point was located. In response to this requirement, the District stated that the SIU permits would be reviewed to confirm the designation of specific sampling points. In addition, the District stated that the specific locations of sampling points for SIUs are defined in the individual permit files.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require POTWs to identify the sampling locations in control mechanisms (permits). As a component of the 2014 audit, the sampling locations listed in the permits were reviewed. Each of the permits reviewed stated that the permittee must monitor outfall 001. In addition, part 3.2(a) of the permits lists the measurement location as "001." However, this measurement location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the District is required to include an adequate description of the sampling locations in the permits as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4). The audit team also recommends that the District develop diagrams or include photographs of the sampling locations in the permits to avoid any confusion. For more information about the sampling locations at the facilities inspected as part of the audit, refer to section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit.

7.4 Statement of Civil and Criminal Penalties

According to the 2010 inspection report, the permits reviewed did not contain statements of applicable civil and/or criminal penalties. Therefore, the District was required to review all SIU permits to ensure that each SIU permit included a statement of applicable civil and/or criminal penalties. In response to this requirement, the District stated that the SUO had the appropriate civil and/or criminal penalty language; however, this was not referenced specifically in the SIU permits. The language was incorporated by reference to the existing SOU [sic]. In addition, the District stated that the District, legal counsel, and Contract Engineer reviewed specific language that has been proposed to be added to the individual permits. The draft language had been attached to the permits and would be submitted to the Central Valley Water Board in November 2013. The draft language was also incorporated with the SOU [sic] adoption anticipated for January 2014.

As a component of the 2014 audit, the permits were reviewed to determine if the appropriate modifications had been completed regarding the civil and criminal penalties statement. According to part 1.14 of the permit, "Failure to comply with any provisions of this permit, Ordinance 01-13-2004, or applicable State or Federal laws or regulations may result in ...(c) civil and/or criminal penalties." However, the draft version of the SUO provided to the audit team by the District was Ordinance No. 2013-1. The District is required to update the SUO reference in the permits to the most recent version of the SUO.

or other means. During initial conversations with the District representative, the Fresno Truck Wash facility was discussed. The District representative provided the audit team with a list of facilities that were monitored daily for electrical conductivity (EC), conducted, ultimately, for billing purposes. The District representative stated that the EC monitoring results indicated that the Fresno Truck Wash was discharging wastewater with high EC values to the sanitary sewer. This facility was not covered by a permit. As a component of the 2014 audit, the audit team visited the facility and verified that the facility was discharging wastewaters with significant pollutant loading to the sanitary sewer without a permit. The District is required to develop and implement procedures to identify and locate all possible IUs which might be subject to the pretreatment program as stated in the federal regulations at 40 CFR 403.8(f)(2)(i). The District is also required to control through permit, order, or similar means the contribution to the POTW by each IU to ensure compliance with applicable pretreatment standards and requirements as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii). (Section 6, Nondomestic Discharger Characterization)

7. According to the federal regulations at 40 CFR 403.8(f)(1)(iii), the District is to control, through permit, order, or similar means, the contribution to the POTW by each IU to ensure compliance with pretreatment standards and requirements. As a component of the 2014 audit, the IU permits were discussed. The District representative stated that SIU permits are renewed annually and other permits are renewed every two to three years. The District's Contract Engineer stated that the SIU permits were renewed annually so the permits and information stayed current and so the District is actively aware of their expiration date. At the time of the 2014 audit, the District representative stated that the SIU permits were expired. Therefore, the District's significant nondomestic dischargers were discharging to the District's sanitary sewer with expired (invalid) permits. The District representative stated that the recent retirement of the previous general manager had precluded the SIU permits from being renewed. The District representative and the Contract Engineer stated that the Board of Directors were meeting a week after the audit and would review and sign the new permits at that time. The District is required to ensure that IU permits do not expire before issuing updated permits in order to control the contribution to the POTW from each industrial user to ensure compliance with applicable pretreatment standard and requirements as stated at the federal regulations at 40 CFR 403.8(f)(1)(iii). (Section 7.1, Reissuance of SIU Permits)
8. As required at 40 CFR 403.8(f)(1)(iii)(B)(1), permits must contain a statement of duration, not to exceed five years. During the 2014 audit, it was determined that the permits reviewed had an issuance date and an expiration date but did not have an effective date. Permits should be issued before their effective dates so that permittees are aware of their limitations, obligations, and requirements before they are held responsible for upholding those permit conditions. From the information provided on the permits, the audit team could not determine if permits were issued prior to becoming effective. Therefore, the District is

6.3 Self-Monitoring Requirements

The permits reviewed contain inconsistent self-monitoring requirements. For example, Part 3.2(a) of Calpine's permit specifies that the discharger is required to collect a minimum of one flow-proportional 24-hour composite each month processing occurs. The permit does not specify which pollutants are subject to composite sampling requirements. Then section 3.4(d) and (e) of the permit specifies that the discharger is required to conduct monthly monitoring of biochemical oxygen demand (BOD), total suspended solids (TSS), and iron and biannual sampling of aluminum, arsenic, barium, boron, cadmium, chromium, copper, and zinc. According to Part 3.2(a) of the permit, if the discharger conducts processing every month, the discharge could be subject to monthly composite sampling requirements. But according to section 3.4(d) and (e), the discharger is subject to different monitoring requirements. Therefore, the District is required to review all monitoring requirements to ensure that they are consistent throughout the permit.

Furthermore, the District's permits do not clearly specify what types of samples must be collected for each pollutant. For example, the Calpine permit does not specify what types of sampling techniques must be used for aluminum, arsenic, barium, boron, cadmium, chromium, copper, zinc and iron. Therefore, the District is required to review all SIU permits to ensure that the appropriate sampling technique is clearly identified for each pollutant that the discharger is required to self-monitor.

The permits reviewed do not specify the appropriate sampling point. Therefore, the District is required to revise all SIU permit to include a specific description of where the sampling point is located.

6.4 Reporting and Notification Requirements

The permits reviewed do not clearly specify all reporting requirements (i.e., signature requirements, certification requirements). The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require that all permits include all federal reporting requirements, specifically outlined in each SIU permit. Therefore, the District is required to review all SIU permits to ensure that all federal reporting requirements are clearly outlined in them.

The permits reviewed do not include the requirement to notify the District within 24 hours or the requirement to resample and submit the results of the resampling event within 30 days of becoming aware of a violation. Furthermore, the permits do not include the requirement to report slug loadings, spills, or bypasses. The permits only references ordinance 3-14-95 for all notification requirements. The federal regulations at 40 CFR 403.8(f)(2) require that all notification requirements be specifically included in the permit. These notification requirements include all reporting requirements outlined at 40 CFR 403.12. Incorporating the requirements by reference is not acceptable. Therefore, the District is required to review all SIU permit to ensure that each permit specifically outlines the notification and resampling requirements after becoming aware of a violation.

- required to implement the appropriate changes to ensure and document that the permits are issued before their effective date. (Section 7.2, Permit Effective Date)
9. The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require POTWs to identify the sampling locations in control mechanisms (permits). As a component of the 2014 audit, the sampling locations listed in the permits were reviewed. Each of the permits reviewed stated that the permittee must monitor outfall 001. In addition, part 3.2(a) of the permits lists the measurement location as "001." However, this measurement location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the District is required to include an adequate descriptions of the sampling locations in the permits as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4). The audit team also recommends that the District develop diagrams or include photographs of the sampling locations in the permits to avoid any confusion. (Section 7.3, Sampling Location)
 10. As a component of the 2014 audit, the permits were reviewed to determine if the appropriate modifications had been completed regarding the civil and criminal penalties statement. According to part 1.14 of the permit, "Failure to comply with any provisions of this permit, Ordinance 01-13-2004, or applicable State or Federal laws or regulations may result in ... (c) civil and/or criminal penalties." However, the draft version of the SUO provided to the audit team by the District was Ordinance No. 2013-1. The District is required to update the SUO reference in the permits to the most recent version of the SUO. (Section 7.4, Statement of Civil and Criminal Penalties)
 11. According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2014 audit, RockTenn CP, LLC permit was reviewed. It was determined that the effluent limit for iron is not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn is required to collect a grab sample for iron in June from measurement location 001. The District is required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3). (Section 7.5, Effluent Limits)
 12. According to the 2010 inspection report, the permits reviewed did not include the requirement to notify the District of a violation within 24 hours of becoming aware of the violation or the requirement to resample and submit the results of the resampling event within 30 days of becoming aware of a violation. Furthermore, the permits did not include the requirements to report slug loadings, spills, or bypasses. Therefore, the District was required to review all SIU permits to ensure that each permit specifically outlines the notification and resampling requirements upon becoming aware of a violation. In response to this requirement, the District stated that the required slug control and resampling requirements were now part of SIU permits in Part 4–Special Conditions. The 2014 audit team found that part

changes to ensure and document that permits are issued before their effective date. The permits must state an issue date and an effective date, accordingly.

6.3 Sampling Location

The 2014 audit report stated that the District's wastewater discharge permits required that the permittees monitor outfall 001. However, this sampling location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the District was required to include a unique and specific description of the sampling locations in the permits as stated in the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4).

As a component of the 2015 inspection, the Kinder Morgan permit was reviewed, and the permit did not include a location where samples are required to be collected for compliance purposes. The 2015 Kinder Morgan permit and other SIU permits reviewed as a component of the inspection referred to "measurement location 001." However, this measurement location was not described or explained in detail in the permits reviewed. Therefore, the District is required to include the sampling locations in the control mechanisms as required by 40 CFR 403.8(f)(1)(iii)(B)(4).

6.4 Statement of Civil and Criminal Penalties

The 2014 audit report describes that Part 1.14 of the District's wastewater discharge permits states, "Failure to comply with any provisions of this permit, Ordinance 01-13-2004, or applicable State or Federal laws or regulations may result in ... (c) civil and/or criminal penalties." However, the draft 2014 SUO provided to the audit team by the District was Ordinance No. 2013-1. The District was required to update the SUO reference in the permits to the most recent version of the SUO.

During the 2015 inspection it was observed that Section 13(c) of the Standard Conditions of the wastewater discharge permits contained a statement of the civil and/or criminal penalties. Therefore, according to the information reviewed during the 2015 inspection, the District had appropriately modified the SIU permits to include the statement of civil and criminal penalties.

6.5 Effluent Limits

According to the 2014 audit report, 'The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3) state, permits are required to include effluent limits.' As a component of the 2014 audit, the RockTenn CP, LLC permit was reviewed. It was identified that the effluent limit for iron was not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn was required to collect a grab sample for iron in June from measurement location 001. The District was required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3)."

As stated previously, the local limits included in the 2004 SUO were still in effect at the time of the 2015 inspection. The local limits provided in the 2004 SUO were inconsistent with the local limits/effluent limits included in the 2014 and 2015 SIU wastewater

Class IA = 25,000 gpd and/or
type of pretreatment
required.

SECTION II: SUPPLEMENTAL DATA REVIEW/INTERVIEW (Continued)

C. CONTROL MECHANISM EVALUATION [403.8(f)(1)(iii)]

1. a. How many SIUs (as defined by the CA) are required to be covered by an individual control mechanism? 5

List SIUs:

b. How many SIUs (as defined by the CA) are required to be covered by a general control Mechanism?

List SIUs:

c. How many SIUs are not covered by an existing, unexpired permit or other control mechanism? [WENDB - NOCM] [RNC - II]

If any, explain.

Class IA permits are 1 yr. duration

2. How many control mechanisms were not issued within 180 days of the expiration date of the previous control mechanism? [RNC - II]

If any, explain.

Parameter	Local Limits per the 2004 SUO (ppm)	Local Limits per the 2014 Permit (ppm)*	Local Limits per the 2015 Permit (mg/L)
<i>(O&G)</i>			
<i>Polar oil and grease</i>	N/A	N/A	300
Chloride	N/A	N/A	No limit listed
Cyanide	N/A	N/A	No limit listed
Ammonia, as N	N/A	N/A	No limit listed
Nitrite+Nitrate, as N	N/A	N/A	No limit listed
Phosphorous	N/A	N/A	No limit listed
Fluoride	N/A	N/A	No limit listed
Diazinon	N/A	N/A	No limit listed
Calcium	N/A	N/A	No limit listed
Magnesium	N/A	N/A	No limit listed

*Monthly average, unless stated otherwise.

**The 2004 SUO refers to the parameter as "Benene." The Inspection Team assumed this was a typographical error, and the parameter should be "Benzene," which is the parameter stated in the 2015 permit.

***The 2004 SUO refers to the units for pH as "pH units." The 2014 and 2015 permits do not include units for pH.

****The Kinder Morgan and Rio Bravo Permits had an O&G limit of 100 mg/L. However, the Air Products, PPG, RockTenn, and Stratas Foods permits have an O&G limit of 200 mg/L.

It was unclear to the Inspection Team why the limits for the various parameters included in the 2004 SUO, 2014 SIU permits, and 2015 SIU permits were inconsistent. In addition, it was unclear to the Inspection Team if these modified limits had a technical basis. It was also unclear why the parameters in the bold-face type were listed in the 2015 permits without associated limits. Finally, it was unclear how the District had developed limits for the parameters in the italicized font. Although these limits were provided in the 2015 nonresidential permits, no technical basis for their development was provided to the Inspection Team. The District is required to amend the permits to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3). The District is reminded that local limits must be technically based and adopted by the District before they can be applied to the industrial users. The District is also reminded that in the event that local limits are relaxed or removed, the District must receive approval from the Central Valley Regional Water Board prior to adopting and implementing the relaxed or removed limits.

6.5.1 Sampling Type and Frequency

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4), individual control mechanisms must be enforceable and contain self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type. As a component of the 2015 inspection, the 2014 Rio Bravo Fresno and 2015 Kinder Morgan

permits were reviewed. The Inspection Team observed that the sample type required for flow was not listed in the 2014 Rio Bravo Fresno permit and was listed as “grab” in the 2015 Kinder Morgan permit. It was unclear to the Inspection Team how flow was to be measured. The District’s General Manager stated that the permits should be amended to state that samples for flow are to be measured using a flow meter.

The 2015 Kinder Morgan permit also stated that the sampling frequency was “per slug discharge.” The Inspection Team discussed the definition of “slug discharge” with the District representatives and observed that the District representatives were confusing the term “batch discharge” with “slug discharge” and that the intent of the sampling frequency in the permit was for “batch discharges.” The District and Inspection Team had in-depth conversations about the meaning and applicability of each term. The District is required to include the correct measurement method for flow and the appropriate sampling frequency for each parameter in the SIU permits in accordance with the regulations at 40 CFR 403.8(f)(1)(iii)(B)(4).

6.5.2 Application of Local Limits

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2015 inspection, the 2014 Rio Bravo Fresno permit and the 2015 Kinder Morgan permit were reviewed. The 2014 Rio Bravo Fresno permit included a list of local limits but did not state how these limits were to be applied (daily maximum, monthly average, etc.) Therefore, it was unclear if the District intended to evaluate the results submitted with self-monitoring data against the local limits as daily maximum or monthly average limits. Furthermore, it was unclear if the District intended to take enforcement action against the industries for effluent discharges that were outside of the permitted limits (as daily maximums, monthly averages, or both). For more information regarding the District’s process for requesting, receiving, and analyzing results, in addition to potential permit violations, refer to section 8.4, *Requesting, Receiving, and Analyzing Reports* and Section 9, *Enforcement*.

Section 2(c) of the 2015 Kinder Morgan permit states that the local limits are to be applied as monthly average limits. The 2004 SUO does not state how the local limits are to be applied. Therefore, the technical basis for applying the local limits as monthly averages was unclear to the Inspection Team. The District is required to ensure that the local limits are technically based and that the method in which they are applied is also technically derived. The District is required to include the frequency with which the local limits are to be applied in the SIU permits so that the industrial users are aware of applicable effluent limitations in accordance with the regulations at 40 CFR 403.8(f)(1)(iii)(B)(3).

6.6 Reporting and Notification Requirements

According to the 2014 audit report, the permits did not include a statement requiring the permittees to notify the District in the event of a bypass. The District was required to modify the permits to include the notification of bypass statement located at 40 CFR 403.17(a–c) of the federal regulations.

SECTION I: IU EVALUATION (Continued)

File	File	File	File	File	IU FILE REVIEW	Reg. Cite
					D. CA COMPLIANCE MONITORING	
					Sampling	
					1. Sampling (once a year, except as otherwise specified)	403.8(f)(2)(v)
					a. If a POTW has waived monitoring for CIU	
					• Sample waived pollutant(s) at least once during the term of the control mechanism	403.8(f)(2)(v)(5)
					b. If a POTW has reduced an IU's reporting requirements	403.8(f)(2)(v)(C)
					• Sample and analyze IU discharge at least once every 2 years	
					2. Sampling at frequency specified in approved program	
					3. Documentation of sampling activities	403.8(f)(2)(vi)
					4. Analysis for all regulated parameters	
					5. Appropriate analytical methods (40 CFR Part 136)	403.8(f)(2)(vi)
					Inspection	
					6. Inspection (once a year, except as otherwise specified)	403.8(f)(2)(v)
					a. If a POTW has determined a discharger to be a NSCIU	403.8(f)(2)(v)(B)
					• Evaluation of discharger with the definition of NSCIU once per year (verification of certification forms submitted by NSCIUs, compliance with pretreatment standards and requirements)	
					b. If a POTW has reduced an IU's reporting requirements	403.8(f)(2)(v)(C)
					• Inspect at least once every 2 years	
					7. Inspection at frequency specified in approved program	
					8. Documentation of inspection activities	403.8(f)(2)(vi)
					9. Evaluation of need for slug discharge control plan	403.8(f)(2)(vi)
<p>Comments</p> <p>1) District has not been conducting annual compliance monitoring. District will take EC samples.</p> <p>2) No documented annual inspection</p>						

SECTION III: EVALUATION AND SUMMARY (Continued)

Description	Regulatory Citation	Checklist Question(s)	Action	
			Rec.	Req.
E. COMPLIANCE MONITORING (Continued)				
2. Inspect and sample each SIU once a year	403.8(f)(2)(v)	I.D.1 & 6; II.E.1 & 2		✓
<i>no inspection or sample found.</i>				
3. Use proper sampling analysis (40 CFR Part 136) and inspection procedures	403.8(f)(2)(vii)	I.D.3, 5 & 8		
4. Require, receive, and analyze reports from SIUs	403.8(f)(2)(iv)	I.B.2.d; I.F.1-12; II.E.1		✓
<p>① District has failed to identify reporting violations (missing signature & certification from Calpine).</p> <p>② Failure to identify discharge violations PPG (6/2/09; Fe @ 3.8), Calpine EC & Fe</p>				
5. Monitor to demonstrate continued compliance and resampling after violation(s)	403.8(f)(2)(vii)	I.F.3, 4 & 9		
<p>③ Failure to resample</p> <p>No PPG resample after 6/2/09 Fe violation</p>				
6. Ensure CIUs report on all regulated pollutants at least once every 6 months	403.12(g)(1)&(2)	I.F.2 & 5		



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

FILE

6 September 2013

CERTIFIED MAIL
7012 2920 0000 1430 1844

NOTICE OF VIOLATION

Russ Holcomb
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

PRETREATMENT COMPLIANCE INSPECTION, MALAGA COUNTY WATER DISTRICT, WASTEWATER TREATMENT FACILITY, (NPDES CA0084239, RM 389604), FRESNO COUNTY

On 12 July 2012, Central Valley Water Quality Control Board staff and State Water Resources Control Board staff (Water Board staff) conducted a follow-up inspection to the Pretreatment Compliance Inspection (PCI) of Malaga County Water District (District) conducted by Tetra Tech, Inc., a contractor of the United States Environmental Protection Agency on 18 February 2010. The 2010 PCI Summary Report and the 2012 Facilities Inspection Form are enclosed. The PCI Summary Report lists several pretreatment program deficiencies Tetra Tech identified during the inspection, which are listed in Section 10.1, Requirements (pp 9-11) and includes a number of recommended actions in Section 10.2.

On 5 December 2012, Tetra Tech staff confirmed to Water Board staff that at the end of the District's 2010 PCI, the inspector conducted an exit interview and went over a checklist identifying each deficiency with the District. However, the District's 2010, 2011, and 2012 Annual Pretreatment Reports indicate that it has not made any changes recommended or corrected any deficiencies identified as it is waiting for a formal copy of the PCI. Water Board staff has reviewed the PCI, agrees with the identified deficiencies (which are violations of the District's approved Pretreatment Program) and agrees with the recommendations listed in Section 10.2, Recommendations (pp 11-12).

During the 12 July 2012 follow-up, pretreatment records and files were not available onsite for review, and District staff in charge of the Pretreatment Program were unable to answer basic questions about the Pretreatment Program. District staff referred the inspectors to the Chief Plant Operator in charge of the wastewater treatment facility, who, when contacted via telephone, referred the inspectors to the Pretreatment staff. District staff stated that they frequently test the industries' wastewater discharged to the WWTF for electrical conductivity.

Water Board staff visited three of the District's industrial dischargers; Rocktenn, Stratas Foods, and PPG. Stratas Foods and PPG are significant industrial users and are required to be inspected at least once a year by the District pursuant to 40 CFR403.8(f)(2)(v). Travis Johnson, Safety and

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BOEE, EXECUTIVE OFFICER

1685 E Street, Fresno, CA 93705 | www.waterboards.ca.gov/centralvalley



APPROVED
[Signature]
Supervising Engineer

Environmental Coordinator for Rocktenn, stated that he is not aware of a pretreatment inspection of the facility ever being conducted by the District. He stated that District staff only comes by to test the electrical conductivity of the facility's wastewater. Roger Metzler, Plant Manager, Joe Anderton, Plant Superintendent, and Veronica Perez, Environmental Compliance Specialist for Stratas Foods stated that a pretreatment inspection of the facility had never been conducted by the District. Matthew Fidel, Environmental Engineer and Gary Rosenberg, Safety Operator for PPG Industries stated that a pretreatment inspection of the facility had never been conducted by the District. Each industry presented its industrial user permit issued by the District; however each permit was signed by Michael Taylor of Provost and Pritchard, who is not a District employee.

Tetra-tech findings and Water Board staff findings support the concern that the District is not implementing its Pretreatment Program as required. Additionally, the District reported in its 2012 Annual Biosolids Report that in July 2012 biosolids laboratory results showed hazardous waste concentrations for copper and chromium. These results are another indicator to support the concern that the Pretreatment Program is not being properly implemented.

By 28 February 2014 in its Annual Pretreatment Report, the District is to have addressed and documented all the identified deficiencies in Requirements and Recommendations Section 10.1 (items 1 – 17) and 10.2 (items 1-3) of the PCI, including having conducted the required inspections with documentation showing the inspections have been completed. In the interim, please submit monthly progress reports to the Central Valley Water Board by the 30th of each month, documenting the District's progress towards compliance with its Pretreatment Program - along with a description of additional efforts in-progress or planned. Specified dates herein and the District's response to this request does not limit the Central Valley Water Board's ability to pursue formal enforcement.

If you have any questions regarding this matter, please contact Jill Walsh at (559) 445-5130 or at jwalsh@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist
CEG 1528, CHG 681

Enclosures: 2010 PCI Summary Report
2012 Facilities Inspection Form

cc via email: Anna Yen USEPA Region IX, WTR-7, San Francisco
Russell Norman, State Water Board, Sacramento
Chuck Durham, Tetra Tech, Inc.
Hsin Lee, Tetra Tech, Inc.

cc: Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno

5D100124001 WDID NPDES PROGRAM	R5-2008-0033 ORDER NO. CA0084239 NPDES PERMIT NO.	FACILITIES INSPECTION FORM	344803 REG MEASURE ID 27641 PARTY ID	1/1 PAGE NO 273180 PLACE ID
Malaga County Water District <small>DISCHARGER NAME</small>		Malaga Wastewater Treatment Facility <small>FACILITY NAME</small>		
3580 South Frank Street <small>STREET ADDRESS</small>		3749 South Maple Avenue <small>STREET ADDRESS</small>		
Fresno, CA 93725 <small>CITY, STATE, ZIP CODE</small>		Fresno, CA 93725 <small>CITY, STATE, ZIP CODE</small>		
Russ Holcomb, General Manager <small>DISCHARGER CONTACT PERSON</small>		Frank Cruz, Operator <small>FACILITY CONTACT PERSON</small>		
559-485-7353 <small>TELEPHONE NO</small>	rholcomb@malagacwd.org <small>E-MAIL ADDRESS</small>	-- <small>TELEPHONE NO.</small>	fcruz@malagacwd.org <small>E-MAIL ADDRESS</small>	

GENERAL INSPECTION INFORMATION

Inspection Type: Pretreatment Follow-up, non-sampling Lead Inspector: Melissa Hall SWRCB

07/12/2012 to 07/12/2012 11:00 Sunny, no recent precipitation
INSPECTION DATE(S) INSPECTION TIME GENERAL WEATHER CONDITIONS

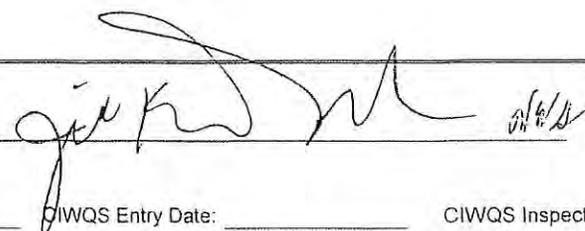
INSPECTION ATTENDEE(S)

NAME	COMPANY/AGENCY	TELEPHONE NO.	E-MAIL ADDRESS
Melissa Hall	SWRCB	916-341-5773--	mhall@waterboards.ca.gov
Alvina Prakash	RWQCB		
See below in summary		--	--

INSPECTION SUMMARY

As part of the 12 July 2012 State and Regional Water Board (Water Board) joint inspection of Malaga County Water District (District) WWTF, State Water Board staff, Melissa Hall and Regional Water Board Engineering Student Assistant, Alvina Prakash conducted a follow-up Pretreatment Inspection. This inspection report summarizes the observations for the pretreatment portion of the inspection. Water Board staff were told by Frank Cruz that pretreatment records were kept at the District office, Chris Lopes is in charge of the Pretreatment Program, and Jesse Alvarez assists Lopes – they were not available during the inspection. Water Board staff visited the following industrial users: Rocktenn, Stratus Foods, and PPG. Each industry representative stated that District staff frequently samples the wastewater for EC, but that they were not aware of the District having ever conducted a pretreatment inspection. Water Board staff requested to see each industry's industrial discharge permit and noted that each permit was signed by the District's consulting engineer, Michael Taylor, rather than by authorized District staff.

On 18 July 2012, Alvina Prakash followed-up with a phone call to Chris Lopes to inquire about the District's 2004 sewer ordinance and permitting questions. He stated that he just does sampling for the District's industrial users and was not familiar with permitting. He referred Alvina to the WWTF operators who also could not answer the questions and referred staff to the District office.

Prepared by: Jill Walsh Signature:  Date: 8/29/13

Filename: Malaga CWD WWTF CIWQS Entry Date: _____ CIWQS Inspection ID: 10265093

- e. Rock Tenn
- f. Kinder Morgan
- g. Fresno Truck Wash
- h. Fifth Wheel Truck Wash
- i. Imperial Truck Wash
- j. Speedy (formerly Moga) Truck Wash

5. Inspection and Sampling Activities

- a. All Significant Industrial Users (SIUs) had multiple inspections and numerous site visits in 2014. Table 2 below lists the frequency of inspections and the frequency of samples taken from SIUs. With the exception of Fifth Wheel Truck Wash, all SIUs were found to be in compliance with their discharge permit.

Table 2: SIU Inspections in 2014

mit #	Account #	Permit Holder	Address	Frequency Inspected	Frequen Sample
3	024	Stratas Foods	3390 S. Chestnut Ave. Fresno, CA 93725	2	0
01	020	RockTenn CP, LLC	3366 E. Muscat Ave. Fresno, CA 93725	2	0
05	005	Rio Bravo	3350 S. Willow Ave. Fresno, CA 93725	2	0
38	008	PPG Industries	3333 S. Peach Ave. Fresno, CA 93725	2	0
40	008	Air Products & Chemical Inc.	3333 S. Peach Ave. Fresno, CA 93725	2	0
05	022-4	Imperial Truck Wash	2635 E. North Ave. Fresno, CA 93725	2	1
50	122-2	Fifth Wheel Truck Wash	3767 S. Golden State Blvd. Fresno, CA 93725	6	3
08	029-1/033	Speedy Truck Wash (formerly Moga Truck Wash)	3846 S. Front Ave. Fresno, CA 93725	2	1
05	046	Lester Lube Inc. dba Fresno Truck Wash	4170 S. Bagley Ave. Fresno, CA 93725	2	1
25	055/055-1	SFPP, L.P. (Kinder Morgan)	4149 S. Maple Ave. Fresno, CA 93725	2	0

process was reported to be contracted out to subcontractors. The subcontracts are responsible for management of all wastes generated (wastes are not disposed of onsite). The District is required to formally evaluate the re-packing operations to ensure that waste generated from the re-packing process are properly managed and not discharged to the sewer system. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)

17. The PPG Industries facility representatives stated that self-monitoring samples were collected at the facility's effluent lift station/discharge location. Samples are collected downstream of where the facility's wastewater comeslingles with wastewater generated at the onsite Air Products and Chemicals, Inc. plant. In addition, the facility representatives stated that the facility's domestic wastewater is tied into the facility's discharge line upstream of the effluent lift station/sampling point. Therefore, samples collected by the facility and District are not representative solely of the facility's industrial wastewater discharge. Furthermore, the facility representatives stated that the facility was unable to collect a representative sample of the facility's industrial wastewater discharge because the only accessible location to the discharge is considered as a confined space, and the facility does not allow its employees to enter confined spaces. However, 40 CFR 403.12(b)(ii) states that samples should be representative of daily operations. Furthermore, the federal regulations at 40 CFR 403.12(b)(iv) state that samples should be taken immediately downstream from pretreatment facilities. The District is required to reevaluate the facility's discharge monitoring location to ensure that self-monitoring samples are representative solely of the facility's industrial wastewater discharge. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)
18. After the site inspection at the PPG Industries facility, the EPA audit team along with the District code enforcement inspector visited the District's compliance sample collection location. The District collects compliance samples of the facility's discharge at a manhole located west of the facility at the intersection of South Willow Avenue and a railroad track. The manhole was downstream (and west) of the facility's effluent lift station and discharge location. As noted above in note 5, the facility's domestic wastewater along with industrial wastewater from the Air Products and Chemicals, Inc. plant are tied into the facility's discharge line, upstream of the effluent lift station and the District's sampling manhole. However, 40 CFR 403.12(b)(ii) state that samples should be representative of daily operations. Furthermore, the federal regulations at 40 CFR 403.12(b)(iv) state that samples should be taken immediately downstream from pretreatment facilities. It is required that the District reevaluate the District's compliance sampling monitoring location to ensure samples are representative solely of the facility's industrial wastewater discharge. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)
19. The District was collecting compliance samples from the Stratas Foods facility's discharge line downstream of where the facility's domestic wastewater was

introduced. Therefore, the facility's domestic wastewater was diluting the facility's industrial wastewater flow that was being sampled by the District. Self-monitoring samples were being collected from a sample port located after the CAF unit weir, but prior to the effluent discharge pipe. However, 40 CFR 403.12(b)(ii) states that samples should be representative of daily operations. Furthermore, the federal regulations at 40 CFR 403.12(b)(iv) state that samples should be taken immediately downstream from pretreatment facilities. The District is required to ensure that compliance samples collected at the facility are representative of the facility's industrial wastewater discharge for daily operations. (Section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit)

20. According to the federal regulations at 40 CFR 403.8(f)(2)(iv), the POTW is required to receive and analyze self-monitoring reports and other notices submitted by IUs in accordance with the self-monitoring requirements in 40 CFR 403.12. From the files reviewed as a component of the 2014 audit, it was determined that 2013 self-monitoring data for the RockTenn CP, LLC facility was not included in the facility file. The District is required to adequately request, receive, and analyze reports submitted by SIUs as stated in the federal regulations at 40 CFR 403.8(f)(2)(iv). (Section 9.4, Requesting, Receiving, and Analyzing Reports)
21. The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. During initial conversations with the District, the District representative was unsure if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District's Contract Engineer who stated that the District's ERP was a component in the District's SUO. A cursory review of the District's draft SUO determined that the ERP was located in section 3.08.010. This section states that the District shall develop and implement an ERP which should include a description of how the District will investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District's primary responsibility to enforce all applicable pretreatment requirements and standards. However, section 3.08.010 of the District's SUO does not specifically identify how the District will investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District is required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5). (Section 10, Enforcement)
22. Documentation in the Stratas Foods file indicated the facility notified the District, via a letter, of a monthly average O&G exceedance on October 17, 2012. According to the September 2012 self-monitoring report, the facility's monthly average sampling result for O&G was 166 mg/L; the permitted limit for O&G is 100 mg/L. However, the District did not take enforcement action against the facility upon receipt of letter. Additionally, documentation was not provided in

6.5 Statement of Civil and/or Criminal Penalties

The permits reviewed do not contain a statement of applicable civil and/or criminal penalties. The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(5) require that all permits include a specific statement of applicable civil and/or criminal penalties. Therefore, the District is required to review all SIU permit to ensure that each SIU permit includes a statement of applicable civil and/or criminal penalties.

7. Compliance Monitoring

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require that a POTW develop and implement an inspection and monitoring program to determine, independent of information supplied by nondomestic dischargers, compliance or noncompliance with applicable pretreatment standards and requirements. Furthermore, 40 CFR 403.8(f)(2)(vii) requires POTWs to investigate instances of noncompliance and enforce the regulations as necessary.

7.1 Compliance Sampling

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be sampled at least once a year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. In such a case, the POTW must sample for the waived pollutant(s) at least once during the nondomestic discharger's permit term [40 CFR 403.8(f)(2)(v)(A)].

The Tetra Tech inspector did not find any documented sampling events conducted by the District. District personnel indicated that the District only monitors for electrical conductivity (EC) at each of the SIUs and does not sample for any of the other pollutants of concern at the SIUs. The District is required to revise its compliance monitoring procedures to ensure that it monitors each of the pollutants of concern listed in each SIU's permit at least once a year.

7.2 Compliance Inspections

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be inspected at least once a year unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3). In such a case, the POTW must inspect the discharger at least once every 2 years [40 CFR 403.8(f)(2)(v)(C)].

Even though District personnel indicated that annual compliance inspections are conducted at each of the SIUs, the Tetra Tech inspector did not find any documented inspection reports in the SIU files. Without proper documentation of the District's inspections, the Tetra Tech inspector could not affirm that the District has actually conducted the required compliance inspections. Therefore, the District is required to revise its compliance inspection procedures to ensure that all compliance inspections are properly documented. The Tetra Tech inspector recommends that the District create an inspection checklist that can be used during compliance inspections as well as to document the inspection event.

inconsistencies were identified with the District's draft SUO during the 2014 audit. Refer to section 5, Legal Authority, for further information.

9. Compliance Monitoring

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require a POTW to develop and implement an inspection and monitoring program to determine, independent of information supplied by nondomestic dischargers, compliance or noncompliance with applicable pretreatment standards and requirements. Furthermore, 40 CFR 403.8(f)(2)(vii) requires POTWs to investigate instances of noncompliance and to enforce the regulations as necessary.

9.1 Compliance Sampling

The regulations at 40 CFR 403.8(f)(2)(v) require all SIUs to be sampled at least once each year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. In that case, the POTW must sample for the waived pollutant(s) at least once during the permit term [40 CFR 403.8(f)(2)(v)(A)]. The District representative stated that monthly EC samples are collected by the District at the SIUs.

According to the 2010 inspection report, the inspector did not find any documented sampling events conducted by the District. The District was required to revise its compliance monitoring procedures to ensure that it monitors each of the pollutants of concern listed in each SIU's permit at least once each year. In response to this requirement, the District stated that there is one primary pollutant of concern to the District, EC. As such, the District regularly monitors the EC levels from the SIUs. In addition, the District stated that details of the District's sampling activities were documented in the *Annual Pretreatment Report* for 2012 which was submitted to the Central Valley Water Board on February 28, 2013.

The regulations at 40 CFR 403.8(f)(2)(v) require all SIUs to be sampled at least once each year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. As a component of the 2014 audit, the Contract Engineer's files for the SIUs were reviewed for documentation of annual compliance sampling activities. The files reviewed during the audit showed that compliance sampling events for 2013 were not documented in the Rio Bravo, Stratas Foods, Air Products and Chemicals, or PPG Industries files. Therefore, it was determined that the District failed to conduct annual compliance sampling events at these facilities. The District is required to ensure that compliance sampling activities are conducted at SIUs a minimum of once each year as stated in the federal regulations at 40 CFR 403.8(f)(2)(v).

9.2 Compliance Inspections

The regulations at 40 CFR 403.8(f)(2)(v) require all SIUs to be inspected at least once each year, unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3). The POTW must inspect those dischargers at least once every two years [40 CFR 403.8(f)(2)(v)(C)].

According to the 2010 inspection report, even though District personnel indicated that annual compliance inspections were conducted at each of the SIUs, the inspector did not find any documented inspection reports in the SIU files. Therefore, the District was required to revise its compliance inspections procedures to ensure that all compliance inspections are properly documented. In response to this requirement, the District stated that it has developed a "Facility Inspection Record" for documenting the results of any inspections. The documentation should be kept in the files associated with the permittee. The District completed annual inspections of the SIUs in October and November 2013 and the documentation of inspections was included in the submittal to the Central Valley Water Board in November 2013.

As a component of the 2014 audit, annual SIU compliance inspections were discussed. During initial conversations, the District representative was unsure who was conducting the inspections, but guessed that the District's Contract Engineer was performing the inspections with occasional assistance from the Code Enforcement Inspector. In later conversations, the Contract Engineer stated that the Contract Engineer, with assistance from the Code Enforcement Inspector, conducted annual inspections at the five SIUs for 2013. Inspection reports were provided in the SIU files; however, the inspection reports were inadequate. The inspection forms were sparsely completed and lacked detail. For example, the inspection forms did not document process operations reviewed at the facilities, information about the sampling locations, or other pertinent information.

It is strongly recommended that the District include more detail about the facility inspections in the inspection reports. Details should include specific manufacturing processes, condition of the pretreatment system, discussions held, calibration details, and characteristics of facility effluent. The District's inspection reports should capture the uniqueness of what was reviewed and discussed during each facility inspection.

9.3 Nondomestic Discharger Site Inspections Conducted during the Audit

Six of the permitted nondomestic discharger facilities and one unpermitted facility were inspected as part of the audit. The following was noted during the nondomestic discharger site visits:

- *Air Products and Chemicals, Inc.* The facility produces pure oxygen and pure nitrogen through cryogenic air separation. The facility is located on the property of the adjacent PPG Industries facility and is contracted by PPG Industries to produce and provide oxygen and nitrogen for PPG Industries manufacturing processes.

Due to the complexity of the air separation processes, a brief inspection of the process area and wastewater generating practices was conducted. The production processes at the facility consisted of filtering and compressing ambient air; separating oxygen, nitrogen, and particulates; and re-vaporizing the oxygen and nitrogen for delivery to the adjacent PPG Industries facility.

8.1 Compliance Sampling

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be sampled at least once each year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. Then the POTW must sample for the waived pollutant(s) at least once during the permit term [40 CFR 403.8(f)(2)(v)(A)].

During the 2014 audit, the Contract Engineer's files for the SIUs were reviewed for documentation of annual compliance sampling activities, since the District did not maintain its own industrial user files. It was found that compliance sampling events for 2013 were not documented in the Rio Bravo, Stratas Foods, Air Products and Chemicals, or PPG Industries SIU files. Therefore, it could not be determined if the District performed annual compliance sampling events at these facilities. The District was required to ensure that compliance sampling activities are conducted at SIUs a minimum of once each year as stated in the federal regulations at 40 CFR 403.8(f)(2)(v).

The District's General Manager stated that the District conducts compliance sampling at the SIUs at least once per year. However, according to information provided in the District's *2014 Annual Pretreatment Report*, the District did not sample Stratas Foods, RockTenn, Rio Bravo, PPG Industries, Air Products and Chemicals, or Kinder Morgan. The Inspection Team requested documentation for sampling events from the District representatives. The District representatives provided access to the electronic copies of sampling data from the SIUs collected in 2014 and the beginning of 2015. The sampling data on file included self-monitoring results from the SIUs but did not include documentation of compliance samples collected at the SIUs by the District. Therefore, the District is required to ensure that it collects and analyzes samples at each of the SIUs at least annually in accordance with the federal regulations at 40 CFR 403.8(f)(2)(v). The District should also maintain documentation of compliance sampling events it conducts.

The site inspections conducted as a component of the 2015 inspection revealed several instances in which the District and the SIUs were not collecting samples from the same location. For more information regarding these inconsistencies, refer to Section 8.3, *Nondomestic Discharger Site Inspections Conducted during the Inspection*.

8.2 Compliance Inspections

The regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be inspected at least once each year, unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3); then the POTW must inspect these dischargers at least once every 2 years [40 CFR 403.8(f)(2)(v)(C)].

According to the information provided in the District's *2014 Annual Pretreatment Report*, each of the SIUs was inspected twice, with the exception of Fifth Wheel Truck Stop, which was reported to have been inspected six times. As a component of the 2015 inspection, the Inspection Team reviewed a number of the District's inspection reports for Kinder Morgan and Speedy Truck Wash.

The Kinder Morgan inspection report was detailed and the District representative conducting the inspection recorded information for most of the sections of the District's

inspection checklist. However, the inspection report was not dated or signed, therefore it was unclear to the Inspection Team who conducted the facility inspection and when it was conducted. An undated and unsigned inspection report for the Speedy Truck Wash facility was also reviewed. The information recorded on the facility inspection checklist was incomplete and lacked detail regarding wastewater generating processes, facility operations, discharge practices, sampling locations, chemical storage, and overall treatment of wastewater. Since the inspection reports were not dated, the Inspection Team could not confirm that all SIUs had been inspected at least once in 2014. Therefore, the District is required to inspect each SIU at least once a year as stated at 40 CFR 403.8(f)(2)(v).

It is also strongly recommended that the District thoroughly document the SIU inspections. Specifically, the inspection reports should capture the uniqueness of each inspection and include information related to the processes reviewed, discussions held, change in process, and other information pertaining to wastewater generation, treatment, and discharge.

8.3 Nondomestic Discharger Site Inspections Conducted during the Inspection

Five of the permitted nondomestic dischargers were inspected as part of the 2015 inspection. The dischargers were selected to represent facilities of varying size and classification. The full site visit data sheets completed as a result of these site visits are included in Attachment A of the report. The following was observed during the nondomestic discharger site visits:

- *Fifth Wheel Truck Stop.* The facility is a truck wash for large semi-trailer vehicles. Tanker trucks were not observed at the facility at the time of the inspection. The District has taken various enforcement actions against the facility for discharging high concentrations of detergents, which caused foaming at the WWTF, ultimately resulting in an upset of the operations at the WWTF. The District classified the facility as an SIU because of its reasonable potential for adversely affecting the POTW's operations.

The facility discharged wastewater, which was pretreated by an oil/water separator, from its truck washing operations to the District's POTW. A storm water issue was observed during the facility site inspection (described below).

The facility consisted of a building with three wash bays. One of the wash bays was used for maintenance operations. Two of the wash bays were used for truck washing and were in use at the time of the inspection. The facility also had an office space in a small shed.

The facility has two in-ground oil/water separators that treat the truck wash waters before they are discharged to the District's POTW.

The Inspection Team arrived at the facility and attempted to find and inform a facility representative of the purpose of the site inspection. The Inspection Team



2527 Fresno Street
Fresno, CA 93721
(559) 268-7021 Phone
(559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
3580 S. Frank
Fresno CA, 93725

Project: Malaga Sewer Plant
Project Number: Analytical Services
Project Manager: Chris Lopes

Reported:
08/07/2012

Analytical Report for Work Order 2G31002

Analyte	Qual.	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method
P.P.G. 3333 S. Peach Ave. Fresno, Ca 93725						Sampled: 07/31/12 10:15 2G31002-01 (Waste Water)				
Turbidity		6.2	0.10	0.020	NTU	1	T2H0111	08/01/12	08/01/12	EPA 180.1
Specific Conductance (EC)		14000	1.0	1.0	µS/cm	1	T2H0112	08/01/12	08/01/12	SM2510B

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
- ug/L micrograms per liter (parts per billion concentration units)
- mg/L milligrams per liter (parts per million concentration units)
- mg/kg milligrams per kilogram (parts per million concentration units)
- ND Analyte NOT DETECTED at or above the reporting limit
- RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2H0111 - EPA 180.1

Blank (T2H0111-BLK1)		Prepared & Analyzed: 08/01/12								
Turbidity	J	0.0600	0.10	NTU						
LCS (T2H0111-BS1)		Prepared & Analyzed: 08/01/12								
Turbidity		9.79	0.10	NTU	10.0		97.9	80-120		20
LCS Dup (T2H0111-BSD1)		Prepared & Analyzed: 08/01/12								
Turbidity		9.77	0.10	NTU	10.0		97.7	80-120	0.204	20
Duplicate (T2H0111-DUP1)		Source: 2G31002-01 Prepared & Analyzed: 08/01/12								
Turbidity		6.28	0.10	NTU		6.20			1.28	20

Batch T2H0112 - SM2510B

LCS (T2H0112-BS1)		Prepared & Analyzed: 08/01/12								
Specific Conductance (EC)		511	1.0	µS/cm	500		102	80-120		20
LCS Dup (T2H0112-BSD1)		Prepared & Analyzed: 08/01/12								
Specific Conductance (EC)		513	1.0	µS/cm	500		103	80-120	0.391	20
Duplicate (T2H0112-DUP1)		Source: 2G31002-01 Prepared & Analyzed: 08/01/12								
Specific Conductance (EC)		13500	1.0	µS/cm		13500			0.0739	20
Duplicate (T2H0112-DUP2)		Source: 2G31040-02 Prepared & Analyzed: 08/01/12								
Specific Conductance (EC)		1250	1.0	µS/cm		1250			0.0800	20

Moore Twining Associates, Inc.

Juliane Adams, Director of Analytical Chemistry

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2527 Fresno Street
Fresno, CA 93721
(559) 268-7021 Phone
(559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
3580 S. Frank
Fresno CA, 93725

Project: Malaga Sewer Plant
Project Number: Analytical Services
Project Manager: Chris Lopes

Reported:
10/17/2012

Analytical Report for Work Order 2J11042

Analyte	Qual	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
PPG 333 S. Peach Ave Fresno CA 93725							Sampled: 10/11/12 14:30 2J11042-01 (Water)				
Turbidity		11	0.10	0.020	NTU	1	T2J1113	10/11/12	10/11/12	EPA 180.1	
Specific Conductance (EC)		7900	1.0	1.0	µS/cm	1	T2J1605	10/16/12	10/16/12	SM2510B	

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
- ug/L micrograms per liter (parts per billion concentration units)
- mg/L milligrams per liter (parts per million concentration units)
- mg/kg milligrams per kilogram (parts per million concentration units)
- ND Analyte NOT DETECTED at or above the reporting limit
- RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field. If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
---------	-------	--------	-----------------	-------	-------------	---------------	------	-------------	-----	-----------

Batch T2J1113 - EPA 180.1

Blank (T2J1113-BLK1)		Prepared & Analyzed: 10/11/12								
Turbidity	J	0.0200	0.10	NTU						
LCS (T2J1113-BS1)		Prepared & Analyzed: 10/11/12								
Turbidity		9.91	0.10	NTU	10.0		99.1	80-120		20
LCS Dup (T2J1113-BSD1)		Prepared & Analyzed: 10/11/12								
Turbidity		9.90	0.10	NTU	10.0		99.0	80-120	0.101	20
Duplicate (T2J1113-DUP1)		Source: 2J11024-01 Prepared & Analyzed: 10/11/12								
Turbidity		0.150	0.10	NTU		0.160			6.45	20

Batch T2J1605 - SM2510B

LCS (T2J1605-BS1)		Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		513	1.0	µS/cm	500		103	80-120		20
LCS Dup (T2J1605-BSD1)		Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		514	1.0	µS/cm	500		103	80-120	0.195	20
Duplicate (T2J1605-DUP1)		Source: 2J11005-01 Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		107000	1.0	µS/cm		107000			0.00	20
Duplicate (T2J1605-DUP2)		Source: 2J11005-11 Prepared & Analyzed: 10/16/12								
Specific Conductance (EC)		115000	1.0	µS/cm		115000			0.00	20

Moore Twining Associates, Inc.

Juliane Adams, Director of Analytical Chemistry

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2527 Fresno Street
 Fresno, CA 93721
 (559) 268-7021 Phone
 (559) 268-0740 Fax

California ELAP Certificate #1371

Malaga County Water District
 3580 S. Frank
 Fresno CA, 93725

Project: Malaga Sewer Plant
 Project Number: PPG
 Project Manager: Chris Lopes

Reported:
 10/24/2012

Analytical Report for Work Order 2J19004

Analyte	Qual	Result	Reporting Limit	MDL	Units	Dilution	Batch	Prepared	Analyzed	Method	
PPG 3333 S. Peach Ave Fresno CA 93725							Sampled: 10/18/12 16:00 2J19004-01 (Water)				
Turbidity		39	0.20	0.040	NTU	2	T2J1909	10/19/12	10/19/12	EPA 180.1	
Specific Conductance (EC)		15000	1.0	1.0	µS/cm	1	T2J1907	10/19/12	10/19/12	SM2510B	

Notes and Definitions

- J Detected but below the Reporting Limit; therefore, result is an estimated concentration (CLP J-Flag). Same as DNQ - Detected, but Not Quantified.
 - µg/L micrograms per liter (parts per billion concentration units)
 - mg/L milligrams per liter (parts per million concentration units)
 - mg/kg milligrams per kilogram (parts per million concentration units)
 - ND Analyte NOT DETECTED at or above the reporting limit
 - RPD Relative Percent Difference
- Analysis of pH, filtration, and residual chlorine is to take place immediately after sampling in the field.
 If the test was performed in the laboratory, the hold time was exceeded.

Inorganics - Quality Control

Analyte	Notes	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit
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Batch T2J1907 - SM2510B

LCS (T2J1907-BS1)		Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)	J	518	1.0	µS/cm	500		104	80-120		20
LCS Dup (T2J1907-BSD1)		Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		519	1.0	µS/cm	500		104	80-120	0.193	20
Duplicate (T2J1907-DUP1)		Source: 2J18002-01 Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		2780	1.0	µS/cm		2780			0.108	20
Duplicate (T2J1907-DUP2)		Source: 2J18003-09 Prepared & Analyzed: 10/19/12								
Specific Conductance (EC)		116000	1.0	µS/cm		116000			0.0864	20

Batch T2J1909 - EPA 180.1

Blank (T2J1909-BLK1)		Prepared & Analyzed: 10/19/12								
Turbidity	J	0.0300	0.10	NTU						
LCS (T2J1909-BS1)		Prepared & Analyzed: 10/19/12								
Turbidity		9.63	0.10	NTU	10.0		96.3	80-120		20
LCS Dup (T2J1909-BSD1)		Prepared & Analyzed: 10/19/12								
Turbidity		9.62	0.10	NTU	10.0		96.2	80-120	0.104	20
Duplicate (T2J1909-DUP1)		Source: 2J18037-01 Prepared & Analyzed: 10/19/12								
Turbidity		2.62	0.10	NTU		2.61			0.382	20

Moore Twining Associates, Inc.

Juliane Adams, Director of Analytical Chemistry

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MALAGA COUNTY WATER DISTRICT
 WASTEWATER TREATMENT PLANT
 MONITORING AND REPORTING PROGRAM NO. R5-2008-0033
 PPG Permit No. 1038
 2010

Report	Monthly Reports	Semi Annual Reports							Iron	Lead	Copper	Log of Solids Removed	Proof of Flowmeter Calibration
		Flow	Ec	pH	BOD	TSS	Iron	Lead					
		Ave 950 umhos/cm	Max 9.0 Min 6.0	Max 1,000 mg/l	Max 1,000 mg/l	Max 1 mg/l	Max 5 mg/l	Max 5 mg/l					
January - PPG results	15086												
January - MCWD results		540											
February - PPG results	15657												
February - MCWD results													
March - PPG results	23544												
March - MCWD results													
April - PPG results	24639												
April - MCWD results													
May - PPG results	19325												
May - MCWD results													
June - PPG results	24846												
June - MCWD results													
Semi Annual 1 - PPG results		850.0	8.1	4.1	27.0	0.460	ND	0.025					
Semi Annual 1 - MCWD results													
July - PPG results	37225												
July - MCWD results													
August - PPG results	29691												
August - MCWD results													
September - PPG results	15318												
September - MCWD results													
October - PPG results	74549												
October - MCWD results													
November - PPG results	56827												
November - MCWD results													
December - PPG results	60430												
December - MCWD results													
Semi Annual 2 - PPG results		630.0	8.3	15.0	13.0	210.0	ND	21					
Semi Annual 2 - MCWD results													
Annual													

SECTION III: EVALUATION AND SUMMARY (Continued)

Description	Regulatory Citation	Checklist Question(s)	Action	
			Rec.	Req.
E. COMPLIANCE MONITORING (Continued)				
7. Ensure noncategorical SIUs self-monitor and report all regulated pollutants at least once every 6 months	403.12(h)	I.F.2 & 5		
8. Require self-monitoring reports from CIUs to be signed and certified and reports from SIUs to be signed	403.12(l); 403.6(a)(2)(ii)	I.F.6		
9. Receive notification of hazardous waste discharges	403.12(j)&(p)	I.F.10; II.D.3		
NA				
F. ENFORCEMENT				
1. Implement approved ERP	403.8(f)(5)	I.E.3; II.F.2		
See previous.				
2. Annually publish a list of IUs in SNC	403.8(f)(2)(viii)	I.E.5; II.F.4		
No publication of Cal Pine of FE or PPG for FE violations				

Valley I Water Board prior to implementing significant changes to the SUO. Due to the District not receiving approval from the Central Valley Water Board, the District repealed some of the significant changes.

The Central Valley Water Board considered the sections concerning the pretreatment program, WWTF, and collection system of the District's 2004 SUO (the last one the Central Valley Water Board had approved) to be in effect for the pretreatment program at the time of the inspection. At the time of the inspection, the SUO on the District's Web site contained updates that were not in the 2004 version of the SUO. According to information provided on the District's Web site, the ordinance had been passed on December 9, 2014. Therefore, the SUO being implemented by the District differs from what the Central Valley Water Board has approved. Substantial modifications to the pretreatment program must meet the federal requirements at 40 CFR 403.18(c), which require the District to submit to the Central Valley Regional Water Board a statement of the basis for the desired program modification, a modified program description, or other documents the Central Valley Water Board determines necessary under the circumstances. The Central Valley Water Board approves or rejects the modifications. The District is required to have Central Valley Water Board's approval of its SUO prior to implementing the SUO.

2.3 Focus Topics

The following topics were discussed with the District representatives regarding other industrial pretreatment program activities.

2.3.1 Significant Non-Compliance

According to 40 CFR 403.8(f)(2)(viii), the District is required to provide annual public notification in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of industrial users which, at any time during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment requirements. The District's General Manager stated that calculations regarding SNC were not performed for the SIUs during 2014. The District's General Manager added that he was unaware of the federal definition of SNC and that calculations were required to determine SNC. He further added that these calculations would "probably" be performed by the District engineer. The District is required to perform calculations to determine if any of its industrial users are in SNC, upon receipt of its IU's self-monitoring reports (SMRs), using the criteria provided at 40CFR 403.8(f)(2)(viii)(A)–(H) for SIUs and 40 CFR 403.8(f)(2)(viii)(C), (D), and (H) for all industrial users. In the event that an SIU meets the criteria for SNC, the District is reminded that it must publish this industrial user(s) in a newspaper(s) of general circulation to provide meaningful public notice to the jurisdiction(s) served by the POTW in accordance with 40 CFR 403.8(f)(2)(viii). More information regarding SNC calculations can be found at this Web site:

<http://www2.epa.gov/sites/production/files/documents/SNCGuidance.pdf>.

The definition of SNC provided in the District's 2004 SUO was not the updated definition of SNC as promulgated by the streamlining regulations. However, the codified version of the District's SUO available on its Web site included the updated definition of

- Isolated Noncompliance—Generally, an isolated incident of non-compliance that does not threaten public health or the environment, damage public or private property, or threaten the integrity of the District’s Wastewater Control Program, can be met with an informal enforcement procedure response.
 - Examples of enforcement response for instances of isolated noncompliance: Inspection/observation notice, notice of violation, conference with IU, and compliance schedule.
- Significant Noncompliance—Any violation, even an isolated violation, should be met with formal enforcement procedures which include an order that requires a return to compliance by a specified deadline.
 - Examples of enforcement response for instances of significant noncompliance: administrative citation, compliance order, administrative complaint, show-cause hearing, cease and desist order, permit revocation or suspension, water supply severance, injunctive relief, and civil penalties.

The enforcement actions taken by the District in regard to the violations from the Fifth Wheel facility indicate the District considered these discharge exceedances to be “significant noncompliance.” Since the District’s General Manager did not officially issue an administrative citation, compliance order, or order-to-show-cause hearing to the facility for its permit violations, the District is not properly implementing its ERP. The Inspection Team noted that the District’s General Manager had specific reasons for deviating from the instructions of the ERP and used discretion in determining which enforcement actions should be taken in response to the instance of noncompliance. However, the District did not follow the ERP. Therefore, the District is required to develop and implement its response plan in accordance with the federal regulations at 40 CFR 403.8(f)(5).

The District is reminded that the federal regulations have a federal definition for the term “significant noncompliance” stated at 40 CFR 403.8(f)(2)(viii)(A–H). The District’s December 2014 SUO includes the federal definition for the term. It is strongly recommended that the District change its “significant noncompliance” violations terminology in its 2014 ERP in order not to confuse the meaning of the federal definition of “significant noncompliance” with a different meaning for the same term in the 2014 ERP.

Also according to the 2014 audit report, “As stated at 40 CFR 403.8(f)(2)(viii), the District is required to annually publish all facilities in SNC in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW. The District representative stated during the 2014 audit that the District does not publish notices regarding facilities in SNC in a newspaper of general circulation. The District was required to ensure that the names of SIUs in SNC are published in a newspaper of general circulation as stated in the federal regulations at 40 CFR 403.8(f)(2)(viii).”

During discussions with the District representatives as a component of the 2015 inspection, the District representatives stated that they had not performed calculations to determine if any of the District's SIUs were in SNC for the 2014/2015 year. Therefore, the District is required to evaluate if SIUs are in SNC and ensure that the names of SIUs in SNC are published in a newspaper of general circulation as stated in the federal regulations at 40 CFR 403.8(f)(2)(viii).

10. Summary of Requirements and Recommendations

Listed below are the primary requirements and recommendations resulting from the inspection of the District's pretreatment program. For more specific information pertaining to each comment, please refer to the cited sections of the report.

10.1 Requirements

1. The Central Valley Regional Water Board considered the District's 2004 SUO (the last version the board had approved) to be in effect for the pretreatment program at the time of the inspection. At the time of the inspection, the SUO on the District's Web site contained updates that were not in the 2004 version of the SUO. According to information provided on the District's Web site, the ordinance had been adopted on December 9, 2014. Therefore, the SUO being implemented by the District differs from what the Central Valley Regional Water Board has approved. Substantial modifications to the pretreatment program must meet the federal requirements at 40 CFR 403.18(c), which require the District to submit to the Central Valley Regional Water Board a statement of the basis for the desired program modification, a modified program description, or other documents the Central Valley Regional Water Board determines necessary under the circumstances. The District is required to have approval from the Central Valley Regional Water Board for substantial SUO modification prior to implementing the SUO. (Section 2.2, *Results and Status of the 2014 Pretreatment Compliance Audit*, Section 3.1, *Legal Authority*, and Section 4, *Local Limits*)
2. District representatives appeared unaware of how and when to perform SNC calculations. The District is required to perform calculations to determine if any of its SIUs are in SNC with the criteria provided at 40 CFR 403.8(f)(2)(viii)(A)–(H). In the event that an SIU meets the criteria for SNC, the District is reminded that it must publish this industrial user(s) in a newspaper(s) of general circulation to provide meaningful public notice to the jurisdiction(s) served by the POTW in accordance with 40 CFR 403.8(f)(2)(viii). (Section 2.3.1, *Significant Non-Compliance* and Section 9, *Enforcement*)
3. At the time of the 2015 inspection, the District was in the process of developing technically-based local limits, but had not completed the sampling phase for developing the local limits. The District's General Manager stated that the planned completion date for the local limits study was June 2015. However, the District has since extended that completion date, as CDO R5-2014-0146 allows the District until August 1, 2016 to complete its local limits study. Due to the lack of technically based local limits at the time of the inspection, the District is required to continue the process of developing technically based local limits and

No deficiencies were noted during the site visit.

7.4 Requesting, Receiving, and Analyzing Reports

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(iv) require the District to request, receive, and analyze all reports submitted by SIUs. The inspector reminded the District during the course of the inspection that EPA has finalized the pretreatment streamlining provisions to include sampling requirements for all periodic reports as required at 40 CFR 403.12(e) and (h). The District is required to ensure that all reports submitted by SIUs comply with the provisions of 40 CFR 403.12.

The District has failed to identify all violations. The District did not notice that all of Calpine's self-monitoring reports failed to include the required certification and signature. In addition, the District did not notice PPG's iron violation (sample date on June 2, 2009) and Calpine's numerous EC and iron violations. Furthermore, there was no resampling event after PPG's June 2009 iron violation. The District is required to review its procedures for reviewing and analyzing reports submitted by SIUs. The District is required to ensure that all violations are identified and enforcement actions are taken as specified by the District's ERP.

7.5 Slug Discharge Control Plans

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(vi) require the District to evaluate each SIU, by October 14, 2006, or within 1 year of its becoming an SIU, to determine whether the SIU needs to develop and implement a slug discharge control plan. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or noncustomary batch discharge [40 CFR 403.8(f)(2)(vi)]. The regulations also require an SIU to notify the POTW immediately of any changes at the SIU's facility that affect the potential for a slug discharge.

The District has not performed slug discharge evaluations at any of its SIUs. Therefore, the District is required to evaluate each of its SIUs to determine whether any of the dischargers are required to develop and implement a slug discharge control plan. In addition, the District is required to document each of these evaluations.

8. Enforcement

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. The plan must contain detailed procedures indicating how the District will investigate and respond to instances of IU noncompliance.

The District has failed to identify all instances of noncompliance (Calpine's EC and iron violations and PPG's iron violation) and therefore has not taken appropriate enforcement action against SIUs in violation. The District is required to implement the enforcement actions outlined in its ERP for all instances of noncompliance.

The District failed to recognize that Calpine's and PPG's iron violations in 2009 caused the facilities to be in significant noncompliance. The District failed to publish these

dischargers in a newspaper of general circulation. The District is required to review all the SIU files to determine whether other SIUs are in SNC for 2009. In addition, the District is required to publish all SIUs in SNC for 2009 in a newspaper of general circulation.

9. Record-keeping

The Tetra Tech inspector found the District's record and files disorganized and incomplete. Because the District has a contractor assisting with the implementation of its pretreatment program, there were two sets of files—District files and contractor files. The contractor's files are kept off-site and were brought to the District for the purpose of this inspection. Some of the information needed for the inspection could be found in only the contractor files, while some of the information could not be found in either set of files. Furthermore, each SIU had one large file with all of the reports and information in it without any delineation, and the information in the files was not in chronological order.

The Tetra Tech inspector strongly recommends that the District revise its record-keeping procedures. Because the District is ultimately responsible for its pretreatment program, the District should have a complete set of all files on-site. In addition, the District's filing system should be clearly delineated so that files are separated into different folders for permits, correspondence, enforcement actions, discharger sampling reports, District compliance sampling events, and District inspection reports. Finally, all the information and documents should be filed chronologically.

10. Summary of Requirements and Recommendations

Listed below are the primary requirements and recommendations resulting from the inspection of the District's pretreatment programs. For more specific information pertaining to each comment, see the cited sections of the report.

10.1 Requirements

1. District personnel indicated that the District has not revised its SUO to incorporate the required streamlining provisions. Therefore, the District is required to review its SUO and incorporate the required streamlining provisions into its legal authority as soon as possible. (Section 4, Legal Authority)
2. The Tetra Tech inspector noted an inconsistency in how the District is applying the Class I SIU classification. Therefore, the District is required to review its legal authority and either revise its SUO to include the additional delineation of a Class IB user or reclassify all Class IB users as Class I users (SIUs). (Section 4, Legal Authority)
3. The Tetra Tech inspector conducted a cursory review of the District's SUO (Ordinance No. 01-13-2004) and noticed that its definition of *slug discharge* is inconsistent with the federal definition at 40 CFR 403.8(f)(2)(vi). Therefore, the District is required to review its SUO to ensure that all of its definitions are consistent with the respective federal definitions. (Section 4, Legal Authority)

4. The Tetra Tech inspector could not find the 2009 Calpine permit. Therefore, the District is required to ensure that all SIUs are issued signed and final permits prior to the expiration of the previous permits. (Section 6.1, Reissuance of SIU permits)
5. The iron limit in Calpine's permit is inconsistent with the limit established in the District's SUO. The iron limit in the permit is listed as 10 mg/L, but the SUO specifies that the local limit for iron is 1 mg/L. Therefore, the District is required to revise Calpine's permit to include the iron limit established in its SUO. (Section 6.2, Effluent Limits)
6. The permits reviewed contain inconsistent self-monitoring requirements. Therefore, the District is required to review all monitoring requirements to ensure that they are consistent throughout the permit. (Section 6.3, Self-Monitoring Requirements)
7. The permits do not clearly specify what types of samples must be collected for each pollutant. Therefore, the District is required to review all SIU permits to ensure that the appropriate sampling technique is clearly identified for each pollutant that the discharger is required to self-monitor. (Section 6.3, Self-Monitoring Requirements)
8. The permits reviewed do not specify the appropriate sampling point. Therefore, the District is required to revise all SIU permit to include a specific description of where the sampling point is located. (Section 6.3, Self-Monitoring Requirements)
9. The permits reviewed do not clearly specify all reporting requirements (i.e., signature requirements, certification requirements). Therefore, the District is required to review all SIU permits to ensure that all federal reporting requirements are clearly outlined in each SIU permit. (Section 6.4, Reporting and Notification Requirements)
10. The permits reviewed do not include the requirement to notify the District within 24 hours or the requirement to resample and submit the results of the resampling event within 30 days of becoming aware of a violation. Furthermore, the permits do not include the requirements to report slug loadings, spills, or bypasses. Therefore, the District is required to review all SIU permit to ensure that each permit specifically outlines the notification and resampling requirements after becoming aware of a violation. (Section 6.4, Reporting and Notification Requirements)
11. The permits reviewed do not contain a statement of applicable civil and/or criminal penalties. Therefore, the District is required to review all SIU permits to ensure that each SIU permit includes a statement of applicable civil and/or criminal penalties. (Section 6.5, Statement of Civil and/or Criminal Penalties)

12. The Tetra Tech inspector did not find any documented sampling events conducted by the District. The District is required to revise its compliance monitoring procedures to ensure that it monitors each of the pollutants of concern listed in each SIU's permit at least once of year. (Section 7.1, Compliance Sampling)
13. Even though District personnel indicated that annual compliance inspections are conducted at each of the SIUs, the Tetra Tech inspector did not find any documented inspection reports in the SIU files. Therefore, the District is required to revise its compliance inspections procedures to ensure that all compliance inspections are properly documented. (Section 7.2, Compliance Inspections)
14. The District has failed to identify all violations. The District is required to review its procedures for reviewing and analyzing reports submitted by its SIUs. The District is required to ensure that all violations are identified and enforcement actions are taken as specified in the District's ERP. (Section 7.4, Requesting, Receiving, and Analyzing Reports)
15. The District has not performed any slug discharge evaluations at any of its SIUs. Therefore, the District is required to evaluate each of its SIUs to determine whether any of the dischargers are required to develop and implement a slug discharge control plan. In addition, the District is required to document each of these evaluations. (Section 7.5, Slug Discharge Control Plans)
16. The District has failed to identify all instances of noncompliance and therefore has not taken appropriate enforcement action against SIUs in violation. The District is required to implement the enforcement actions outlined in its ERP for all instances of noncompliance. (Section 8, Enforcement)
17. The District failed to recognize that Calpine's and PPG's iron violations in 2009 caused the facilities to be in significant noncompliance. The District is required to review all the SIU files to determine whether other SIUs are in SNC for 2009. In addition, the District is required to publish all SIUs in SNC for 2009 in a newspaper of general circulation. (Section 8, Enforcement)

10.2 Recommendations

1. The Tetra Tech inspector conducted a cursory review of the District's SUO (Ordinance No. 01-13-2004) and noticed some inconsistencies between it and the EPA model SUO. The Tetra Tech inspector strongly recommends that the District evaluate its SUO with the EPA Model Ordinance and the EPA Legal Review Checklist to determine if any revisions are needed. (Section 4, Legal Authority)
2. Even though District personnel indicated that annual compliance inspections are conducted at each of the SIUs, the Tetra Tech inspector did not find any documented inspection reports in the SIU files. The Tetra Tech inspector recommends that the District create an inspection checklist that can be used

9.4 Requesting, Receiving, and Analyzing Reports

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(iv) require the District to request, receive, and analyze all reports submitted by SIUs. In addition, the SIU reports must contain the information required at 40 CFR 403.12.

According to the 2010 inspection report, the District failed to identify all violations. The District was required to review its procedures for reviewing and analyzing reports submitted by its SIUs. The District was required to ensure that all violations are identified and enforcement actions are taken as specified in the District's enforcement response plan (ERP). In response to this requirement, the District stated that it documented details of its compliance and enforcement activities in the *Annual Pretreatment Report* for 2012, which was submitted to the Central Valley Water Board on February 28, 2013. In addition, the District stated that it had prepared an updated methodology to ensure that all violations are identified and enforcement actions are taken as specified in the ERP. The updated methodology was included in the draft SUO.

According to the federal regulations at 40 CFR 403.8(f)(2)(iv), the POTW is required to receive and analyze self-monitoring reports and other notices submitted by IUs in accordance with the self-monitoring requirements in 40 CFR 403.12. From the files reviewed as a component of the 2014 audit, it was determined that 2013 self-monitoring data for the RockTenn CP, LLC facility was not included in the facility file. The District is required to adequately request, receive, and analyze reports submitted by SIUs as stated in the federal regulations at 40 CFR 403.8(f)(2)(iv).

9.5 Slug Discharge Control Plans

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(vi) require the District to evaluate each SIU, either by October 14, 2006 or within one year of the facility's becoming an SIU, to determine whether the SIU needs to develop and implement a slug discharge control plan (SDCP). A slug discharge is any discharge of a non-routine, episodic nature, including an accidental spill or non-customary batch discharge [40 CFR 403.8(f)(2)(vi)]. The regulations also require an SIU to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

According to the 2010 inspection report, the District had not performed slug discharge evaluations at any of its SIUs. Therefore, the District was required to evaluate each of its SIUs to determine if any is required to develop and implement an SDCP. In addition, the District was required to document each of these evaluations. In response to this requirement, the District stated that in 2010, the District developed an "Evaluation of SIUs [sic] Need for a Plan to Control Slug Discharge" form. Each SIU was evaluated and it was determined that none of the SIUs required an SDCP at the time of the evaluation. These results were documented on the newly developed forms, which were filed in each SIU's folder. The District also stated that it had provided copies of the slug discharge evaluations for the SIUs in the September 2013 report submitted to the Central Valley Water Board.

During the 2014 audit, the District's Contract Engineer stated that in 2010 the District sent SDCP surveys to its SIUs. The SIUs were required to complete the surveys in order

for the District to determine if any SIU needed to develop and implement an SDCP. The District's Contract Engineer stated that none of the District's SIUs were required to develop SDCPs at the time of the surveys were completed. The District should be aware that solely relying upon the completion of the SDCP survey by the IU is not an adequate method to determine the need for an SDCP. The District should take the SDCP survey into account, but it is strongly recommended that the District make its determination based on site inspections and practices observed at the facility.

The Stratas file reviewed contained a two-page document outlining the evaluation of the facility's need to develop an SDCP. The documentation provided indicates that the following information was reviewed: (1) did the facility have a slug discharge in the past year? (2) does the facility have spill containment? and (3) does the facility post notices providing information to contact the WWTP in the event that a slug discharge occurs? It is recommended that the facility or inspector include information on the "Evaluation of SIU's Need for a Plan to Control Slug Discharge" form that pertains to chemicals, chemical storage, and floor drain locations at the facility. The storage of chemicals in proximity to a floor drain may increase the potential for a slug discharge to occur at a facility and, thus, the facility's need to develop an SDCP.

10. Enforcement

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. During initial conversations with the District, the District representative was unsure if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District's Contract Engineer who stated that the District's ERP was a component in the District's SUO. A cursory review of the District's draft SUO determined that the ERP was located in section 3.08.010. This section states that the District shall develop and implement an ERP which should include a description of how the District will investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District's primary responsibility to enforce all applicable pretreatment requirements and standards. However, section 3.08.010 of the District's SUO does not specifically identify how the District will investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District is required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5).

According to the 2010 inspection report, the District had failed to identify all instances of noncompliance and therefore had not taken appropriate enforcement action against SIUs in violation. The District was required to implement the enforcement actions outlined in its ERP for all instances of noncompliance. In response to this requirement, the District stated that it was currently reviewing and identifying all instances of noncompliance. In addition, the District stated that details of its compliance and enforcement activities were documented in the *Annual Pretreatment Report* for 2012, which was submitted to the Central Valley Water Board on February 28, 2013.

CLASS 1 INSPECTION AND SAMPLING ACTIVITIES

SIU Name	Address	Permit No.	SIU Facility Inspections	Slug Control Evaluation	District Sampling for Compliance Determination
Air Products	3333 S. Peach Ave	1140	1 11/13/2013	1	0
PPG	3333 S. Peach Ave	1038	1 10/29/2013	0	11
RockTenn	3366 E. Muscat Ave.	1001	1 10/29/2013	0	8
Rio Bravo	3350 S. Willow Ave.	1005	1 10/29/2013	0	11
Stratas	3390 S. Chestnut Ave.	1008	1 11/13/2013	0	11

PPG₁ = 100,000 Cal Pwd = 25,000 Page 51 of 113
 Rio = 150,000 ADM = 20,000 WWTP = 800,000 gal
 clean = 1.2 MGD.

SECTION II: SUPPLEMENTAL DATA REVIEW/INTERVIEW (Continued)

D. APPLICATION OF PRETREATMENT STANDARDS AND REQUIREMENTS

1. a. How many SIUs were not evaluated for the need to develop slug discharge control plans? [403.8(f)(2)(vi)] 5

b. List the SIUs below or attach additional sheets as needed.

*Documentation of slugs not been
perform.*

* For dischargers identified as significant prior to November 14, 2005, this evaluation must be performed at least once by October 14, 2006. Additional SIUs must be evaluated within 1 year of being designated as a SIU.

2. Did the CA apply all applicable categorical standards and local limits to IUs whose wastes are hauled to the POTW?

N/A	Yes	No
✓		✓

If yes, identify the industries.

If no, explain.

3. Did any IUs notify the CA of a hazardous waste discharge? [403.12(j)&(p)]

Yes	No
	✓

If yes, identify and explain.

micromhos per centimeter ($\mu\text{mhos/cm}$) and the pH was measured as 5.73 s.u. at approximately 10:30 a.m.

According to Part 1.8 of the facility's permit, "Pretreatment facilities (including sampling and flow monitoring facilities) shall be maintained in good working order and shall be operated so as to ensure continuous compliance with District ordinances, resolutions, rules and regulations, and any applicable permits by the User at the User's own cost and expense." Due to the large variation of the pH and electrical conductivity measurements recorded in the facility's log sheet, it was unclear if the facility was properly maintaining its wastewater sampling equipment to obtain accurate readings.

Due to the facility's lack of maintenance records, (including probe cleaning and calibration, solids removal from the clarifier, etc.) for the Water Maze system, and lack of flow to the Water Maze system, the District is required to ensure that the permittee properly maintains its pretreatment system in accordance with Part 1. 8 of the facility's permit. It is also recommended that the facility keep detailed records regarding maintenance activities conducted at the facility.

The wash bays had six mobile power spray washers and numerous 200-gallon totes and 55-gallon drums positioned around the perimeter of the bays. The facility's wash solution and water delivery systems had a lot of cross connections, "jerry rigged" assets, and unlabeled lines/hoses. The "jerry rigging" was not limited to the water and cleanser delivery systems. The Inspection Team observed an old plumbing line and faucet being used as an electrical conduit line.

8.4 Requesting, Receiving, and Analyzing Reports

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(iv) require the City to request, receive, and analyze all reports submitted by SIUs. The SIU reports must contain the information required at 40 CFR 403.12.

According to the 2014 audit report, the 2013 self-monitoring data for the RockTenn CP, LLC facility was not included in the facility file. The District was required to adequately request, receive, and analyze reports submitted by SIUs as stated in the federal regulations at 40 CFR 403.8(f)(2)(iv).

As a component of the 2015 inspection, the self-monitoring data submitted by Air Products, RockTenn, and Stratas Foods were reviewed.

The self-monitoring reports submitted to the District by Air Products dated January 12, 2015 included a discharge monitoring report form with sampling results for the parameters that were required to be sampled and submitted by the facility. However, analytical data and chain-of-custody forms were not included with the self-monitoring report submitted by the industry. According to 40 CFR 403.8(f)(2)(iv), the District is required to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the 40 CFR 403.12. According to 40 CFR

403.12(g)(3), sampling must be conducted using the protocols specified in 40 CFR 136. Since the analytical data and chain-of-custody forms were not provided with the self-monitoring report submitted by Air Products, the Inspection Team could not confirm that the samples were collected and analyzed in accordance with the regulations at 40 CFR 136. The District is required to receive and analyze self-monitoring reports and other notices submitted by Industrial users in accordance with the 40 CFR 403.12 as stated at 40 CFR 403.8(f)(2)(iv).

The following additional deficiencies were identified regarding the self-monitoring data submitted by the Air Products, RockTenn, and Stratas Foods facility; and ultimately with the District's process of requesting receiving and analyzing reports.

- The Inspection Team reviewed the data on the Environmental Compliance Inspector's computer (the location identified as housing all relevant SIU data) and identified that the following self-monitoring reports were not included in the SIU files reviewed.

- Air Products—The 2014 permit required the facility to monitor and record flow on a daily basis and to monitor and submit sampling results for BOD, TSS, copper, lead, and pH semiannually (June and December). According to the information provided in the District's files, the facility did not submit flow monitoring data for January, February, or March 2014.

Also, according to the 2015 permit, the facility is required to monitor and record flow on a daily basis and submit sampling results for BOD, TSS, pH and EC on a monthly basis. According to the information provided in the facility's file, the facility did not submit the monthly self-monitoring data for BOD, TSS, pH, and EC for the first two months of 2015.

- RockTenn—According to the 2014 permit, the facility was required to collect continuous EC samples, daily flow samples, monthly BOD and TSS samples, and weekly pH samples. The facility was also required to collect annual samples for aluminum, arsenic, barium, boron, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc during the month of June. According to the information provided in the District's file, the facility did not collect and analyze samples for lead, mercury, nickel, selenium, or silver during 2014 as required by its permit. It should also be noted that the facility provided sampling results for the parameters that were sampled in 2014 in an Excel spreadsheet. The spreadsheet did not include analytical data or a chain-of-custody forms.
- According to the 2014 permit, the Stratas Foods facility was required to sample flow on a daily basis; BOD, TSS, pH, and EC on a weekly basis; and oil and grease twice per week. The 2014 Stratas Foods permit does not state how the local limits were to be applied. Therefore, several potential effluent violations were identified, as described in Table 3.

Table 3. Potential Permit Exceedances According to the Self-Monitoring Reports Submitted by Stratas Foods for August 2014

Parameter	Average Monthly Reported Sampling Result	Instantaneous Reported Sampling Result (date)	2014 Permit Limit
BOD	365	No exceedance	1,000 mg/L
TSS	34	No exceedance	1,000 mg/L
EC	714	962 µmhos/cm (8/21/2014)	950 µmhos/cm
pH	7.7	9.3 s.u. (8/21/2014)	6.0–9.0 s.u.
O&G	56	190 mg/L (8/7/2014)	100 mg/L

The information provided in the District’s file for the facility did not indicate the District had identified these potential violations or had taken enforcement action for the instantaneous sample results that exceeded the facility’s permitted limits. Again, the facility’s permit did not specify if the limits should be applied as monthly averages or instantaneous maximums.

The District should review the reports and inform the facilities that pH values cannot be averaged. pH is a logarithmic function used to measure the concentration of hydronium ions in an aqueous solution, it cannot be averaged due to its logarithmic characteristics.

Due to the aforementioned deficiencies, the District is required to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the 40 CFR 403.12 as stated at 40 CFR 403.8(f)(2)(iv).

8.5 Slug Discharge Control Plans

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(vi) require the District to evaluate each SIU, either by October 14, 2006 or within 1 year of its becoming an SIU, to determine whether the SIU needs to develop and implement a slug discharge control plan. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or noncustomary batch discharge [40 CFR 403.8(f)(2)(vi)]. The regulations also require an SIU to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

As previously stated, at the beginning of the 2015 inspection, the District representatives were referring to facilities that batch discharge wastewater as facilities with “slug discharges.” The Inspection Team asked specifically about the District’s process for inspecting facilities and evaluating the need for those facilities to develop and implement slug discharge control plans. The District provided to the Inspection Team a slug discharge control plan for the Kinder Morgan facility. The Inspection Team reviewed a document titled “Slug Discharge Plan” dated November 4, 2014 stating the “slug characteristics” and the plan to discharge the slug. The plan states, “The low pH of the slug will remain as it is. It will not be adjusted because adjusting it will only cause an increase in EC.”

The Inspection Team thoroughly discussed with the District representatives the difference between a “slug discharge” and a “batch discharge.” The Inspection Team also expressed the importance of preventing the discharge of slugs to the POTW. Additionally, the inspection reports reviewed did not include a section for evaluating the potential for a slug discharge to occur or documentation that the District had evaluated the facility’s need to develop and implement a slug discharge control plan. The District was unable to provide other documentation indicating that the SIUs had been evaluated for the need to develop and implement a slug discharge control plan. Therefore, the District is required to evaluate whether each SIU needs a plan or other action to control slug discharges in accordance with 40 CFR 403.8(f)(2)(vi).

The District is reminded that if SIUs are required to develop and implement slug discharge control plans, those plans must meet the federal requirements at 40 CFR 403.8(f)(2)(vi)(A–D).

9. Enforcement

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance.

According to the 2014 audit report, the District representative did not know if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District’s Contract Engineer, who stated that the District’s ERP was a component of its SUO. The audit team performed a cursory review of the District’s draft 2014 SUO and determined that the ERP was located in Section 3.08.010. This section stated that the District should develop and implement an ERP, which should include a description of how the District would investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District’s primary responsibility to enforce all applicable pretreatment requirements and standards. However, Section 3.08.010 of the District’s draft 2014 SUO did not specifically identify how the District would investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District was required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5).

Also, according to the 2014 audit report, documentation in the Stratas Foods file indicated the facility had notified the District, via a letter, of a monthly average O&G exceedance on October 17, 2012. According to the September 2012 self-monitoring report, the facility’s monthly average sampling result for O&G was 166 mg/L; the permitted limit for O&G was 100 mg/L. However, the District did not take enforcement action against the facility upon receipt of the letter. The District was required to ensure that the facility notify the District within 24 hours of becoming aware of a violation, as stated in the federal regulations at 40 CFR 403.12(g)(2).

During the 2015 inspection, the District representatives stated that the District had updated its ERP as a component of the SUO review that had occurred in February 2014. The Inspection Team reviewed the District’s response to the Fifth-Wheel Truck Wash

the truck washing operations, thereby providing consistency in the nature and characteristic of the wastewater generated and discharged from the facility. It is also recommended that the facility develop and implement SOPs for maintaining its oil/water separators.

During the site visit, the Inspection Team also observed a facility employee washing under the hood of one of the tractor trailer trucks. Although the wash waters generated at the facility are treated by an oil/water separator prior to being discharged to the POTW, it is recommended that the District evaluate this practice for how it may impact the quality of the wastewater discharged to the POTW.

- *Kinder Morgan SFPP, L.P.* The facility is a fuel distribution facility. The facility's operations include the storage, distribution, and modification of various types of fuels. The fuels are modified by the injection of various additives. The District had permitted the facility as a Class 1 SIU due to the potential of the discharges from the facility to negatively impact the POTW.

The facility discharges pretreated rain and wash waters, as well as minor spills from the facility's process areas to the POTW. The facility stored and transferred fuel products to tanker trailers. Additives were injected to various fuels as the fuel was transferred into the tanker trailers. The facility's process operations and tank farm areas were not inspected as a component of the inspection.

The facility's pretreatment system is comprised of a rock trap, an oil water separator, two 10,000-gallon holding tanks, two 25-micron sock filters, and two 2,000-gallon liquid granular activated carbon (GAC) filters, arranged in series.

The facility representatives were asked for an operational sketch of the facility wastewater process. The facility representatives provided a sketch to the Inspection Team. Three modifications were made to the sketch based on conversations during the 2014 inspection. These modifications included: 1) a rock trap had been installed prior to the oil/water separator; 2) waste oil collected in the oil water separator was hauled offsite to a refinery for processing; and 3) the pretreatment system has the ability to recycle effluent back to the holding tanks for retreatment prior to discharge. It is strongly recommended that the District request the facility to modify its process area schematic and obtain a current version of the schematic to keep on file.

A majority of the discussions during this inspection focused on the facility's activities associated with identifying the sources of high EC in the facility's wastewaters discharged to the District. Facility representatives stated that a product sampling program had been implemented to document EC concentrations of products onsite and to further evaluate possible EC sources in the facility's wastewater.

District representatives stated they had experienced a number of issues with high EC loading discharged from the facility to the POTW in the past. As a result, the District issued the facility a Class 1 IU permit. In response to the high EC loading

issues from the facility, it is strongly recommended that the District formally conduct an in-depth evaluation of the sources of the EC loading. As a component of the evaluation, the District shall inspect the operations associated with fuel transfer and cleanup operations. The District should also review the facility's SOPs for fuel loading/offloading, fuel additive injection, general cleanup, spill response, and pretreatment system operation. It is further recommended that the District thoroughly document these findings in an investigation report.

As previously mentioned, the District representatives had confused the terms "slug discharge" and "batch discharge." Specifically, the District had required the facility to develop and implement a "slug discharge plan." However, upon further review of the document, the Inspection Team identified that the District was describing batch discharge practices instead of slug discharge prevention. Therefore, it is strongly recommended that the facility's discharge practices be described as a "batch" discharge instead of as a "slug" discharge. It is further recommended that the District require the facility keep a batch discharge log to document the date, time, and volume of batch discharges from the facility to the POTW.

- *PPG Industries.* The facility produces flat and tempered glass products for various industries. The purpose of the inspection was to evaluate the exterior perimeter of the facility. Specifically, the Inspection Team reviewed the outdoor emergency spill and discharge ponds due to recent power outages at the facility. According to District representatives, a power outage had recently occurred at the facility in 2015. The facility sampling location was also inspected as a component of the site visit. The process operations were not discussed or inspected during the facility inspection. The City had permitted the facility as a Class 1 SIU due to the potential for the facility's discharges to adversely impact the POTW.

The facility had recently experienced a power outage that caused the primary and secondary power systems at the facility to fail. The power failure caused the electrical power-driven process operations to shut down, which included the control movement of molten glass and cooling systems. Due to the extreme temperature of the molten glass, the system was designed with an emergency system to provide protection in the event of a power failure. For instance, during the power outage, the molten glass and cooling waters were gravity fed to the facility's "Frit Pit" (located outside the back of the facility).

The facility's pretreatment system was not inspected as a component of the site visit. The site visit focused on the inspection of the facility's emergency spill and discharge ponds, in addition to the sampling location.

During power outages, wastewaters were not discharged to the District's POTW. The facility representatives were asked to describe the general events associated with the facility's recent power failure. *The following is a very general overview of the discussions with facility representatives:*

the file which showed that the facility notified the District for each of the violations listed above in Table 1. The District is required to ensure that the facility notifies the District within 24 hours of becoming aware of a violation as stated in the federal regulations at 40 CFR 403.12(g)(2). In addition, the District is required to ensure that it is taking the appropriate actions to enforce the discharge limits stated in the facility permit in order to protect the District's POTW. (Section 10, Enforcement)

23. As stated at 40 CFR 403.8(f)(2)(viii), the District is required to annually publish all facilities in SNC in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW. The District representative stated during the 2014 audit that the District does not publish notices regarding facilities in SNC in a newspaper of general circulation. The District is required to ensure that the names of SIUs in SNC are published in a newspaper of general circulation as stated in the federal regulations at 40 CFR 403.8(f)(2)(viii). As noted in section 2.3.1, the District was unaware if any of the SIUs were in SNC in 2013. (Section 10, Enforcement)
24. As a component of the 2014 audit, the District's data management system for implementation of the pretreatment program was reviewed. When the audit team requested to review the District's files, the District representative was able to produce some of the IU permits in hardcopy form but was unable to provide the full IU files to the audit team. The audit team reviewed files that were maintained by the Contract Engineer, but not by the District. These files were not kept for regulatory purposes but for tracking the Contract Engineer's work products. The District's Contract Engineer stated that they were not contracted to maintain the District's official files. The documentation for each SIU was located in individual files. However, some SIU reports were stored in other SIU's files. The files at the District's Contract Engineer's office were unorganized, incomplete, and did not constitute pretreatment files on the District's behalf. The District is required to maintain records of monitoring activities as stated in the federal regulations at 40 CFR 403.12(o). It is strongly recommended that the District develop a system of documenting and filing information for implementation of the pretreatment program and that the District maintain records of the pretreatment program separate from that of its Contract Engineer. (Section 11, Data Management)
25. As a component of the 2014 audit, the District's pretreatment program budget was requested. During the initial discussion of the budget, the District representative stated that the budget was not specifically broken down by program (i.e., there was not a specific line item identifying resources strictly dedicated to the pretreatment program). The District representative provided the audit team with a list that included the budget for water, sewer, solid waste disposal services, recreational services, and administration and general services. The federal regulations at 40 CFR 403.8(f)(3) require the District to have sufficient resources and qualified personnel to carry out the authorities and procedures of the industrial pretreatment program. The District is required to evaluate its resources,

including personnel, to ensure that the industrial pretreatment program is adequately managed. In addition, it is strongly recommended that the District reorganize the budget to break down specific programs in order to determine if the pretreatment program resources are adequate for the operation of a successful program. (Section 13, Pretreatment Program Resources)

14.2 Recommendations

1. It is recommended that the District develop a pharmaceutical take-back program and expand its outreach to senior care centers, hospitals, and pharmacies. Successful take-back programs have been implemented in California's San Francisco Bay Area by the Bay Area Pollution Prevention Group (BAPPG); the U.S. Environmental Protection Agency (EPA) considers the BAPPG programs to be model systems. (Section 2.2.3, Pharmaceutical Recovery)
2. The District did not provide data or information to the audit team regarding the mercury concentrations of the WWTP's influent, effluent, or sludge. It is recommended that the District review data pertaining to mercury concentrations of the WWTP's influent, effluent, and sludge in order to determine if these concentrations are decreasing, increasing, or remaining unchanged. Furthermore, it is recommended that the District develop a dental mercury program. The District should begin by identifying the dental facilities in its service area, followed by investigating dental practices pertaining to their handling of dental mercury and amalgam. The American Dental Association serves as an informational resource and provides best management practices pertaining to the management and disposal of dental mercury and amalgam (Section 2.3.3, Dental Mercury)
3. The District representative stated that the District does not have industrial laundry facilities within its service area. It is recommended that the District discuss and review the EPA's Safer Detergents Stewardship Initiative (SDSI) program with any industrial laundries that come into the District's jurisdiction in the future. SDSI is a voluntary program to commit to the use of safer surfactants. Safer surfactants are those which break down quickly to non-polluting compounds, therefore helping to protect aquatic life in both freshwater and salt water. Nonylphenol ethoxylates (NPEs) are an example of a surfactant class that does not meet the definition of a safer surfactant. (Section 2.3.4, Industrial Laundries)
4. In addition, according to the State Water Board Order WQ No. 2006-0003, there is a requirement that POTWs enrolled under the General Order evaluate its service area to determine if a FOG program is needed. Therefore, it is recommended that the District continue to develop and implement its FOG control program and provide public outreach about the proper disposal of FOG waste. A component of the FOG program should also include working with FSEs to ensure that FSEs have adequate grease removal devices that are properly maintained in order to protect the District' POTW. In addition, it is recommended



Central Valley Regional Water Quality Control Board

12 April 2012

CERTIFIED MAIL

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NOTICE OF VIOLATION

Mr. Russ Holcomb
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

VIOLATION OF WASTE DISCHARGE REQUIREMENTS WDR ORDER R5-2008-0033 AND CEASE AND DESIST ORDER R5-2008-0032, MALAGA COUNTY WATER DISTRICT WASTEWATER TREATMENT FACILITY (NPDES CA0084239, RM 384386), FRESNO COUNTY

Central Valley Water Board staff (staff) reviewed Malaga County Water District (District) WWTF Waste Discharge Requirements Order (WDR) R5-2008-0033, Cease and Desist Order (CDO) R5-2008-0032 (both adopted on 14 March 2008) and evaluated the District's compliance. The District violated, is in violation of, or threatens to violate the WDR and CDO as follows:

REPORT REQUIREMENTS

WDR R5-2008-0033 requires the following reports:

- 1) By 12 June 2008, Provision VI. C. 2.a.i required a Toxicity Reduction Evaluation (TRE) work plan that included procedures for accelerated chronic toxicity monitoring and TRE initiation. On 19 June 2008, the District submitted its initial TRE work plan. By 5 August 2008 letter Central Valley Water Board staff (staff) deemed the TRE work plan incomplete.
 - 9 September 2008 – revised report received – report complete - 89 days late.
- 2) By 14 September 2008, Provision VI. C. 2.b required the District to submit a work plan and schedule for providing best practicable treatment or control (BPTC) as required by Resolution 68-16. On 24 July 2008, the District submitted its BPTC evaluation and submitted supplemental information on 9 September 2008 and 1 May 2009. By 24 September 2009 letter, staff deemed the BPTC evaluation incomplete.
 - 23 October 2009 – revised report received – 404 days late
- 3) By 15 September 2008, Provision VI. C. 2.d requires the District to submit a technical report evaluating the groundwater monitoring system. On 15 July 2008, the District submitted the report with supplemental information submitted on 3 November 2008.

By 24 September 2009 letter, staff deemed the report incomplete. On 23 October 2009, the District submitted an updated evaluation.

- 23 October 2009 – revised report received - 403 days late
- 4) Within 21 days of the end of the quarter, Monitoring and Reporting Requirements No. R5-2008-0033 D. 4. Pretreatment Reporting Requirements require the District to submit quarterly reports (the 4th quarter monitoring is to be included with the annual report).
- 2nd Quarter 2008 Pretreatment – not received – due 21 July 2008
 - 3rd Quarter 2008 Pretreatment – not received – due 21 October 2008
 - 2nd Quarter 2009 Pretreatment – not received – due 21 July 2009
 - 3rd Quarter 2009 Pretreatment – not received – due 21 October 2009
 - 1st Quarter 2010 Pretreatment – not received – due 21 April 2010
 - 2nd Quarter 2010 Pretreatment – not received – due 21 July 2010
 - 3rd Quarter 2010 Pretreatment – not received – due 21 October 2010
 - 1st Quarter 2011 Pretreatment – not received – due 21 April 2011
 - 3rd Quarter 2011 Pretreatment - received 10/31/2011-10 days late
- 5) By 28 February each year, Monitoring and Reporting Requirements R5-2008-0033, D. 4 Pretreatment Reporting Requirements, require the District to submit annual pretreatment reports.
- 2008 Annual Pretreatment - received 3 April 2009 - report 34 days late
 - 2009 Annual Pretreatment – not received – due 28 February 2010
 - 2011 Annual Pretreatment - received 1 March 2012 – report 2 days late
- 6) By 19 February each year, Provision VI. C. 5.b.iv Sludge/Biosolids Discharge Specifications require the District to comply with existing federal and state biosolids laws and regulations, including permitting requirements and technical standards included in 40 CFR 503, which requires an annual biosolids report due to USEPA. On 13 March 2012, staff contacted USEPA and was told that the District has never submitted an annual biosolids report.
- 2008 Annual Biosolids – not received – due 19 February 2009
 - 2009 Annual Biosolids – not received – due 19 February 2010
 - 2010 Annual Biosolids – not received – due 19 February 2011
 - 2011 Annual Biosolids – received 15 March 2012, deemed incomplete by USEPA (see attached 20 March 2012 email)
- 7) By 14 July 2008, Provision VI. C. 7.a.ii Treatment Feasibility Study required the District to submit a work plan and time schedule to perform an engineering treatment feasibility study.
- 9 December 2009 - report received - 513 days late.

CDO R5-2008- 0032 requires the following reports:

- 8) By 14 April 2008, Ordered item 2.a. required the District to submit a work plan and proposed implementation schedule for improvement of WWTF influent flow metering.
 - 21 April 2008 report received – 7 days late
- 9) By 14 March 2008, Ordered item 2.b. required the District is to submit a technical report certifying the influent flow modifications are complete and meter is properly calibrated. On 6 August 2009 the District submitted flow meter calibration certificate.
 - 9 December 2009 – report received – 635 days late
- 10) By 13 June 2008, Ordered item 3.a required the District to submit the results of a study evaluating the WWTF treatment and disposal capacity with a work plan and time schedule to implement short-term and long-term measures to meet WWTF treatment and disposal needs through at least 2028. On 28 July 2008, the District submitted the report. On 24 September 2009, staff deemed report incomplete and inadequate and required a revised report. A revised report was never received.
 - Treatment and Disposal Capacity – not received – due 13 June 2008
- 11) By 14 March 2011, Ordered item 3.d requires the District complete short-term measures and to submit a technical report certifying modifications were completed as designed. On 29 April 2011, the District submitted report indicating that not all short-term measures were complete.
 - Short-term Measures – all measures not completed – due 14 March 2011

As stipulated in the WDR, and CDO, the District is required to submit technical and monitoring reports pursuant to section 13267 and 13383 of the California Water Code. To date, the reports cited above do not meet the requirements of the WDR and CDO. Please be advised that section 13268 of the California Water Code authorizes assessment of civil administrative liability of up to \$1000 per day a report is late

Many of the above referenced reports have not been submitted or were found to be incomplete. Submit any available reports identified as not submitted forthwith. Potential civil liability continues to accrue for late and incomplete reports.

SELF-MONITORING REPORTS REVIEW

Staff reviewed the District's self-monitoring reports for non-mandatory minimum penalty violations for the period of 14 March 2008 to 31 January 2012. The District violated, is in violation of, or threatens to violate WDR R5-2008-0033 as follows:

- 12) Facility Effluent Limitations IV.A.2 for exceeding the EC limit at Discharge Point 002 - one violation.
- 13) Receiving Water Limitations V.B.1 for exceeding the EC ground water limitation of 900 umhos/cm - 24 violations
- 14) Receiving Water Limitations V.B.2 for exceeding the nitrogen ground water limitation of 10 mg/L – two violations
- 15) Provision VI. B. for failure to comply with the Monitoring and Reporting Program by submitting deficient self-monitoring reports. From 14 March 2008 to 31 January 2012 there were 65 deficient monitoring violations.
- 16) Provision VI. B. for failure to comply with the Monitoring and Reporting Program by submitting deficient self-monitoring reports. From 14 March 2008 to 31 January 2012 there were 87 deficient reporting violations.
- 17) Provision VI. C.4. iv for failure to maintain two feet of operating freeboard in the ponds- 272 violations in 2008 and 2009.
- 18) Provision VI. C. 5.c Sludge/Biosolids Disposal Requirements for failing to dispose of biosolids as authorized by the WDR. The District states in its 2011 pretreatment and annual report that it is composting biosolids onsite, contrary to the WDR.

If you have any questions regarding this matter, please contact Jill Walsh at (559) 445-5130 or at jwalsh@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist
CEG 1528, CHG 681

Attachment: 20 March 2012 email from USEPA

cc: Ellen Howard, Office of Enforcement, State Water Board, Sacramento
Dan Radulescu, Central Valley Water Board, Rancho Cordova
Charles Garabedian, Jr., Malaga County Water District, Fresno
Michael Taylor, Provost & Pritchard, Fresno
Neal E. Costanzo, Costanzo & Associates, Fresno



Karl E. Longley, ScD, P.E., Chair

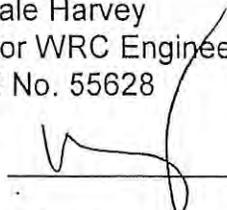
Linda S. Adams
Secretary for
Environmental
Protection

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

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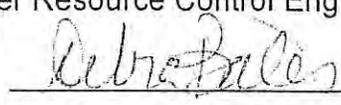
TO: Lonnie M Wass
Supervising Engineer

FROM: W Dale Harvey
Senior WRC Engineer
RCE No. 55628

SIGNATURE: 

Debra Bates
Water Resource Control Engineer

DATE: 19 August 2009

SIGNATURE: 

SUBJECT: STUDY EVALUATING TREATMENT AND DISPOSAL FACILITIES, MALAGA COUNTY WATER DISTRICT, FRESNO COUNTY

BACKGROUND

Malaga County Water District (District) owns and operates a wastewater treatment facility (WWTF) that serves the unincorporated community of Malaga and provides sewerage services to its approximately 1000 residents and various light industries. The WWTF consists of a 1.2 mgd activated sludge secondary treatment system with dissolved air flotation/primary clarification, aeration basins, and three secondary clarifiers, and a tertiary treatment component.

Waste Discharge Requirements Order No. R5-2008-0033 authorizes discharge of up to 0.45 mgd of disinfected tertiary treated wastewater to the Central Canal. The portion of the 1.2 mgd not further treated to tertiary levels is discharged to evaporation/percolation ponds (ponds). Self Monitoring Reports submitted by the District indicate the average monthly influent flow for the first eight months of 2007 was 0.87 mgd, and in September was 1.02 mgd.

Cease and Desist Order (CDO) No. R5-2008-0032, Item 3, requires the District to submit a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The required technical report is to include actions to generate appropriate population and WWTF flow projections and their rationale.

The CDO cites California Code of Regulations (CCR), Title 23, section 2232 (d), which states that whenever a regional board finds that a publicly owned wastewater treatment plant will reach capacity within four years and that adequate steps are not being taken to address the capacity problem, it shall adopt a time schedule or other enforcement order.

The CDO does not specifically address other sections of CCR, Title 23, section 2232, which state that whenever a regional board finds that a publicly owned wastewater treatment plant will reach capacity within four years, the discharger is required to submit a technical report

showing how flow volumes will be prevented from exceeding existing capacity or how capacity will be increased. The technical report is to include appropriate population and WWTF flow projections and their rationale. Additionally, the technical report is to be reviewed, approved, and jointly submitted by all planning and building departments having jurisdiction in the area served by the waste collection, treatment, and disposal facility; and public participation is required during preparation of the technical report.

On 28 July 2008, Provost and Pritchard Engineering Group (P&P) submitted a technical report entitled "Study Evaluating Treatment and Disposal Facilities" (P&P Report), to fulfill the CDO requirement. Below is a summary of information provided in the P&P Report, followed by our comments.

Flow Rate and Characteristics

P&P reviewed influent monthly average metered flow rates from 1990 to 2007. The flow rates varied up to 0.2 mgd from month to month and the District was unable to account for the fluctuation in flow. The metered flow rates were discovered to be inaccurate during a facility inspection, as they include grit wash tank recirculation.

The P&P report states the anticipated annual increase in flow for the next 20 years is 0.011 mgd, based on the review of monthly flow rate increases. Table 3, based on this number, projects the 2013 flow rate at 0.926 mgd and the 2028 flow rate to be 1.091 mgd.

Table 2 identifies vacant land use according to zoning type and estimates that the future potential sewage contribution from undeveloped land within the District could be 2.9 mgd. According to minutes from the District board meetings, the District has been annexing property into the District, which would further increase potential sewage contribution.

Information from SMRs for 2008 indicates average monthly influent flows, deducting an estimated 0.1 mgd for the grit wash recirculation, for May through December at 0.909, 0.98, 0.956, 1.12, 0.91, 0.63, 0.90, and 0.87, respectively.

Treatment Facilities

Based on the projected flow rate discussed above of 1.091 mgd, the P&P Report indicates the barminutor, dissolved air flotation (DAF) clarifier, activated sludge tanks, and sludge digesters have adequate treatment capacity (all units have a design capacity of 1.2 mgd). The DAF clarifier is currently out of service and has been out of service for four years. The submitted timeline indicates the unit will be back in service by January 2009. P&P now indicates the completion date for the DAF repair is 30 September 2009. The total capacity of all three of the secondary clarifiers is given as 1.65 mgd, accounting for redundancy and the ability to meet periodic high influent flow rates. Currently only one secondary clarifier is operational, providing a capacity of 0.823 mgd. The remaining two secondary clarifiers have been out of service for two and twenty years, respectively. The repair completion date for the clarifiers is also 30 September 2009.

The P&P Report indicates the activated sludge tanks have a current capacity of 1.2 mgd. The P&P Report indicates the District was evaluating the existing activated sludge units to improve ammonia treatment and would recommend improvements or modification to the present operation by September 2008. The District is required by WDR Order No. R5-2008-0033 to

conduct a treatment feasibility study for removal of ammonia. A work plan for the treatment feasibility study was due by 14 July 2008 and to date has not been submitted.

According to the P&P Report, the sludge digestion system has a current capacity of 1.2 mgd. The sludge thickener is out of service with repairs scheduled for September 2008, but not yet completed. Sludge bed capacity is not included in the Study. It indicates that soil-cement lining of the third sludge bed is scheduled for 2009. The District indicated on 3 August 2009 that it has obtained funding to line the third bed.

The tertiary treatment system has a reported capacity of 0.45 mgd. Tertiary treated water is discharged to the Fresno Irrigation District. The Fresno Irrigation District has asked the District to find another disposal option, making additional tertiary capacity unnecessary.

Disposal Facilities

The P&P Report indicates that the District does not currently have adequate disposal capacity. The P&P Report refers to previously submitted water balances which show that an additional 13.26 acres of ponds are needed to accommodate current flow rates. An additional 27.26 acres of ponds would be necessary to accommodate the design capacity of 1.2 mgd, which would be needed if disposal to Fresno Irrigation District is discontinued. Disposal alternatives discussed in the P&P Report include District purchase of additional land for additional disposal ponds and a statement that the District, within 45 days from the date of the P&P Report submittal, would be evaluating options for reclamation for irrigation of landscaping or for agricultural purposes. No additional disposal studies have been submitted by the District to date.

The P&P Report indicates there was a November 2007 contact with Caltrans and Caltrans indicated a willingness to receive treated effluent. The P&P Report does not provide any evidence of follow-up with Caltrans.

The P&P Report contends that agricultural property owners in the vicinity of the treatment plant are not interested in using recycled water. The P&P Report does not include documentation of any proposals made to the property owners regarding water reclamation for irrigation or other evidence to support this conclusion.

The submitted work plan in the P&P Report indicates that within 30 days from the date of the submittal, the District will be conducting additional property research, contacting property owners and considering a moratorium on new connections until additional capacity is secured. The District indicates that within 60 days of the submittal, it will be entering negotiations for purchase or long-term lease of a property for disposal ponds. The District has not submitted any information regarding these negotiations.

Planning and Department Review

The P&P Report does not provide any indications of involvement by the District's Board of Directors or the planning and building departments having jurisdiction in the area, in preparation of the P&P Report.

Public Participation

The P&P Report does not provide any indication of public participation in preparation of the P&P Report.

COMMENTS

Flow Rate and Characteristics

The P&P Report estimates future flow rate based on several different methods: past flow data, potential use of vacant lands, previous growth rate, etc. The P&P Report also indicates that the District has not identified the cause for periodic high flows and that the current flow is an estimate because of the recirculated flow. P&P's final effluent flow projected for 2028 is 1.091mgd. This projection is below the flow currently reported for some monthly averages in current SMRs. It is far below that necessary to accommodate a flow of an additional 2.9 mgd that would be needed for the projected build-out of vacant property in the District. For these reasons, the flows and projections need to be revised.

Treatment Facilities

The information provided in the P&P Report appears adequate to address the current permitted flow provided the repairs to out of service components are completed. As of the date of this memorandum, the repairs have not been completed. Recent history indicates the District does not have the resources to properly maintain its WWTF. Expansion beyond 1.2 mgd will require additional treatment capacity. Revision of the flow projection may require revision of short-term and long-term measures for some treatment components.

Soil cement lined sludge beds tend to crack which would lead to the sludge decant percolating to underlying groundwater. The P&P Report needs to demonstrate that soil cement lined sludge beds will be protective of water quality.

Disposal Facilities

The P&P Report concludes that action to enhance disposal capacity is critical and proposes purchase of acreage to add additional ponds. Before additional acreage is secured, the District needs to consider other disposal options and provide evidence that adding additional disposal ponds is the best alternative. The *Water Quality Control Plan for the Tulare Lake Basin, Second Edition* (Basin Plan) requires dischargers of municipal wastewater to maximize reclamation. In February 2009, the State Water Resources Control Board adopted a recycled water policy including the goals for increasing the use of recycled water. A proposal for recycling water, including all options for agriculture and landscaping, needs to be presented and the District needs to provide evidence that it is infeasible before it pursues other options. Additionally, the Basin Plan notes that proliferation of small treatment plants in developed areas is undesirable and most small communities do not have adequate resources to properly manage, treat, and dispose of wastewater in an urban environment. The Basin Plan encourages treatment plant consolidation as "the rule, rather than the exception." Board Resolution No. R5-2009-0028 *In Support of Regionalization, Reclamation, Recycling and Conservation for Wastewater Treatment Plants*, reiterates the commitment to regionalization.

The District needs to provide a proposal for consolidation with the Fresno-Clovis Regional Wastewater Treatment Facility. Only if consolidation is shown to be infeasible will other options be acceptable.

The District submitted the P&P Report in July 2008. The short-term measures and time schedule regarding land acquisition, pond maintenance, and securing financing should have already occurred and the current status of those measures needs to be updated.

Planning and Department Review

Documentation of review and approval by the appropriate agencies needs to be included in a revised report, to comply with CCR Title 23, section 2232.

Public Participation

Documentation of public participation in the preparation of the report needs to be included in a revised report, to comply with CCR Title 23, section 2232.

SUMMARY

The P&P Report needs to be revised to include the following items:

1. Revision of the short-term and long-term flow projections.
2. Revision of the work plan for short-term and long-term expansion of design capacity, based on the projected flow rate that is justified by additional analysis, as discussed above.
3. Reclamation proposals, including documentation of a proposal to Caltrans, and evidence that reclamation is infeasible before other disposal options are pursued.
4. Review consolidation with the Fresno-Clovis Regional Wastewater Treatment Facility.
5. An updated work plan and time schedule for implementation of short-term and long term measures to insure compliance with waste discharge requirements.
6. A demonstration that soil cement lined sludge beds will be protective of groundwater quality.
7. Documentation of review and approval by the District Board of Directors and the planning and building departments having jurisdiction in the area, in accordance with CCR Title 23.
8. Documentation of public participation in the report preparation, in accordance with CCR Title 23.

California Regional Water Quality Control Board

Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
Secretary for
Environmental
Protection

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

FILE



Arnold
Schwarzenegger
Governor

Mr. Russ Holcomb, General Manager
Malaga County Water District
3580 S. Frank St.
Fresno, CA 93725

24 September 2009

**SPECIAL STUDIES AND TECHNICAL REPORTS, MALAGA COUNTY WATER DISTRICT,
WASTEWATER TREATMENT FACILITY, FRESNO COUNTY**

We have reviewed the following technical reports and studies submitted by Provost and Pritchard Engineering Group on behalf of Malaga County Water District, to fulfill requirements in Waste Discharge Requirements (WDRs) No. R5-2008-0033 and Cease and Desist Order (CDO) No. R5-2008-0032:

1. *Evaluation of Groundwater Monitoring*, submitted 10 July 2008 and supplemental information submitted 3 November 2008,
2. *Engineering Work Plan for Best Practicable Treatment or Control Study*, submitted on 24 July 2008 and amended on 9 September 2008, and supplemental information submitted on 11 May 2008, and
3. *Study Evaluating Treatment and Disposal Facilities*, submitted 28 July 2008.

The enclosed memorandums, as summarized below, describe why the submitted reports do not fulfill the requirements of the WDRs and CDO and are incomplete.

The *Evaluation of Groundwater Monitoring* needs to be revised to include a proper evaluation of the groundwater gradient and flow direction, a reevaluation of the upgradient monitoring well, an assessment of the Wastewater Treatment Facility's potential impacts to all groundwater designated beneficial uses, and a proposal for modifications to the groundwater network.

The *Work Plan for the Best Practicable Treatment and Control Study* needs to be revised to include assessment of the potential impacts to all beneficial uses and an evaluation of the pretreatment program. It needs to include a demonstration that soil cement lined sludgebeds are protective of underlying groundwater quality. Additionally, the evaluation of treatment components needs to be based on constituents identified in the finalized list.

The *Study Evaluating Treatment and Disposal Facilities* needs to be revised to include reassessment of flow projections and the additional items noted in the memorandum. In particular, the proposed long-term disposal alternatives need to be reevaluated. As described in more detail below, before the District considers additional disposal ponds, it needs to provide evidence demonstrating that consolidation and/or reclamation is economically infeasible.

The technical reports discussed above were included as requirements of the WDRs and CDO based on information in the report of waste discharge and the application for permit renewal submitted by the District in 2003. Since then, there have been significant developments that the District must consider carefully.

On 3 February 2009, the State Water Resource Control Board adopted Resolution No. 2009-0011, a Policy for Water Quality Control for Recycled Water. The purpose of this Policy is to effect an increase in the use of recycled water from municipal wastewater sources.

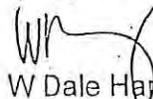
On 23 April 2009, the Central Valley Regional Water Quality Control Board adopted Resolution No. R5-2009-0028, a Policy in Support of Regionalization, Reclamation, Recycling, and Conservation for Wastewater Treatment Plants. The resolution states that dischargers that own or operate wastewater treatment plants shall provide, upon request, in their Reports of Waste Discharge, a report regarding efforts that have been taken to promote new or expanded wastewater recycling and reclamation opportunities and programs; water conservation measures; and regional wastewater management opportunities and solutions.

We are concerned the District's ongoing compliance issues demonstrate the District does not have the resources to adequately operate and maintain its WWTF and treat and dispose of its current permitted flow volume. Additionally, the WWTF location is now surrounded by development that is reportedly inhibiting reclamation opportunities. Finally, it is our understanding that the Fresno-Clovis Regional Wastewater Treatment Plant has the capacity to accept the District's flow volume and has a trunk line that terminates at the District boundary.

Given the above, the District needs to include detailed analyses of reclamation and consolidation opportunities in its revised reports. Any options proposed by the District that do not include consolidation with the Fresno-Clovis Regional Wastewater Treatment Plant must provide detailed evidence demonstrating why consolidation is infeasible. If consolidation is infeasible, then the District must provide detailed evidence demonstrating that reclamation of all or a part of its effluent is infeasible before it explores other options. The District must submit a revised report of waste discharge and request to revise its WDRs and CDO if it proposes a change in its disposal methods.

By 27 October 2009, submit revised reports and documentation to satisfy the deficiencies as summarized above and in the enclosed memorandums. This date is for administrative tracking purposes only and does not supersede the dates in the applicable orders.

You may direct any questions regarding this matter to Debra Bates by phone at (559) 445-6281, or by email at dbates@waterboards.ca.gov.


W Dale Harvey
Senior WRC Engineer
RCE No. 55628



Enclosures: Groundwater Monitoring Evaluation
Review of Engineering Work Plan for Best Practicable Treatment or Control
Study Evaluating Treatment and Disposal Facilities

cc: Michael G. Taylor, Provost and Pritchard Engineering Group, Fresno

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

 Central Valley Regional Water Quality Control Board

19 August 2013

Russ Holcomb, General Manager
 Malaga County Water District
 3580 South Frank Street
 Fresno, CA 93725

**DISPOSAL CAPACITY ISSUES, MALAGA COUNTY WATER DISTRICT, MALAGA
 WASTEWATER TREATMENT FACILITY (NPDES NO. CA0084239), FRESNO COUNTY**

Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff is in the process of renewing Waste Discharge Requirements (WDRs) Order R5-2008-0033 (NPDES Permit No. CA0084239). Information provided by the Malaga County Water District (District) regarding disposal capacity issues, as required by subtask 3.a. in Cease and Desist Order (CDO) R5-2008-0032, indicates there are still outstanding disposal capacity issues for which staff requires more information to continue with the permit renewal.

On 28 July 2008, Provost and Pritchard Consulting Group, on behalf of the District, submitted the *Treatment and Disposal Capacity Study* (Study) to fulfill the requirements of subtask 3.a. Central Valley Water Board staff provided a review of the Study by letter and memorandum dated 24 September 2009 and 19 August 2009, respectively. Our records indicate that the District did not submit a revised study addressing Central Valley Water Board staff's concerns, as requested in the review letter. However, on 29 April 2011, the District submitted *Short Term Improvements Implementation Report* (Report), which summarized short-term improvements completed as part of the Study. The Report included a list of improvements made to treatment components that had been out of service for many years. The Report also included a list of items the District completed to address disposal capacity issues. These include maintenance of three disposal ponds to increase percolation rates, adoption of a moratorium on new or expanding sewer connections until disposal capacity is expanded, and initiation of discussions with City of Fresno regarding consolidation of sewer treatment and disposal. The District also indicated that it contacted property owners and companies to determine if they were willing to sell their property or accept treated effluent for recycling/reclamation, but none were willing to do so.

The 28 July 2008 report indicated that Fresno Irrigation District requested the District to eliminate its discharge to Central Canal, which puts the District at increased risk of reaching and exceeding pond disposal capacity. Assuming the discharge to the Canal will no longer be available, the information provided by the District indicates that the Facility does not have enough disposal capacity to handle current influent flows.

 KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER
1685 E Street, Fresno, CA 93706 | www.waterboards.ca.gov/centralvalley

Russ Holcomb
Malaga County Water District

- 2 -

19 August 2013

By **3 October 2013**, provide the following information, which is necessary to allow Central Valley Water Board staff to determine appropriate requirements for inclusion in the NPDES permit renewal:

1. Address whether the discharge to Central Canal will cease, as requested by Fresno Irrigation District. If it will, provide a time schedule for eliminating discharge to the Canal.
2. An estimate of the disposal capacity of the on-site ponds after pond maintenance was performed in 2008 and thereafter. Additionally, include a list of which ponds were maintained.
3. Revised influent flow projections based on influent flow data collected after the District began metering grit return flows and after the moratorium was adopted. If the District has established new or expanded sewer connections since the moratorium was adopted, it shall include the flows from those connections in its revised flow projections.
4. Status of land acquisition for additional disposal ponds, including a list of action items completed and dates they were completed.
5. Status of alternative disposal measures the District has looked into, including a list of action items completed and dates they were completed.

To the extent the above information was required by the CDO, the due date in this letter does not extend or supersede due dates in the CDO and is for administrative tracking purposes only. This letter does not relieve the District from submitting information requested in previous letters or required by the CDO that has not been submitted.

If you have any questions regarding this matter, please contact Aide Ortiz at (559) 445-6083 or at aortiz@waterboards.ca.gov.



MATTHEW S. SCROGGINS
Senior Engineer
RCE No. 67491

cc: Charles Garabedian Jr., 3580 S. Frank St., Fresno, CA 93725

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD			
RECORD OF COMMUNICATION		<input checked="" type="checkbox"/> Phone Call <input type="checkbox"/> Meeting	<input type="checkbox"/> Other (specify): _____
PARTIES		DATE: 10 October 2013	
Charles Garabedian Malaga County Water District	*Matt Scroggins, Aide Ortiz RWQCB	TIME: ~1330	
* Party Initiating Communication			
SUBJECT: Regarding the District's response to 19 August 2013 <i>Disposal Capacity Issues</i> letter		FILE: R5-2008-0033	
<p>SUMMARY OF COMMUNICATION:</p> <p>We contacted Mr. Garabedian to request an update on the District's response to our letter dated 19 August 2013 regarding the disposal capacity issues at the wastewater treatment facility. The letter requested the District provide certain information by 3 October 2013. As of 10 October, the District had not contacted our office either requesting an extension or providing an update, and a check of their meeting minutes posted on their website did not show any acknowledgement of ever receiving the letter. Mr. Garabedian informed us that the District's contract engineer, Mr. Michael Taylor from Provost & Pritchard, prepared a memorandum for Mr. Russ Holcomb, the District's general manager. Mr. Garabedian also informed us that he spoke with Gary Serrato at the Fresno Irrigation District regarding item #1 in the letter. According to Mr. Garabedian, Fresno Irrigation District would like to continue accepting the District's tertiary-treated effluent but only during irrigation season, and he indicated that the discharge to the Central Canal will not cease. Mr. Garabedian also indicated that Mr. Taylor's memorandum answered items #2-5 in the letter, and offered to email us a copy of the memorandum. We asked Mr. Garabedian if this memorandum would be the District's official response, to which Mr. Garabedian said no. We requested that the District provide an official response, such as a cover letter to the memorandum, or a separate letter addressing all the items our August letter. Mr. Garabedian indicated that the District does not have funds to proceed with upgrades to address the disposal capacity issues and that the District recently acquired new property, which he indicated is not enough. We informed Mr. Garabedian that if the District cannot show that they have adequate disposal capacity, we may have to reduce flow limits. Mr. Garabedian expressed that he does not want to stop development in the area, and mentioned that it is difficult to obtain funding. We informed Mr. Garabedian that the August letter is not requesting that the District have adequate disposal capacity by a specific date, but rather is requesting information on whether or not the District did, or did not do, things it said it was going to do. We informed Mr. Garabedian that if the District does not provide a prompt response, we may have to issue a 13267 Order, and that the purpose of the August letter was to request information in a friendly manner.</p>			
<p>CONCLUSIONS, ACTION TAKEN OR REQUIRED:</p> <p>Mr. Garabedian sent Mr. Taylor's memorandum, which only addresses one item we requested for information, and is primarily a request for the District to provide information to Provost & Pritchard.</p>			
REVIEWED BY:		WRITTEN BY:	
		Aide Ortiz 	

Ortiz, Aide@Waterboards

From: Ortiz, Aide@Waterboards
Sent: Monday, October 21, 2013 12:57 PM
To: Holcomb, Russ (rholcomb@malagacwd.org)
Subject: Disposal Capacity Issues

Good Afternoon Russ,

On 19 August 2013, our office sent the Malaga County Water District a letter inquiring about the status of the wastewater treatment facility's disposal capacity issues. The letter requested certain information to help us in renewing the NPDES permit and possibly assessing compliance with the Cease and Desist Order. A response was due on 3 October 2013. By 10 October, we had not received any communication from the District regarding the letter. Matt Scroggins and I communicated with Charles Garabedian by telephone to ascertain whether the District had received the letter and if it planned on responding. According to Mr. Garabedian, Michael Taylor prepared a memorandum that answered items 2-5 in our letter. We asked Mr. Garabedian that the District send something in writing to our office that addressed all five items in the letter, and if the District wished to attach Mr. Taylor's memorandum that it include a statement indicating it agreed with the items in the memorandum. As of yet, we have not received anything. As it stands now, the information in the case file indicates the District does not have enough disposal capacity and that the Fresno Irrigation District wants the Malaga County Water District to cease discharge to the Canal. It's our understanding this may no longer be the case, but we have not received written confirmation from the Malaga County Water District indicating so.

Generally, when we renew NPDES permits we use all information available to develop new requirements. If the District wishes to update its case file with new information prior to permit renewal, it is imperative that the information requested in our 19 August 2013 letter be submitted as soon as possible given the NPDES permit renewal process is in the preliminary stages.

Please contact me so we may discuss the District's response to our letter, as well as Mr. Taylor's memorandum.

Thank you,
-Aide

Aidé Ortiz, PE
Water Resource Control Engineer
Central Valley Water Board – Fresno
1685 "E" Street
Fresno, CA 93706
Phone: (559) 445-6083
Fax: (559) 445-5910

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

 Central Valley Regional Water Quality Control Board

7 July 2014

NOTICE OF VIOLATION

James D. Anderson
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

CERTIFIED MAIL
7013 2250 0002 0464 4086

**VIOLATIONS OF CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD
ORDER NO. R5-2008-0033 AND CEASE AND DESIST ORDER R5-2008-0032, (NPDES
CA0084239, RM 396746), FRESNO COUNTY**

This Notice of Violation (NOV) is issued to Malaga County Water District (Malaga) pursuant to California Water Code sections 13260, 13263, 13376, 13385, and 13350 for violations of Waste Discharge Requirements (WDRs) Order No. R5-2008-0033 (NPDES Permit No. CA0084239) and Cease and Desist Order (CDO) R5-2008-0032 adopted by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 14 March 2008.

Central Valley Water Board staff has identified three broad categories of violations of Order Nos. R5-2008-0033 and R5-2008-0032 by Malaga.

1. Violation of Pretreatment Standards

Order No R5-2008-0033 Section VI C 5: Special Provisions for Municipal Facilities (POTWs Only), subsection (a)(ii) states, in part, "The Discharger shall perform the pretreatment functions required by 40 CFR Part 403." The Central Valley Water Board staff has determined that Malaga violated the following terms of 40 CRF 403:

- Failure to adopt adequate legal authority as required by 403.8(f)(1).
- Failure to adopt adequate permits as required by 403.8(f)(1)(iii)(B).
- Failure to obtain Board approval for modification of local limits as required by 403.18(c).
- Failure to sample Significant Industrial Users at least once a year, as required by 403.8(f)(2)(v).

 KARL E. LONGLEY SCD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

 1685 E Street, Fresno, CA 93706 | www.waterboards.ca.gov/centralvalley

James D. Anderson
Malaga County Water District

- 2 -

7 July 2014

- Failure to publish a list of users in significant non-compliance as required by section 403.8 (f)(2)(viii).
- Failure to develop an enforcement response plan as required by 403.8(f)(5).
- Failure to evaluate whether a slug control plan is needed as required by 403.8(f)(2)(vi).

2. Violation of Monitoring and Reporting Requirements

Malaga is required to comply with the Monitoring and Reporting requirements established in R5-2008-0033 - MRP (X)(D)(4). Central Valley Water Board staff has determined that Malaga has violated these requirements by:

- Failure to file adequate annual pretreatment reports in violation of MRP (X)(D)(4) for the years 2008-2013.
- Failure to file an adequate quarterly reports in violation of MRP (X)(D)(4)(d) for the quarters Q1-Q3 2008, Q1-Q3 2009, Q1-Q3 2010, Q1-Q3 2011, Q1-Q3 2012, and Q1-Q3 2013.

3. Violation of Cease and Desist Order R5-2008-0032

Lastly, the Central Valley Water Board issued Malaga CDO R5-2008-0032, which required Malaga, in part, to:

“Submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. Study results shall include evaluations of, but not limited to, short-term measures necessary to comply with Order No. R5-2008-0033, implementation of appropriate ongoing operations and maintenance, and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The time schedule for short-term measures shall not exceed 14 March 2011. The technical report shall include actions to generate appropriate population and WWTF flow projections and their rationale.”

On 28 July 2008, Malaga submitted a technical report in response to CDO R5-2008-0032 requirement. On at least five occasions; including a 24 September 2009 letter, 19 August 2013 letter, 10 October 2013 documented phone call, 21 October 2013 e-mail, and 24 October 2013 documented phone call; Central Valley Water Board staff informed Malaga that its response to this requirement was inadequate. To date, Malaga has failed to produce an adequate report.

Failure to comply with WDRs Order No. R5-2008-0033 subjects Malaga to civil liability of up to \$10,000 per day pursuant to Water Code Section 13385 for each violation. Failure to comply with Cease and Desist Order R5-2008-0032 subjects Malaga to administrative civil liability of up to \$5,000 per day per Water Code Section 133350.

The Central Valley Water Board will pursue formal enforcement regarding these violations. Central Valley Water Board staff requests a meeting with Malaga by 28 July 2014 to discuss resolution of these matters.

James D. Anderson
Malaga County Water District

- 3 -

7 July 2014

For questions regarding this NOV and to schedule a meeting, please contact Jill Walsh at (559) 445-5130 or jill.walsh@waterboards.ca.gov or Warren Gross at (559) 445-5128 or warren.gross@waterboards.ca.gov.



Clay Rodgers
Assistant Executive Officer

cc: Amelia Whitson, USEPA Region IX, WTR-7, San Francisco
Ken Greenberg, USEPA Region IX, WTR-7, San Francisco
Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno
James M. Ralph, Staff Counsel, Office of Enforcement, State Water Resources
Control Board



RECEIVED



Central Valley Regional Water Quality Control Board AUG 22 2014

18 August 2014

Office of Enforcement

SUPPLEMENTAL NOTICE OF VIOLATION

James D. Anderson
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

CERTIFIED MAIL
7013 2250 0002 0661 7897

VIOLATIONS OF CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD ORDER NO. R5-2008-0033; AND CEASE AND DESIST ORDER R5-2008-0032

Background

On 7 July 2014, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) issued a Notice of Violation (NOV) to Malaga County Water District (Malaga or District). Malaga has requested clarification of the violations alleged in the 7 July 2014 NOV. Malaga has received notification of these violations previously; however, in response to Malaga's request, the Central Valley Water Board provides this supplemental NOV to clarify the factual basis for each violation.

Please read this Supplemental Notice of Violation carefully. The Central Valley Water Board plans to pursue formal enforcement regarding these violations. Malaga is invited to contact the Central Valley Water Board staff by **2 September 2014** if Malaga seeks to discuss resolution of these violations.

Violations

1. Violation of Pretreatment Standards

Order No R5-2008-0033, Section 5: Special Provisions for Municipal Facilities (POTWs Only), subsection (a)(ii) states "The Discharger shall perform the pretreatment functions required by 40 CFR Part 403." The Central Valley Regional Water Board staff has determined that Malaga violated the following sections of 40 CRF 403.

- a. Failure to adopt adequate legal authority as required by 40 CFR 403.8(f)(1).

40 CFR 403.8(f) requires Malaga to operate its Publicly Owned Treatment Works (POTW) pursuant to legal authority that enables it to do enumerated actions. Specifically:

(f) *POTW pretreatment requirements.* A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(1) *Legal authority.* The POTW shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority shall enable the POTW to:

(iv) Require (A) the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and (B) the submission of all notices and self-monitoring reports from Industrial Users as are necessary to assess and assure compliance by Industrial Users with Pretreatment Standards and Requirements, including but not limited to the reports required in § 403.12. [Emphasis added].

On 13 January 2004, Malaga adopted Ordinance No. 01-13-2004 (2004 Ordinance). The 2004 Ordinance does not enable Malaga to require the development of a compliance schedule by each industrial user (IU) for the installation of technology required to meet applicable pretreatment standards and requirements.

On 18 February 2010, a Pretreatment Compliance Inspection (2010 PCI) of Malaga's approved Pretreatment Program was performed. Malaga was informed of the lack of a compliance schedule during the 18 February 2010 PCI and received the checklist identifying the deficiency during the exit interview on that date. The resulting Report (2010 PCI Report) noted that Malaga was required to have such compliance schedules (2010 PCI Report, pg. 4). Yet, on 25 February 2014, Malaga adopted a new ordinance (2014 Ordinance) that did not correct this inadequacy (this ordinance is misleadingly titled "Ordinance No. 2013-1," when in fact it was adopted in 2014).

Malaga has been non-compliant with the requirement of 40 CFR 403.8(f)(1)(iv) from 14 March 2008, when Order No R5-2008-0033 was issued to present.

b. Failure to adopt adequate permits as required by 40 CFR 403.8(f)(1)(iii)(B).

40 CFR 403.8(f)(1)(iii) requires Malaga to issue permits to its IUs. Specifically:

(iii) Control through Permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under § 403.3(v), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User...

40 CFR 403.8(f)(1)(iii)(B) identifies the conditions the IU permits must contain. Specifically:

Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

- (1) Statement of duration (in no case more than five years);
- (2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with §403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;
- (5) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
- (6) Requirements to control Slug Discharges, if determined by the POTW to be necessary. [Emphasis added]

From 2008 to 2013, Malaga's IU permits have not satisfied the requirements of 40 CFR 403.8(f)(1)(iii)(B), by failing to include local limits and/or relevant sampling requirements.¹

Malaga's 2008 and 2009 IU permits failed to identify sample locations and did not indicate sample type for all pollutants.

During the 2010 PCI, Malaga was informed of the sampling deficiencies and received the checklist identifying the deficiencies at the exit interview on that date. The 2010 PCI Report also noted that some permits did not specify a local limit for:

The iron limit in Calpine's permit is inconsistent with the limit established in Malaga's 2004 Ordinance. The iron limit in the permit is listed as 10 parts per million (milligrams per liter, mg/L), but the 2004 Ordinance specifies that the local limit for iron is 1 part per million. Therefore, Malaga is required to revise Calpine's permit to include the iron limit established in the 2004 Ordinance. See PCI Report, Section 6.2, Pg. 4.

After the 2010 PCI, Malaga added sample types and a sample location to its IU permits; however, the sample location is not defined or depicted in the permits.

¹ Malaga's IU permits, from 2008 to 2013, did not include a process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with 40 CFR 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism.

On 6-7 January 2014, a Pretreatment Compliance Audit (2014 PCA) of Malaga's approved pretreatment program was performed. As a component of the 2014 PCA, the sampling locations listed in the permits were reviewed. According to the resulting report (2014 PCA Report):

Each of the permits reviewed stated that the permittee must monitor outfall 001. In addition, part 3.2(a) of the permits lists the measurement location as "001." However, this measurement location is not defined, described, or depicted in the permits. In order to ensure that samples are collected at the correct locations, the Malaga is required to include an adequate description of the sampling locations in the permits. For more information about the sampling locations at the facilities inspected as part of the audit, refer to section 9.3, Nondomestic Discharger Site Inspections Conducted during the Audit. PCA Report, Section 7.3, Pg. 15. [Emphasis added].

Some permits did not include local limits as required by 40 CFR 403.8(f)(1)(iii)(B)(3). The 2010 PCI Report and 2014 PCA Report also noted where local limits were absent:

According to the 2010 inspection report, the iron limit in Calpine's permit was inconsistent with the limit established in Malaga's 2004 Ordinance. The iron limit in the permit was listed as 10 mg/L, but the 2004 Ordinance specified that the local limit for iron was 1 mg/L. Therefore, Malaga was required to revise Calpine's permit to include the iron limit established in its 2004 Ordinance. In response to this requirement, Malaga stated that the District legal counsel and Contract Engineer will review the limits identified in the 2004 Ordinance [sic] and the individual significant industrial user (SIU) permits. If exceptions to the 2004 Ordinance [sic] are not allowed, the necessary modifications to limits will be incorporated into the updated sewer use ordinance (SUO) [sic].

According to the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3), permits are required to include effluent limits. As a component of the 2014 PCA, the RockTenn CP, LLC (formerly Calpine Corrugated, LLC) permit was reviewed. The audit team determined that the effluent limit for iron is not included in the RockTenn permit. However, according to part 3.2 of the facility permit, RockTenn is required to collect a grab sample for iron in June from measurement location 001. Malaga is required to amend the RockTenn permit to include the effluent limits for parameters with which the facility is expected to comply. The permits must include the effluent limits in accordance with the federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3). See section 7.5, pg. 16.

In addition, in 2010, Malaga removed the local limit for iron and several metals in all five significant industrial users (SIU): PPG, Rio Bravo, Air Products, Statas Foods, and Smurfit.

Malaga has been non-complaint with the requirement of 40 CFR 403.8(f)(1)(iii) since 2008, when Malaga first issued non-compliant permits.

c. Failure to obtain Board approval for modification of local limits as required by 40 CFR 403.18.

40 CFR 403.18 provides procedures for substantial modifications of POTW pretreatment programs. 40 CFR 403.18(b)(2) defines "substantial modifications" as:

(2) Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of the section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users Identified by the POTW) may discharge pursuant to limits developed under §403.5(c). [Emphasis added].

40 CFR 403.18(c) outlines the approval procedures for substantial modifications. Specifically:

- (1) the POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description, or such other documents the Approval Authority determines to be necessary under the circumstances.
- (2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority. [Emphasis added].

Malaga relaxed or eliminated numerous local limits for its SIUs without obtaining approval from the Central Valley Water Board. For example:

- **2008 and 2009:** Malaga relaxed the local limit for iron from 1 ppm to 2 ppm for Air Products.
- **2009:** Malaga relaxed the local limit for Iron for Calpine from 1 ppm to 10 ppm.
- **2010:** Malaga removed the local limit for iron and several metals in all SIUs; PPG, Rio Bravo, Air Products, Statas Foods, and Smurfit.
- **2012:** Malaga changed the local limit for oil/grease from 100 mg/L to 200 mg/L for Statas (Stratas proceeded to violate the original limit in 2013).

Malaga violated the requirement of 40 CFR 403.18 in each of the instances identified above.

d. Failure to sample Significant Industrial Users once per year as required by 40 CFR 403.8(f)(2)(v).

40 CFR 403.8(f)(2)(v) requires Malaga to “[i]nspect and sample the effluent from each Significant Industrial User at least once a year.”

Malaga identified the following SIUs:

- **2008:** Kinder Morgan Energy, PPG, Rio Bravo, ADM, Air Products, Calpine, Wholesale Equipment of Fresno.
- **2009:** PPG, Rio Bravo, Air Products, Calpine, Statas Foods.
- **2010:** PPG, Rio Bravo, Air Products, Statas Foods, Smurfit.
- **2011:** PPG, Rio Bravo, Air Products, Statas Foods, Rock Tenn.

Malaga failed to sample its SIUs' effluent from 2008 to 2011 for all pollutants of concern. Malaga's representatives stated in the 2010 PCI and the 2014 PCA that the SIUs are regularly sampled for electrical conductivity (EC); however, Malaga did not have any data or reports to support this statement.

Malaga sampled its IUs in 2012. However, Malaga did not sample its SIUs to satisfy 40 CFR 403.8(f)(2)(v), but rather was required to conduct a Toxicity Reduction Evaluation (TRE) because Malaga exceeded its chronic toxicity limits in 2012. This exceedance triggered sampling of all IUs that discharge industrial waste to the WWTF per R5-2008-0033, VI.C.2.a. i. – iv. However, this data was not included in Malaga's 2012 Annual Pretreatment Report.

The Annual Pretreatment Reports require the sampling results to be included, but Malaga did not include any such data in its 2008-2012 Annual Pretreatment Reports. 40 CFR 403.8(f)(2)(v) provides an exception for the sampling requirement; however, Malaga's SIUs do not qualify for it.

Malaga violated the requirement of 40 CFR 403.8(f)(2)(v) from 2008-2011.

e. Failure to publish list of users in significant non-compliance as required by 40 CFR section 403.8 (f)(2)(viii).

40 CFR 403.8(f)(2) states:

(2) Procedures. The POTW shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall enable the POTW to:

(vii) Comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users which, at any time during the previous 12 months, were in significant noncompliance with applicable Pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard)

that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

Malaga and its IUs have submitted laboratory reports, which identifies significant non-compliance as defined in 40 CFR 403.8(f)(2)(vii)(A)-(H) from at least one IU or SIU for the following years:

- 2009: Fresno Truck Wash.
- 2010: Fresno Truck Wash, Fifth Wheel.
- 2011: Fresno Truck Wash.
- 2012: Fresno Truck Wash, Fifth Wheel, ADM/Stratas, Kinder Morgan, Inland Star, GreenTec, Western State Glass.
- 2013: Fresno Truck Wash, Fifth Wheel, ADM/Stratas, Inland Star, Moga, Western State Glass.

The requirement to publish a list of significant non-compliant users was triggered in each of these years, yet Malaga did not publish reports in these years as required by 40 CFR 403.8 (f)(2)(viii).

f. Failure to develop an enforcement response plan as required by 40 CFR 403.8(f)(5).

40 CFR 403.8(f)(5) states:

The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:(i) Describe how the POTW will investigate instances of noncompliance;(ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;(iii) Identify (by title) the official(s) responsible for each type of response;(iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8 (f)(1) and (f)(2). [Emphasis Added].

The 2004 Ordinance adopted by Malaga is silent regarding an enforcement response plan (ERP). The 2014 PCA Report noted that Malaga did not have an enforcement response plan in the 2004 Ordinance. Furthermore, the audit noted the deficiency in Malaga's draft 2013 Ordinance. Specifically, the 2014 PCA Report noted that:

The federal pretreatment regulations at 40 CFR 403.8(f)(5) require the District to develop and implement an ERP. This plan must contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. During initial conversations with the District, the District representative was unsure if the District had implemented an ERP. During the audit, the EPA audit team had discussions with the District's Contract Engineer who stated that the District's ERP was a component in the District's 2013 draft sewer use ordinance. A cursory review of the District's 2013 draft sewer use ordinance determined that the ERP was located in section 3.08.010. This section states that the District shall develop and implement an ERP which should include a description of how the District will investigate noncompliance, describe escalating enforcement, identify officials responsible for each response, and adequately reflect the District's primary responsibility to enforce all applicable pretreatment requirements and standards. However, section 3.08.010 of the District's 2013 draft sewer use ordinance does not specifically identify how the District will investigate and respond to instances of industrial user noncompliance, or who is responsible for implementing the enforcement action. The District is required to develop and implement an ERP as stated at the federal regulations at 40 CFR 403.8(f)(5). PCA Report, Pg. 30. [Emphasis added].

Despite the audit, on 25 February 2014, Malaga adopted the 2014 Ordinance which does not contain an enforcement response plan. Specifically, the 2014 Ordinance states:

3.08.010 ENFORCEMENT RESPONSE PLAN.

In addition to all other enforcement procedures provided in this District Code, the District shall develop and implement an enforcement response plan (ERP). The ERP shall contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. The ERP may be adopted and amended by resolution of the Board of Directors and shall contain, at a minimum, the following:

1. A description of how the District will investigate instances of noncompliance;
2. Describe the types of escalating enforcement responses the District will take in response to all anticipated types of Industrial User violations and the time periods within which response will take place;
3. Identify (by title) the official(s) responsible for each type of response; and
4. Adequately reflect the District's primary responsibility to enforce all applicable Pretreatment Requirements and Standards as detailed in 40 CFR 403.8(f)(1) and (f)(2).

The ERP, as adopted and amended by Resolution of the Board of Directors, shall be incorporated by this reference into this District Code. [emphasis added].

By Malaga's letter of 2 April 2014 to the Central Valley Water Board, Malaga asserted:

As part of the process of adopting a new SUO, the District developed an ERP which was approved by resolution of the Board of Directors immediately following adoption of the new SUO. (A copy of the ERP is attached hereto as Exhibit I, and incorporated by this reference).

There are two incorrect statements made in Malaga's above statement. First, at the time the letter was sent, Malaga had not adopted an ERP. Second, no ERP was attached to the letter, as stated.

By Malaga's letter of 1 May 2014 to the Central Valley Water Board, Malaga provided an enforcement response plan to Central Valley Water Board staff.

Malaga violated the requirement of 40 CFR 403.8(f)(5) from 2008 thru 30 April 2014. Moreover, Malaga's 1 April 2014 letter misled the Central Valley Water Board staff and falsely stated that it had complied with this requirement.

g. Failure to evaluate whether a Slug control plan is needed as required by 40 CFR 403.8(f)(2)(vi).

40 CFR 403.8(f)(2)(vi) requires Malaga to:

(vi) Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User.

Per the 2010 PCI Report and 2014 PCA Report, Malaga has not done this evaluation. In October 2013, Malaga sent an evaluation to its SIUs regarding slug discharges; however, this evaluation was dependent on the SIUs volunteering of information. In addition, it was not performed within one year of Malaga designating the user as an SIU, and thus not in compliance with 40 CFR 403.8(f)(2)(vi).

Malaga violated the requirement of 40 CFR 403.8(f)(2)(vi) from 2008 to present.

2. Violation of Monitoring and Reporting Requirements

Malaga is required to comply with the Monitoring and Reporting requirements established in R5-2008-0033 - MRP (X)(D)(4). Central Valley Regional Water Board staff has determined that Malaga has violated these requirements by:

a. Failure to file adequate Annual Pretreatment Reports in violation of MRP (X)(D)(4) for the years 2008-2013.

R5-2008-0033 - MRP (X)(D)(4) [Pg. E-17] states:

The Discharger shall submit annually a report describing the Discharger's pretreatment activities over the previous 12 months. In the event that the Discharger is not in compliance with any conditions or requirements of this Order, including noncompliance with pretreatment audit/compliance inspection requirements, then the Discharger shall also include the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements. [Emphasis added].

R5-2008-0033 - MRP (X)(D)(4) specifies the following annual reporting requirements for Malaga's Pretreatment Program (Pg. E-17 thru E-20). Specifically:

Annual Pretreatment Reporting Requirements. The Discharger shall submit annually a report to the Regional Water Board, with copies to US EPA Region 9 and the State Water Board, describing the Discharger's pretreatment activities over the previous 12 months. In the event that the Discharger is not in compliance with any conditions or requirements of this Order, including noncompliance with pretreatment audit/compliance inspection requirements, then the Discharger shall also include the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements.

An annual report shall be submitted by **28 February** and include at least the following items:

- a. A summary of analytical results from representative, flow proportioned, 24-hour composite sampling of the POTW's influent and effluent for those pollutants EPA has identified under Section 307(a) of the CWA which are known or suspected to be discharged by industrial users.

Sludge shall be sampled during the same 24-hour period and analyzed for the same pollutants as the influent and effluent sampling and analysis. The sludge analyzed shall be a composite sample of a minimum of 12 discrete samples taken at equal time intervals over the 24-hour period. Wastewater and sludge sampling and analysis shall be performed at least annually. The discharger shall also provide any influent, effluent or sludge monitoring data for non-priority pollutants which may be causing or contributing to Interference, Pass-Through or adversely impacting sludge quality. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto.

- b. A discussion of Upset, Interference, or Pass-Through incidents, if any, at the treatment plant, which the Discharger knows or suspects were caused by industrial users of the POTW. The discussion shall include the reasons why the incidents occurred, the corrective actions taken and, if known, the name and address of, the industrial user(s) responsible. The discussion shall also include a review of the applicable pollutant limitations to determine whether any additional limitations, or changes to existing requirements, may be necessary to prevent Pass-Through, Interference, or noncompliance with sludge disposal requirements.
- c. The cumulative number of industrial users that the Discharger has notified regarding Baseline Monitoring Reports and the cumulative number of industrial user responses.
- d. An updated list of the Discharger's industrial users including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The Discharger shall provide a brief explanation for each deletion. The list shall identify the industrial users subject to federal categorical standards by specifying which set(s) of standards are applicable. The list shall indicate which categorical industries, or specific pollutants from each industry, are subject to local limitations that are more stringent than the federal categorical standards. The Discharger shall also list the non-categorical industrial users that are subject only to local discharge limitations. The Discharger shall characterize the compliance status through the year of record of each industrial user by employing the following descriptions:
 - i. complied with baseline monitoring report requirements (where applicable);
 - ii. consistently achieved compliance;

- iii. inconsistently achieved compliance;
- iv. significantly violated applicable pretreatment requirements as defined by 40 CFR 403.8(f)(2)(vii);
- v. complied with schedule to achieve compliance (include the date final compliance is required);
- vi. did not achieve compliance and not on a compliance schedule; and
- vii. compliance status unknown.

A report describing the compliance status of each industrial user characterized by the descriptions in items iii. through vii. above shall be submitted for each calendar quarter **within 21 days of the end of the quarter**. The report shall identify the specific compliance status of each such industrial user and shall also identify the compliance status of the POTW with regards to audit/pretreatment compliance inspection requirements. If none of the aforementioned conditions exist, at a minimum, a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter must be submitted. The information required in the fourth quarter report shall be included as part of the annual report. This quarterly reporting requirement shall commence upon issuance of this Order.

- e. A summary of the inspection and sampling activities conducted by the Discharger during the past year to gather information and data regarding the industrial users. The summary shall include:
 - i. the names and addresses of the industrial users subjected to surveillance and an explanation of whether they were inspected, sampled, or both and the frequency of these activities at each user; and
 - ii. the conclusions or results from the inspection or sampling of each industrial user.
- f. A summary of the compliance and enforcement activities during the past year. The summary shall include the names and addresses of the industrial users affected by the following actions:
 - i. Warning letters or notices of violation regarding the industrial users' apparent noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the apparent violation concerned the federal categorical standards or local discharge limitations.
 - ii. Administrative orders regarding the industrial users noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - iii. Civil actions regarding the industrial users' noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - iv. Criminal actions regarding the industrial users noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - v. Assessment of monetary penalties. For each industrial user identify the amount of the penalties.
 - vi. Restriction of flow to the POTW.
 - vii. Disconnection from discharge to the POTW.
- g. A description of any significant changes in operating the pretreatment program which differ from the information in the Discharger's approved Pretreatment Program including, but not limited to, changes concerning: the program's administrative structure, local

industrial discharge limitations, monitoring program or monitoring frequencies, legal authority or enforcement policy, funding mechanisms, resource requirements, or staffing levels.

- h. A summary of the annual pretreatment budget, including the cost of pretreatment program functions and equipment purchases.

Malaga has consistently submitted deficient reports every year. The following are a few examples of Malaga's failure to satisfy the above requirement:

- Requirements 1.d. i-vii, and h. were not included in the 2008 - 2013 Annual Pretreatment Reports;
- Requirements 1. e. i.-ii were not included in the 2008-2012 Annual Pretreatment Reports, and the information included in the 2013 Annual Pretreatment Report to satisfy the same requirement was incomplete.
- Requirement 1.e.ii: the 2008 Annual Pretreatment Report did not contain any sampling data conducted by either Malaga or the IUs.

The list of all reporting deficiencies from 2008 to 2013 is quite extensive. The Central Valley Water Board has not requested that Malaga submit revised reports, because Malaga does not possess the missing information per the 2010 PCI and the 2014 PCA Reports.

Malaga's pretreatment program was inspected in 2010 and numerous instances of noncompliance were identified. Malaga was informed of the deficiencies during the 2010 PCI and received the checklist identifying the deficiencies during the exit interview on that same date. Per R5-2008-0033 - MRP (X)(D)(4), Malaga is required to include "the reasons for noncompliance and state how and when the Discharger shall comply with such conditions and requirements." Malaga did not provide that information in its 2011 Annual Pretreatment Report. Similar deficiencies were noted in the 2014 PCA Report. Again, per R5-2008-0033 - MRP (X)(D)(4), Malaga was required to include in its next report, due 28 February 2014, why it was not in compliance and the plan for achieving compliance. Malaga did not do so.

Lastly, Malaga has never certified its Annual Pretreatment Reports with the required certification statement per the Federal Standard Provisions, Attachment D, Section V.B of Malaga's NPDES permit. Malaga violated R5-2008-0033 – Attachment D-Standard Provisions, Section V.B.1-4. from 2008 to 2013 by submitting incomplete Annual Pretreatment Reports to the Central Valley Water Board without certification.

Malaga has violated the requirements of R5-2008-0033 - MRP (X)(D)(4) from 2008 to present.

- b. Failure to file adequate quarterly pretreatment reports in violation of MRP

(X)(D)(4)(d) for the quarters Q1-Q3 2008, Q1-Q3 2009, Q1-Q3 2010, Q1-Q3 2011, Q1-Q3 2012, Q1-Q3 2013, and Q1-Q2 2014.

R5-2008-0033, MRP (X)(D)(4)(d) [p. E-18-19]: provides:

A report describing the compliance status of each industrial user characterized by the descriptions in items iii. through vii. above shall be submitted for each calendar quarter **within 21 days of the end of the quarter**. The report shall identify the specific compliance status of each such industrial user and shall also identify the compliance status of the POTW with regards to audit/pretreatment compliance inspection requirements. If none of the aforementioned conditions exist, at a minimum, a letter indicating that all industries are in compliance and no violations or changes to the pretreatment program have occurred during the quarter must be submitted. The information required in the fourth quarter report shall be included as part of the annual report. This quarterly reporting requirement shall commence upon issuance of this Order. Pg. E-18-19. [Emphasis added].

The Quarterly Pretreatment Reports submitted were all inadequate and Q1-Q2 2008, Q1-Q3- 2009, Q1-Q3 2010, Q1 and Q3 2011, Q2 2013, and Q1 -Q2 2014 reports were late (some up to 4 years past due).

With the exception of Fresno Truck Wash, Malaga's Quarterly Pretreatment Reports state that no IUs were in significant non-compliance. This is not true according to the data submitted by Malaga's IUs and by Malaga in its Annual and Quarterly Pretreatment Reports to the Central Valley Water Board. For example in 2012 and 2013, the data shows Malaga had IUs in significant non-compliance in all four quarters of 2012 and the first quarter of 2013. The IUs that were in significant non-compliance and not mentioned in the Quarterly Pretreatment Reports include Kinder Morgan, PPG, Western State Glass, Moga, GreenTec, and Inland Star. In addition, Malaga did not start reporting significant non-compliance for Fresno Truck Wash until the first quarter 2011. However, according to Administrative Complaint 2010-01 issued by Malaga to Fresno Truck Wash in 2010, Fresno Truck Wash had been in significant non-compliance since early 2009. Yet, Malaga did not start reporting Fresno Truck Wash in its Quarterly Pretreatment Reports until the first quarter 2011. The 2009 and 2010 Quarterly Pretreatment Reports erroneously state that all IUs were in compliance.

In addition, first and second quarter 2014 Quarterly Pretreatment Reports, which were due on April 21 and July 21, 2014, have not been submitted to the Central Valley Water Board, nor has a letter for either quarter been submitted by Malaga stating that a quarterly report was not needed. Malaga received notice of inadequate pretreatment reports in February 2010, April and July 2012, September 2013, January, February, and July 2014. Yet, to date, Malaga has not submitted its first and second Quarterly Pretreatment Reports for 2014.

Additionally, Malaga has never certified its Quarterly Pretreatment Reports with the required certification statement per the Federal Standard Provisions, Attachment D, Section V.B of Malaga's NPDES permit.

Malaga violated No R5-2008-0033, MRP (X)(D)(4)(d) from 2008 to 2013 by submitting incomplete reports to the Central Valley Water Board without certification.

3. Violation of Cease and Desist Order R5-2008-0032

CDO R5-2008-0032 Ordered item 3.a. required Malaga, by 13 June 2008, to:

Submit the results of a study evaluating the WWTF treatment and disposal capacity and proposing a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. Study results shall include evaluations of, but not limited to, short-term measures necessary to comply with Order No. R5-2008-0033, implementation of appropriate ongoing operations and maintenance, and long-term measures to meet WWTF treatment and disposal needs through at least 2028. The time schedule for short-term measures shall not exceed **14 March 2011**. The technical report shall include actions to generate appropriate population and WWTF flow projections and their rationale.

On 24 July 2008, Malaga submitted a work plan for completing the disposal capacity evaluation. On 24 September 2009, Central Valley Water Board staff informed Malaga that the work plan was inadequate and requested a revised work plan by 27 October 2009.

In April 2011, Central Valley Water Board staff called Malaga's Consulting Engineer and informed him that the report was past due. On 29 April 2011, Malaga submitted a report, which included short-term measures, but not long-term measures or a revised work plan. In addition, the cover letter for this report incorrectly stated that Malaga had not received a response to the work plan submitted on 24 July 2008.

On 12 April 2012, Central Valley Water Board staff issued an NOV identifying the report as delinquent.

On 19 August 2013, Central Valley Water Board staff sent Malaga a letter again requesting, in part, technical information regarding disposal capacity with an administrative date of 3 October 2013.

On 10 October 2013, Central Valley Water Board staff called Malaga's Board President requesting an update on the response that was due by 3 October 2013. The President indicated that Malaga was in possession of a memorandum from its consulting engineer that addressed four of the five items requested by Central Valley Water Board staff in the 19 August 2013 letter. The President offered to send Water Board staff the memorandum while the Discharger worked on its response.

On 10 October 2013, Central Valley Water Board staff received the memorandum, which was essentially a memorandum from Malaga's consulting engineer to Malaga requesting additional information to prepare a response to

Central Valley Water Board's letter.

On 21 October 2013, Central Valley Water Board staff sent Malaga's General Manager an email to again inquire on the status of Malaga's response. On 22 and 24 October 2013 Malaga's General Manager e-mailed Central Valley Water Board staff stating Malaga would send a response soon.

On 29 October 2013, Malaga finally submitted a response, 26 days past the administrative deadline and incomplete. Of the five items listed in the Central Valley Water Board 19 August 2013 letter, Malaga only fully addressed one. The other items only included vague information, whereas the Central Valley Water Board letter requested information on specific actions Malaga had completed. The response did not contain the needed technical information regarding disposal capacity.

Malaga violated CDO R5-2008-0032 from 24 September 2009, the date of Central Valley Water Board's letter informing Malaga that it had not submitted a complete report, to present. The unavailability of this information has hindered Central Valley Water Board staff in assessing current disposal capacity for the renewal of Malaga's NPDES permit.

Conclusion

The Central Valley Water Board plans to pursue formal enforcement regarding the above violations. Central Valley Water Board staff invites a response by **2 September 2014** if Malaga would like to discuss resolution of these matters. For questions regarding this NOV, contact Jill Walsh at (559) 445-5130 or jill.walsh@Waterboards.ca.gov.



Clay Rodgers
Assistant Executive Officer

cc: Amelia Whitson, USEPA Region IX, WTR-7, San Francisco
Ken Greenberg, USEPA Region IX, WTR-7, San Francisco
Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno
James M. Ralph, Staff Counsel, Office of Enforcement, SWRCB
Naomi Kaplowitz, Staff Counsel, Office of Enforcement, SWRCB



Malaga County Water District



Introduction

Malaga Water District provides water, wastewater, solid waste, and parks and recreation services to a diverse mix of residential, commercial, and industrial customers. The District encompasses about five square miles and is located in Fresno County, in the heart of the San Joaquin Valley. The District is governed by a board of five directors.

In 2009, the District commissioned Bartle Wells Associates to conduct an independent long-range financing plan and rate review for its water, sewer, and solid waste enterprises. The goals of this study included: 1) Ensuring that rates and charges accurately reflect the District's costs of providing water and sewer services; 2) Ensuring the equitable distribution of costs across the District's customer base; 3) Ensuring that rates and charges comply with federal and state guidelines; and 4) Safeguarding the District's financial health so that the District can continue providing high quality services to all customers. This report summarizes Bartle Wells Associates' findings and recommendations with respect to the District's water, wastewater, and solid waste rates and long-range financing plans.

Summary

This section provides an overview of key findings and recommendations. In general, the District is in reasonably good financial condition and has relatively low water and wastewater rates. However, a number of changes are recommended. Most importantly, the District needs substantial water and sewer rate increases to ensure these enterprises retain balanced budgets. The report also recommends small adjustments to solid waste rates, as well as increases to water and sewer capacity (connection) fees. A more detailed explanation of key findings and recommendations is provided in the body of this report.

Water Enterprise

- The District's water enterprise currently serves about 257 residential units, 245 commercial, and 5 industrial water customers. Commercial and industrial accounts generate about 93 percent of water sales revenues.
- On an operating basis, the water system has shown a surplus for the past three fiscal years. However, current rates and fees are inadequate to cover future priority capital needs on a pay-as-you-go basis.



- Recommended adjustments to water charges include:
 - A ten percent rate increase should be implemented on April 1, 2010, with an additional ten percent rate increase to take effect July 1, 2011. Beginning July 1, 2012, annual three percent rate increases may be needed to keep rates from falling behind inflationary cost increases. These future rate increases are only projections and may be lower or higher based on future District revenues and expenses.
 - The residential capacity fee should be raised to \$5,430 per residential unit based on current system value, expansion-related capital project costs, and capacities. The capacity fees for larger metered customers should be proportioned to this charge based on AWWA standards.
 - Fire-line service and capacity fees should be set at 20 percent of the normal water service and capacity fees for each meter size. Buildings in excess of a square footage allowance for each meter size should pay an additional surcharge per 1,000 square feet over the allowance.

Wastewater Enterprise

- The District's sewer enterprise serves about 502 sewer accounts representing about 2,337 equivalent sewer service units. Residential customers account for 8% (eight percent) of these 2,337 service units.
- The District's sewer enterprise has posted overall deficits of \$140,000 and \$60,000 in FYs 2007/08 and 2008/09 respectively due to debt service and capital outlays. BWA projects the sewer enterprise will require significant rate adjustments to meet budgetary requirements going forward.
- Recommended adjustments to sewer charges include:
 - Sewer rates need to be raised in order for current and future revenue requirements to be met. The District will be unable to shoulder the cost of necessary improvements on a pay-as-you-go basis. Should the District choose to issue debt to cover these facilities, detailed cash flow projections indicate a fifteen percent rate increase should be implemented effective April 2010, followed by additional fifteen, ten, and ten percent rate increases at the beginning of FYs 2011/12, 2012/13, 2013/14, and 2014/15, respectively. Foregoing the disposal facilities entirely necessitates fifteen percent rate increases in April 2010 and July 2011. In both cases, these increases would need to be followed in future years by inflationary increases of about three percent annually.
 - Sewer service unit assignments should be reviewed periodically to ensure the assignment accurately reflects wastewater discharge.



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

FILE



Arnold
Schwarzenegger
Governor

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

16 August 2010

NOTICE OF VIOLATION

Russ Holcomb, General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

REPORT OF RECENT INSPECTION, MALAGA COUNTY WATER DISTRICT, MALAGA WASTEWATER TREATMENT FACILITY (NPDES CA0084239, RM 344803), FRESNO COUNTY

On 12 April 2010, PG Environmental, LLC and Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff inspected the Malaga County Water District (District) Wastewater Treatment Facility (Facility) to determine compliance with Waste Discharge Requirements Order R5-2008-0033 (NPDES Permit No. CA0084239). As documented in the enclosed Compliance Evaluation Inspection (CEI) Report, several items were deemed unsatisfactory or marginal and violations were discovered.

In a Notice of Violation issued to the District, dated 11 August 2009, Central Valley Water Board staff requested the District to submit a detailed written description of how and by when it would resolve all items found to be unsatisfactory and marginal during a 17 March 2009 compliance inspection. The District failed to provide a formal response to the Notice of Violation. The 12 April 2010 inspection revealed many of the items deemed unsatisfactory or marginal during the 17 March 2009 inspection remain unsatisfactory or marginal.

Cease and Desist Order R5-2008-0032 (CDO), adopted 14 March 2008, requires the District to submit a work plan and time schedule to implement short-term and long-term measures to ensure compliance with waste discharge requirements. On 28 July 2008, the District submitted the *Study Evaluating Treatment and Disposal Facilities* (Study) to fulfill the requirements in the CDO. The Study indicates the Discharger intends to replace the barminutor and repair the DAF clarifier, the secondary clarifiers, and the sludge thickener as part of its short-term measures. The Study states the barminutor will be replaced August 2008, the DAF clarifier will be returned to service by January 2009, the sludge thickener will be repaired by September 2008, work to install necessary components for one of the secondary clarifiers will be initiated by September 2008, and mechanical components for the other secondary clarifier will be constructed by June 2009.

California Environmental Protection Agency



Central Valley Water Board staff reviewed the Study and provided its findings to the District in a letter dated 24 September 2009. The 24 September 2009 letter states that the District's short-term measures are adequate, provided that the repairs are actually completed, and requires the District to submit an updated work plan and time schedule for implementation of short-term and long-term measures to ensure compliance with waste discharge requirements. The review memorandum states that the District's consultant provided a new date for repairs of the DAF clarifier and the secondary clarifiers of 30 September 2009. In a letter dated 27 October 2009, the District responded to the request to re-submit the study evaluating treatment and disposal capabilities by stating it intended to re-submit the study in several parts. Central Valley Water Board staff did not respond to the District's 27 October 2009 letter and have not received an updated work plan and implementation schedule.

The Discharger submitted a letter on 16 February 2010 providing the status of the repairs and upgrades to the Facility. The letter does not provide any dates for completing repairs and only states that repair activities are underway or planned. The letter states the repairs to the DAF clarifier and the secondary clarifiers have been contracted out to the Kaweah Construction Company, and the sludge thickener is "being repaired by [District] staff." As of the date of the inspection, repairs to the three treatment units had not commenced. Failure to repair significant treatment units not only indicates the District continues to be in violation or threatened violation of Waste Discharge Requirements Order R5-2008-0033, but places the District in threatened violation of CDO, Task 3.

By **15 September 2010**, submit a technical report that addresses the following items:

1. A schedule of repairs to the following treatment units:
 - a. Barminutor
 - b. Flocculation tank
 - c. Dissolved air floatation clarifier
 - d. Secondary clarifiers
 - e. Sludge thickening tank
2. A schedule for installing and using a continuous flow meter to monitor secondary effluent flow at monitoring location M-002.
3. A date by when the District will update its Operations and Maintenance manual, which was last updated in July 2002.
4. Status on the ultraviolet light disinfection system and all meters pertaining to its proper operation.
5. List of treatment processes and units included in the dial-out alarm system.
6. A description of how the District will address the following items deemed unsatisfactory or marginal in the enclosed 12 April 2010 CEI Report:
 - a. "J"-flag results are not identified as such in the self-monitoring reports.
 - b. Non-detect BOD results are reported as 1.0 mg/L in the self-monitoring reports.
 - c. According to Facility staff, influent samples are time-weighted composite samples. Waste Discharge Requirements Order R5-2008-0033 requires that influent samples be collected as 24-hour flow-proportioned composite samples.
 - d. A comparison of the self-monitoring reports and the raw data sheets revealed transcription errors.

- e. Secondary containment was not provided for the sodium thiosulfate containers stored on-site at the time of the inspection.
- f. Maintenance records were not readily available at the time of the inspection.
- g. A review of the self-monitoring reports showed exceedances of effluent limitations.
- h. According to Facility staff, pH samples are not analyzed within 15 minutes of sample collection, as required by Title 40, Code of Federal Regulations, Part 136. No records of sample collection or sample analyses times were available.

This request does not modify the due dates of the CDO, but is necessary to expedite staff's determination of the District's compliance with Waste Discharge Requirements Order R5-2008-0033 and the CDO.

If you have any questions regarding this matter or are unable to comply with the deadline specified above, please contact Aide Ortiz at (559) 445-6083.



LONNIE M. WASS
Supervising Engineer

Enclosure – Facilities Inspection Form
Compliance Evaluation Inspection Report

cc w/ encl: Ken Greenberg, U.S. EPA, Region IX (WTR-7), San Francisco
Tony Morales, Malaga WWTF, Fresno
Max Kuker, PG Environmental, LLC, Herndon
Michael Taylor, Provost & Pritchard Engineering Group, Inc., Fresno
Neal E. Costanzo, Costanzo & Associates, 575 E. Locust Avenue, Suite 115,
Fresno, CA 93720-2928



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

FILE

14 February 2014

NOTICE OF VIOLATION

Laurie Cortez
General Manager
Malaga County Water District
3580 South Frank Street
Fresno, CA 93725

CERTIFIED MAIL
7012 2920 0000 1430 3039

**PRETREATMENT COMPLIANCE AUDIT, MALAGA COUNTY WATER DISTRICT,
WASTEWATER TREATMENT FACILITY, (NPDES CA0084239, RM 389604), FRESNO
COUNTY**

On 6/7 January 2014, the United States Environmental Protection Agency (USEPA), Central Valley Water Quality Control Board, and PG Environmental, a contractor of USEPA, staff (Collectively, Audit Staff) conducted a Pretreatment Compliance Audit (PCA) of Malaga County Water District (District). The 2014 PCA Final Summary Report is enclosed. The PCA Final Summary Report lists 25 Pretreatment Program violations (Requirements) which the District is required to correct. The PCA Final Summary Report also lists 18 recommendations, which identify program deficiencies. The violations are listed in Section 14.1, Requirements (pp 33-41) and the deficiencies and are listed in Section 14.2, Recommendations (pp 41-44).

Water Board staff has reviewed the PCA Final Summary Report and agrees with the identified violations and deficiencies of the District's Pretreatment Program, as well as the recommendations. The violations and deficiencies listed are excessive. Many are significant and chronic violations that were brought to the District's attention via the 18 February 2010 Pretreatment Compliance Inspection, the 12 July 2012 follow-up Pretreatment inspection, and again in the 13 September 2013 Notice of Violation. This subjects the District to potential formal enforcement.

APPROVED
[Signature]
Supervising Engineer



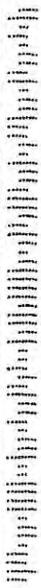
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**CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD**
Central Valley Region
1685 E Street
Fresno, CA 93706

EMC



By 14 March 2014, submit a report of the District's plans to correct the identified violations and appropriately address each of the PCA Final Summary Report's recommendations. The request for this plan is not a waiver of any authority of the Central Valley Water Board to bring formal enforcement actions against the District.

If you have any questions regarding this matter, please contact Jill Walsh at (559) 445-5130 or at jwalsh@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist
CEG 1528, CHG 681

Enclosure: 2014 PCA Final Summary Report

cc via email: Ken Greenberg, USEPA Region IX, WTR-7, San Francisco
Amelia Whitson, USEPA Region IX, WTR-7, San Francisco
Jim Polek, USEPA Region IX, WTR-7, San Francisco
Pascal Mues, USEPA Region IX, WTR-7, San Francisco
Russell Norman, State Water Board, Sacramento
Wesley Ganter, PG Environmental, LLC, Golden, Colorado
Danny O'Connell, PG Environmental, LLC, Golden, Colorado
Anthony D'Angelo, PG Environmental, LLC, Golden, Colorado
Kettie Holland, PG Environmental, LLC, Golden, Colorado
Charles E. Garabedian, Jr. President, Malaga CWD
Michael Taylor, Provost and Pritchard, Fresno
Neal Costanzo, Costanzo & Associates, Fresno

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

10 September 2015

NOTICE OF VIOLATION

James Anderson, General Manager
Malaga County Water District
3580 South Frank Avenue
Fresno, CA 93725

CERTIFIED MAIL
7013 2630 0001 5236 1426

PRETREATMENT COMPLIANCE INSPECTION VIOLATIONS, MALAGA COUNTY WATER DISTRICT, WASTEWATER TREATMENT FACILITY, WDID 5D100124001, NPDES NO. CA0084239, RM 402804, FRESNO COUNTY

On 25-26 March 2015, staff from PG Environmental, LLC, a contractor of the United States Environmental Protection Agency, and Central Valley Water Board staff conducted a Pretreatment Compliance Inspection (PCI) of the Malaga County Water District (District). The PCI Summary Report (Report) identifies several significant pretreatment program deficiencies identified during the inspection. These deficiencies constitute violations or threatened violation by the District of 40 CFR Part 403 and the District's previous Waste Discharge Requirements (WDR) Order R5-2008-0033 (Section VI.A.2.g and Section VI.C.5.a) and/or current WDR Order R5-2014-0145 (Section VI.A.2.g and Section VI.C.5.a). The PCI Summary Report is enclosed.

This Notice of Violation (NOV) is issued to Malaga County Water District (Malaga) pursuant to California Water Code section 13385, for violations of WDR Order Nos. R5-2008-0033 (NPDES Permit No. CA0084239) and R5-2014-0145, (NPDES Permit No. CA0084239), adopted by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 14 March 2008 and 4 December 2014, respectively.

Specifically, the following violations or threatened violations (and relevant Code section) are described in the Report by the recommendations in Section 10.1, the numbers for which correspond to the violation numbers below:

- 1) Failure to receive approval from the Central Valley Regional Water Board for substantial sewer use ordinance (SUO) modification prior to implementing the SUO. 40 CFR 403.18(c)
- 2) Failure to identify and publish notice of significant noncompliance by (a) significant industrial user(s) (SIUs) in (a) newspaper(s) of general circulation. 40 CFR 403.8(f)(2)(viii)
- 3) Failure to develop technically-based local limits and ensure that the limits are enforced and continually developed as necessary. 40 CFR 403.5(c)

KARL E. LONGLEY SCD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

- 4) Failure to ensure and document that permits are provided to the industrial users prior to the effective date. 40 CFR 403.8(f)(1)(iii)(B)(1)
- 5) Failure to include sampling locations in control mechanisms. 40 CFR 403.8(f)(1)(iii)(B)(4)
- 6) Failure to include effluent limits in permits. 40 CFR 403.8(f)(1)(iii)(B)(3)
- 7) Failure to include the correct sampling type for flow and the appropriate sampling frequency for each parameter in the SIU permits. 40 CFR 403.8(f)(1)(iii)(B)(4)
- 8) Failure to ensure that local limits are technically-based and that the method in which they are applied is also technically derived. Failure to include the method in which the local limits are to be applied in the SIU permits so that the industrial users are aware of applicable effluent limitations. 40 CFR 403.8(f)(1)(iii)(B)(3)
- 9) Failure to include the prohibition of bypass in industrial user permits. 40 CFR 403.17(a-c)
- 10) Failure to notify each SIU of its status as such and of all requirements applicable to it as a result of such status. 40 CFR 403.8(f)(2)(iii)
- 11) Failure to collect and analyze samples at each of the SIUs at least annually. 40 CFR 403.8(f)(2)(v).
- 12) Failure to inspect each SIU at least once a year. 40 CFR 403.8(f)(2)(v)
- 13) Failure to evaluate the operating conditions of the effluent quality probes to ensure that representative wastewater samples are being collected. 40 CFR 403.12(b)(5)(ii)
- 14) Failure to ensure that it identifies a sampling location that is both representative of each facility's daily process operations and is located downstream of the facility's oil and water separator, but prior to where mixing with other waste streams would occur. 40 CFR 403.12(b)(5)(ii) and (iv)
- 15) Failure to ensure that a permittee's compliance monitoring is representative of the daily wastewater generating and discharge operations at the facility. 40 CFR 403.12(b)(5)(ii)
- 16) Failure to ensure that District compliance monitoring is representative of the wastewater generated at the permittee's facility. 40 CFR 403.12(b)(5)(ii)
- 17) Failure to ensure that permittees properly maintain pretreatment systems. 40 CFR 403.12(b)(5)(ii)
- 18) Failure to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with 40 CFR 403.12 (Occurrence 1). 40 CFR 403.8(f)(2)(iv)

- 19) Failure to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with 40 CFR 403.12 (Occurrence 2). 40 CFR 403.8(f)(2)(iv)
- 20) Failure to evaluate whether each SIU needs a plan or other action to control slug discharges. 40 CFR 403.8(f)(2)(vi)
- 21) Failure to develop and implement District's enforcement response plan in accordance with federal regulations. 40 CFR 403.8(f)(5)

Refer to Report Section 10.1 (and references therein) for more detail on each numbered violation above.

Section 10.2 (Recommendations) of the Report contains 16 recommendations that Central Valley Water Board staff strongly recommends the District carefully consider. Each recommendation includes a reference to a section of the report where detailed findings pertinent to each recommendation may be found. In addition, several of the requirements associated with the above violations include recommendations for improving the strength of the District's pretreatment program. Central Valley Water Board staff strongly suggests the District carefully consider those recommendations.

By **26 October 2015**, submit a written description of the measures the District has implemented or will implement to resolve the above violations and in response to the requirements and recommendations in Section 10 of the PCI Summary Report. Include a proposed schedule for implementation of changes in the District's pretreatment program for each requirement and (as applicable) for each recommendation.

Failure to comply with WDRs Order No. R5-2008-0033 and R5-2014-0145 subjects Malaga to civil liability of up to \$10,000 per day pursuant to Water Code section 13385 for each violation.

If you have any questions regarding this matter, please contact me at (559) 445-5128 or at Warren.Gross@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist

Enclosure: 2015 PCI Summary Report

cc: Charles Garabedian, Malaga County Water District
Neal Costanzo, Costanzo & Associates, Fresno
Amelia Whitson, USEPA Region IX, WTR-7, San Francisco (via email)
Russell Norman, State Water Resources Control Board, DWQ, Sacramento (via email)

grab sample are greater by a factor of five (5) than the average 24-hour concentration allowed in the Non-residential Permit or a mass emission greater than that specified by connection permit shall be considered excessive.

- c. B.O.D. and S.S.: those concentrations of Biochemical Oxygen Demand and Suspended Solids which, in a composite sample taken at intervals of fifteen (15) minutes over a period of four (4) hours, are greater by a factor of five (5) than the average 24-hour concentration allowed in the Non-residential Permit or a mass emission greater than that specified by Non-residential Permit shall be considered excessive.
- d. Any Pollutants, including oxygen demanding Pollutants (B.O.D., etc.) released in a Discharge at a flow rate and/or concentration which may cause Interference or pass through.

5. Heat. 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 Approval Authority, upon request of the POTW, approves alternate temperature limits.

6. Oils and Grease.

- a. Oil and grease concentrations or mass emission rates in violation of applicable federal, state, the Pretreatment Program or Pretreatment Standards.
- b. Wax, grease or oil of animal, vegetable, mineral or petroleum origin (including emulsified forms) in any concentration or quantity which may cause or significantly contribute to flow obstruction, pass through or Interference, or otherwise be incompatible with the Wastewater Facilities, or in violation of any permit, the Pretreatment Program, order or applicable law.
- c. Oil and grease total limitations are established at 200 mg per liter in the absence of any other permit, order, or applicable law. Each Premises and/or use may require more stringent standards as determined by the District. In the event

of different limits, the lowest maximum limitation shall be applicable.

7. Noxious Material. 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. Trucked or Hauled Pollutants. Any trucked or hauled Pollutants, except at Discharge points designated by the POTW. (See, Section 3.05.080).

9. Radioactive Wastes. Radioactive Wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the Wastewater Facilities or personnel operating the Wastewater Facilities.

10. Toxic or Hazardous Substances.

a. Any Toxic or Hazardous Substance in a manner or quantity which is in violation of any federal, state or District regulation, standard or limitation;

b. Except as provided in Section 3.05.080, any Hazardous Substance by truck, by rail, or by dedicated pipeline;

c. Any chemical element or compound, including taste or odor producing substances, which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the Wastewater Facilities.

11. Unpolluted Waters. Any Unpolluted Water including, but not limited to, water from cooling systems or of Storm Water origin, which will increase the hydraulic load on the Wastewater Facilities.

12. Discolored Materials. Wastes with objectionable color not removable by the treatment process. Such color shall be objectionable if it causes the plant effluent to fail to meet State or EPA standards for turbidity or light transmittance, or if it causes pollution to Waters of the State.

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

21 January 2016

James Anderson, General Manager
Malaga County Water District
3580 South Frank Avenue
Fresno, CA 93725

PRETREATMENT PROGRAM COMPLIANCE, MALAGA COUNTY WATER DISTRICT, WASTEWATER TREATMENT FACILITY, WDWID 5D100124001, NPDES NO. CA0084239, RM 402804, FRESNO COUNTY

Central Valley Water Board Staff received on 9 November 2015 your comments (dated 26 October 2015) in response to our 10 September 2015 Notice of Violation (NOV).

Following review of correspondence between Central Valley Water Board staff and Malaga County Water District (District) staff regarding pretreatment program modifications, we believe some clarification regarding the regulatory definition of a significant modification and actions taken by the District may be helpful.

Title 40 of the Code of Federal Regulations (CFR) part 403.18(b) defines substantial modifications to publicly-owned treatment works (POTW) pretreatment programs. 40 CFR 403.18(b)(2) specifies the following as a substantial modification:

“Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of this section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under §403.5(c)”.

On 25 February 2014, the District adopted a new Ordinance Code as Ordinance No. 2013-1. The District correctly notes that the removal of the iron local limit guideline and the increase of various metal local limit guidelines did not constitute a substantial modification as these numbers were noted in the Ordinance as guidelines rather than enforceable limits or prohibitions. The Ordinance Code did, however, relax the local limit (referred to in the Ordinance as a prohibition on wastewater discharges) for oil and grease from 100 mg/l to 200 mg/l for the District's POTW pretreatment program. This limit relaxation constitutes a substantial modification pursuant to 40 CFR 403.18(b)(2).

40 CFR 403.18(c) sets forth the approval procedures for substantial modifications and is included below for reference:

“(1) The POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description (see §403.9(b)), or such

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

1685 E Street, Fresno, CA 93706 | www.waterboards.ca.gov/centralvalley

other documents the Approval Authority determines to be necessary under the circumstances.

(2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority.

(3) The Approval Authority need not publish a notice of decision under §403.11(e) provided: The notice of request for approval under §403.11(b)(1) states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(4) Notices required by §403.11 may be performed by the POTW provided that the Approval Authority finds that the POTW notice otherwise satisfies the requirements of §403.11."

Note that unlike the approval procedures for non-substantial modifications specified in 40 CFR 403.18(d), there is no timeframe within which the Approval Authority (here, the Central Valley Regional Water Quality Control Board) must act or provide notification.

The District's responses to Requirements 12 and 18 of the NOV suggest that the District may have overlooked the central point of the requirements. The District must inspect each Significant Industrial User (SIU) at least once a year (Requirement 12 of the NOV) and the District must analyze reports it receives from industrial users (Requirement 18 of the NOV).

We hope an improved understanding of the regulatory definitions and requirements will lead to an improved record of compliance for the District's pretreatment program.

If you have any questions regarding this matter, please contact me at (559) 445-5128 or at Warren.Gross@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist

cc: Naomi Kaplowitz, OE (e-mail only)

Table 1—Malaga County Water District Pretreatment Program Compliance 2015 Status

Pretreatment Program Element	Current Compliance Status
Control contribution of SIUs through permits that meet the minimum requirements of the pretreatment program pursuant to 40 CFR section 403.8(f)(1)(iii)(B)	At the 2015 PCI, inspectors observed that SIU permits lacked effective dates and were unsigned. Inspectors also observed that sampling locations were absent or inadequate in permits. Inspectors also observed that District had modified SUI permits to include statement of civil and criminal penalties.
Inspect and sample SIUs once a year as required by 403.8(f)(2)(v)	At the 2015 PCI, sampling and inspection records were so deficient that inspectors could not confirm whether District had complied with requirements.
Require, receive, and analyze reports from its SIUs pursuant to the requirements in 40 CFR section 403.8(f)(2)(iv)	At 2015 PCI, inspectors could not confirm that the industrial user self-monitoring samples were collected and analyzed in accordance with the regulations at 40 CFR 136 due to incomplete records.
Publish a list of users in significant non-compliance as required by 40 CFR section 403.8 (f)(2)(viii)	At 2015 PCI, District representatives appeared unaware of how and when to perform SNC calculations. SNC data calculation sheets provided with 2015 Annual Pretreatment Report indicate that District has developed a protocol for calculating SNC in accordance with federal regulations.
Evaluate whether slug control plan is necessary for each SIU and produce upon request pursuant to 40 CFR section 403.8 (f)(2)(vi)	At 2015 PCI, District representatives seemed unaware of difference between terms “batch discharge” and “slug discharge.” Review of the MCWD Slug Evaluation Report, received on 11 March 2016, is in progress. Preliminary review indicates significant progress in Discharger’s understanding and implementation of requirement.
File materially sufficient annual pretreatment reports pursuant to 40 CFR section 403.12(i), Provision VI. C.5.a.ii at p. 25 of the 2008 Permit, and Provision X.D.4 at pp. E-17-20 of MRP	Not evaluated as part of 2015 PCI. 2015 Annual Report (958 pages), dated 29 February 2016, is currently under review by staff for compliance with the 2014 NPDES Permit.
File adequate quarterly pretreatment reports pursuant to the requirements of Provision VI.C.5.a.ii at p. 25 of the 2008 Permit, and Provision X.D.4.d at pp. E-18-19 of the MRP of the 2008 Permit	Not evaluated as part of 2015 PCI. Compliance evaluation of 2014 NPDES Permit Quarterly Pretreatment Reporting requirements is in progress.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

In the matter of Administrative Civil Liability
Complaint No. R5-2016-0512 (Complaint)
(Malaga County Water District)

Prosecution Team Rebuttal Brief

**PROSECUTION TEAM REBUTTAL BRIEF; ADMINISTRATIVE CIVIL LIABILITY
COMPLAINT NO. R5-2016-0512**

The Prosecution Team for the California Regional Water Quality Control Board, Central Valley Region (Prosecution Team) hereby submits a rebuttal brief in response to the Malaga County Water District's (Discharger) 11 March 2016 evidence submittal. The Prosecution Team continues to recommend a discretionary penalty in the amount of \$1,036,728 for the Discharger's violations.

I. Evidence on Discharger's Compliance Status in 2015 and 2016 is Only Relevant to Application of Enforcement Policy's Cleanup and Cooperation Factor

While not explicitly argued, the Prosecution Team presumes much of the Discharger's 11 March 2016 evidence submittal is intended to show it recently came into compliance. The Discharger's submission included a number of documents that purport to show whether, and to what extent, the Discharger has come into compliance with respect to implementing its pretreatment program in 2015 and 2016. (See 11 March 2016 Discharger Evidence Submittal Items: MCWD 2015 Annual Pretreatment Report; MCWD response to NOV; MCWD Slug Evaluation Report.) That evidence is only relevant to the application of the State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) cleanup and cooperation factor since the Complaint proposes ending the violation period for failure to implement the pretreatment program on 31 January 2015 (the 2008 Permit rescission date), which is prior to the Discharger undertaking many of the corrective actions to which it intimates in its evidence submission.

The Complaint alleges that the Discharger failed to implement key components of its pretreatment program from the adoption of the 2008 Permit on 14 March 2008 through the rescission of the 2008 Permit on 31 January 2015 (Violation 1). (Complaint, p. 11.) Therefore, corrective actions on the part of the Discharger that may have occurred after rescission of the 2008 Permit are irrelevant to the calculation of the violation period. Furthermore, the Complaint proposes collapsing the violation period to a total of 89 days of violation for Violation 1. (Id.; see also Attachment A to ACLC R5-2016-0512, p. 7.)

The Complaint proposes a cleanup and cooperation factor of "1.2" based on the Discharger's efforts in coming into compliance. (See Attachment A, p. 10.) That recommendation reflects the Prosecution Team's acknowledgement that the Discharger has made recent improvements

in implementing its pretreatment program.¹ (Id. at 9.) However, the recommendation also reflects the fact that the Discharger did not undertake the majority of those improvements for years despite being requested to do so by Central Valley Water Board staff on many occasions prior to January 2015. (Id.)

II. Issue of Which Sewer Use Ordinance is Operational Does not Effect Proposed Liability Amount; Discharger's 2004 Sewer Use Ordinance is Operational

The Discharger's arguments that iterations of its Sewer Use Ordinance following the 2004 Sewer Use Ordinance made non-significant modifications, and that those changes were permitted by the Central Valley Water Board are both false. (See 11 March 2016 Discharger Evidence Submittal Item: MCWD response to NOV.) The 2004 Sewer Use Ordinance established a local limit for oil and grease at 100 mg/l. (Sewer Use Ordinance no. 01-13-20014, PT Evid. Item 63.) The 2013-1 Ordinance relaxed that local limit to 200 mg/l. (Ordinance No. 2013-1, pg. 79., Rebuttal Evid.) Modifications that relax local limits, with limited exceptions, constitute a per se substantial modification pursuant to Title 40 Code of Federal Regulations section 403.18(b). (See Title 40 CFR § 403.18(b).) The Code of Federal Regulations mandates specific approval procedures for substantial modifications. (Title 40 CFR § 403.18(c).) The Discharger did not comply with the required process for having substantial modifications approved. (See 21 January 2016 CVRB response to MCWD; see Title 40 CFR § 403.18(c).) Therefore, the 2004 Sewer Use Ordinance is the most recent valid ordinance and is operational.

Regardless, the issue of which Sewer Use Ordinance is operational is only probative to a limited allegation in Violation 1 and does not inform the violation date range or application of the Enforcement Policy factors. Which Sewer Use Ordinance is operational is probative only to whether the Discharger set effluent limits based on local limits for oil and grease in applicable SIU permits. (See Attachment A to ACLC R5-2016-0512, p. 2.) However, the Discharger's failure to control the contribution to the POTW by each SIU through individual permits is based also on the failure to include in its SIU permits sampling location, sampling type, and a statement of applicable civil and criminal penalties, none of which are affected by which Sewer Use Ordinance was in effect at the time.

Furthermore, in addition to basing the Discharger's failure to implement its pretreatment program (Violation 1) on its failure to control the contribution to the POTW by each significant industrial user (SIU) through individual permits, Violation 1 is also based on the Discharger's failure to inspect and sample its SIUs once a year, failure to publish a list of users in significant non-compliance, failure to evaluate whether a slug control plan is necessary for each SIU, failure to file materially sufficient annual pretreatment reports, failure to file adequate quarterly pretreatment reports, and failure to implement key components of its pretreatment program. (See Attachment A to ACLC R5-2016-0512, pp. 2-4.)

¹ Table 1, attached hereto, depicts the extent to which the Discharger had come into compliance with the pretreatment program requirements as of the 2015 PCI, which took place on 25-26 March 2015, months after the rescission of the 2008 Permit and the close of the violation period.

While the Prosecution Team asserts that 2004 Sewer Use Ordinance was the last ordinance approved in accordance with the Code of Federal Regulations, the probative value of which Sewer Use Ordinance is controlling is low and serves as a distraction from the many ways in which the Discharger failed to implement its pretreatment program.

IX. Conclusion

The Discharger's compliance efforts that occurred after the violation period are only probative to the Enforcement Policy's cleanup and cooperation factor. The Prosecution Team continues to recommend a "1.2." The issue of which Sewer Use Ordinance is operational is only probative to one of the many allegations in the Complaint and has no effect on the application of the Enforcement Policy methodology. The Prosecution Team, therefore, continues to recommend to the Central Valley Water Board the imposition of an administrative civil liability penalty of \$1,036,728, as proposed.

Dated: 30 March 2016

Respectfully submitted,

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY
REGION PROSECUTION TEAM

By:



Naomi Kaplowitz

Prosecution Team Rebuttal Witness List and Request for Telephonic Appearance

Malaga County Water District

Administrative Civil Liability Complaint R5-2016-0512

21/22 April 2016

The Prosecution Team hereby respectfully requests permission to have the two first witnesses listed here appear telephonically. Mr. Ganter and Mr. Durham are employed and reside outside the state. As the scope of their respective potential testimony is limited solely to the mode of preparation of evidentiary documents, the Prosecution Team believes a telephonic appearance is most appropriate.

The Prosecution Team will call the following rebuttal witnesses as needed. These Rebuttal Witnesses are in addition to those identified in the previously submitted Witness List.

1. Chuck Durham (telephonic appearance as needed)
Principal Engineer and Director of Pretreatment Services, Tetra Tech, Inc.
Testimony regarding 2010 Pretreatment Compliance Inspection Summary Report and 2010 Pretreatment Compliance Inspection Checklist mode of preparation.
2. Wesley Ganter (telephonic appearance as needed)
Director, PG Environmental, LLC
Testimony regarding 2014 Pretreatment Compliance Audit Final Summary Report, 2015 Pretreatment Compliance Inspection Checklist, and 2015 Pretreatment Compliance Inspection Summary Report mode of preparation.
3. Gerald Horner (as needed)
Research Program Specialist II (Economics)
Testimony regarding ability to pay and continue in business, and economic benefit of noncompliance.