



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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May 4, 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Barry Tippin, Director, Municipal Utilities Department
Mr. Larry J. Miralles, Manager, Municipal Utilities Department
City of Redding
Abernathy Transfer Station & Compost Facility
2255 Abernathy Lane
Redding, CA 96003

Mr. Barry Tippin, Director, Municipal Utilities Department
Mr. Larry J. Miralles, Manager, Municipal Utilities Department
City of Redding
Abernathy Transfer Station & Compost Facility
P.O. Box 496071
Redding, CA 96049-6071

Mr. Kurt Starman, City Manager
City of Redding
777 Cypress Ave.
Redding, CA 96001

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Messrs. Miralles, Starman and Tippin:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "the Act") occurring at the Abernathy Transfer Station & Compost Facility (hereafter, "Abernathy Transfer Station" or "ATS") facility located at 2255 Abernathy Lane in Redding, California ("the Facility"). The WDID identification number for the Facility is 5R451020605. The City of Redding ("the City") is the operator of the Facility.

CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of the Sacramento River and other California waters. This letter is being sent to you as the responsible owner, officer, or operator of the Facility.

This letter addresses the City's unlawful discharges of pollutants from the Facility to the Sacramento River and the Sacramento-San Joaquin Bay Delta ("the Delta"). This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and the National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("General Industrial Storm Water Permit" or "General Permit"). The City's ongoing discharges of pollutants from the Facility to these waters of the United States violate Section 301(a) of the Act, 33 U.S.C. § 1311(a).

Section 505(b) of the Clean Water Act provides that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen must give notice of intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("the EPA"), and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, the City of Redding is hereby placed on formal notice by CSPA that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, CSPA intends to file suit in federal court against the City of Redding, and Messrs. Miralles, Starman and Tippin under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Industrial Storm Water Permit. These violations are described more fully below.

I. Background.

The City owns and/or operates the Facility which is primarily used to store and transfer municipal solid waste, and for the recycling of various materials; other current activities at the Facility include the use and storage of petroleum products and other hazardous materials on site, the use, storage, and maintenance of motorized vehicles, including trucks used to haul materials to, from and within the Facility.

On December 27, 2006 the City belatedly submitted its notice of intent ("NOI") to operate the Facility in compliance with the terms of the General Industrial Storm Water Permit ("the General Permit"). The Facility collects and discharges storm water from its 25-acre industrial site through at least five discharge points indirectly to the Sacramento River and the Sacramento-San Joaquin Bay Delta ("the Delta"). The Delta, the Sacramento River, and the creeks that receive storm water discharges from the Facility are waters of the United States within the meaning of the Clean Water Act.

The Central Valley Regional Water Quality Control Board (“Regional Board” or “Board”) has established water quality standards for the Sacramento River and the Delta in the “Water Quality Control Plan for the Sacramento River and San Joaquin River Basins,” generally referred to as the Basin Plan. The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.” For the Delta, the Basin Plan establishes standards for several metals, including (at a hardness of 40 mg/L): arsenic – 0.01 mg/L; cadmium – 0.00022 mg/L; copper – 0.0056 mg/L; iron – 0.3 mg/L; and zinc – 0.016 mg/L. *Id.* at III-3.00, Table III-1. The Basin Plan states that “[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain lead in excess of 0.015 mg/L.” *Id.* at III-3.00. The Basin Plan also provides that “[t]he pH shall not be depressed below 6.5 nor raised above 8.5.” *Id.* at III-6.00. The Basin Plan also prohibits the discharges of oil and grease, stating that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.” *Id.* at III-5.00

The Basin Plan also provides that “[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs).” *Id.* at III-3.0. The EPA has issued a recommended water quality criteria for aluminum for freshwater aquatic life protection of 0.087 mg/L. EPA has established a secondary MCL, consumer acceptance limit for aluminum of 0.05 mg/L to 0.2 mg/L. EPA has established a secondary MCL, consumer acceptance limit for zinc of 5 mg/L. EPA has established a primary MCL, consumer acceptance limit for the following: chromium – 0.1 mg/L; copper – 1.3 mg/L; and lead – 0.0 (zero) mg/L. *See* <http://www.epa.gov/safewater/mcl.html>. The California Department of Health Services has also established the following MCL, consumer acceptance levels: aluminum – 1 mg/L (primary) and 0.2 mg/L (secondary); chromium – 0.5 mg/L (primary); copper – 1.0 (secondary); iron – 0.3 mg/L; and zinc – 5 mg/L. *See* California Code of Regulations, title 22, §§ 64431, 64449.

EPA has also issued numeric receiving water limits for certain toxic pollutants in California surface waters, commonly known as the California Toxics Rule (“CTR”). 40 CFR §131.38. The CTR establishes the following numeric limits for freshwater surface waters: arsenic – 0.34 mg/L (maximum concentration) and 0.150 mg/L (continuous concentration); chromium (III) – 0.550 mg/L (maximum concentration) and 0.180 mg/L (continuous concentration); copper – 0.013 mg/L (maximum concentration) and 0.009 mg/L (continuous concentration); lead – 0.065 mg/L (maximum concentration) and 0.0025 mg/L (continuous concentration).

The Regional Board has also identified waters of the Delta as failing to meet water quality standards for unknown toxicity, electrical conductivity, numerous pesticides, and mercury. *See* <http://www.swrcb.ca.gov/tmdl/docs/2002reg5303dlist.pdf>.

Discharges of listed pollutants into an impaired surface water may be deemed a “contribution” to the exceedance of CTR, a water quality standard, and may indicate a failure on the part of a discharger to implement adequate storm water pollution control measures. See *Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 375 F.3d 913, 918 (9th Cir. 2004); see also *Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 2005 WL 2001037 at *3, 5 (E.D. Cal., Aug. 19, 2005) (discharger covered by the General Industrial Storm Water Permit was “subject to effluent limitation as to certain pollutants, including zinc, lead, copper, aluminum and lead” under the CTR).

The General Industrial Storm Water Permit incorporates benchmark levels established by EPA as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). The following benchmarks have been established for pollutants discharged by the Facility: pH – 6.0-9.0; total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; and, iron – 1.0 mg/L. The State Water Quality Control Board also recently proposed adding a benchmark level for specific conductance of 200 µmhos/cm. Additional parameters for pollutants that CSPA believes are being discharged from the Facility are: ammonia – 19 mg/L; magnesium; - 0.0636 mg/L; chemical oxygen demand – 120 mg/L; arsenic – 0.16854 mg/L; cadmium – 0.0159 mg/L; cyanide – 0.0636 mg/L; lead – 0.0816 mg/L; mercury – 0.0024 mg/L; selenium – 0.2385 mg/L; and, silver – 0.0318 mg/L.

II. Pollutant Discharges in Violation of the NPDES Permit.

The City has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand (“BOD”) and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Industrial Storm Water Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board’s Basin Plan.

On March 25, 2008, the Regional Board sent the City a letter demanding, among other things, that: (1) the City review the Facility's potential sources of pollutants; (2) that the City review the Facility's then current BMPs; and, (3) that the City determine what additional BMPs are necessary to reduce and/or eliminate the discharge of pollutants from the Facility. In response, on April 14, 2008, the City sent the Regional Board a letter describing BMPs the City would implement at the Facility in order to try to reduce and/or eliminate the discharge of pollutants from the Facility. The City followed this letter with a cover letter attached to its 2007-2008 Annual Report ("Cover Letter"). The Cover Letter reports that the City "has implemented the changes outlined in the April 14, 2008, response to the California Regional Water Quality Control Board's letter, dated March 25, 2008. Good housekeeping practices will be maintained at the Solid Waste Material Recovery Facility with the goal of meeting the benchmark values for all required constituents, required by the State General Permit Waste Discharge Requirements (Water Quality Order 97-03-DWQ). The Solid Waste Materials Recovery Facility will continue to evaluate best management practices that will assure the facility remains in compliance with the U.S. EPA benchmark values."

Notwithstanding these assurances, as will be discussed further below and as evidenced by the Facility's 2008-2009 Annual Report, the Facility continues to discharge storm water containing pollutants in concentrations in excess of EPA benchmarks. Based on its review of publicly available documents, CSPA is informed and believes that the City continues to operate the Facility in violation of the General Permit. The City's ongoing violations are discussed further below.

A. The Facility Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

The Facility has discharged and continues to discharge storm water with unacceptable levels of total suspended solids (TSS), specific conductivity (SC) and Iron (Fe) in violation of the General Industrial Storm Water Permit. These high pollutant levels have been documented during significant rain events, including the rain events indicated in the table of rain data attached hereto as Attachment A. The Facility's Annual Reports and Sampling and Analysis Results confirm discharges of materials other than stormwater and specific pollutants in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit:

1. Discharges of Storm Water Containing Total Suspended Solids (TSS) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Parameter	Discharge Point	Concentration in Discharge	EPA Benchmark Value
12/21/2006	TSS	D1	356 mg/L	100 mg/L
12/21/2006	TSS	D2	116 mg/L	100 mg/L
12/21/2006	TSS	D4	130 mg/L	100 mg/L
12/21/2006	TSS	D5	117 mg/L	100 mg/L
01/03/2008	TSS	D5	235 mg/L	100 mg/L
02/21/2008	TSS	D4	102 mg/L	100 mg/L
02/21/2008	TSS	D5	175 mg/L	100 mg/L
10/03/2008	TSS	D1	218 mg/L	100 mg/L
10/03/2008	TSS	D2	188 mg/L	100 mg/L
10/03/2008	TSS	D3	208 mg/L	100 mg/L
10/03/2008	TSS	D4	258 mg/L	100 mg/L
10/03/2008	TSS	D5	184 mg/L	100 mg/L

2. Discharges of Storm Water Containing Iron (Fe) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Parameter	Discharge Point	Concentration in Discharge	EPA Benchmark Value
10/03/2008	Fe	D1	10.8 mg/L	1.0 mg/L
10/03/2008	Fe	D2	8.53 mg/L	1.0 mg/L
10/03/2008	Fe	D3	22.7 mg/L	1.0 mg/L
10/03/2008	Fe	D4	16.8 mg/L	1.0 mg/L
10/03/2008	Fe	D5	15.5 mg/L	1.0 mg/L
03/15/2009	Fe	D2	1.91 mg/L	1.0 mg/L
03/15/2009	Fe	D4	1.4 mg/L	1.0 mg/L
03/15/2009	Fe	D5	1.47 mg/L	1.0 mg/L

3. Discharges of Storm Water Containing Specific Conductivity (SC) at Levels in Excess of Proposed Benchmark Value.

Date	Parameter	Discharge Point	Concentration in Discharge	Proposed Benchmark Value
12/21/2006	SC	D5	211 µmhos/cm	200 µmhos/cm
03/26/2007	SC	D5	217 µmhos/cm	200 µmhos/cm
10/03/2008	SC	D5	272 µmhos/cm	200 µmhos/cm
03/15/2009	SC	D5	370 µmhos/cm	200 µmhos/cm

CSPA's investigation, including its review of the Facility's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of EPA's Benchmark Values and the Basin Plan's benchmarks, indicates that the City has not implemented BAT and BCT at the Facility for its discharges of TSS, Iron (Fe) and Specific Conductivity (SC) and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. The City was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. Thus, the City is discharging polluted storm water associated with its industrial operations from the Facility without having implemented BAT and BCT.

CSPA is informed and believes that the City has known that the Facility's storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least May 4, 2005. CSPA alleges that such violations also have occurred and will occur on other rain dates, including during every single significant rain event that has occurred since May 4, 2005, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that the City has discharged storm water from the Facility containing impermissible levels of TSS, Iron (Fe), Specific Conductivity (SC) and other un-monitored pollutants in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any pollutants from the Facility without the implementation of BAT/BCT constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, the City is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since May 4, 2005.

B. The City Has Failed to Implement an Adequate Monitoring & Reporting Plan.

Section B of the General Industrial Storm Water Permit requires that dischargers develop and implement an adequate Monitoring and Reporting Plan by no later than October 1, 1992 or the start of operations. Sections B(3), B(4) and B(7) require that dischargers conduct regularly scheduled visual observations of non-storm water and storm water discharges from the Facility and to record and report such observations to the Regional Board. Section B(5)(a) of the General Industrial Storm Water Permit requires that dischargers "shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season. All storm water discharge locations shall be sampled." Section B(5)(c)(i) further requires that the samples shall be analyzed for total suspended solids, pH, specific conductance, and total organic carbon. Oil and grease may be substituted for total organic carbon.

The Facility's NOI designates the Facility as conforming to Standard Industrial Classification ("SIC") Code 4953 – an SIC Code which requires the sampling and analysis of additional parameters found in Table D of the General Permit. Under Table D, facilities designated as SIC Code 4953 must analyze samples of storm water for Iron (Fe), Ammonia (NH₃), Magnesium (Mg), Chemical Oxygen Demand (COD), Arsenic (As), Cadmium (Cd), Cyanide (CN), Lead (Pb), Mercury (Hg), Selenium (Se) and Silver (Ag). Additionally, Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities."

Based on its investigation, CSPA is informed and believes that the City has failed to develop and implement an adequate Monitoring & Reporting Plan at the Facility. First, based on its failure to file Annual Reports for the 2004-2005 and 2005-2006 wet seasons, CSPA is informed and believes that the City has failed to collect storm water samples from each discharge point at the Facility during at least two qualifying storm events (as defined by the General Permit) during each of the past five years. Second, the City failed to analyze the Facility's storm water samples for all additional analytical parameters required for facilities designated under SIC Code 4953 (i.e., Iron (Fe), Ammonia (NH₃), Magnesium (Mg), Chemical Oxygen Demand (COD), Arsenic (As), Cadmium (Cd), Cyanide (CN), Lead (Pb), Mercury (Hg), Selenium (Se) and Silver (Ag)) during each of the past five years. Finally, CSPA is informed and believes that the City has failed to conduct all required visual observations of non-storm water and storm water discharges at the Facility during each of the past five years. Each of these failures constitutes a separate and ongoing violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, the City is subject to penalties for violations of the General Permit and the Act since May 4, 2005. These violations are set forth in greater detail below.

1. The City Has Failed to Collect Storm Water Samples from Each of the Facility's Discharge Points During at least Two Rain Events In Each of the Last Five Years.

Based on its review of publicly available documents, CSPA is informed and believes that the City has failed to collect at least two storm water samples from all discharge points during qualifying rain events at the Facility during each of the past five years. Each storm season the City failed to sample two qualifying storm events constitutes an additional and separate violation of the General Permit.

Moreover, based on its ongoing investigations, CSPA is informed and believes that storm water discharges from the Facility at points other than those currently designated by the City. Each of these failures to adequately monitor storm water discharges constitutes a separate and ongoing violation of the General Permit and the Clean Water Act.

2. The City Has Failed to Analyze the Facility's Storm Water for All Pollutants Required by the General Permit.

Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Based on its investigation, CSPA is informed and believes that the City has failed to monitor for pollutants likely to be present in storm water discharges in significant quantities. The City's failure to monitor for such pollutants extends back at least until May 4, 2005. The City's failure to monitor these mandatory parameters has caused and continues to cause multiple separate and ongoing violations of the General Permit and the Act.

3. The City Is Subject to Civil Penalties for Its Ongoing Failure to Implement an Adequate Monitoring & Reporting.

CSPA is informed and believes that available documents demonstrate the City's consistent and ongoing failure to implement an adequate Monitoring Reporting Plan in violation of Section B of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, the City is subject to penalties for these violations of the General Permit and the Act since May 4, 2005.

C. The City Has Failed to Implement BAT and BCT at the Facility.

Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). CSPA's investigation indicates that the City has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS), Iron (Fe), Specific Conductivity (SC) and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Permit.

To meet the BAT/BCT requirement of the General Permit, the City must evaluate all pollutant sources at the Facility and implement the best structural and non-structural management practices economically achievable to reduce or prevent the discharge of pollutants from the Facility. Based on the information available regarding the internal structure of the Facility, CSPA believes that at a minimum, the City must improve its housekeeping practices, store materials that act as pollutant sources under cover or in contained areas, treat storm water to reduce pollutants before discharge (e.g., with filters, treatment boxes or oil/water separator units), and/or prevent storm water discharge altogether. The City has failed to implement such measures adequately.

The City was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, the City has been in continuous violation of the BAT and BCT requirements every day since October 1, 1992, and will continue to be in violation every day that the City fails to implement BAT and BCT. The City is subject to penalties for violations of the Order and the Act occurring since May 4, 2005.

D. The City Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan for the Facility.

Section A(1) and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan (“SWPPP”) no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the Order to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (“BMPs”) to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must also include BMPs that achieve BAT and BCT (Effluent Limitation B(3)).

The SWPPP is required to include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). Receiving Water Limitation C(3) of the Order requires that dischargers submit a report to the appropriate Regional Water Board that describes the BMPs that are currently being

implemented and additional BMPs that will be implemented to prevent or reduce the discharge of any pollutants causing or contributing to the exceedance of water quality standards.

CSPA's investigation and review of available documents regarding conditions at the Facility indicate that the City has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. The City has therefore been in continuous violation of Section A(1) and Provision E(2) of the General Industrial Storm Water Permit every day since October 1, 1992, and will continue to be in violation every day that the City fails to develop and implement an adequate SWPPP. The City is subject to penalties for violations of the Order and the Act occurring since May 4, 2005.

E. The City Has Failed to Address Discharges Contributing to Exceedances of Water Quality Standards.

Receiving Water Limitation C(3) requires a discharger to prepare and submit a report to the Regional Board describing changes it will make to its current BMPs in order to prevent or reduce the discharge of any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. Once approved by the Regional Board, the additional BMPs must be incorporated into the Facility's SWPPP. The report must be submitted to the Regional Board no later than 60-days from the date the discharger first learns that its discharge is causing or contributing to an exceedance of an applicable water quality standard. Receiving Water Limitation C(4)(a). Section C(11)(d) of the Permit's Standard Provisions also requires dischargers to report any noncompliance. *See also* Provision E(6). Lastly, Section A(9) of the Permit requires an annual evaluation of storm water controls including the preparation of an evaluation report and implementation of any additional measures in the SWPPP to respond to the monitoring results and other inspection activities.

As indicated above, CSPA is informed and believes the Facility has discharged and is likely continuing to discharge elevated levels of Total Suspended Solids, Iron (Fe), O&G, Specific Conductivity (SC) that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutants, the City was required to submit a report pursuant to Receiving Water Limitation C(4)(a) within 60-days of becoming aware of levels in its storm water exceeding the EPA Benchmarks and applicable water quality standards.

Based on CSPA's review of available documents, the City was aware of high levels of these pollutants prior to May 4, 2005. Likewise, the City has not filed any reports describing its noncompliance with the General Industrial Storm Water Permit in violation of Section C(11)(d). Lastly, the SWPPP and accompanying BMPs do not appear to have been altered as a result of the annual evaluation required by Section A(9). the City has been in continuous violation of Receiving Water Limitation C(4)(a) and Sections C(11)(d) and A(9) of the General Industrial Storm Water Permit every day since

May 4, 2005, and will continue to be in violation every day that the City fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. The City is subject to penalties for violations of the General Permit and the Act occurring since May 4, 2005.

F. The City Has Failed to File Timely, True and Correct Reports.

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

CSPA's investigation indicates that the City has signed and submitted incomplete Annual Reports and purported to comply with the General Permit despite significant noncompliance at the Facility. For example, on July 28, 2008, the Regional Board sent noticee Larry Miralles a letter regarding the City's failure to timely file the 2007-2008 Annual Report for the Facility ("Currently you are in violation of the General Permit, the California Water Code, and the federal Clean Water Act for failure to submit a complete 2007-2008 annual report."). As indicated above, the City has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, the City has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time the City submitted an incomplete, incorrect and/or late-filed annual report that falsely certified compliance with the Act in the past years. The City's failure to submit timely, true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. The City is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since May 4, 2005.

IV. Persons Responsible for the Violations.

CSPA hereby puts the City of Redding, Mr. Kurt Starman, Mr. Larry J. Miralles and Mr. Barry Tippin on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts the City of Redding, Mr. Kurt Starman, Mr. Larry J. Miralles and Mr. Barry Tippin on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Party.

Our name, address and telephone number is as follows: California Sportfishing Protection Alliance, Bill Jennings, Executive Director; 3536 Rainier Avenue, Stockton, CA 95204; Phone: (209) 464-5067.

VI. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

Andrew L. Packard, Esq.
Erik Roper, Esq.
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100 Petaluma Blvd North, Suite 301
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E-mail: Bob@JacksonTuerck.com

VII. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects the City of Redding, Mr. Kurt Starman, Mr. Larry J. Miralles and Mr. Barry Tippin to civil penalties of \$32,500 per day per violation for all violations occurring after March 15, 2004, and \$37,500 per day per violation for all violations occurring after January 12, 2009. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

Notice of Violation and Intent To File Suit

May 4, 2010

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CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the Act against the City of Redding, Mr. Kurt Starman, Mr. Larry J. Miralles and Mr. Barry Tippin for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jennings". The signature is written in a cursive style with a large, looping initial "B".

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jared Blumenfeld
Administrator, U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Eric Holder
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dorothy R. Rice, Executive Director
State Water Resources Control Board
1001 I Street Sacramento, CA 95814
P.O. Box 100
Sacramento, CA 95812-0100

Pamela Creedon, Executive Officer
Regional Water Quality Control Board
Central Valley Region
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Rancho Cordova, CA 95670-6114

Richard A. Duvernay, City Attorney
City of Redding
City Hall, 3rd Floor
777 Cypress Ave.
Redding, CA 96001

ATTACHMENT A

**Notice of Intent to File Suit, Abernathy Transfer Station (Redding, CA)
Significant Rain Events,* May 4, 2005-May 4, 2010**

May 04 2005	Mar. 03 2006	Dec. 27 2006	Jan. 29 2008
May 05 2005	Mar. 05 2006	Jan. 03 2007	Jan. 31 2008
May 08 2005	Mar. 06 2006	Feb. 07 2007	Feb. 02 2008
May 09 2005	Mar. 07 2006	Feb. 08 2007	Feb. 21 2008
May 15 2005	Mar. 12 2006	Feb. 09 2007	Feb. 22 2008
May 17 2005	Mar. 13 2006	Feb. 10 2007	Feb. 23 2008
May 18 2005	Mar. 14 2006	Feb. 22 2007	Feb. 24 2008
Oct. 14 2005	Mar. 15 2006	Feb. 24 2007	Mar. 12 2008
Oct. 26 2005	Mar. 20 2006	Feb. 27 2007	Mar. 28 2008
Nov. 03 2005	Mar. 23 2006	Mar. 26 2007	April 22 2008
Nov. 07 2005	Mar. 24 2006	April 11 2007	May 24 2008
Nov. 25 2005	Mar. 25 2006	April 14 2007	Oct. 03 2008
Nov. 28 2005	Mar. 27 2006	April 19 2007	Oct. 04 2008
Nov. 29 2005	Mar. 28 2006	April 21 2007	Oct. 30 2008
Nov. 30 2005	Mar. 29 2006	April 22 2007	Oct. 31 2008
Dec. 01 2005	Mar. 31 2006	May 01 2007	Nov. 01 2008
Dec. 17 2005	April 01 2006	May 02 2007	Nov. 02 2008
Dec. 18 2005	April 02 2006	May 03 2007	Nov. 03 2008
Dec. 19 2005	April 03 2006	Oct. 09 2007	Nov. 08 2008
Dec. 20 2005	April 05 2006	Oct. 10 2007	Dec. 14 2008
Dec. 21 2005	April 09 2006	Oct. 12 2007	Dec. 15 2008
Dec. 22 2005	April 10 2006	Oct. 16 2007	Dec. 18 2008
Dec. 25 2005	April 11 2006	Oct. 19 2007	Dec. 21 2008
Dec. 26 2005	April 12 2006	Nov. 10 2007	Dec. 24 2008
Dec. 27 2005	April 15 2006	Nov. 19 2007	Dec. 28 2008
Dec. 28 2005	April 16 2006	Dec. 03 2007	Jan. 02 2009
Dec. 29 2005	May 19 2006	Dec. 04 2007	Jan. 22 2009
Dec. 30 2005	May 21 2006	Dec. 06 2007	Jan. 24 2009
Dec. 31 2005	May 22 2006	Dec. 18 2007	Feb. 06 2009
Jan. 01 2006	Oct. 04 2006	Dec. 19 2007	Feb. 08 2009
Jan. 03 2006	Nov. 02 2006	Dec. 20 2007	Feb. 10 2009
Jan. 04 2006	Nov. 03 2006	Dec. 27 2007	Feb. 11 2009
Jan. 10 2006	Nov. 11 2006	Dec. 28 2007	Feb. 13 2009
Jan. 11 2006	Nov. 12 2006	Dec. 29 2007	Feb. 14 2009
Jan. 13 2006	Nov. 13 2006	Jan. 03 2008	Feb. 15 2009
Jan. 14 2006	Nov. 16 2006	Jan. 04 2008	Feb. 16 2009
Jan. 17 2006	Nov. 22 2006	Jan. 05 2008	Feb. 17 2009
Jan. 18 2006	Nov. 26 2006	Jan. 06 2008	Feb. 18 2009
Jan. 20 2006	Dec. 08 2006	Jan. 08 2008	Feb. 22 2009
Jan. 28 2006	Dec. 09 2006	Jan. 09 2008	Feb. 25 2009
Jan. 30 2006	Dec. 10 2006	Jan. 10 2008	Mar. 01 2009
Feb. 01 2006	Dec. 11 2006	Jan. 12 2008	Mar. 03 2009
Feb. 02 2006	Dec. 12 2006	Jan. 21 2008	April 09 2009
Feb. 04 2006	Dec. 13 2006	Jan. 24 2008	April 24 2009
Feb. 26 2006	Dec. 14 2006	Jan. 25 2008	May 01 2009
Feb. 27 2006	Dec. 21 2006	Jan. 26 2008	May 02 2009
Mar. 02 2006	Dec. 26 2006	Jan. 27 2008	May 03 2009

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

ATTACHMENT A

**Notice of Intent to File Suit, Abernathy Transfer Station (Redding, CA)
Significant Rain Events,* May 4, 2005-May 4, 2010**

May	04	2009	Dec.	21	2009	Jan.	21	2010	Mar.	02	2010
May	06	2009	Dec.	27	2009	Jan.	23	2010	Mar.	03	2010
Oct.	13	2009	Dec.	29	2009	Jan.	24	2010	Mar.	08	2010
Oct.	15	2009	Dec.	31	2009	Jan.	25	2010	April	02	2010
Oct.	19	2009	Jan.	01	2010	Feb.	01	2010	April	04	2010
Nov.	17	2009	Jan.	12	2010	Feb.	04	2010	April	12	2010
Nov.	20	2009	Jan.	13	2010	Feb.	06	2010	April	12	2010
Dec.	11	2009	Jan.	16	2010	Feb.	09	2010	April	14	2010
Dec.	22	2009	Jan.	17	2010	Feb.	21	2010	April	20	2010
Dec.	15	2009	Jan.	18	2010	Feb.	23	2010	April	28	2010
Dec.	16	2009	Jan.	19	2010	Feb.	24	2010			
Dec.	20	2009	Jan.	20	2010	Feb.	26	2010			

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.