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7 CALIFORNIA SPORTFISHING PROTECTION
ALLIANCE and PETALUMA RIVER COUNCIL

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, a non-profit
11 corporation, and PETALUMA RIVER
COUNCIL, an unincorporated
12 association,

13 Plaintiffs,

14 vs.

15 WEST SONOMA COUNTY DISPOSAL
SERVICE, INC., a corporation;
16 REDWOOD EMPIRE DISPOSAL, INC.,
a corporation; NOVATO DISPOSAL
17 SERVICE, INC., a corporation; JAMES
RATTO, an individual; JAMES R.
18 SALYERS; an individual, and RICK
HOLIDAY, an individual,

19 Defendants.
20

Case No. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

21 CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (“CSPA”), a
22 California non-profit corporation, and PETALUMA RIVER COUNCIL (“PRC”), an
23 unincorporated association, by and through their counsel, hereby allege:

24 **I. JURISDICTION AND VENUE**

25 1. This is a civil suit brought under the citizen suit enforcement provisions of the
26 Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean Water Act” or
27 “the Act”). This Court has subject matter jurisdiction over the parties and the subject matter
28 of this action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A), and 28

1 U.S.C. § 1331 (an action arising under the laws of the United States). The relief requested is
2 authorized pursuant to 28 U.S.C. §§ 2201-02 (power to issue declaratory relief in case of
3 actual controversy and further necessary relief based on such a declaration); 33 U.S.C. §§
4 1319(b), 1365(a) (injunctive relief); and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

5 2. On or about June 4, 2010, Plaintiffs provided notices of Defendants' violations
6 of the Act at each of the three facilities, and of Plaintiffs' intention to file suit against
7 Defendants, to the Administrator of the United States Environmental Protection Agency
8 ("EPA"); the Administrator of EPA Region IX; the Executive Director of the State Water
9 Resources Control Board ("State Board"); the Executive Officer of the California Regional
10 Water Quality Control Board, North Coast Region ("NC Regional Board"); the Executive
11 Officer of the California Regional Water Quality Control Board, San Francisco Bay Region
12 ("SF Regional Board"); and to Defendants, as required by the Act, 33 U.S.C. §
13 1365(b)(1)(A). True and correct copies of Plaintiffs' three notice letters are attached as
14 Exhibits A, B, and C and are incorporated by reference.

15 3. More than sixty days have passed since notice was served on Defendants and
16 the State and federal agencies. Plaintiffs are informed and believe, and thereupon allege,
17 that neither the EPA nor the State of California has commenced or is diligently prosecuting a
18 court action to redress the violations alleged in this complaint. This action's claim for civil
19 penalties is not barred by any prior administrative penalty under Section 309(g) of the Act,
20 33 U.S.C. § 1319(g).

21 4. Venue is proper in the Northern District of California pursuant to Section
22 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located
23 within this judicial district. Pursuant to Local Rule 3-2(c), intradistrict venue is proper in
24 Oakland, California, because the sources of the violations are located within Sonoma
25 County.

26 **II. INTRODUCTION**

27 5. This complaint seeks relief for Defendants' discharges of polluted storm water
28 and non-storm water pollutants from Defendants' waste recycling facilities located at several

1 locations in Sonoma County in violation of the Act and National Pollutant Discharge
2 Elimination System (“NPDES”) Permit No. CAS000001, State Water Resources Control
3 Board Water Quality Order No. 91-13-DWQ, as amended by Water Quality Order No. 92-
4 12-DWQ and Water Quality Order No. 97-03-DWQ (hereinafter “the Order” or “Permit” or
5 “General Permit”). Defendants’ violations of the discharge, treatment technology,
6 monitoring requirements, and other procedural and substantive requirements of the Permit
7 and the Act are ongoing and continuous. The violations are occurring at three facilities
8 operated by Defendants including Defendant REDWOOD EMPIRE DISPOSAL, INC.’s
9 waste handling and recycling facility located at 3400 Standish Avenue in Santa Rosa,
10 California, Defendant WEST SONOMA COUNTY DISPOSAL SERVICE, INC.’s waste
11 handling and recycling facility located at 3417 Standish Avenue in Santa Rosa, California
12 and Defendant NOVATO DISPOSAL SERVICE, INC.’s waste handling and recycling
13 facility located 2543 Petaluma Boulevard South in Petaluma, California.

14 6. The failure on the part of persons and facilities such as those of Defendants
15 and their industrial facilities to comply with storm water requirements is recognized as a
16 significant cause of the continuing decline in water quality of the Russian River, Laguna de
17 Santa Rosa, Petaluma River, San Francisco Bay and other receiving waters within the North
18 Coast and San Francisco Bay regions. The general consensus among regulatory agencies
19 and water quality specialists is that storm pollution amounts to more than half of the total
20 pollution entering the aquatic environment each year. In most areas of Sonoma County,
21 storm water flows completely untreated through storm drain systems or other channels
22 directly to the waters of the United States.

23 **III. PARTIES**

24 4. Plaintiff CALIFORNIA SPORTFISHING PROTECTION ALLIANCE
25 (“CSPA”) is a non-profit public benefit corporation organized under the laws of the State of
26 California with its main office in Stockton, California. CSPA has approximately 2,000
27 members who live, recreate and work in and around waters of the State of California,
28 including the San Francisco Bay, the Petaluma River, the Russian River and their tributaries.

1 CSPA is dedicated to the preservation, protection, and defense of the environment, the
2 wildlife and the natural resources of all waters of California. To further these goals, CSPA
3 actively seeks federal and state agency implementation of the Act and other laws and, where
4 necessary, directly initiates enforcement actions on behalf of itself and its members.

5 5. Plaintiff PETALUMA RIVER COUNCIL (“PRC”) is an unincorporated
6 organization of concerned citizens, residing in and around Petaluma, committed to protecting
7 and improving the health and character of the Petaluma River, Russian River, Laguna de
8 Santa Rosa, and other North Coast watersheds and the surrounding environment.

9 6. Members of Plaintiffs reside in and around the Bay and enjoy using the
10 Petaluma River and the Bay for recreation and other activities. Members of Plaintiffs also
11 reside in and around the Russian River and its tributary, the Laguna de Santa Rosa.
12 Members of Plaintiffs use and enjoy the waters into which Defendants have caused, are
13 causing, and will continue to cause, pollutants to be discharged. Members of Plaintiffs use
14 those areas to fish, sail, boat, kayak, swim, bird watch, view wildlife and engage in scientific
15 study including monitoring activities, among other things. Defendants’ discharges of
16 pollutants threaten or impair each of those uses or contribute to such threats and
17 impairments. Thus, the interests of Plaintiffs’ members have been, are being, and will
18 continue to be adversely affected by Defendants’ failure to comply with the Clean Water Act
19 and the Permit. The relief sought herein will redress the harms to Plaintiffs caused by
20 Defendants’ activities.

21 7. Continuing commission of the acts and omissions alleged above will irreparably
22 harm Plaintiffs and their members, for which harm they have no plain, speedy or adequate
23 remedy at law.

24 8. Plaintiffs are informed and believe, and thereupon allege, that Defendant
25 WEST SONOMA COUNTY DISPOSAL SERVICE, INC. (“West Sonoma”) is a
26 corporation organized under the laws of California. Plaintiffs are informed and believe, and
27 thereupon allege, that Defendant West Sonoma is a subsidiary of The Ratto Group of
28 Companies, Inc. Defendant West Sonoma operates a waste recycling facility located at 3417

1 Standish Avenue in Santa Rosa, California.

2 9. Plaintiffs are informed and believe, and thereupon allege, that Defendant
3 REDWOOD EMPIRE DISPOSAL, INC. (“Redwood Empire”) is a corporation organized
4 under the laws of California. Plaintiffs are informed and believe, and thereupon allege, that
5 Defendant Redwood Empire is a subsidiary of The Ratto Group of Companies, Inc.
6 Defendant Redwood Empire operates a waste recycling facility located at 3400 Standish
7 Avenue in Santa Rosa, California.

8 10. Plaintiffs are informed and believe, and thereupon allege, that Defendant
9 NOVATO DISPOSAL SERVICE, INC. (“Novato Disposal”) is a corporation organized
10 under the laws of California. Plaintiffs are informed and believe, and thereupon allege, that
11 Defendant Novato Disposal is a subsidiary of The Ratto Group of Companies, Inc.
12 Defendant Novato Disposal operates a waste recycling facility located at 2543 Petaluma
13 Boulevard South in Petaluma, California.

14 11. Plaintiffs are informed and believe, and thereupon allege, that Defendant
15 JAMES RATTO, an individual, is a corporate officer of Defendants Redwood Empire, West
16 Sonoma, and Novato Disposal. Plaintiffs are further informed and believe that Defendant
17 Ratto is a principal shareholder of The Ratto Group of Companies, Inc., a corporation
18 organized under the laws of California. Plaintiffs are informed and believe, and thereupon
19 allege, that Defendants Redwood Empire, West Sonoma, and Novato Disposal are each
20 wholly-owned subsidiaries of The Ratto Group of Companies, Inc.

21 12. Plaintiffs are informed and believe, and thereupon allege, that Defendant
22 JAMES R. SALYERS, an individual, is a corporate officer of Defendants Redwood Empire,
23 West Sonoma, and Novato Disposal. Plaintiffs are further informed and believe that
24 Defendant Salyers is corporate officer of The Ratto Group of Companies, Inc. Plaintiffs are
25 further informed and believe that Defendant Salyers is responsible for the daily affairs of
26 Defendants Redwood Empire, West Sonoma, and Novato Disposal.

27 13. Plaintiffs are informed and believe, and thereupon allege, that Defendant
28 RICK HOLIDAY, an individual, is the Operations Manager of Defendants Redwood

1 Empire, West Sonoma, and Novato Disposal. Plaintiffs are informed and believe that
2 Defendant Holiday's duties include overseeing compliance and submitting reports pursuant
3 to the General Permit and the Clean Water Act for each of the facilities operated by
4 Defendants Redwood Empire, West Sonoma, and Novato Disposal.

5 **IV. STATUTORY BACKGROUND**

6 14. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any
7 pollutant into waters of the United States, unless such discharge is in compliance with
8 various enumerated sections of the Act. Among other things, Section 301(a) prohibits
9 discharges not authorized by, or in violation of, the terms of an NPDES permit issued
10 pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

11 15. Section 402(p) of the Act establishes a framework for regulating municipal and
12 industrial storm water discharges under the NPDES program. 33 U.S.C. § 1342(p). States
13 with approved NPDES permit programs are authorized by Section 402(p) to regulate
14 industrial storm water discharges through individual permits issued to dischargers or through
15 the issuance of a single, statewide general permit applicable to all industrial storm water
16 dischargers. 33 U.S.C. § 1342(p).

17 16. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator of the
18 U.S. EPA has authorized California's State Board to issue NPDES permits including general
19 NPDES permits in California.

20 17. The State Board elected to issue a statewide general permit for industrial storm
21 water discharges. The State Board issued the General Permit on or about November 19,
22 1991, modified the General Permit on or about September 17, 1992, and reissued the
23 General Permit on or about April 17, 1997, pursuant to Section 402(p) of the Clean Water
24 Act, 33 U.S.C. § 1342(p).

25 18. In order to discharge storm water lawfully in California, industrial dischargers
26 must comply with the terms of the General Permit or have obtained and complied with an
27 individual NPDES permit. 33 U.S.C. § 1311(a).

28 19. The General Permit contains several prohibitions. Effluent Limitation B(3) of

1 the General Permit requires dischargers to reduce or prevent pollutants in their storm water
2 discharges through implementation of the Best Available Technology Economically
3 Achievable (“BAT”) for toxic and nonconventional pollutants and the Best Conventional
4 Pollutant Control Technology (“BCT”) for conventional pollutants. BAT and BCT include
5 both nonstructural and structural measures. General Permit, Section A(8). Discharge
6 Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-
7 storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.
8 Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges to
9 any surface or ground water that adversely impact human health or the environment.
10 Receiving Water Limitation C(2) of the General Permit prohibits storm water discharges that
11 cause or contribute to an exceedance of any applicable water quality standards contained in
12 Statewide Water Quality Control Plan or the applicable Regional Board’s Basin Plan.

13 20. The General Permit requires that facility operators “investigate the facility to
14 identify all non-storm water discharges and their sources. As part of this investigation, all
15 drains (inlets and outlets) shall be evaluated to identify whether they connect to the storm
16 drain system. All non-storm water discharges shall be described. This shall include the
17 source, quantity, frequency, and characteristics of the non-storm water discharges and
18 associated drainage area.” Section A(6)(a)(v). The General Permit authorizes certain non-
19 storm water discharges providing that the non-storm water discharges are in compliance with
20 Regional Board requirements; that the non-storm water discharges are in compliance with
21 local agency ordinances and/or requirements; that BMPs are included in the SWPPP to (1)
22 prevent or reduce the contact of non-storm water discharges with significant materials or
23 equipment and (2) minimize, to the extent practicable, the flow or volume of non-storm
24 water discharges; that the non-storm water discharges do not contain significant quantities of
25 pollutants; and that the monitoring program includes quarterly visual observations of each
26 non-storm water discharge and its sources to ensure that BMPs are being implemented and
27 are effective (Special Conditions D). Section B(3) of the General Permit requires
28 dischargers to conduct visual observations of all drainage areas for the presence of non-

1 storm water discharges, to observe the non-storm water discharges, and maintain records of
2 such observations.

3 21. In addition to absolute prohibitions, the General Permit contains a variety of
4 substantive and procedural requirements that dischargers must meet. Facilities discharging,
5 or having the potential to discharge, storm water associated with industrial activity that have
6 not obtained an individual NPDES permit must apply for coverage under the State's General
7 Permit by filing a Notice of Intent to Comply ("NOI"). The General Permit requires existing
8 dischargers to have filed their NOIs before March 30, 1992.

9 22. Dischargers must develop and implement a Storm Water Pollution Prevention
10 Plan ("SWPPP"). The SWPPP must describe storm water control facilities and measures
11 that comply with the BAT and BCT standards. The General Permit requires that an initial
12 SWPPP have been developed and implemented before October 1, 1992. The SWPPP must,
13 among other requirements, identify and evaluate sources of pollutants associated with
14 industrial activities that may affect the quality of storm and non-storm water discharges from
15 the facility and identify and implement site-specific best management practices ("BMPs") to
16 reduce or prevent pollutants associated with industrial activities in storm water and
17 authorized non-storm water discharges (Section A(2)). The SWPPP's BMPs must
18 implement BAT and BCT (Section B(3)). The SWPPP must include: a description of
19 individuals and their responsibilities for developing and implementing the SWPPP (Section
20 A(3)); a site map showing the facility boundaries, storm water drainage areas with flow
21 pattern and nearby water bodies, the location of the storm water collection, conveyance and
22 discharge system, structural control measures, impervious areas, areas of actual and potential
23 pollutant contact, and areas of industrial activity (Section A(4)); a list of significant materials
24 handled and stored at the site (Section A(5)); a description of potential pollutant sources
25 including industrial processes, material handling and storage areas, dust and particulate
26 generating activities, and a description of significant spills and leaks, a list of all non-storm
27 water discharges and their sources, and a description of locations where soil erosion may
28 occur (Section A(6)). The SWPPP must include an assessment of potential pollutant sources

1 at the Facility and a description of the BMPs to be implemented at the Facility that will
2 reduce or prevent pollutants in storm water discharges and authorized non-storm water
3 discharges, including structural BMPs where non-structural BMPs are not effective (Section
4 A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised
5 where necessary (Section A(9),(10)).

6 23. Section C(3) of the General Permit requires a discharger to prepare and submit
7 a report to the Regional Board describing changes it will make to its current BMPs in order
8 to prevent or reduce any pollutant in its storm water discharges that is causing or
9 contributing to an exceedance of water quality standards. Once approved by the Regional
10 Board, the additional BMPs must be incorporated into the Facility's SWPPP. The report
11 must be submitted to the Regional Board no later than 60 days from the date the discharger
12 first learns that its discharge is causing or contributing to an exceedance of an applicable
13 water quality standard. Section C(4)(a).

14 24. Section C(11)(d) of the General Permit's Standard Provisions requires
15 dischargers to report any noncompliance to the Regional Board. *See also* Section E(6).
16 Section A(9) of the General Permit requires an annual evaluation of storm water controls
17 including the preparation of an evaluation report and implementation of any additional
18 measures in the SWPPP to respond to the monitoring results and other inspection activities.

19 25. The General Permit requires dischargers commencing industrial activities
20 before October 1, 1992 to develop and implement an adequate written monitoring and
21 reporting program no later than October 1, 1992. Existing facilities covered under the
22 General Permit must implement all necessary revisions to their monitoring programs no later
23 than August 1, 1997.

24 26. As part of their monitoring program, dischargers must identify all storm water
25 discharge locations that produce a significant storm water discharge, evaluate the
26 effectiveness of BMPs in reducing pollutant loading, and evaluate whether pollution control
27 measures set out in the SWPPP are adequate and properly implemented. Dischargers must
28 conduct visual observations of these discharge locations for at least one storm per month

1 during the wet season (October through May) and record their findings in their Annual
2 Report. Dischargers must also collect and analyze storm water samples from at least two
3 storms per year. Section B(5)(a) of the General Permit requires that dischargers “shall
4 collect storm water samples during the first hour of discharge from (1) the first storm event
5 of the wet season, and (2) at least one other storm event in the wet season. All storm water
6 discharge locations shall be sampled.” Section B(5)(c)(i) requires dischargers to sample and
7 analyze during the wet season for basic parameters, such as pH, total suspended solids,
8 electrical conductance, and total organic content or oil & grease, certain industry-specific
9 parameters. Section B(5)(c)(ii) requires dischargers to sample for toxic chemicals and other
10 pollutants likely to be in the storm water discharged from the facility. Section B(5)(c)(iii)
11 requires discharges to sample for parameters dependent on a facility’s standard industrial
12 classification (“SIC”) code. Dischargers must also conduct dry season visual observations to
13 identify sources of non-storm water pollution. Section B(7)(a) indicates that the visual
14 observations and samples must represent the “quality and quantity of the facility’s storm
15 water discharges from the storm event.” Section B(7)(c) requires that “if visual observation
16 and sample collection locations are difficult to observe or sample...facility operators shall
17 identify and collect samples from other locations that represent the quality and quantity of
18 the facility’s storm water discharges from the storm event.”

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

25 28. The General Permit does not provide for any mixing zones by dischargers.
26 The General Permit does not provide for any dilution credits to be applied by dischargers.

NORTH COAST BASIN PLAN

27
28 29. The NC Regional Board has identified beneficial uses of the North Coast

1 region's waters and established water quality standards for the region in the "Water Quality
2 Control Plan for the North Coast Region," hereinafter referred to as the "NC Basin Plan."
3 Non-contact recreation use is defined as "[u]ses of water for recreational activities involving
4 proximity to water, but not normally involving body contact with water, where ingestion of
5 water is reasonably possible. These uses include, but are not limited to, picnicking,
6 sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study,
7 hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." NC
8 Basin Plan at 2-2.00. Visible pollution, including visible sheens and cloudy or muddy water
9 from industrial areas, impairs people's use of the Laguna de Santa Rosa, Russian River, and
10 their tributaries for contact and non-contact water recreation.

11 30. The NC Basin Plan establishes numeric water quality objectives for specified
12 pollutants for all inland surface waters of the region, including the Russian River and the
13 Laguna de Santa Rosa. *Id.* at 3-6.00 – 3-10.00.

14 31. The NC Basin Plan establishes a water quality objective for aluminum of 1.0
15 mg/L. *Id.* at 3-9.00.

16 32. The NC Basin Plan establishes a water quality objective for lead of 0.05 mg/L.
17 *Id.*

18 33. The NC Basin Plan includes a narrative toxicity standard which states that
19 "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to,
20 or that produce detrimental physiological responses in human, plant, animal, or aquatic life."
21 *Id.* at 3-4.00.

22 34. The NC Basin Plan includes a narrative oil and grease standard which states
23 that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that
24 result in a visible film or coating on the surface of the water or on objects in the water, that
25 cause nuisance, or that otherwise adversely affect beneficial uses." *Id.* at 3-3.00.

26 35. The NC Basin Plan provides that "[w]aters shall not contain suspended
27 material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.*

28 36. The NC Basin Plan provides that "[t]he suspended sediment load and

1 suspended sediment discharge rate of surface waters shall not be altered in such a manner as
2 to cause nuisance or adversely affect beneficial uses.” *Id.*

3 37. The NC Basin Plan establishes a pH standard for the Laguna de Santa Rosa
4 and Russian River of not less than 6.5 and not more than 8.5. *Id.* at 3-4.00.

5 SAN FRANCISCO BAY BASIN PLAN

6 38. The SF Regional Board has identified beneficial uses of the North Coast
7 region’s waters and established water quality standards for the region in the “San Francisco
8 Bay in the Water Quality Control Plan for the San Francisco Bay Basin,” hereinafter referred
9 to as the “SF Basin Plan.” Non-contact recreation use is defined as “[u]ses of water for
10 recreational activities involving proximity to water, but not normally involving contact with
11 water where ingestion of water is reasonably possible. These uses include, but are not
12 limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and
13 marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above
14 activities.” SF Basin Plan at 2.1.16. Visible pollution, including visible sheens and cloudy
15 or muddy water from industrial areas, impairs people’s use of the Petaluma River, its
16 tributaries, and San Francisco Bay for contact and non-contact water recreation.

17 39. The SF Basin Plan includes a narrative toxicity standard which states that “[a]ll
18 waters shall be maintained free of toxic substances in concentrations that are lethal or that
19 produce other detrimental responses in aquatic organisms.” *Id.* at 3.3.18.

20 40. The SF Basin Plan includes a narrative oil and grease standard which states
21 that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that
22 result in a visible film or coating on the surface of the water or on objects in the water, that
23 cause nuisance, or otherwise adversely affect beneficial uses.” *Id.* at 3.3.7.

24 41. The SF Basin Plan provides that “[s]urface waters shall not contain
25 concentrations of chemical constituents in amounts that adversely affect any designated
26 beneficial use.” *Id.* at 3.3.21.

27 42. The SF Basin Plan provides that “[w]aters shall not contain suspended material
28 in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3.3.14.

1 43. The SF Basin Plan provides that “[t]he suspended sediment load and
2 suspended sediment discharge rate of surface waters shall not be altered in such a manner as
3 to cause nuisance or adversely affect beneficial uses.” *Id.* at 3.3.12.

4 44. The SF Basin Plan provides that “[t]he pH shall not be depressed below 6.5
5 nor raised above 8.5.” *Id.* at 3.3.9.

6 45. The SF Basin Plan establishes Marine Water Quality Objectives for copper of
7 0.0031 mg/L (4-day average) and 0.0048 mg/L (1-hour average). *Id.* at Table 3-3. The EPA
8 has adopted saltwater numeric water quality standards for copper of 0.0031 mg/L (Criteria
9 Maximum Concentration – “CMC”) and 0.0048 mg/L (Criteria Continuous Concentration –
10 “CCC”). 65 Fed. Reg. 31712 (May 18, 2000).

11 46. The SF Basin Plan establishes Marine Water Quality Objectives for lead of
12 0.0081 mg/L (4-day average) and 0.21 mg/L (1-hour average). SF Basin Plan at Table 3-3.
13 The EPA has adopted saltwater numeric water quality standards for lead of 0.21 mg/L
14 (CMC) and 0.0081 mg/L (CCC). 65 Fed. Reg. 31712 (May 18, 2000).

15 47. The SF Basin Plan establishes Marine Water Quality Objectives for zinc of
16 0.081 mg/L (4-day average) and 0.09 mg/L (1-hour average). SF Basin Plan at Table 3-3.
17 The EPA has adopted saltwater numeric water quality standards for zinc of 0.09 mg/L
18 (CMC) and 0.081 mg/L (CCC). 65 Fed. Reg. 31712 (May 18, 2000).

19 **EPA BENCHMARK VALUES AND WATER QUALITY STANDARDS**

20 48. EPA has established Parameter Benchmark Values as guidelines for
21 determining whether a facility discharging industrial storm water has implemented the
22 requisite BAT and BCT. 65 Fed. Reg. 64746, 64767 (Oct. 30, 2000). EPA has established
23 Parameter Benchmark Values for the following parameters, among others: pH – 6.0-9.0
24 units; total suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L;
25 aluminum – 0.75 mg/L; copper – 0.0636 mg/L; iron – 1.0 mg/L; lead – 0.0816 mg/L; zinc –
26 0.117 mg/L; biochemical oxygen demand (“BOD”) – 30 mg/L; and chemical oxygen
27 demand (“COD”) – 120 mg/L. The State Water Quality Control Board also has proposed
28 adding a benchmark level to the General Permit for specific conductance of 200 µmho/cm.

1 49. The EPA has adopted freshwater numeric water quality standards for zinc of
2 0.12 mg/L (CMC) and (CCC); for copper of 0.013 mg/L (CMC) and 0.009 mg/L (CCC); and
3 for lead of 0.065 mg/L (CMC) and 0.0025 mg/L (CCC). 65 Fed.Reg. 31712 (May 18,
4 2000).

5 50. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
6 enforcement actions against any “person,” including individuals, corporations, or
7 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1) and (f),
8 § 1362(5). An action for injunctive relief under the Act is authorized by 33 U.S.C. §
9 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to
10 \$32,500 per day per violation for all violations occurring through January 12, 2009, and up to
11 \$37,500 per day per violation for all violations occurring after January 12, 2009, for each
12 violation of the Act pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d),
13 1365(a) and 40 C.F.R. §§ 19.1 - 19.4.

14 **V. STATEMENT OF FACTS**

15 51. Defendant West Sonoma operates a waste recycling facility located at 3417
16 Standish Avenue in Santa Rosa, California. The West Sonoma facility is classified under
17 SIC code 5093 which includes the “Processing, Reclaiming, and Wholesale Distribution of
18 Scrap and Waste Materials” and SIC Code 5015 which includes “Motor Vehicle Parts,
19 Used.” The West Sonoma facility collects and discharges storm water from its
20 approximately seven-and-a-half acre industrial site through at least three outfalls that flow
21 into the municipal storm drain system, which empties into Todd Creek, which then joins the
22 Laguna de Santa Rosa, which in turn flows into the Russian River. On November 19, 1996,
23 West Sonoma filed its Notice of Intent to Comply with the Terms of the General Permit to
24 Discharge Storm Water Associated with Industrial Activity (“NOI”).

25 52. Defendant Redwood Empire operates a waste recycling facility located at 3400
26 Standish Avenue in Santa Rosa, California. The Redwood Empire facility is classified under
27 SIC code 5093 which includes “Processing, Reclaiming, and Wholesale Distribution of
28 Scrap and Waste Materials.” The Redwood Empire facility collects and discharges storm

1 water from its 4.5-acre industrial site through at least eight outfalls that discharge into
2 channels that flow into the municipal storm drain system, which empties into Todd Creek,
3 which then joins the Laguna de Santa Rosa, which in turn flows into the Russian River.
4 Plaintiff is informed and believes, and thereupon alleges, that Defendants Ratto, Salyers,
5 Holiday, and Redwood Empire took over the 3400 Standish Avenue facility on January 2,
6 2008 from a previous owner. On March 13, 2009, Defendant Redwood Empire filed its
7 NOI.

8 53. Defendant Novato Disposal operates a waste recycling facility located at 2543
9 Petaluma Boulevard South in Petaluma, California. The Novato Disposal facility is
10 classified under SIC code 5093 which includes "Processing, Reclaiming, and Wholesale
11 Distribution of Scrap and Waste Materials." The Novato Disposal facility collects and
12 discharges storm water from its approximately five-acre industrial site into at least two storm
13 water discharge outfall at the facility. Novato Disposal discharges its storm water to a storm
14 drain which flows into the Petaluma River; the Petaluma River flows into San Pablo Bay, the
15 northern extension of San Francisco Bay. On November 25, 2002, Novato Disposal filed its
16 NOI.

17 54. The industrial activities at Defendants' sites include the storage, processing,
18 and recycling of a variety of scrap metals and waste materials. Plaintiffs are informed and
19 believe, and thereupon allege, that Defendants collect and process aluminum cans, aluminum
20 foil and trays, paint cans, spray cans, steel cans, various plastic and paper materials, glass
21 bottles and jars, electronic waste and used oil. On information and belief, Plaintiffs allege
22 that activities also include the outdoor storage, maintenance, and cleaning of equipment and
23 other materials used to process and recycle metals.

24 55. Significant activities at the three facilities take place outside and are exposed to
25 rainfall. These activities include the storage of scrap and recycled metals, equipment used in
26 the recycling processes; the storage and use of vehicles and equipment for materials
27 handling; and the storage, handling, and disposal of waste materials. Loading and delivery
28 of scrap and recycled materials occurs outside. Trucks enter and exit the facilities directly

1 from and to public roads. Forklifts are the primary means of moving scrap and recycled
2 materials around the storage areas at the three facilities. Plaintiffs are informed and believe,
3 and thereupon allege, that waste recycling activities also occur in exposed areas at the three
4 facilities. The three facilities' exposed areas contain large quantities of scrap and recycled
5 materials. Plaintiffs allege on information and belief that many of the exposed surfaces at
6 the three facilities include metal shavings, filings, fines, and other materials that are the
7 result of the can and other metal recycling processes. Plaintiffs are informed and believe, and
8 thereupon allege, that these areas are exposed to storm water and storm flows due to the lack
9 of overhead coverage, berms and other storm water controls at the three facilities.

10 56. Plaintiffs are informed and believe, and thereupon allege, that industrial
11 machinery, heavy equipment and vehicles, including forklifts, are operated and stored at the
12 three facilities in areas exposed to storm water flows. Plaintiffs are informed and believe,
13 and thereupon allege, that such machinery and equipment leak contaminants such as oil,
14 grease, diesel fuel, anti-freeze and hydraulic fluids that are exposed to storm water flows,
15 and that such machinery and equipment track sediment and other contaminants throughout
16 the three facilities. On information and belief, Plaintiffs allege that trucks leaving the three
17 facilities track substantial amounts of material onto adjoining public roads. On information
18 and belief, Plaintiffs allege that during rain events, material that has been tracked from the
19 three facilities onto public roads during dry weather is transported via storm water to storm
20 drain channels.

21 57. Plaintiffs are informed and believe, and thereupon allege that the storm water
22 flows easily over the surface of the three facilities and stored materials, collecting suspended
23 sediment, dirt, oils, grease, and other pollutants as the storm water flows toward the
24 facilities' storm water drains. Storm water and any pollutants contained in that storm water
25 entering the drains flows directly to the facilities' outfalls.

26 58. The management practices at the three facilities are wholly inadequate to
27 prevent the sources of contamination described above from causing discharges of pollutants
28 to waters of the United States. The three facilities lack sufficient structural controls such as

1 grading, berming, roofing, containment, or drainage structures to prevent rainfall and storm
2 water flows from coming into contact with these and other exposed sources of contaminants.
3 The three facilities lack sufficient structural controls to prevent the discharge of water once
4 contaminated. The three facilities lack adequate storm water pollution treatment
5 technologies to treat storm water once contaminated. The three facilities lack sufficient
6 controls to prevent the tracking and flow of pollutants onto adjacent public roads.

7 **WEST SONOMA FACILITY**

8 59. Since at least January 3, 2006, Defendants West Sonoma, Ratto, Salyers and
9 Holiday have taken samples or arranged for samples to be taken of storm water discharges at
10 the West Sonoma facility. The sample results were reported in the West Sonoma facility's
11 annual reports submitted to the NC Regional Board. Defendants West Sonoma, Ratto,
12 Salyers and Holiday submitted or arranged for the submission to the NC Regional Board of
13 annual reports pursuant to the General Permit in 2006, 2007, 2008, and 2009. Defendant
14 Salyers signed and certified the 2006-2007 and 2007-2008 annual reports, and Defendant
15 Holliday signed and certified the 2008-2009 annual report, all pursuant to Sections A and C
16 of the General Permit. Plaintiffs are informed and believe, and thereupon allege that
17 Defendants West Sonoma, Ratto, Salyers and Holiday submitted or arranged for the
18 submission to the NC Regional Board of each year's annual report pursuant to the General
19 Permit from 2006 through 2010. Plaintiffs are informed and believe, and thereupon allege
20 that Defendants West Sonoma, Ratto, Salyers and Holiday submitted, signed and certified or
21 arranged for the submission, signing and certification of the 2009-2010 annual report
22 pursuant to Sections A and C of the General Permit.

23 60. Since at least January 3, 2006, the West Sonoma facility has detected TSS, oil
24 and grease, electrical conductance, aluminum, copper, iron, zinc, lead, and COD in storm
25 water discharged from the West Sonoma facility. Since at least November 13, 2006, the
26 West Sonoma facility has detected high pH in storm water discharged from the facility.
27 Levels of these pollutants detected in the West Sonoma facility's storm water have been in
28 excess of water quality standards established in the NC Basin Plan. Levels of these

1 pollutants detected in the West Sonoma facility's storm water have been in excess of EPA's
2 numeric parameter benchmark values and the State Board's proposed value for electrical
3 conductance.

4 61. Storm water discharges from the West Sonoma facility on the dates listed in
5 the table set forth at pages four through eleven of the notice of intent to sue attached hereto
6 as Exhibit A contained concentrations of pollutants in excess of numeric water quality
7 standards established in the NC Basin Plan, as set forth in that table.

8 62. The levels of total suspended solids in storm water detected by the West
9 Sonoma Facility have exceeded the benchmark value for total suspended solids of 100 mg/L
10 established by EPA. The levels of total suspended solids in storm water detected by the
11 West Sonoma facility have also exceeded the standard for suspended materials articulated in
12 the Basin Plan. For example, on December 6, 2007, the level of total suspended solids
13 measured by Defendants in the facility's discharged storm water was 6600 mg/L. That level
14 of total suspended solids is sixty-six times the benchmark value for total suspended solids
15 established by EPA. The West Sonoma facility has also measured levels of total suspended
16 solids in storm water discharged from the facility in excess of EPA's benchmark value of
17 100 mg/L on January 25, 2010 (at three different discharge locations); January 21, 2010 (at
18 two different discharge locations); January 18, 2010 (at three different discharge locations);
19 November 20, 2009 (at three different discharge locations); February 6, 2009 (at three
20 different discharge locations); November 3, 2008 (at three different discharge locations);
21 April 23, 2008 (at two different discharge locations); January 25, 2008 (at two different
22 discharge locations); January 4, 2008 (at three different discharge locations); December 6,
23 2007 (at three different discharge locations); October 12, 2007 (at two different discharge
24 locations); April 23, 2007; February 26, 2007 (at three different discharge locations);
25 November 13, 2006 (at two different discharge locations); February 27, 2006 (at four
26 different discharge locations); January 30, 2006 (at three different discharge locations); and
27 January 3, 2006 (at two different discharge locations).

28 63. The levels of lead in storm water detected by the West Sonoma facility have

1 exceeded the numeric water quality objective of 0.05 mg/L established by the NC Regional
2 Board's Basin Plan. For example, on December 6, 2007, the level of lead measured in the
3 West Sonoma facility's discharged storm water was 0.49 mg/L. That level of lead is almost
4 10 times the numeric water quality objective of 0.05 mg/L established by the NC Regional
5 Board's Basin Plan. The West Sonoma facility also has measured levels of lead in storm
6 water discharged from the West Sonoma facility in excess of the numeric water quality
7 objective of 0.05 mg/L on January 25, 2010; January 21, 2010; January 18, 2010 (at three
8 different discharge locations); November 20, 2009 (at three different discharge locations);
9 February 6, 2009 (at three different discharge locations); November 3, 2008 (at three
10 different discharge locations); April 23, 2008 (at two different discharge locations); January
11 25, 2008 (at two different discharge locations); January 4, 2008 (at three different discharge
12 locations); December 6, 2007 (at three different discharge locations); October 12, 2007 (at
13 two different discharge locations); April 23, 2007; February 26, 2007 (at three different
14 discharge locations); November 13, 2006; and January 30, 2006 (at three different discharge
15 locations).

16 64. The levels of lead in storm water detected by the West Sonoma facility also
17 have exceeded the benchmark value for lead of 0.0816 mg/L established by EPA. For
18 example, on December 6, 2007, the level of lead measured in the West Sonoma facility's
19 discharged storm water was 0.49 mg/L. That level of lead is over six times the benchmark
20 value for lead established by EPA. The Facility also has measured levels of lead in storm
21 water discharged from the Facility in excess of EPA's benchmark value of 0.0816 mg/L on
22 numerous other dates set forth at pages twelve through nineteen of the notice of intent to sue
23 attached hereto as Exhibit A.

24 65. The levels of lead in storm water detected by the West Sonoma facility also
25 have exceeded the freshwater numeric water quality standard of 0.065 mg/L (CMC)
26 established by EPA. For example, on December 6, 2007, the level of lead measured in the
27 West Sonoma facility's discharged storm water was 0.49 mg/L. That level of lead is over
28 seven and a half times the CMC freshwater numeric water quality standard for lead

1 established by EPA. The Facility also has measured levels of lead in storm water discharged
2 from the Facility in excess of EPA's freshwater numeric water quality standard for lead of
3 0.065 mg/L (CMC) on numerous other dates set forth at pages four through eleven of the
4 notice of intent to sue attached hereto as Exhibit A.

5 66. The levels of lead in storm water detected by the West Sonoma facility also
6 have exceeded the freshwater numeric water quality standard of 0.025 mg/L (CCC)
7 established by EPA. For example, on December 6, 2007, the level of lead measured in the
8 West Sonoma facility's discharged storm water was 0.49 mg/L. That level of lead is nearly
9 twenty times the CCC freshwater numeric water quality standard for lead established by
10 EPA. The West Sonoma facility also has measured levels of lead in storm water discharged
11 from the facility in excess of EPA's freshwater numeric water quality standard for lead of
12 0.025 mg/L (CCC) on numerous other dates set forth at pages four through eleven of the
13 notice of intent to sue attached hereto as Exhibit A.

14 67. The levels of aluminum in storm water detected by the West Sonoma facility
15 have exceeded the numeric water quality objective of 1.0 mg/L established by the NC
16 Regional Board's Basin Plan. For example, on December 6, 2007, the level of aluminum
17 measured in the West Sonoma facility's discharged storm water was 700 mg/L. That level
18 of aluminum is 700 times the numeric water quality objective of 1.0 mg/L established by the
19 NC Regional Board's Basin Plan. The Facility also has measured levels of aluminum in
20 storm water discharged from the West Sonoma facility in excess of the numeric water
21 quality objective of 1.0 mg/L on January 25, 2010 (at three different discharge locations);
22 January 21, 2010 (at three different discharge locations); January 18, 2010 (at three different
23 discharge locations); November 20, 2009 (at three different discharge locations); February
24 6, 2009 (at three different discharge locations); November 3, 2008 (at three different
25 discharge locations); April 23, 2008 (at two different discharge locations); January 25, 2008
26 (at two different discharge locations); January 4, 2008 (at three different discharge
27 locations); December 6, 2007 (at three different discharge locations); October 12, 2007 (at
28 three different discharge locations); February 26, 2007 (at three different discharge

1 locations); November 13, 2006 (at two different discharge locations); February 27, 2006 (at
2 four different discharge locations); January 30, 2006 (at three different discharge locations);
3 and January 3, 2006 (at two different discharge locations).

4 68. The levels of aluminum in storm water detected by the West Sonoma facility
5 also have exceeded the benchmark value for aluminum of 0.75 mg/L established by EPA.
6 For example, on December 6, 2007, the level of aluminum measured by Defendant West
7 Sonoma in the facility's discharged storm water was 700 mg/L. That level of aluminum is
8 more than 933 times the benchmark value for aluminum established by EPA. The Facility
9 also has measured levels of aluminum in storm water discharged from the Facility in excess
10 of EPA's benchmark value of 0.75 mg/L on numerous other dates set forth at pages twelve
11 through nineteen of the notice of intent to sue attached hereto as Exhibit A.

12 69. The levels of zinc in storm water detected by the West Sonoma facility have
13 exceeded the freshwater numeric water quality standard of 0.12 mg/L (CMC & CCC)
14 established by EPA. For example, on December 6, 2007, the level of zinc measured in the
15 West Sonoma facility's discharged storm water was 7.8 mg/L. That level of zinc is sixty-
16 five times the CMC & CCC freshwater numeric water quality standards for zinc established
17 by EPA. The West Sonoma facility also has measured levels of zinc in storm water
18 discharged from the facility in excess of EPA's freshwater numeric water quality standard
19 for zinc of 0.12 mg/L (CMC & CCC) on January 25, 2010 (at three different discharge
20 locations); January 21, 2010 (at three different discharge locations); January 18, 2010 (at
21 three different discharge locations); November 20, 2009 (at three different discharge
22 locations); February 6, 2009 (at three different discharge locations); November 3, 2008 (at
23 three different discharge locations); April 23, 2008 (at two different discharge locations);
24 January 25, 2008 (at two different discharge locations); January 4, 2008 (at three different
25 discharge locations); December 6, 2007 (at three different discharge locations); October 12,
26 2007 (at three different discharge locations); April 23, 2007; February 26, 2007 (at three
27 different discharge locations); November 13, 2006 (at two different discharge locations);
28 February 27, 2006 (at four different discharge locations); January 30, 2006 (at three different

1 discharge locations); and January 3, 2006 (at two different discharge locations).

2 70. The levels of zinc in storm water detected by the West Sonoma facility have
3 also exceeded the benchmark value for zinc of 0.117 mg/L established by EPA. For
4 example, on December 6, 2007, the level of zinc measured by Defendant West Sonoma in
5 the facility's discharged storm water was 7.8 mg/L. That level of zinc is nearly sixty-seven
6 times the benchmark value for zinc established by EPA. The West Sonoma facility also has
7 measured levels of zinc in storm water discharged from the Facility in excess of EPA's
8 benchmark value of 0.117 mg/L on numerous other dates set forth at pages twelve through
9 nineteen of the notice of intent to sue attached hereto as Exhibit A.

10 71. The levels of iron in storm water detected by the West Sonoma facility have
11 exceeded the benchmark value for iron of 1.0 mg/L established by EPA. For example, on
12 December 6, 2007, the level of iron measured by Defendant West Sonoma in the facility's
13 discharged storm water was 1100 mg/L. That level of iron is 1100 times the benchmark
14 value for iron established by EPA. The West Sonoma facility also has measured levels of
15 iron in storm water discharged from the Facility in excess of EPA's benchmark value of 1.0
16 mg/L on January 25, 2010 (at three different discharge locations); January 21, 2010 (at three
17 different discharge locations); January 18, 2010 (at three different discharge locations);
18 November 20, 2009 (at three different discharge locations); February 6, 2009 (at three
19 different discharge locations); November 3, 2008 (at three different discharge locations);
20 April 23, 2008 (at two different discharge locations); January 25, 2008 (at two different
21 discharge locations); January 4, 2008 (at three different discharge locations); December 6,
22 2007 (at three different discharge locations); October 12, 2007 (at three different discharge
23 locations); February 26, 2007 (at three different discharge locations); November 13, 2006 (at
24 two different discharge locations); February 27, 2006 (at four different discharge locations);
25 January 30, 2006 (at three different discharge locations); and January 3, 2006 (at two
26 different discharge locations).

27 72. The levels of copper in storm water detected by the West Sonoma Facility
28 have exceeded the freshwater numeric water quality standard of 0.013 mg/L (CMC)

1 established by EPA. For example, on December 6, 2007, the level of copper measured in the
2 West Sonoma Facility's discharged storm water was 1.7 mg/L. That level of copper is over
3 130 times the CMC freshwater numeric water quality standard for copper established by
4 EPA. The West Sonoma facility also has measured levels of copper in storm water
5 discharged from the Facility in excess of EPA's freshwater numeric water quality standard
6 for copper of 0.013 mg/L (CMC) on numerous other dates set forth at pages four through
7 eleven of the notice of intent to sue attached hereto as Exhibit A.

8 73. The levels of copper in storm water detected by the West Sonoma Facility
9 have also exceeded the freshwater numeric water quality standard of 0.009 mg/L (CCC)
10 established by EPA. For example, on December 6, 2007, the level of copper measured in the
11 West Sonoma facility's discharged storm water was 1.7 mg/L. That level of copper is nearly
12 189 times the CCC freshwater numeric water quality standard for copper established by
13 EPA. The West Sonoma facility also has measured levels of copper in storm water
14 discharged from the facility in excess of EPA's freshwater numeric water quality standard
15 for copper of 0.009 mg/L (CCC) on numerous other dates set forth at pages four through
16 eleven of the notice of intent to sue attached hereto as Exhibit A.

17 74. The levels of copper in storm water detected by the West Sonoma facility have
18 also exceeded the benchmark value for copper of 0.0636 mg/L established by EPA. For
19 example, on December 6, 2007, the level of copper measured by Defendant West Sonoma in
20 the facility's discharged storm water was 1.7 mg/L. That level of copper is nearly twenty
21 seven times the benchmark value for copper established by EPA. The West Sonoma facility
22 also has measured levels of copper in storm water discharged from the facility in excess of
23 EPA's benchmark value of 0.0636 mg/L on numerous other dates set forth at pages twelve
24 through nineteen of the notice of intent to sue attached hereto as Exhibit A.

25 75. The levels of pH in storm water detected by the West Sonoma facility have
26 exceeded the benchmark value for pH of 6.0 – 9.0 established by EPA. On November 13,
27 2006, the level of pH measured by Defendant in the Facility's discharged storm water was
28 9.7. The West Sonoma facility also has measured levels of pH in storm water discharged

1 from the Facility outside the benchmark values established by EPA on February 6, 2009 at
2 two discharge locations.

3 76. The levels of pH in storm water detected by the West Sonoma facility have
4 exceeded the numeric value for pH of 6.5 – 8.5 established in the NC Basin Plan. On
5 February 6, 2009, the level of pH measured by West Sonoma in the facility's discharged
6 storm water was 9.16 at discharge site SD4 and 9.49 at discharge site SD5, both outside the
7 range established in the NC Basin Plan. The West Sonoma facility also has measured levels
8 of pH in storm water discharged from the facility outside the pH range established in the NC
9 Basin Plan on November 3, 2008; October 12, 2007, and November 13, 2006.

10 77. The levels of oil and grease in storm water detected by the West Sonoma
11 facility have exceeded the benchmark value for oil and grease of 15 mg/L established by
12 EPA. For example, on November 13, 2006, the level of oil and grease measured by
13 Defendant West Sonoma in the facility's discharged storm water was 410 mg/L. That level
14 of oil and grease is more than twenty seven times the benchmark value for oil and grease
15 established by EPA. The West Sonoma facility also has measured levels of oil and grease in
16 storm water discharged from the Facility in excess of EPA's benchmark value of 15 mg/L on
17 January 21, 2010; January 18, 2010 (at two different discharge locations); November 20,
18 2009; February 6, 2009; November 3, 2008; January 25, 2008; December 6, 2007; October
19 12, 2007; February 26, 2007; November 13, 2006 (at two different discharge locations); and
20 January 3, 2006.

21 78. The levels of chemical oxygen demand in storm water detected by the West
22 Sonoma facility have exceeded the benchmark value for chemical oxygen demand of 120
23 mg/L established by EPA. For example, on April 23, 2008, the level of chemical oxygen
24 demand measured by Defendant West Sonoma in the facility's discharged storm water was
25 1700 mg/L. That level of chemical oxygen demand is more than fourteen times the
26 benchmark value for chemical oxygen demand established by EPA. The West Sonoma
27 facility also has measured levels of chemical oxygen demand in storm water discharged from
28 the facility in excess of EPA's benchmark value of 120 mg/L on January 25, 2010 (at three

1 different discharge locations); January 21, 2010 (at two different discharge locations);
2 November 20, 2009; February 6, 2009 (at three different discharge locations); November 3,
3 2008 (at three different discharge locations); April 23, 2008 (at two different discharge
4 locations); January 25, 2008; January 4, 2008 (at three different discharge locations);
5 December 6, 2007 (at three different discharge locations); October 12, 2007; April 23, 2007;
6 February 26, 2007 (at three different discharge locations); November 13, 2006 (at two
7 different discharge locations); February 27, 2006 (at four different discharge locations); and
8 January 3, 2006 (at two different discharge locations).

9 79. The electrical conductance levels detected by the West Sonoma facility in its
10 storm water have been greater than the numeric water quality standards applicable to
11 electrical conductance in California. The electrical conductance levels detected by the West
12 Sonoma facility in its storm water have been greater than the benchmark value of 200
13 $\mu\text{mho/cm}$ proposed by the State Board. For example, on April 23, 2008, the electrical
14 conductance level measured by Defendant West Sonoma in the facility's discharged storm
15 water was 1000 $\mu\text{mho/cm}$. That electrical conductance level is five times the State Board's
16 proposed benchmark value. The West Sonoma facility also has measured levels of electrical
17 conductance in storm water discharged from the facility in excess of the proposed
18 benchmark value of 200 $\mu\text{mho/cm}$ on February 6, 2009; April 23, 2008 (at two different
19 discharge locations); and November 13, 2006.

20 80. On information and belief, Plaintiffs allege that since at least June 4, 2005,
21 Defendant West Sonoma has failed to implement BAT and BCT at its facility for its
22 discharges of total suspended solids, oil and grease, aluminum, zinc, lead, iron, copper,
23 chemical oxygen demand, pH, electrical conductance, and other pollutants. Section B(3) of
24 the General Permit requires that Defendant West Sonoma implement BAT for toxic and
25 nonconventional pollutants and BCT for conventional pollutants by no later than October 1,
26 1992. As of the date of this Complaint, Defendant West Sonoma has failed to implement
27 BAT and BCT.

28 81. On information and belief, Plaintiffs allege that since at least June 4, 2005,

1 Defendant West Sonoma has failed to implement an adequate Storm Water Pollution
2 Prevention Plan for the Facility. Plaintiffs are informed and believe, and thereupon allege,
3 that the SWPPP prepared for the Facility does not set forth site-specific best management
4 practices for the Facility that are consistent with BAT or BCT for the Facility. Plaintiffs are
5 informed and believe, and thereupon allege, that the SWPPP prepared for the Facility does
6 not include an adequate assessment of potential pollutant sources, structural pollutant control
7 measures employed by West Sonoma, a list of actual and potential areas of pollutant contact,
8 or an adequate description of best management practices to be implemented at the Facility to
9 reduce pollutant discharges. According to information available to CSPA and PRC,
10 Defendant West Sonoma's SWPPP has not been evaluated to ensure its effectiveness and
11 revised where necessary to further reduce pollutant discharges. Plaintiffs are informed and
12 believe, and thereupon allege, that the SWPPP does not include each of the mandatory
13 elements required by Section A of the General Permit.

14 82. Information available to CSPA and PRC indicates that as a result of these
15 practices, storm water containing excessive pollutants is being discharged during rain events
16 from the West Sonoma facility directly to the Sonoma County storm drain system, which
17 empties into the Laguna de Santa Rosa, which in turn flows into the Russian River.

18 83. Plaintiffs allege that Defendant West Sonoma has failed to collect the two
19 required storm samples from each storm water discharge location during each wet season
20 since at least August 5, 2005. Plaintiffs are informed and believe, and thereupon allege that
21 Defendant West Sonoma failed to sample and analyze two storm events from discharge
22 location SD5 during the 2007-2008 wet season, and failed to sample and analyze a second
23 storm event from one of its three discharge locations during the 2006-2007 wet season.

24 84. On information and belief, Plaintiffs allege that Defendant West Sonoma failed
25 to analyze its storm water samples for pH and electrical conductance as required by Section
26 B(5)(c)(i) of the General permit in samples taken from each and every storm water discharge
27 location at the Facility on February 26, 2007, and from discharge location SD4 on November
28 13, 2006. On information and belief, Plaintiffs allege that when Defendant West Sonoma

1 measured oil and grease at concentrations greater than the EPA benchmark of 15 mg/L but
2 certified visual observations at the same drop inlets showing no pollutants, West Sonoma
3 failed to accurately make and report the monthly visual observations required by Section
4 B(4) of the Permit. These failures to accurately make and report monthly visual
5 observations occurred on January 25, 2010 (at three different discharge locations); January
6 21, 2010 (at two different discharge locations); January 18, 2010 (at two different discharge
7 locations); November 20, 2009 (at two different discharge locations); January 4, 2008;
8 October 12, 2007; November 13, 2006; February 27, 2006 (at four different discharge
9 locations); January 30, 2006 (at three different discharge locations); and January 3, 2006.

10 85. Plaintiffs are informed and believe, and thereupon allege, that, Defendant West
11 Sonoma has failed and continues to fail to alter the Facility's SWPPP and site-specific BMPs
12 consistent with Section A(9) of the General Permit.

13 86. Plaintiffs are informed and believe that Defendant West Sonoma failed to
14 submit to the NC Regional Board a true and complete annual report certifying compliance
15 with the General Permit since at least August 5, 2005. Pursuant to Sections A(9)(d), B(14),
16 and C(9), (10) of the General Permit, West Sonoma must submit an annual report, that is
17 signed and certified by the appropriate corporate officer, outlining the facility's storm water
18 controls and certifying compliance with the General Permit. Plaintiffs are informed and
19 believe, and thereupon allege, that Defendant West Sonoma has signed incomplete annual
20 reports that purported to comply with the General Permit when there was significant
21 noncompliance at the Facility.

22 87. Information available to Plaintiffs indicates that Defendant West Sonoma has
23 not fulfilled the requirements set forth in the General Permit for discharges from the facility
24 due to the continued discharge of contaminated storm water. Plaintiffs are informed and
25 believe, and thereupon allege, that all of the violations alleged in this Complaint are ongoing
26 and continuing.

27 **REDWOOD EMPIRE FACILITY**

28 88. Since at least January 25, 2008, Defendants Redwood Empire, Ratto, Salyers

1 and Holiday have taken samples or arranged for samples to be taken of storm water
2 discharges at the Redwood Empire facility. The sample results were reported in the
3 Redwood Empire facility's annual reports submitted to the NC Regional Board. Defendants
4 Redwood Empire, Ratto, Salyers and Holiday submitted or arranged for the submission to
5 the NC Regional Board of annual reports pursuant to the General Permit in 2008 and 2009.
6 Defendant Salyers signed and certified the 2007-2008 annual report and Defendant Holliday
7 signed and certified the 2008-2009 annual report, all pursuant to Sections A and C of the
8 General Permit. Plaintiffs are informed and believe, and thereupon allege that Defendants
9 Redwood Empire, Ratto, Salyers and Holiday submitted or arranged for the submission to
10 the NC Regional Board of annual reports pursuant to the General Permit in 2008 and 2009.
11 Plaintiffs are informed and believe, and thereupon allege that Defendants Redwood Empire,
12 Ratto, Salyers and Holiday submitted, signed and certified or arranged for the submission,
13 signing and certification of the 2009-2010 annual report pursuant to Sections A and C of the
14 General Permit.

15 89. Since at least January 25, 2008, the Redwood Empire facility has detected
16 TSS, oil and grease, electrical conductance, aluminum, copper, iron, zinc, lead, and COD in
17 storm water discharged from the Redwood Empire facility. Since at least November 3,
18 2008, the Redwood Empire facility has detected low pH in storm water discharged from the
19 facility. Levels of these pollutants detected in the Redwood Empire facility's storm water
20 have been in excess of water quality standards established in the NC Basin Plan. Levels of
21 these pollutants detected in the Redwood Empire facility's storm water have been in excess
22 of EPA's numeric parameter benchmark values.

23 90. Storm water discharges from the Redwood Empire facility on the dates listed
24 in the table set forth at pages five through six of the notice of intent to sue attached hereto as
25 Exhibit B contained concentrations of pollutants in excess of numeric water quality
26 standards established in the NC Basin Plan, as set forth in that table.

27 91. The levels of total suspended solids in storm water detected by the Redwood
28 Empire facility have exceeded the benchmark value for total suspended solids of 100 mg/L

1 established by EPA. The levels of total suspended solids in storm water detected by the
2 Redwood Empire facility have also exceeded the standard for suspended materials
3 articulated in the NC Basin Plan. For example, on February 16, 2009, the level of total
4 suspended solids measured by Defendant Redwood Empire in the facility's discharged storm
5 water was 1200 mg/L. That level of total suspended solids is twelve times the benchmark
6 value for total suspended solids established by EPA. The Redwood Empire facility has also
7 measured levels of total suspended solids in storm water discharged from the facility in
8 excess of EPA's benchmark value of 100 mg/L on February 16, 2009 (at three different
9 discharge locations) and January 25, 2008 (at two different discharge locations).

10 92. The levels of lead in storm water detected by the Redwood Empire facility
11 have exceeded the numeric water quality objective of 0.05 mg/L established by the NC
12 Regional Board's Basin Plan. For example, on February 16, 2009, the level of lead
13 measured in the Redwood Empire facility's discharged storm water was 0.15 mg/L. That
14 level of lead is triple the numeric water quality objective of 0.05 mg/L established by the NC
15 Regional Board's Basin Plan. The Redwood Empire facility also has measured levels of
16 lead in storm water discharged from the facility in excess of the numeric water quality
17 objective of 0.05 mg/L on February 16, 2009 (at two different discharge locations).

18 93. The levels of lead in storm water detected by the Redwood Empire facility
19 have exceeded the benchmark value for lead of 0.0816 mg/L established by EPA. For
20 example, on December 6, 2007, the level of lead measured in the Redwood Empire facility's
21 discharged storm water was 0.15 mg/L. That level of lead is three times the benchmark
22 value for lead established by EPA. The Redwood Empire facility also has measured levels
23 of lead in storm water discharged from the facility in excess of the numeric water quality
24 objective of 0.0816 mg/L on February 16, 2009 (at two different discharge locations).

25 94. The levels of lead in storm water detected by the Redwood Empire facility also
26 have exceeded the freshwater numeric water quality standard of 0.065 mg/L (CMC)
27 established by EPA. On February 16, 2009 at discharge point SW5, the level of lead
28 measured in the Redwood Empire facility's discharged storm water was 0.15 mg/L. That

1 level of lead is more than double the CMC freshwater numeric water quality standard for
2 lead established by EPA.

3 95. The levels of lead in storm water detected by the Redwood Empire facility
4 have exceeded the freshwater numeric water quality standard of 0.025 mg/L (CCC)
5 established by EPA. For example, on February 16, 2009, the level of lead measured in the
6 Redwood Empire facility's discharged storm water was 0.15 mg/L. That level of lead is six
7 times the CCC freshwater numeric water quality standard for lead established by EPA. The
8 Redwood Empire facility also has measured levels of lead in storm water discharged from
9 the facility in excess of EPA's freshwater numeric water quality standard for lead of 0.025
10 mg/L (CCC) on February 16, 2009 (at two different discharge locations).

11 96. The levels of aluminum in storm water detected by the Redwood Empire
12 facility have exceeded the numeric water quality objective of 1.0 mg/L established by the
13 NC Regional Board's Basin Plan. For example, on January 25, 2008, the level of aluminum
14 measured in the Redwood Empire facility's discharged storm water was 9.4 mg/L. That
15 level of aluminum is more than nine times the numeric water quality objective of 1.0 mg/L
16 established by the NC Regional Board's Basin Plan. The Redwood Empire facility also has
17 measured levels of aluminum in storm water discharged from the facility in excess of the
18 numeric water quality objective of 1.0 mg/L on February 16, 2009 (at four different
19 discharge locations); November 3, 2008 (at three different discharge locations); and January
20 25, 2008 (at four different discharge locations).

21 97. The levels of aluminum in storm water detected by the Redwood Empire
22 facility also have exceeded the benchmark value for aluminum of 0.75 mg/L established by
23 EPA. For example, on January 25, 2008, the level of aluminum measured by Redwood
24 Empire in the facility's discharged storm water was 9.4 mg/L. That level of aluminum is
25 more than twelve and a half times the benchmark value for aluminum established by EPA.
26 The Redwood Empire facility also has measured levels of aluminum in storm water
27 discharged from the facility in excess of EPA's benchmark value of 0.75 mg/L on February
28 16, 2009 (at four different discharge locations); November 3, 2008 (at four different

1 discharge locations); and January 25, 2008 (at four different discharge locations).

2 98. The levels of zinc in storm water detected by the Redwood Empire facility
3 have exceeded the freshwater numeric water quality standard of 0.12 mg/L (CMC & CCC)
4 established by EPA. For example, on February 16, 2009, the level of zinc measured in the
5 Redwood Empire facility's discharged storm water was 0.49 mg/L. That level of zinc is
6 more than four times the CMC & CCC freshwater numeric water quality standards for zinc
7 established by EPA. The Redwood Empire facility also has measured levels of zinc in storm
8 water discharged from the facility in excess of EPA's freshwater numeric water quality
9 standard for zinc of 0.12 mg/L (CMC & CCC) on February 16, 2009 (at three different
10 discharge locations); November 3, 2008 (at four different discharge locations); and January
11 25, 2008 (at three different discharge locations).

12 99. The levels of zinc in storm water detected by the Redwood Empire facility also
13 have exceeded the benchmark value for zinc of 0.117 mg/L established by EPA. For
14 example, on February 16, 2009, the level of zinc measured by Redwood Empire in the
15 Facility's discharged storm water was 0.49 mg/L. That level of zinc is more than four times
16 the benchmark value for zinc established by EPA. The Redwood Empire facility also has
17 measured levels of zinc in storm water discharged from the facility in excess of EPA's
18 benchmark value of 0.117 mg/L on February 16, 2009 (at three different discharge
19 locations); November 3, 2008 (at four different discharge locations); and January 25, 2008
20 (at three different discharge locations).

21 100. The levels of iron in storm water detected by the Redwood Empire facility
22 have exceeded the benchmark value for iron of 1.0 mg/L established by EPA. For example,
23 on February 16, 2009, the level of iron measured by Redwood Empire in the facility's
24 discharged storm water was 40 mg/L. That level of iron is forty times the benchmark value
25 for iron established by EPA. The Redwood Empire facility also has measured levels of iron
26 in storm water discharged from the facility in excess of EPA's benchmark value of 1.0 mg/L
27 on February 16, 2009 (at four different discharge locations); November 3, 2008 (at five
28 different discharge locations); and January 25, 2008 (at four different discharge locations).

1 101. The levels of copper in storm water detected by the Redwood Empire facility
2 have exceeded the freshwater numeric water quality standard of 0.013 mg/L (CMC)
3 established by EPA. For example, on February 16, 2009, the level of copper measured in the
4 Redwood Empire facility's discharged storm water was 0.13 mg/L. That level of copper is
5 ten times the CMC freshwater numeric water quality standard for copper established by
6 EPA. The Redwood Empire facility also has measured levels of copper in storm water
7 discharged from the facility in excess of EPA's freshwater numeric water quality standard
8 for copper of 0.013 mg/L (CMC) on February 16, 2009 (at three different discharge
9 locations); November 3, 2008; and January 25, 2008.

10 102. The levels of copper in storm water detected by the Redwood Empire facility
11 also have exceeded the freshwater numeric water quality standard of 0.009 mg/L (CCC)
12 established by EPA. For example, on February 16, 2009, the level of copper measured in the
13 Redwood Empire facility's discharged storm water was 0.13 mg/L. That level of copper is
14 nearly fourteen and a half times the CCC freshwater numeric water quality standard for
15 copper established by EPA. The Redwood Empire facility also has measured levels of
16 copper in storm water discharged from the facility in excess of EPA's freshwater numeric
17 water quality standard for copper of 0.009 mg/L (CCC) on February 16, 2009 (at three
18 different discharge locations); November 3, 2008; and January 25, 2008.

19 103. The levels of copper in storm water detected by the Redwood Empire facility
20 also have exceeded the benchmark value for copper of 0.0636 mg/L established by EPA. On
21 February 16, 2009, the level of copper measured by Redwood Empire in the facility's
22 discharged storm water was 0.13 mg/L. That level of copper is more than double the
23 benchmark value for copper established by EPA.

24 104. The levels of pH in storm water detected by the Redwood Empire facility have
25 exceeded the numeric value for pH of 6.5 – 8.5 established in the NC Basin Plan. On
26 November 3, 2008, the level of pH measured by Redwood Empire in the facility's
27 discharged storm water was 6.01 at discharge site SW3 and 6.25 at discharge site SW4.

28 105. The levels of oil and grease in storm water detected by the Redwood Empire

1 facility have exceeded the benchmark value for oil and grease of 15 mg/L established by
2 EPA. For example, on February 16, 2009, the level of oil and grease measured by Redwood
3 Empire in the facility's discharged storm water was 220 mg/L. That level of oil and grease
4 is more than fourteen and a half times the benchmark value for oil and grease established by
5 EPA. The Redwood Empire facility also has measured levels of oil and grease in storm
6 water discharged from the facility in excess of EPA's benchmark value of 15 mg/L on
7 February 16, 2009 (at four different discharge locations); January 3, 2008; and January 25,
8 2008.

9 106. The levels of chemical oxygen demand in storm water detected by the
10 Redwood Empire facility have exceeded the benchmark value for chemical oxygen demand
11 of 120 mg/L established by EPA. On February 16, 2009, the level of chemical oxygen
12 demand measured by Redwood Empire in the facility's discharged storm water was 740
13 mg/L. That level of chemical oxygen demand is more than six times the benchmark value
14 for chemical oxygen demand established by EPA.

15 107. On information and belief, Plaintiffs allege that since at least January 25,
16 2008, Defendant Redwood Empire has failed to implement BAT and BCT at the Redwood
17 Empire facility for its discharges of total suspended solids, oil and grease, aluminum, zinc,
18 lead, iron, copper, chemical oxygen demand, pH, and other pollutants. Section B(3) of the
19 General Permit requires that Defendant implement BAT for toxic and nonconventional
20 pollutants and BCT for conventional pollutants by no later than October 1, 1992. As of the
21 date of this Complaint, Defendant Redwood Empire has failed to implement BAT and BCT.

22 108. On information and belief, Plaintiffs allege that since at least January 25, 2008,
23 Defendant Redwood Empire has failed to implement an adequate Storm Water Pollution
24 Prevention Plan for the facility. Plaintiffs are informed and believe, and thereupon allege, that
25 the SWPPP prepared for the facility does not set forth site-specific best management
26 practices for the facility that are consistent with BAT or BCT for the facility. Plaintiffs are
27 informed and believe, and thereupon allege, that the SWPPP prepared for the Redwood
28 Empire facility does not include an adequate assessment of potential pollutant sources,

1 structural pollutant control measures employed by Redwood Empire, a list of actual and
2 potential areas of pollutant contact, or an adequate description of best management practices
3 to be implemented at the Redwood Empire facility to reduce pollutant discharges.

4 According to information available to CSPA and PRC, Defendant Redwood Empire's
5 SWPPP has not been evaluated to ensure its effectiveness and revised where necessary to
6 further reduce pollutant discharges. Plaintiffs are informed and believe, and thereupon allege,
7 that the SWPPP does not include each of the mandatory elements required by Section A of
8 the General Permit.

9 109. Information available to CSPA and PRC indicates that as a result of these
10 practices, storm water containing excessive pollutants is being discharged during rain events
11 from the Redwood Empire facility directly to the Sonoma County storm drain system, which
12 empties into the Laguna de Santa Rosa, which in turn flows into the Russian River.

13 110. Plaintiffs allege that Defendant Redwood Empire has failed to collect the two
14 required storm samples from each and every storm water discharge location during each wet
15 season since at least January 25, 2008. Plaintiff is informed and believes, and thereupon
16 alleges that Defendant Redwood Empire's facility has eight drop inlets; however, in each of
17 the past five wet seasons, Redwood Empire has only sampled and analyzed storm water
18 discharges from five of those eight discharge locations.

19 111. On information and belief, Plaintiffs allege that when Defendant Redwood
20 Empire measured oil and grease at concentrations greater than the EPA benchmark of 15
21 mg/L but certified visual observations at the same drop inlets showing no pollutants,
22 Redwood Empire failed to accurately make and report the monthly visual observations
23 required by Section B(4) of the Permit. These failures to accurately make and report
24 monthly visual observations occurred on February 16, 2009 (at four different discharge
25 locations); November 3, 2008; and January 25, 2008.

26 112. Plaintiffs are informed and believe, and thereupon allege that Defendant
27 Redwood Empire has failed and continues to fail to alter the facility's SWPPP and site-
28 specific BMPs consistent with Section A(9) of the General Permit.

1 113. Plaintiffs are informed and believe that Defendant Redwood Empire failed to
2 submit to the NC Regional Board a true and complete annual report certifying compliance
3 with the General Permit since at least July 1, 2008. Pursuant to Sections A(9)(d), B(14), and
4 C(9), (10) of the General Permit, Redwood Empire must submit an annual report, that is
5 signed and certified by the appropriate corporate officer, outlining the Redwood Empire
6 facility's storm water controls and certifying compliance with the General Permit. Plaintiffs
7 are informed and believe, and thereupon allege, that Defendant Redwood Empire has signed
8 incomplete annual reports that purported to comply with the General Permit when there was
9 significant noncompliance at the Redwood Empire facility.

10 114. Information available to Plaintiffs indicates that Defendant Redwood Empire
11 has not fulfilled the requirements set forth in the General Permit for discharges from the
12 Facility due to the continued discharge of contaminated storm water. Plaintiffs are informed
13 and believe, and thereupon allege, that all of the violations alleged in this Complaint are
14 ongoing and continuing.

15 **NOVATO DISPOSAL FACILITY**

16 115. Since at least November 7, 2005, Defendants Novato Disposal, Ratto, Salyers
17 and Holiday have taken samples or arranged for samples to be taken of storm water
18 discharges at the Novato Disposal facility. The sample results were reported in the Novato
19 Disposal facility's annual reports submitted to the SF Regional Board. Defendants Novato
20 Disposal, Ratto, Salyers and Holiday submitted or arranged for the submission to the SF
21 Regional Board of annual reports pursuant to the General Permit in 2006, 2007, 2008, and
22 2009. Defendant Salyers signed and certified the 2005-2006, 2006-2007, and 2007-2008
23 annual reports; Defendant Holliday signed and certified the 2008-2009 annual report, all
24 pursuant to Sections A and C of the General Permit. Plaintiffs are informed and believe, and
25 thereupon allege that Defendants Novato Disposal, Ratto, Salyers and Holiday submitted or
26 arranged for the submission to the SF Regional Board of annual reports pursuant to the
27 General Permit in 2006, 2007, 2008, and 2009. Plaintiffs are informed and believe, and
28 thereupon allege that Defendants Novato Disposal, Ratto, Salyers and Holiday signed and

1 certified or arranged for the signing and certification of the 2006, 2007, 2008, and 2009
2 annual reports pursuant to Sections A and C of the General Permit. Plaintiffs are informed
3 and believe, and thereupon allege that Defendants Novato Disposal, Ratto, Salyers and
4 Holiday submitted, signed and certified or arranged for the submission, signing and
5 certification of the 2009-2010 annual report pursuant to Sections A and C of the General
6 Permit.

7 116. Since at least November 7, 2005, the Novato Disposal facility has detected
8 TSS, electrical conductance, aluminum, copper, iron, zinc, lead, COD, and in storm water
9 discharged from the Novato Disposal facility. Since at least November 3, 2008, the Novato
10 Disposal facility has detected high pH in storm water discharged from the facility. Levels of
11 these pollutants detected in the Novato Disposal facility's storm water have been in excess
12 of water quality standards established in the SF Basin Plan. Levels of these pollutants
13 detected in the Novato Disposal facility's storm water have been in excess of EPA's numeric
14 parameter benchmark values.

15 117. Storm water discharges from the Novato Disposal facility on the dates listed in
16 the table set forth at pages five through seven of the notice of intent to sue attached hereto as
17 Exhibit C contained concentrations of pollutants in excess of numeric water quality
18 standards established in the SF Basin Plan, as set forth in that table.

19 118. The levels of total suspended solids in storm water detected by the Novato
20 Disposal facility have exceeded the benchmark value for total suspended solids of 100 mg/L
21 established by EPA. The levels of total suspended solids in storm water detected by the
22 facility have also exceeded the standard for suspended materials articulated in the SF Basin
23 Plan. For example, on November 3, 2008, the level of total suspended solids measured by
24 Defendants in the Facility's discharged storm water was 1300 mg/L. That level of total
25 suspended solids is thirteen times the benchmark value for total suspended solids established
26 by EPA. The Novato Disposal facility has also measured levels of total suspended solids in
27 storm water discharged from the facility in excess of EPA's benchmark value of 100 mg/L
28 on February 16, 2009 (at two different discharge locations); November 3, 2008 (at two

1 different discharge locations); October 12, 2007 (at two different discharge locations);
2 March 26, 2007 (at two different discharge locations); November 2, 2006 (at two different
3 discharge locations); and November 7, 2005.

4 119. The levels of lead in storm water detected by the Novato Disposal facility have
5 exceeded the numeric water quality objective of 0.0081 mg/L (4-day average, marine; CCC)
6 established by the SF Regional Board's Basin Plan and EPA. For example, on October 12,
7 2007, the level of lead measured in the Novato Disposal facility's discharged storm water
8 was 0.4 mg/L. That level of lead is more than forty-nine times the numeric water quality
9 objective of 0.0081 mg/L (4-day average; CCC) established by the SF Regional Board's
10 Basin Plan and EPA. Defendant Novato Disposal also has measured levels of lead in storm
11 water discharged from the Novato Disposal facility in excess of the numeric water quality
12 objective of 0.0081 mg/L (4-day average; CCC) on November 3, 2008; March 26, 2007; and
13 November 2, 2006.

14 120. The levels of lead in storm water detected by the Novato Disposal facility have
15 exceeded the numeric water quality objective of 0.21 mg/L (1-hour average, marine; CMC)
16 established by the SF Regional Board's Basin Plan and EPA. For example, on October 12,
17 2007, the level of lead measured in the Novato Disposal facility's discharged storm water
18 was 0.4 mg/L. That level of lead is nearly double the numeric water quality objective of
19 0.21 mg/L (1-hour average; CMC) established by the SF Regional Board's Basin Plan and
20 EPA. Defendant Novato Disposal also has measured levels of lead in storm water
21 discharged from the Novato Disposal facility in excess of the numeric water quality
22 objective of 0.21 mg/L (1-hour average) on November 2, 2006.

23 121. The levels of lead in storm water detected by the Novato Disposal facility also
24 have exceeded the benchmark value for lead of 0.0816 mg/L established by EPA. For
25 example, on October 12, 2007, the level of lead measured in the Novato Disposal facility's
26 discharged storm water was 0.4 mg/L. That level of lead is nearly five times the benchmark
27 value for lead established by EPA. Defendant Novato Disposal also has measured levels of
28 lead in storm water discharged from the Novato Disposal facility in excess of the numeric

1 water quality objective of 0.0816 mg/L on November 3, 2008; March 26, 2007; and
2 November 2, 2006.

3 122. The levels of copper in storm water detected by the Novato Disposal facility
4 have exceeded the numeric water quality standard of 0.0031 mg/L (4-day average, marine;
5 CMC) established by the SF Basin Plan and EPA. For example, on November 2, 2006, the
6 level of copper measured in the Novato Disposal facility's discharged storm water was 0.22
7 mg/L. That level of copper is nearly seventy-one times the numeric water quality standard
8 for copper (4-day average, marine; CMC) established by the SF Basin Plan and EPA. The
9 Novato Disposal facility also has measured levels of copper in storm water discharged from
10 the Facility in excess of the SF Basin Plan's and EPA's numeric water quality standard for
11 copper of 0.0031 mg/L (4-day average, marine; CMC) on February 16, 2009 (at two
12 different discharge locations); November 3, 2008 (at two different discharge locations);
13 October 12, 2007 (at two different discharge locations); March 26, 2007 (at two different
14 discharge locations); November 2, 2006 (at two different discharge locations); February 27,
15 2006; and November 7, 2005.

16 123. The levels of copper in storm water detected by the Novato Disposal facility
17 also have exceeded the numeric water quality standard of 0.0048 mg/L (1-hour average,
18 marine; CCC) established by the SF Basin Plan and EPA. For example, on November 2,
19 2006, the level of copper measured in the Novato Disposal facility's discharged storm water
20 was 0.22 mg/L. That level of copper is nearly forty-six times the numeric water quality
21 standard for copper (1-hour average, marine; CCC) established by the SF Basin Plan and
22 EPA. The Novato Disposal facility also has measured levels of copper in storm water
23 discharged from the facility in excess of EPA's freshwater numeric water quality standard
24 for copper of 0.0048 mg/L (1-hour average, marine; CCC) on February 16, 2009 (at two
25 different discharge locations); November 3, 2008 (at two different discharge locations);
26 October 12, 2007 (at two different discharge locations); March 26, 2007 (at two different
27 discharge locations); November 2, 2006 (at two different discharge locations); February 27,
28 2006; and November 7, 2005.

1 124. The levels of copper in storm water detected by the Novato Disposal facility
2 also have exceeded the benchmark value for copper of 0.0636 mg/L established by EPA.
3 For example, on November 2, 2006, the level of copper measured by Novato Disposal in the
4 Facility's discharged storm water was 0.22 mg/L. That level of copper is more than three
5 times the benchmark value for copper established by EPA. The Novato Disposal facility
6 also has measured levels of copper in storm water discharged from the facility in excess of
7 EPA's benchmark value of 0.0636 mg/L on numerous other dates set forth at pages seven
8 through ten of the notice of intent to sue attached hereto as Exhibit C.

9 125. The levels of aluminum in storm water detected by the Novato Disposal
10 facility have exceeded the benchmark value for aluminum of 0.75 mg/L established by EPA.
11 For example, on November 3, 2008, the level of aluminum measured by Novato Disposal in
12 the facility's discharged storm water was 60 mg/L. That level of aluminum is eighty times
13 the benchmark value for aluminum established by EPA. The Novato Disposal facility also
14 has measured levels of aluminum in storm water discharged from the facility in excess of
15 EPA's benchmark value of 0.75 mg/L on February 16, 2009 (at two different discharge
16 locations); November 3, 2008 (at two different discharge locations); October 12, 2007 (at
17 two different discharge locations); March 26, 2007 (at two different discharge locations);
18 November 2, 2006 (at two different discharge locations); February 27, 2006 (at two different
19 discharge locations); and November 7, 2005 (at two different discharge locations).

20 126. The levels of zinc in storm water detected by the Novato Disposal facility have
21 exceeded the numeric water quality standard of 0.081 mg/L (4-day average, marine; CCC)
22 established by the SF Basin Plan and EPA. For example, on November 2, 2006, the level of
23 zinc measured in the Novato Disposal facility's discharged storm water was 1.8 mg/L. That
24 level of zinc is more than twenty-two times the numeric water quality standard for zinc (4-
25 day average, marine; CCC) established by the SF Basin Plan and EPA. The Novato
26 Disposal facility also has measured levels of zinc in storm water discharged from the facility
27 in excess of the numeric water quality standard for zinc of 0.081 mg/L (4-day average,
28 marine; CCC) on February 16, 2009 (at two different discharge locations); November 3,

1 2008 (at two different discharge locations); October 12, 2007 (at two different discharge
2 locations); March 26, 2007 (at two different discharge locations); November 2, 2006 (at two
3 different discharge locations); February 27, 2006; and November 7, 2005.

4 127. The levels of zinc in storm water detected by the Novato Disposal facility also
5 have exceeded the numeric water quality standard of 0.09 mg/L (1-hour average, marine;
6 CMC) established by the SF Basin Plan and EPA. For example, on November 2, 2006, the
7 level of lead measured in the Novato Disposal facility's discharged storm water was 1.8
8 mg/L. That level of zinc is twenty times the numeric water quality standard for zinc (1-hour
9 average, marine; CMC) established by the SF Basin Plan and EPA. The Novato Disposal
10 facility also has measured levels of zinc in storm water discharged from the Facility in
11 excess of the numeric water quality standard for zinc of 0.09 mg/L (1-hour average, marine;
12 CMC) on February 16, 2009 (at two different discharge locations); November 3, 2008 (at
13 two different discharge locations); October 12, 2007 (at two different discharge locations);
14 March 26, 2007 (at two different discharge locations); November 2, 2006 (at two different
15 discharge locations); February 27, 2006; and November 7, 2005.

16 128. The levels of zinc in storm water detected by the Novato Disposal facility have
17 exceeded the benchmark value for zinc of 0.117 mg/L established by EPA. For example, on
18 November 2, 2006, the level of zinc measured by Novato Disposal in the facility's
19 discharged storm water was 1.8 mg/L. That level of zinc is more than fifteen times the
20 benchmark value for zinc established by EPA. The Novato Disposal facility also has
21 measured levels of zinc in storm water discharged from the Facility in excess of EPA's
22 benchmark value of 0.117 mg/L on February 16, 2009 (at two different discharge locations);
23 November 3, 2008 (at two different discharge locations); October 12, 2007 (at two different
24 discharge locations); March 26, 2007 (at two different discharge locations); November 2,
25 2006 (at two different discharge locations); February 27, 2006; and November 7, 2005.

26 129. The levels of iron in storm water detected by the Novato Disposal facility have
27 exceeded the benchmark value for iron of 1.0 mg/L established by EPA. For example, on
28 November 3, 2008, the level of iron measured by Novato Disposal in the facility's

1 discharged storm water was 94 mg/L. That level of iron is ninety-four times the benchmark
2 value for iron established by EPA. The Novato Disposal facility also has measured levels of
3 iron in storm water discharged from the facility in excess of EPA's benchmark value of 1.0
4 mg/L on February 16, 2009 (at two different discharge locations); November 3, 2008 (at two
5 different discharge locations); October 12, 2007 (at two different discharge locations);
6 March 26, 2007 (at two different discharge locations); November 2, 2006 (at two different
7 discharge locations); February 27, 2006 (at two different discharge locations); and
8 November 7, 2005 (at two different discharge locations).

9 130. The levels of pH in storm water detected by the Novato Disposal facility have
10 exceeded the numeric value for pH of 6.5 – 8.5 established in the SF Basin Plan. On
11 November 3, 2008, the level of pH measured by Novato Disposal in the facility's discharged
12 storm water was 8.58 at discharge site MP2.

13 131. The levels of chemical oxygen demand in storm water detected by the Novato
14 Disposal facility have exceeded the benchmark value for chemical oxygen demand of 120
15 mg/L established by EPA. For example, on November 2, 2006, the level of chemical
16 oxygen demand measured by Novato Disposal in the facility's discharged storm water was
17 340 mg/L. That level of chemical oxygen demand is nearly three times the benchmark value
18 for chemical oxygen demand established by EPA. Novato Disposal also has measured levels
19 of chemical oxygen demand in storm water discharged from the Novato Disposal facility in
20 excess of EPA's benchmark value of 120 mg/L on November 3, 2008; October 12, 2007;
21 March 26, 2007 (at two different discharge locations); November 2, 2006 (at two different
22 discharge locations); February 27, 2006; and November 7, 2005 (at two different discharge
23 locations).

24 132. The levels of biochemical oxygen demand in storm water detected by the
25 Novato Disposal facility have exceeded the benchmark value for biochemical oxygen
26 demand of 30 mg/L established by EPA. For example, on March 26, 2007, the level of
27 biochemical oxygen demand measured by Novato Disposal in the Facility's discharged
28 storm water was 88 mg/L. That level of chemical oxygen demand is nearly three times the

1 benchmark value for biochemical oxygen demand established by EPA. Novato Disposal
2 also has measured levels of biochemical oxygen demand in storm water discharged from the
3 Novato Disposal facility in excess of EPA's benchmark value of 30 mg/L on November 3,
4 2008; October 12, 2007; and March 26, 2007 (at two different discharge locations).

5 133. The electrical conductance levels detected by the Novato Disposal facility in
6 its storm water have been greater than the numeric water quality standards applicable to
7 electrical conductance in California. The electrical conductance levels detected by the
8 Novato Disposal facility in its storm water have been greater than the benchmark value of
9 200 $\mu\text{mho/cm}$ proposed by the State Board. For example, on November 3, 2008, the
10 electrical conductance level measured by Novato Disposal in the facility's discharged storm
11 water was 1300 $\mu\text{mho/cm}$. That electrical conductance level is six and a half times the State
12 Board's proposed benchmark value. Novato Disposal also has measured levels of electrical
13 conductance in storm water discharged from the Novato Disposal facility in excess of the
14 proposed benchmark value of 200 $\mu\text{mho/cm}$ on February 16, 2009 (at two different
15 discharge locations); November 3, 2008 (at two different discharge locations); October 12,
16 2007 (at two different discharge locations); March 26, 2007 (at two different discharge
17 locations); November 2, 2006 (at two different discharge locations); and November 7, 2005.

18 134. On information and belief, Plaintiffs allege that since at least June 4, 2005,
19 Defendant Novato Disposal has failed to implement BAT and BCT at the Novato Disposal
20 facility for its discharges of total suspended solids, aluminum, zinc, lead, iron, copper,
21 chemical oxygen demand, biochemical oxygen demand, electrical conductance, pH, and
22 other pollutants. Section B(3) of the General Permit requires that Defendant implement
23 BAT for toxic and nonconventional pollutants and BCT for conventional pollutants by no
24 later than October 1, 1992. As of the date of this Complaint, Defendant Novato Disposal has
25 failed to implement BAT and BCT.

26 135. On information and belief, Plaintiffs allege that since at least June 4, 2005,
27 Defendant Novato Disposal has failed to implement an adequate Storm Water Pollution
28 Prevention Plan for the Novato Disposal facility. Plaintiffs are informed and believe, and

1 thereupon allege, that the SWPPP prepared for the Novato Disposal facility does not set forth
2 site-specific best management practices for the Facility that are consistent with BAT or BCT
3 for the facility. Plaintiffs are informed and believe, and thereupon allege, that the SWPPP
4 prepared for the facility does not include an adequate assessment of potential pollutant
5 sources, structural pollutant control measures employed by Novato Disposal, a list of actual
6 and potential areas of pollutant contact, or an adequate description of best management
7 practices to be implemented at the facility to reduce pollutant discharges. According to
8 information available to CSPA and PRC, Defendant Novato Disposal's SWPPP has not been
9 evaluated to ensure its effectiveness and revised where necessary to further reduce pollutant
10 discharges. Plaintiffs are informed and believe, and thereupon allege, that the SWPPP does
11 not include each of the mandatory elements required by Section A of the General Permit.

12 136. Information available to CSPA and PRC indicates that as a result of these
13 practices, storm water containing excessive pollutants is being discharged during rain events
14 from the Novato Disposal facility to a storm drain system which flows into the Petaluma
15 River, which then flows into San Pablo Bay, the northern extension of San Francisco Bay.

16 137. Plaintiffs allege that Defendant Novato Disposal has failed to collect the two
17 required storm samples from each storm water discharge location during each wet season
18 since at least August 5, 2005. Plaintiffs are informed and believe, and thereupon allege that
19 Defendant Novato Disposal failed to sample and analyze two storm events at its facility
20 during the 2007-2008 wet season.

21 138. On information and belief, Plaintiffs allege that Defendant Novato Disposal
22 failed to make and report the monthly visual observations required under Section B(4) of the
23 General Permit at the facility in October 2008, December 2008, January 2009, March 2009,
24 April 2009, and May 2009.

25 139. Plaintiffs are informed and believe, and thereupon allege, that, Defendant
26 Novato Disposal has failed and continues to fail to alter the facility's SWPPP and site-
27 specific BMPs consistent with Section A(9) of the General Permit.

28 140. Plaintiffs are informed and believe that Defendant Novato Disposal failed to

1 submit to the SF Regional Board a true and complete annual report certifying compliance
2 with the General Permit since at least August 5, 2005. Pursuant to Sections A(9)(d), B(14),
3 and C(9), (10) of the General Permit, Novato Disposal must submit an annual report, that is
4 signed and certified by the appropriate corporate officer, outlining the Facility's storm water
5 controls and certifying compliance with the General Permit. Plaintiffs are informed and
6 believe, and thereupon allege, that Defendant Novato Disposal has signed incomplete annual
7 reports that purported to comply with the General Permit when there was significant
8 noncompliance at the Facility.

9 141. Information available to Plaintiffs indicates that Defendant Novato Disposal
10 has not fulfilled the requirements set forth in the General Permit for discharges from its
11 facility due to the continued discharge of contaminated storm water. Plaintiffs are informed
12 and believe, and thereupon allege, that all of the violations alleged in this Complaint are
13 ongoing and continuing.

14 **VI. CLAIMS FOR RELIEF**

15 **FIRST CAUSE OF ACTION**

16 **Failure to Implement the Best Available and Best
17 Conventional Treatment Technologies at the West Sonoma Facility
18 (Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

19 142. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
20 set forth herein.

21 143. The General Permit's SWPPP requirements and Effluent Limitation B(3)
22 require dischargers to reduce or prevent pollutants in their storm water discharges through
23 implementation of BAT for toxic and nonconventional pollutants and BCT for conventional
24 pollutants. Defendants West Sonoma, Ratto, Salyers, and Holiday have failed to implement
25 BAT and BCT at the West Sonoma facility for its discharges of TSS, O&G, COD,
26 aluminum, zinc, lead, iron, copper, pH, electrical conductance, and other un-monitored
27 pollutants in violation of Effluent Limitation B(3) of the General Permit.

28 144. Each day since August 5, 2005, that Defendants West Sonoma, Ratto, Salyers,
and Holiday have failed to develop and implement BAT and BCT in violation of the General

1 Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Act,
2 33 U.S.C. § 1311(a).

3 145. Defendants West Sonoma, Ratto, Salyers, and Holiday have been in violation
4 of the BAT/BCT requirements every day since August 5, 2005 and they continue to be in
5 violation of the BAT/BCT requirements each day that they fail to develop and fully implement
6 an adequate BAT/BCT for the West Sonoma facility.

7 **SECOND CAUSE OF ACTION**

8 **Discharges of Contaminated Storm Water in Violation**
9 **of Permit Conditions and the Act at the West Sonoma Facility**
10 **(Violations of 33 U.S.C. §§ 1311, 1342)**

11 146. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
12 set forth herein.

13 147. Discharge Prohibition A(2) of the General Permit requires that storm water
14 discharges and authorized non-storm water discharges shall not cause or threaten to cause
15 pollution, contamination, or nuisance. Receiving Water Limitations C(1) and C(2) of the
16 General Permit require that storm water discharges and authorized non-storm water discharges
17 shall not adversely impact human health or the environment, and shall not cause or contribute
18 to a violation of any water quality standards contained in a Statewide Water Quality Control
19 Plan or the applicable Regional Board's Basin Plan.

20 148. Plaintiffs are informed and believe, and thereupon allege, that since at least
21 August 5, 2005, Defendants West Sonoma, Ratto, Salyers, and Holiday have been
22 discharging polluted storm water from the West Sonoma facility in excess of applicable water
23 quality standards in violation of the Discharge Prohibition A(2) of the General Permit.

24 149. During every rain event, storm water flows freely over exposed materials, waste
25 products, and other accumulated pollutants at the West Sonoma facility, becoming
26 contaminated with TSS, O&G, COD, aluminum, zinc, lead, iron, copper, pH, electrical
27 conductance, and other unmonitored pollutants at levels above applicable water quality
28 standards. The storm water then flows untreated from the West Sonoma facility into the
municipal storm drain system, which empties into Todd Creek, which then joins the Laguna

1 de Santa Rosa, which in turn flows into the Russian River.

2 150. Plaintiffs are informed and believe, and thereupon allege, that these discharges
3 of contaminated storm water are causing or contributing to the violation of the applicable water
4 quality standards in a Statewide Water Quality Control Plan and/or the applicable Regional
5 Board's Basin Plan in violation of Receiving Water Limitation C(2) of the General Permit.

6 151. Plaintiffs are informed and believe, and thereupon allege, that these discharges
7 of contaminated storm water are adversely affecting human health and the environment in
8 violation of Receiving Water Limitation C(1) of the General Permit.

9 152. Every day since at least August 5, 2005, that Defendants West Sonoma, Ratto,
10 Salyers, and Holiday have discharged and continue to discharge polluted storm water from the
11 West Sonoma facility in violation of the General Permit is a separate and distinct violation of
12 Section 301(a) of the Act, 33 U.S.C. § 1311(a). These violations are ongoing and continuous.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Prepare, Implement, Review, and Update an Adequate**
15 **Storm Water Pollution Prevention Plan for the West Sonoma Facility**
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

16 153. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
17 set forth herein.

18 154. Section A and Provision E of the General Permit requires dischargers of storm
19 water associated with industrial activity to develop and implement an adequate SWPPP no
20 later than October 1, 1992.

21 155. Defendants West Sonoma, Ratto, Salyers, and Holiday have failed to develop
22 and implement an adequate SWPPP for the West Sonoma facility. The Defendants' ongoing
23 failure to develop and implement an adequate SWPPP for the Facility is evidenced by, *inter*
24 *alia*, Defendants' outdoor storage of various materials without appropriate best management
25 practices; the continued exposure of significant quantities of various materials to storm water
26 flows; the continued exposure and tracking of waste resulting from the operation or
27 maintenance of vehicles at the site, including trucks and forklifts; the failure to either treat
28 storm water prior to discharge or to implement effective containment practices; and the

1 continued discharge of storm water pollutants from the West Sonoma facility at levels in
2 excess of EPA benchmark values.

3 156. Defendants West Sonoma, Ratto, Salyers, and Holiday have failed to update
4 the West Sonoma facility's SWPPP in response to the analytical results of the Facility's
5 storm water monitoring.

6 157. Each day since August 5, 2005, that Defendants West Sonoma, Ratto, Salyers,
7 and Holiday have failed to develop, implement and update an adequate SWPPP for the West
8 Sonoma facility is a separate and distinct violation of the General Permit and Section 301(a) of
9 the Act, 33 U.S.C. § 1311(a).

10 158. Defendants West Sonoma, Ratto, Salyers, and Holiday have been in violation
11 of the SWPPP requirements every day since August 5, 2005. Defendants West Sonoma,
12 Ratto, Salyers, and Holiday continue to be in violation of the SWPPP requirements each day
13 that they fail to develop and fully implement an adequate SWPPP for the West Sonoma
14 facility.

15 **FOURTH CAUSE OF ACTION**

16 **Failure to Develop and Implement an Adequate 17 Monitoring and Reporting Program for the West Sonoma Facility 18 (Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

19 159. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
20 set forth herein.

21 160. Section B of the General Permit requires dischargers of storm water associated
22 with industrial activity to have developed and be implementing a monitoring and reporting
23 program (including, *inter alia*, sampling and analysis of discharges) no later than October 1,
24 1992.

25 161. Defendants West Sonoma, Ratto, Salyers, and Holiday have failed to develop
26 and implement an adequate monitoring and reporting program for the West Sonoma facility.
27 Defendants' ongoing failure to develop and implement an adequate monitoring and reporting
28 program are evidenced by, *inter alia*, their failure to analyze storm water samples from each
discharge location and its failure to identify and control non-storm water discharges.

1 COD, aluminum, zinc, lead, iron, copper, pH, and other un-monitored pollutants in violation
2 of Effluent Limitation B(3) of the General Permit.

3 168. Each day since January 25, 2008, that Defendants Redwood Empire, Ratto,
4 Salyers, and Holiday have failed to develop and implement BAT and BCT in violation of the
5 General Permit is a separate and distinct violation of the General Permit and Section 301(a) of
6 the Act, 33 U.S.C. § 1311(a).

7 169. Defendants Redwood Empire, Ratto, Salyers, and Holiday have been in
8 violation of the BAT/BCT requirements every day since January 25, 2008 and they continue
9 to be in violation of the BAT/BCT requirements each day that they fail to develop and fully
10 implement an adequate BAT/BCT for the Redwood Empire facility.

11 **SEVENTH CAUSE OF ACTION**
12 **Discharges of Contaminated Storm Water in Violation**
13 **of Permit Conditions and the Act at the Redwood Empire Facility**
14 **(Violations of 33 U.S.C. §§ 1311, 1342)**

15 170. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
16 set forth herein.

17 171. Discharge Prohibition A(2) of the General Permit requires that storm water
18 discharges and authorized non-storm water discharges shall not cause or threaten to cause
19 pollution, contamination, or nuisance. Receiving Water Limitations C(1) and C(2) of the
20 General Permit require that storm water discharges and authorized non-storm water discharges
21 shall not adversely impact human health or the environment, and shall not cause or contribute
22 to a violation of any water quality standards contained in a Statewide Water Quality Control
23 Plan or the applicable Regional Board's Basin Plan.

24 172. Plaintiffs are informed and believe, and thereupon allege, that since at least
25 January 25, 2008, Defendants Redwood Empire, Ratto, Salyers, and Holiday have been
26 discharging polluted storm water from the Redwood Empire facility in excess of applicable
27 water quality standards in violation of the Discharge Prohibition A(2) of the General Permit.

28 173. During every rain event, storm water flows freely over exposed materials, waste
products, and other accumulated pollutants at the Redwood Empire facility, becoming

1 contaminated with TSS, O&G, COD, aluminum, zinc, lead, iron, copper, pH, and other
2 unmonitored pollutants at levels above applicable water quality standards. The storm water
3 then flows untreated from the Redwood Empire facility into the municipal storm drain
4 system, which empties into Todd Creek, which then joins the Laguna de Santa Rosa, which
5 in turn flows into the Russian River.

6 174. Plaintiffs are informed and believe, and thereupon allege, that these discharges
7 of contaminated storm water are causing or contributing to the violation of the applicable water
8 quality standards in a Statewide Water Quality Control Plan and/or the applicable Regional
9 Board's Basin Plan in violation of Receiving Water Limitation C(2) of the General Permit.

10 175. Plaintiffs are informed and believe, and thereupon allege, that these discharges
11 of contaminated storm water are adversely affecting human health and the environment in
12 violation of Receiving Water Limitation C(1) of the General Permit.

13 176. Every day since at least January 25, 2008, that Defendants Redwood Empire,
14 Ratto, Salyers, and Holiday have discharged and continue to discharge polluted storm water
15 from the Redwood Empire facility in violation of the General Permit is a separate and distinct
16 violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These violations are ongoing and
17 continuous.

18 **EIGHTH CAUSE OF ACTION**
19 **Failure to Prepare, Implement, Review, and Update an Adequate**
20 **Storm Water Pollution Prevention Plan for the Redwood Empire Facility**
21 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

22 177. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
23 set forth herein.

24 178. Section A and Provision E of the General Permit requires dischargers of storm
25 water associated with industrial activity to develop and implement an adequate SWPPP no
26 later than October 1, 1992.

27 179. Defendants Redwood Empire, Ratto, Salyers, and Holiday have failed to
28 develop and implement an adequate SWPPP for the Redwood Empire Facility. The
Defendants' ongoing failure to develop and implement an adequate SWPPP for the Redwood
Empire facility is evidenced by, *inter alia*, Defendants' outdoor storage of various materials

1 without appropriate best management practices; the continued exposure of significant
2 quantities of various materials to storm water flows; the continued exposure and tracking of
3 waste resulting from the operation or maintenance of vehicles at the site, including trucks and
4 forklifts; the failure to either treat storm water prior to discharge or to implement effective
5 containment practices; and the continued discharge of storm water pollutants from the
6 Redwood Empire facility at levels in excess of EPA benchmark values.

7 180. Defendants Redwood Empire, Ratto, Salyers, and Holiday have failed to
8 update the Redwood Empire facility's SWPPP in response to the analytical results of the
9 facility's storm water monitoring.

10 181. Each day since January 25, 2008, that Defendants Redwood Empire, Ratto,
11 Salyers, and Holiday have failed to develop, implement and update an adequate SWPPP for
12 the Redwood Empire facility is a separate and distinct violation of the General Permit and
13 Section 301(a) of the Act, 33 U.S.C. § 1311(a).

14 182. Defendants Redwood Empire, Ratto, Salyers, and Holiday have been in
15 violation of the SWPPP requirements every day since January 25, 2008. Defendants Redwood
16 Empire, Ratto, Salyers, and Holiday continue to be in violation of the SWPPP requirements
17 each day that they fail to develop and fully implement an adequate SWPPP for the Redwood
18 Empire facility.

19 **NINTH CAUSE OF ACTION**

20 **Failure to Develop and Implement an Adequate**
21 **Monitoring and Reporting Program for the Redwood Empire Facility**
22 **(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

23 183. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
24 set forth herein.

25 184. Section B of the General Permit requires dischargers of storm water associated
26 with industrial activity to have developed and be implementing a monitoring and reporting
27 program (including, *inter alia*, sampling and analysis of discharges) no later than October 1,
28 1992.

185. Defendants Redwood Empire, Ratto, Salyers, and Holiday have failed to

1 develop and implement an adequate monitoring and reporting program for the Redwood
2 Empire facility. Defendants' ongoing failure to develop and implement an adequate
3 monitoring and reporting program are evidenced by, *inter alia*, their failure to analyze storm
4 water samples from each discharge location and its failure to identify and control non-storm
5 water discharges.

6 186. Each day since January 25, 2008, that Defendants Redwood Empire, Ratto,
7 Salyers, and Holiday have failed to develop and implement an adequate monitoring and
8 reporting program for the Redwood Empire facility in violation of the General Permit is a
9 separate and distinct violation of the General Permit and Section 301(a) of the Act, 33
10 U.S.C. § 1311(a). The absence of requisite monitoring and analytical results are ongoing
11 and continuous violations of the Act.

12 **TENTH CAUSE OF ACTION**

13 **False Certification of Compliance in Annual Report for the Redwood Empire Facility 14 (Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

15 187. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
16 set forth herein.

17 188. Defendants Redwood Empire, Ratto, Salyers, and Holiday have falsely
18 certified compliance with the General Permit in each of the annual reports for the Redwood
19 Empire facility submitted to the Regional Board since at least July 1, 2008.

20 189. Each day since at least July 1, 2008 that Defendants Redwood Empire, Ratto,
21 Salyers, and Holiday have falsely certified compliance with the General Permit is a separate
22 and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. §
23 1311(a). Defendants Redwood Empire, Ratto, Salyers, and Holiday continue to be in
24 violation of the General Permit's certification requirement each day that they maintain their
25 false certification of compliance with the General Permit.

26 **ELEVENTH CAUSE OF ACTION**

27 **Failure to Implement the Best Available and Best 28 Conventional Treatment Technologies at the Novato Disposal Facility (Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

190. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
set forth herein.

1 4, 2005, Defendants Novato Disposal, Ratto, Salyers, and Holiday have been discharging
2 polluted storm water from the Novato Disposal facility in excess of applicable water quality
3 standards in violation of the Discharge Prohibition A(2) of the General Permit.

4 197. During every rain event, storm water flows freely over exposed materials, waste
5 products, and other accumulated pollutants at the Novato Disposal facility, becoming
6 contaminated with TSS, COD, BOD, aluminum, zinc, lead, iron, copper, pH, electrical
7 conductance, and other unmonitored pollutants at levels above applicable water quality
8 standards. The storm water then flows untreated from the Novato Disposal facility into a
9 storm drain system, which flows into the Petaluma River, which then drains into San Pablo
10 Bay, the northern extension of San Francisco Bay.

11 198. Plaintiffs are informed and believe, and thereupon allege, that these discharges
12 of contaminated storm water are causing or contributing to the violation of the applicable water
13 quality standards in a Statewide Water Quality Control Plan and/or the applicable Regional
14 Board's Basin Plan in violation of Receiving Water Limitation C(2) of the General Permit.

15 199. Plaintiffs are informed and believe, and thereupon allege, that these discharges
16 of contaminated storm water are adversely affecting human health and the environment in
17 violation of Receiving Water Limitation C(1) of the General Permit.

18 200. Every day since at least August 5, 2005, that Defendants Novato Disposal,
19 Ratto, Salyers, and Holiday have discharged and continue to discharge polluted storm water
20 from the Novato Disposal facility in violation of the General Permit is a separate and distinct
21 violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These violations are ongoing and
22 continuous.

23 **THIRTEENTH CAUSE OF ACTION**

24 **Failure to Prepare, Implement, Review, and Update an Adequate Storm Water Pollution Prevention Plan for the Novato Disposal Facility (Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

25 201. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
26 set forth herein.

27 202. Section A and Provision E of the General Permit requires dischargers of storm
28 water associated with industrial activity to develop and implement an adequate SWPPP no

1 later than October 1, 1992.

2 203. Defendants Novato Disposal, Ratto, Salyers, and Holiday have failed to
3 develop and implement an adequate SWPPP for the Novato Disposal facility. The
4 Defendants' ongoing failure to develop and implement an adequate SWPPP for the facility is
5 evidenced by, *inter alia*, Defendants' outdoor storage of various materials without appropriate
6 best management practices; the continued exposure of significant quantities of various
7 materials to storm water flows; the continued exposure and tracking of waste resulting from
8 the operation or maintenance of vehicles at the site, including trucks and forklifts; the failure to
9 either treat storm water prior to discharge or to implement effective containment practices;
10 and the continued discharge of storm water pollutants from the Novato Disposal facility at
11 levels in excess of EPA benchmark values.

12 204. Defendants Novato Disposal, Ratto, Salyers, and Holiday have failed to update
13 the Novato Disposal facility's SWPPP in response to the analytical results of the Facility's
14 storm water monitoring.

15 205. Each day since August 5, 2005, that Defendants Novato Disposal, Ratto,
16 Salyers, and Holiday have failed to develop, implement and update an adequate SWPPP for
17 the Novato Disposal facility is a separate and distinct violation of the General Permit and
18 Section 301(a) of the Act, 33 U.S.C. § 1311(a).

19 206. Defendants Novato Disposal, Ratto, Salyers, and Holiday have been in
20 violation of the SWPPP requirements every day since August 5, 2005. Defendants Novato
21 Disposal, Ratto, Salyers, and Holiday continue to be in violation of the SWPPP requirements
22 each day that they fail to develop and fully implement an adequate SWPPP for the Novato
23 Disposal facility.

24 **FOURTEENTH CAUSE OF ACTION**

25 **Failure to Develop and Implement an Adequate**
26 **Monitoring and Reporting Program for the Novato Disposal Facility**
(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

27 207. Plaintiffs re-allege and incorporate all of the preceding paragraphs as if fully
28 set forth herein.

1 certification of compliance with the General Permit.

2 **VII. RELIEF REQUESTED**

3 Wherefore, Plaintiffs respectfully request that this Court grant the following relief:

4 a. Declare Defendants to have violated and to be in violation of the Act as
5 alleged herein;

6 b. Enjoin Defendants from discharging polluted storm water from the West
7 Sonoma facility, Redwood Empire facility, and Novato Disposal facility unless authorized
8 by the Permit;

9 c. Enjoin Defendants from further violating the substantive and procedural
10 requirements of the Permit;

11 d. Order Defendants to immediately implement storm water pollution control
12 and treatment technologies and measures that are equivalent to BAT or BCT and prevent
13 pollutants in the three facilities' storm water from contributing to violations of any water
14 quality standards;

15 e. Order Defendants to comply with the Permit's monitoring and reporting
16 requirements, including ordering supplemental monitoring to compensate for past monitoring
17 violations;

18 f. Order Defendants to prepare SWPPPs consistent with the Permit's
19 requirements and implement procedures to regularly review and update the SWPPPs;

20 g. Order Defendants to provide Plaintiffs with reports documenting the quality
21 and quantity of their discharges to waters of the United States and their efforts to comply with
22 the Act and the Court's orders;

23 h. Order Defendants to pay civil penalties of \$32,500 per day per violation for
24 all violations occurring through January 12, 2009, and \$37,500 per day per violation for all
25 violations occurring after January 12, 2009, for each violation of the Act pursuant to Sections
26 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;

27 i. Order Defendants to take appropriate actions to restore the quality of waters
28 impaired or adversely affected by their activities;

EXHIBIT A



T 510.749.9102
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Alameda, Ca 94501

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michael@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

June 4, 2010

James Ratto, President
James Salyers, Vice-President
Rick Holiday, Operations Manager
West Sonoma County Disposal Service, Inc.
3417 Standish Avenue
Santa Rosa, CA 95407

James Ratto, President
James Salyers, Vice-President
Rick Holiday, Operations Manager
West Sonoma County Disposal Service, Inc.
P.O. Box 1916
Santa Rosa, CA 95402

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

Dear Mssrs. Ratto, Salyers, and Holiday:

I am writing on behalf of the California Sportfishing Protection Alliance (“CSPA”) and the Petaluma River Council (“PRC”) regarding violations of the Clean Water Act (“Act”) that CSPA and PRC believe are occurring at West Sonoma County Disposal Service, Inc., located at 3417 Standish Avenue in Santa Rosa, California (“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 Russian River, Laguna de Santa Rosa, and other California waters. PRC is an unincorporated organization of concerned citizens, residing in and around Petaluma, committed to protecting and improving the health and character of the Petaluma River, the Russian River, the Laguna de Santa Rosa, and other California waters and their surrounding environment. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as “WSCD”).

This letter addresses WSCD’s unlawful discharge of pollutants from the Facility into channels that flow into the Sonoma County Storm Drain System, which empties into Todd Creek, Todd Creek then joins the Laguna de Santa Rosa, which in turn flows into the Russian River, which drains into the Pacific Ocean. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA S000001, State Water Resources Control Board (“State Board”) Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter “General Permit”). The Waste Discharge Identification Number (“WDID”) for the Facility listed on documents submitted to the State Board is 149I012696. The

James Ratto, James Salyers, Rick Holiday
West Sonoma County Disposal Service, Inc.
June 4, 2010
Page 2 of 31

Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

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

As required by the Clean Water Act, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, CSPA and PRC hereby place WSCD on formal notice that, after the expiration of sixty days from the date of this Notice of Violation and Intent to Sue, CSPA and PRC intend to file suit in federal court against West Sonoma County Disposal, Inc.; James Ratto; James Salyers; Rick Holiday; plus any other responsible managers, directors, or operators, 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 Permit. These violations are described more extensively below.

I. Background.

On November 19, 1996, WSCD filed its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). WSCD certified that the Facility is classified under SIC code 5093 (“Processing, Reclaiming, and Wholesale Distribution of Scrap and Waste Materials”) and 5015 (“Motor Vehicle Parts, Used”). The Facility collects and discharges storm water from its approximately seven-and-a-half (7½) acre industrial site through at least three outfalls that flow into the Sonoma County Storm Drain System, which empties into Todd Creek, which then joins the Laguna de Santa Rosa, which in turn flows into the Russian River, which drains into the Pacific Ocean.

The California Regional Water Quality Control Board, North Coast Region (“Regional Board”) has identified beneficial uses of the North Coast region’s waters and established water quality standards for the region in the “Water Quality Control Plan for the North Coast Region,” generally referred to as the Basin Plan. See http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan.shtml. The beneficial uses of these waters include, among others, contact and non-contact recreation, fish migration, endangered and threatened species habitat, shellfish harvesting, and fish spawning. Basin Plan at 2-1.00 – 2-18.00. The non-contact recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 2-2.00. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Laguna de Santa Rosa, Russian River, and their tributaries for contact and non-contact water recreation.

The Basin Plan establishes numeric water quality objectives for specified pollutants for all inland surface waters of the region, including the Russian River and the Laguna de Santa Rosa. Basin Plan at 3-3.00, 3-9.00. The Basin Plan establishes a water quality objective for aluminum of 1.0 mg/L. *Id.* at 3-9.00. Likewise, the Basin Plan establishes a water quality objective for lead of 0.05 mg/L. *Id.* The EPA has adopted freshwater numeric water quality standards for zinc of 0.12 mg/L (Criteria Maximum Concentration – (“CMC”) and Criteria Continuous Concentration – (“CCC”)); for copper of 0.013 mg/L (CMC) and 0.009 mg/L (CCC); and for lead of 0.065 mg/L (CMC) and 0.0025 mg/L (CCC). 65 Fed.Reg. 31712 (May 18, 2000).

The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life.” Basin Plan at 3-4.00. The Basin Plan includes a narrative oil and grease standard which states that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.” *Id.* The Basin Plan provides that “[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* The Basin Plan provides that “[t]he suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.” *Id.* at 3-3.00. The Basin Plan establishes a pH standard for the Laguna de Santa Rose of not less than 6.5 and not more than 8.5. *Id.* at 3-8.00.

The EPA has published benchmark levels 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”). 65 Fed. Reg. 64767 (October 30, 2000). The following benchmarks have been established for pollutants discharged by WSCD: pH – 6.0-9.0 units; total suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L; aluminum – 0.75 mg/L; copper – 0.0636 mg/L; iron – 1.0 mg/L; lead – 0.0816 mg/L; zinc – 0.117 mg/L; and chemical oxygen demand (“COD”) – 120 mg/L. The State Water Quality Control Board also has proposed adding a benchmark level to the General Permit for specific conductance of 200 µmho/cm.

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit.

WSCD has violated and continues to violate the terms and conditions of the General Industrial Storm Water 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 or authorized non-storm water discharges 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.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

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 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. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility’s discharge monitoring locations.

WSCD has discharged and continues to discharge storm water with unacceptable levels of TSS, specific conductivity, oil and grease, aluminum, copper, iron, lead, zinc, COD, and possibly other pollutants in violation of the General Permit. WSCD’s sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water 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 contained concentrations of pollutants in excess of narrative and numeric water quality standards established in the Basin Plan or promulgated by EPA and thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit:

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
1/25/2010	Aluminum	27 mg/L	1.0 mg/L	SD1
1/25/2010	Aluminum	16 mg/L	1.0 mg/L	SD4

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
1/25/2010	Aluminum	32 mg/L	1.0 mg/L	SD5
1/25/2010	Lead	0.077 mg/L	0.05 mg/L	SD5
1/25/2010	Lead	0.077 mg/L	0.065 mg/L (CMC)	SD5
1/25/2010	Lead	0.077 mg/L	0.0025 mg/L (CCC)	SD5
1/25/2010	Zinc	0.29 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/25/2010	Zinc	0.39 mg/L	0.12 mg/L (CMC & CCC)	SD4
1/25/2010	Zinc	1.4 mg/L	0.12 mg/L (CMC & CCC)	SD5
1/21/2010	Aluminum	24 mg/L	1.0 mg/L	SD1
1/21/2010	Aluminum	9.7 mg/L	1.0 mg/L	SD4
1/21/2010	Aluminum	16 mg/L	1.0 mg/L	SD5
1/21/2010	Copper	0.1 mg/L	0.013 mg/L (CMC)	SD1
1/21/2010	Copper	0.1 mg/L	0.009 mg/L (CCC)	SD1
1/21/2010	Lead	0.078 mg/L	0.05 mg/L	SD1
1/21/2010	Lead	0.078 mg/L	0.065 mg/L (CMC)	SD1
1/21/2010	Lead	0.078 mg/L	0.0025 mg/L (CCC)	SD1
1/21/2010	Zinc	0.77 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/21/2010	Zinc	0.41 mg/L	0.12 mg/L (CMC & CCC)	SD4
1/21/2010	Zinc	0.37 mg/L	0.12 mg/L (CMC & CCC)	SD5
1/18/2010	Aluminum	21 mg/L	1.0 mg/L	SD1
1/18/2010	Aluminum	30 mg/L	1.0 mg/L	SD4
1/18/2010	Aluminum	14 mg/L	1.0 mg/L	SD5
1/18/2010	Copper	0.12 mg/L	0.013 mg/L (CMC)	SD4
1/18/2010	Copper	0.12 mg/L	0.009 mg/L (CCC)	SD4
1/18/2010	Lead	0.14 mg/L	0.05 mg/L	SD1
1/18/2010	Lead	0.14 mg/L	0.065 mg/L (CMC)	SD1
1/18/2010	Lead	0.14 mg/L	0.0025 mg/L (CCC)	SD1
1/18/2010	Lead	0.24 mg/L	0.05 mg/L	SD4
1/18/2010	Lead	0.24 mg/L	0.065 mg/L (CMC)	SD4
1/18/2010	Lead	0.24 mg/L	0.0025 mg/L (CCC)	SD4
1/18/2010	Lead	0.07 mg/L	0.05 mg/L	SD5
1/18/2010	Lead	0.07 mg/L	0.065 mg/L (CMC)	SD5
1/18/2010	Lead	0.07 mg/L	0.0025 mg/L (CCC)	SD5
1/18/2010	Zinc	0.69 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/18/2010	Zinc	2.6 mg/L	0.12 mg/L (CMC & CCC)	SD4
1/18/2010	Zinc	0.38 mg/L	0.12 mg/L (CMC & CCC)	SD5
11/20/2009	Aluminum	18 mg/L	1.0 mg/L	SD1
11/20/2009	Aluminum	31 mg/L	1.0 mg/L	SD4
11/20/2009	Aluminum	9.9 mg/L	1.0 mg/L	SD5
11/20/2009	Copper	0.1 mg/L	0.013 mg/L (CMC)	SD4

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
11/20/2009	Copper	0.1 mg/L	0.009 mg/L (CCC)	SD4
11/20/2009	Lead	0.11 mg/L	0.05 mg/L	SD1
11/20/2009	Lead	0.11 mg/L	0.065 mg/L (CMC)	SD1
11/20/2009	Lead	0.11 mg/L	0.0025 mg/L (CCC)	SD1
11/20/2009	Lead	0.13 mg/L	0.05 mg/L	SD4
11/20/2009	Lead	0.13 mg/L	0.065 mg/L (CMC)	SD4
11/20/2009	Lead	0.13 mg/L	0.0025 mg/L (CCC)	SD4
11/20/2009	Lead	0.11 mg/L	0.05 mg/L	SD5
11/20/2009	Lead	0.11 mg/L	0.065 mg/L (CMC)	SD5
11/20/2009	Lead	0.11 mg/L	0.0025 mg/L (CCC)	SD5
11/20/2009	Zinc	0.68 mg/L	0.12 mg/L (CMC & CCC)	SD1
11/20/2009	Zinc	1.2 mg/L	0.12 mg/L (CMC & CCC)	SD4
11/20/2009	Zinc	0.5 mg/L	0.12 mg/L (CMC & CCC)	SD5
2/6/2009	pH	9.16	6.5 – 8.5	SD4
2/6/2009	pH	9.49	6.5 – 8.5	SD5
2/6/2009	Aluminum	45 mg/L	1.0 mg/L	SD1
2/6/2009	Aluminum	22 mg/L	1.0 mg/L	SD4
2/6/2009	Aluminum	25 mg/L	1.0 mg/L	SD5
2/6/2009	Copper	0.21 mg/L	0.013 mg/L (CMC)	SD1
2/6/2009	Copper	0.21 mg/L	0.009 mg/L (CCC)	SD1
2/6/2009	Copper	0.16 mg/L	0.013 mg/L (CMC)	SD4
2/6/2009	Copper	0.16 mg/L	0.009 mg/L (CCC)	SD4
2/6/2009	Copper	0.11 mg/L	0.013 mg/L (CMC)	SD5
2/6/2009	Copper	0.11 mg/L	0.009 mg/L (CCC)	SD5
2/6/2009	Lead	0.24 mg/L	0.05 mg/L	SD1
2/6/2009	Lead	0.24 mg/L	0.065 mg/L (CMC)	SD1
2/6/2009	Lead	0.24 mg/L	0.0025 mg/L (CCC)	SD1
2/6/2009	Lead	0.11 mg/L	0.05 mg/L	SD4
2/6/2009	Lead	0.11 mg/L	0.065 mg/L (CMC)	SD4
2/6/2009	Lead	0.11 mg/L	0.0025 mg/L (CCC)	SD4
2/6/2009	Lead	0.15 mg/L	0.05 mg/L	SD5
2/6/2009	Lead	0.15 mg/L	0.065 mg/L (CMC)	SD5
2/6/2009	Lead	0.15 mg/L	0.0025 mg/L (CCC)	SD5
2/6/2009	Zinc	1.2 mg/L	0.12 mg/L (CMC & CCC)	SD1
2/6/2009	Zinc	0.92 mg/L	0.12 mg/L (CMC & CCC)	SD4
2/6/2009	Zinc	0.87 mg/L	0.12 mg/L (CMC & CCC)	SD5
1/22/2009	Oil & Grease Sheen Observed		Narrative – no sheen	SD1
11/3/2008	pH	8.56	6.5 – 8.5	SD4

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
11/3/2008	Aluminum	7.6 mg/L	1.0 mg/L	SD1
11/3/2008	Aluminum	17 mg/L	1.0 mg/L	SD4
11/3/2008	Aluminum	16 mg/L	1.0 mg/L	SD5
11/3/2008	Lead	0.08 mg/L	0.05 mg/L	SD1
11/3/2008	Lead	0.08 mg/L	0.065 mg/L (CMC)	SD1
11/3/2008	Lead	0.08 mg/L	0.0025 mg/L (CCC)	SD1
11/3/2008	Lead	0.072 mg/L	0.05 mg/L	SD4
11/3/2008	Lead	0.072 mg/L	0.065 mg/L (CMC)	SD4
11/3/2008	Lead	0.072 mg/L	0.0025 mg/L (CCC)	SD4
11/3/2008	Lead	0.06 mg/L	0.05 mg/L	SD5
11/3/2008	Lead	0.06 mg/L	0.0025 mg/L (CCC)	SD5
11/3/2008	Zinc	1.0 mg/L	0.12 mg/L (CMC & CCC)	SD1
11/3/2008	Zinc	0.47 mg/L	0.12 mg/L (CMC & CCC)	SD4
11/3/2008	Zinc	0.59 mg/L	0.12 mg/L (CMC & CCC)	SD5
11/3/2008	Oil & Grease Sheen Observed		Narrative – no sheen	SD4
4/23/2008	Aluminum	34 mg/L	1.0 mg/L	SD1
4/23/2008	Aluminum	70 mg/L	1.0 mg/L	SD4
4/23/2008	Copper	0.14 mg/L	0.013 mg/L (CMC)	SD1
4/23/2008	Copper	0.14 mg/L	0.009 mg/L (CCC)	SD1
4/23/2008	Copper	0.22 mg/L	0.013 mg/L (CMC)	SD4
4/23/2008	Copper	0.22 mg/L	0.009 mg/L (CCC)	SD4
4/23/2008	Lead	0.18 mg/L	0.05 mg/L	SD1
4/23/2008	Lead	0.18 mg/L	0.065 mg/L (CMC)	SD1
4/23/2008	Lead	0.18 mg/L	0.0025 mg/L (CCC)	SD1
4/23/2008	Lead	0.21 mg/L	0.05 mg/L	SD4
4/23/2008	Lead	0.21 mg/L	0.065 mg/L (CMC)	SD4
4/23/2008	Lead	0.21 mg/L	0.0025 mg/L (CCC)	SD4
4/23/2008	Zinc	0.93 mg/L	0.12 mg/L (CMC & CCC)	SD1
4/23/2008	Zinc	1.1 mg/L	0.12 mg/L (CMC & CCC)	SD4
2/18/2008	Oil & Grease Sheen Observed		Narrative – no sheen	Side Loader Parking Area
2/18/2008	Sediment Observed		Narrative	Side Loader Parking Area
1/25/2008	Aluminum	16 mg/L	1.0 mg/L	SD1
1/25/2008	Aluminum	40 mg/L	1.0 mg/L	SD4
1/25/2008	Copper	0.061 mg/L	0.013 mg/L (CMC)	SD1
1/25/2008	Copper	0.061 mg/L	0.009 mg/L (CCC)	SD1
1/25/2008	Copper	0.12 mg/L	0.013 mg/L (CMC)	SD4

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
1/25/2008	Copper	0.12 mg/L	0.009 mg/L (CCC)	SD4
1/25/2008	Lead	0.092 mg/L	0.05 mg/L	SD1
1/25/2008	Lead	0.092 mg/L	0.065 mg/L (CMC)	SD1
1/25/2008	Lead	0.092 mg/L	0.0025 mg/L (CCC)	SD1
1/25/2008	Lead	0.17 mg/L	0.05 mg/L	SD4
1/25/2008	Lead	0.17 mg/L	0.065 mg/L (CMC)	SD4
1/25/2008	Lead	0.17 mg/L	0.0025 mg/L (CCC)	SD4
1/25/2008	Zinc	0.49 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/25/2008	Zinc	0.86 mg/L	0.12 mg/L (CMC & CCC)	SD4
1/4/2008	Aluminum	11 mg/L	1.0 mg/L	SD1
1/4/2008	Aluminum	22 mg/L	1.0 mg/L	SD4
1/4/2008	Aluminum	81 mg/L	1.0 mg/L	SD5
1/4/2008	Copper	0.1 mg/L	0.013 mg/L (CMC)	SD4
1/4/2008	Copper	0.1 mg/L	0.009 mg/L (CCC)	SD4
1/4/2008	Copper	0.16 mg/L	0.013 mg/L (CMC)	SD5
1/4/2008	Copper	0.16 mg/L	0.009 mg/L (CCC)	SD5
1/4/2008	Lead	0.056 mg/L	0.05 mg/L	SD1
1/4/2008	Lead	0.056 mg/L	0.0025 mg/L (CCC)	SD1
1/4/2008	Lead	0.14 mg/L	0.05 mg/L	SD4
1/4/2008	Lead	0.14 mg/L	0.065 mg/L (CMC)	SD4
1/4/2008	Lead	0.14 mg/L	0.0025 mg/L (CCC)	SD4
1/4/2008	Lead	0.11 mg/L	0.05 mg/L	SD5
1/4/2008	Lead	0.11 mg/L	0.065 mg/L (CMC)	SD5
1/4/2008	Lead	0.11 mg/L	0.0025 mg/L (CCC)	SD5
1/4/2008	Zinc	0.29 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/4/2008	Zinc	0.9 mg/L	0.12 mg/L (CMC & CCC)	SD4
1/4/2008	Zinc	0.77 mg/L	0.12 mg/L (CMC & CCC)	SD5
12/6/2007	Aluminum	120 mg/L	1.0 mg/L	SD1
12/6/2007	Aluminum	700 mg/L	1.0 mg/L	SD4
12/6/2007	Aluminum	50 mg/L	1.0 mg/L	SD5
12/6/2007	Copper	0.4 mg/L	0.013 mg/L (CMC)	SD1
12/6/2007	Copper	0.4 mg/L	0.009 mg/L (CCC)	SD1
12/6/2007	Copper	1.7 mg/L	0.013 mg/L (CMC)	SD4
12/6/2007	Copper	1.7 mg/L	0.009 mg/L (CCC)	SD4
12/6/2007	Copper	0.19 mg/L	0.013 mg/L (CMC)	SD5
12/6/2007	Copper	0.19 mg/L	0.009 mg/L (CCC)	SD5
12/6/2007	Lead	0.49 mg/L	0.05 mg/L	SD1
12/6/2007	Lead	0.49 mg/L	0.065 mg/L (CMC)	SD1
12/6/2007	Lead	0.49 mg/L	0.0025 mg/L (CCC)	SD1

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
12/6/2007	Lead	1.3 mg/L	0.05 mg/L	SD4
12/6/2007	Lead	1.3 mg/L	0.065 mg/L (CMC)	SD4
12/6/2007	Lead	1.3 mg/L	0.0025 mg/L (CCC)	SD4
12/6/2007	Lead	0.27 mg/L	0.05 mg/L	SD5
12/6/2007	Lead	0.27 mg/L	0.065 mg/L (CMC)	SD5
12/6/2007	Lead	0.27 mg/L	0.0025 mg/L (CCC)	SD5
12/6/2007	Zinc	2.6 mg/L	0.12 mg/L (CMC & CCC)	SD1
12/6/2007	Zinc	7.8 mg/L	0.12 mg/L (CMC & CCC)	SD4
12/6/2007	Zinc	3.7 mg/L	0.12 mg/L (CMC & CCC)	SD5
10/12/2007	pH	8.66	6.5 – 8.5	SD1
10/12/2007	Aluminum	39 mg/L	1.0 mg/L	SD1
10/12/2007	Aluminum	94 mg/L	1.0 mg/L	SD4
10/12/2007	Copper	0.22 mg/L	0.013 mg/L (CMC)	SD1
10/12/2007	Copper	0.22 mg/L	0.009 mg/L (CCC)	SD1
10/12/2007	Copper	0.033 mg/L	0.013 mg/L (CMC)	SD4
10/12/2007	Copper	0.033 mg/L	0.009 mg/L (CCC)	SD4
10/12/2007	Lead	0.28 mg/L	0.05 mg/L	SD1
10/12/2007	Lead	0.28 mg/L	0.065 mg/L (CMC)	SD1
10/12/2007	Lead	0.28 mg/L	0.0025 mg/L (CCC)	SD1
10/12/2007	Lead	0.35 mg/L	0.05 mg/L	SD4
10/12/2007	Lead	0.35 mg/L	0.065 mg/L (CMC)	SD4
10/12/2007	Lead	0.35 mg/L	0.0025 mg/L (CCC)	SD4
10/12/2007	Zinc	2.5 mg/L	0.12 mg/L (CMC & CCC)	SD1
10/12/2007	Zinc	2.6 mg/L	0.12 mg/L (CMC & CCC)	SD4
10/12/2007	Zinc	0.14 mg/L	0.12 mg/L (CMC & CCC)	SD5
4/23/2007	Copper	1.7 mg/L	0.013 mg/L (CMC)	SD1
4/23/2007	Copper	1.7 mg/L	0.009 mg/L (CCC)	SD1
4/23/2007	Lead	0.064 mg/L	0.05 mg/L	SD1
4/23/2007	Lead	0.064 mg/L	0.0025 mg/L (CCC)	SD1
4/23/2007	Zinc	1.8 mg/L	0.12 mg/L (CMC & CCC)	SD1
2/26/2007	Aluminum	27 mg/L	1.0 mg/L	MP1
2/26/2007	Aluminum	19 mg/L	1.0 mg/L	MP2
2/26/2007	Aluminum	21 mg/L	1.0 mg/L	MP4
2/26/2007	Copper	0.11 mg/L	0.013 mg/L (CMC)	MP1
2/26/2007	Copper	0.11 mg/L	0.009 mg/L (CCC)	MP1
2/26/2007	Copper	0.1 mg/L	0.013 mg/L (CMC)	MP2
2/26/2007	Copper	0.1 mg/L	0.009 mg/L (CCC)	MP2
2/26/2007	Copper	0.11 mg/L	0.013 mg/L (CMC)	MP4
2/26/2007	Copper	0.11 mg/L	0.009 mg/L (CCC)	MP4

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
2/26/2007	Lead	0.33 mg/L	0.05 mg/L	MP1
2/26/2007	Lead	0.33 mg/L	0.065 mg/L (CMC)	MP1
2/26/2007	Lead	0.33 mg/L	0.0025 mg/L (CCC)	MP1
2/26/2007	Lead	0.28 mg/L	0.05 mg/L	MP2
2/26/2007	Lead	0.28 mg/L	0.065 mg/L (CMC)	MP2
2/26/2007	Lead	0.28 mg/L	0.0025 mg/L (CCC)	MP2
2/26/2007	Lead	0.21 mg/L	0.05 mg/L	MP4
2/26/2007	Lead	0.21 mg/L	0.065 mg/L (CMC)	MP4
2/26/2007	Lead	0.21 mg/L	0.0025 mg/L (CCC)	MP4
2/26/2007	Zinc	1.0 mg/L	0.12 mg/L (CMC & CCC)	MP1
2/26/2007	Zinc	0.92 mg/L	0.12 mg/L (CMC & CCC)	MP2
2/26/2007	Zinc	1.3 mg/L	0.12 mg/L (CMC & CCC)	MP4
11/13/2006	pH	9.7	6.5 – 8.5	SD1
11/13/2006	Aluminum	29 mg/L	1.0 mg/L	SD1
11/13/2006	Aluminum	9.2 mg/L	1.0 mg/L	SD4
11/13/2006	Copper	0.13 mg/L	0.013 mg/L (CMC)	SD1
11/13/2006	Copper	0.13 mg/L	0.009 mg/L (CCC)	SD1
11/13/2006	Lead	0.14 mg/L	0.05 mg/L	SD1
11/13/2006	Lead	0.14 mg/L	0.065 mg/L (CMC)	SD1
11/13/2006	Lead	0.14 mg/L	0.0025 mg/L (CCC)	SD1
11/13/2006	Zinc	1.1 mg/L	0.12 mg/L (CMC & CCC)	SD1
11/13/2006	Zinc	0.35 mg/L	0.12 mg/L (CMC & CCC)	SD4
10/4/2006	Oil & Grease Sheen Observed		Narrative – no sheen	Parking Area
10/4/2006	Sediment Observed		Narrative	Parking Area
2/27/2006	Aluminum	3.6 mg/L	1.0 mg/L	MP1
2/27/2006	Aluminum	3.2 mg/L	1.0 mg/L	MP2
2/27/2006	Aluminum	3.0 mg/L	1.0 mg/L	MP3
2/27/2006	Aluminum	5.6 mg/L	1.0 mg/L	SD1
2/27/2006	Zinc	0.43 mg/L	0.12 mg/L (CMC & CCC)	MP1
2/27/2006	Zinc	0.38 mg/L	0.12 mg/L (CMC & CCC)	MP2
2/27/2006	Zinc	0.33 mg/L	0.12 mg/L (CMC & CCC)	MP3
2/27/2006	Zinc	0.21 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/30/2006	Aluminum	17 mg/L	1.0 mg/L	MP1
1/30/2006	Aluminum	19 mg/L	1.0 mg/L	MP3
1/30/2006	Aluminum	17 mg/L	1.0 mg/L	SD1
1/30/2006	Lead	0.078 mg/L	0.05 mg/L	MP1
1/30/2006	Lead	0.078 mg/L	0.065 mg/L (CMC)	MP1

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
1/30/2006	Lead	0.078 mg/L	0.0025 mg/L (CCC)	MP1
1/30/2006	Lead	0.13 mg/L	0.05 mg/L	MP3
1/30/2006	Lead	0.13 mg/L	0.065 mg/L (CMC)	MP3
1/30/2006	Lead	0.13 mg/L	0.0025 mg/L (CCC)	MP3
1/30/2006	Lead	0.087 mg/L	0.05 mg/L	SD1
1/30/2006	Lead	0.087 mg/L	0.065 mg/L (CMC)	SD1
1/30/2006	Lead	0.087 mg/L	0.0025 mg/L (CCC)	SD1
1/30/2006	Zinc	0.51 mg/L	0.12 mg/L (CMC & CCC)	MP1
1/30/2006	Zinc	0.81 mg/L	0.12 mg/L (CMC & CCC)	MP3
1/30/2006	Zinc	0.54 mg/L	0.12 mg/L (CMC & CCC)	SD1
1/3/2006	Aluminum	8.4 mg/L	1.0 mg/L	MP1
1/3/2006	Aluminum	52 mg/L	1.0 mg/L	MP2
1/3/2006	Copper	0.13 mg/L	0.013 mg/L (CMC)	MP2
1/3/2006	Copper	0.13 mg/L	0.009 mg/L (CCC)	MP2
1/3/2006	Zinc	0.72 mg/L	0.12 mg/L (CMC & CCC)	MP1
1/3/2006	Zinc	0.5 mg/L	0.12 mg/L (CMC & CCC)	MP2

The information in the above table reflects data gathered from WSCD's self-monitoring during the 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010 rainy seasons. CSPA and PRC allege that during the each of those rainy seasons and continuing through today, WSCD has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- Aluminum – 1 mg/L
- Lead – 0.05 mg/L
- Lead – 0.065 mg/L (CMC)
- Lead – 0.0025 mg/L (CCC or 4-day average)
- Zinc – 0.12 mg/L (CMC and CCC)
- Copper – 0.013 mg/L (CMC)
- Copper – 0.009 mg/L (CCC or 4-day average)
- Oil & Grease – no sheen
- pH – not less than 6.5 or greater than 8.5

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) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit:

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
1/25/2010	TSS	560 mg/L	100 mg/L	SD1
1/25/2010	TSS	460 mg/L	100 mg/L	SD4
1/25/2010	TSS	560 mg/L	100 mg/L	SD5
1/25/2010	Aluminum	27 mg/L	0.75 mg/L	SD1
1/25/2010	Aluminum	16 mg/L	0.75 mg/L	SD4
1/25/2010	Aluminum	32 mg/L	0.75 mg/L	SD5
1/25/2010	Iron	29 mg/L	1.0 mg/L	SD1
1/25/2010	Iron	16 mg/L	1.0 mg/L	SD4
1/25/2010	Iron	36 mg/L	1.0 mg/L	SD5
1/25/2010	Zinc	0.29 mg/L	0.117 mg/L	SD1
1/25/2010	Zinc	0.39 mg/L	0.117 mg/L	SD4
1/25/2010	Zinc	1.4 mg/L	0.117 mg/L	SD5
1/25/2010	COD	180 mg/L	120 mg/L	SD1
1/25/2010	COD	180 mg/L	120 mg/L	SD4
1/25/2010	COD	220 mg/L	120 mg/L	SD5
1/21/2010	TSS	570 mg/L	100 mg/L	SD1
1/21/2010	TSS	240 mg/L	100 mg/L	SD4
1/21/2010	Oil & Grease	110 mg/L	15 mg/L	SD5
1/21/2010	Aluminum	24 mg/L	0.75 mg/L	SD1
1/21/2010	Aluminum	9.7 mg/L	0.75 mg/L	SD4
1/21/2010	Aluminum	16 mg/L	0.75 mg/L	SD5
1/21/2010	Copper	0.1 mg/L	0.0636 mg/L	SD1
1/21/2010	Iron	30 mg/L	1.0 mg/L	SD1
1/21/2010	Iron	13 mg/L	1.0 mg/L	SD4
1/21/2010	Iron	22 mg/L	1.0 mg/L	SD5
1/21/2010	Zinc	0.77 mg/L	0.117 mg/L	SD1
1/21/2010	Zinc	0.41 mg/L	0.117 mg/L	SD4
1/21/2010	Zinc	0.37 mg/L	0.117 mg/L	SD5
1/21/2010	COD	150 mg/L	120 mg/L	SD4
1/21/2010	COD	550 mg/L	120 mg/L	SD5
1/18/2010	TSS	1800 mg/L	100 mg/L	SD1
1/18/2010	TSS	2100 mg/L	100 mg/L	SD4
1/18/2010	TSS	930 mg/L	100 mg/L	SD5
1/18/2010	Oil & Grease	22 mg/L	15 mg/L	SD1
1/18/2010	Oil & Grease	140 mg/L	15 mg/L	SD4
1/18/2010	Aluminum	21 mg/L	0.75 mg/L	SD1
1/18/2010	Aluminum	30 mg/L	0.75 mg/L	SD4
1/18/2010	Aluminum	14 mg/L	0.75 mg/L	SD5

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
1/18/2010	Copper	0.12 mg/L	0.0636 mg/L	SD4
1/18/2010	Iron	32 mg/L	1.0 mg/L	SD1
1/18/2010	Iron	49 mg/L	1.0 mg/L	SD4
1/18/2010	Iron	19 mg/L	1.0 mg/L	SD5
1/18/2010	Lead	0.14 mg/L	0.0816 mg/L	SD1
1/18/2010	Lead	0.24 mg/L	0.0816 mg/L	SD4
1/18/2010	Zinc	0.69 mg/L	0.117 mg/L	SD1
1/18/2010	Zinc	2.6 mg/L	0.117 mg/L	SD4
1/18/2010	Zinc	0.38 mg/L	0.117 mg/L	SD5
11/20/2009	TSS	530 mg/L	100 mg/L	SD1
11/20/2009	TSS	380 mg/L	100 mg/L	SD4
11/20/2009	TSS	640 mg/L	100 mg/L	SD5
11/20/2009	Oil & Grease	37 mg/L	15 mg/L	SD1
11/20/2009	Aluminum	18 mg/L	0.75 mg/L	SD1
11/20/2009	Aluminum	31 mg/L	0.75 mg/L	SD4
11/20/2009	Aluminum	9.9 mg/L	0.75 mg/L	SD5
11/20/2009	Copper	0.11 mg/L	0.0636 mg/L	SD4
11/20/2009	Iron	23 mg/L	1.0 mg/L	SD1
11/20/2009	Iron	39 mg/L	1.0 mg/L	SD4
11/20/2009	Iron	13 mg/L	1.0 mg/L	SD5
11/20/2009	Lead	0.11 mg/L	0.0816 mg/L	SD1
11/20/2009	Lead	0.13 mg/L	0.0816 mg/L	SD4
11/20/2009	Lead	0.11 mg/L	0.0816 mg/L	SD5
11/20/2009	Zinc	0.68 mg/L	0.117 mg/L	SD1
11/20/2009	Zinc	1.2 mg/L	0.117 mg/L	SD4
11/20/2009	Zinc	0.5 mg/L	0.117 mg/L	SD5
11/20/2009	COD	370 mg/L	120 mg/L	SD5
2/6/2009	pH	9.16	6.0 – 9.0	SD4
2/6/2009	pH	9.49	6.0 – 9.0	SD5
2/6/2009	TSS	1000 mg/L	100 mg/L	SD1
2/6/2009	TSS	2000 mg/L	100 mg/L	SD4
2/6/2009	TSS	1100 mg/L	100 mg/L	SD5
2/6/2009	Specific Conductivity	596 µmho/cm	200 µmho/cm (proposed)	SD5
2/6/2009	Oil & Grease	49 mg/L	15 mg/L	SD5
2/6/2009	Aluminum	45 mg/L	0.75 mg/L	SD1
2/6/2009	Aluminum	22 mg/L	0.75 mg/L	SD4
2/6/2009	Aluminum	25 mg/L	0.75 mg/L	SD5
2/6/2009	Copper	0.21 mg/L	0.0636 mg/L	SD1

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
2/6/2009	Copper	0.16 mg/L	0.0636 mg/L	SD4
2/6/2009	Copper	0.11 mg/L	0.0636 mg/L	SD5
2/6/2009	Iron	64 mg/L	1.0 mg/L	SD1
2/6/2009	Iron	28 mg/L	1.0 mg/L	SD4
2/6/2009	Iron	32 mg/L	1.0 mg/L	SD5
2/6/2009	Lead	0.24 mg/L	0.0816 mg/L	SD1
2/6/2009	Lead	0.11 mg/L	0.0816 mg/L	SD4
2/6/2009	Lead	0.15 mg/L	0.0816 mg/L	SD5
2/6/2009	Zinc	1.2 mg/L	0.117 mg/L	SD1
2/6/2009	Zinc	0.92 mg/L	0.117 mg/L	SD4
2/6/2009	Zinc	0.87 mg/L	0.117 mg/L	SD5
2/6/2009	COD	690 mg/L	120 mg/L	SD1
2/6/2009	COD	900 mg/L	120 mg/L	SD4
2/6/2009	COD	470 mg/L	120 mg/L	SD5
11/3/2008	TSS	340 mg/L	100 mg/L	SD1
11/3/2008	TSS	830 mg/L	100 mg/L	SD4
11/3/2008	TSS	590 mg/L	100 mg/L	SD5
11/3/2008	Oil & Grease	40 mg/L	15 mg/L	SD1
11/3/2008	Aluminum	7.6 mg/L	0.75 mg/L	SD1
11/3/2008	Aluminum	17 mg/L	0.75 mg/L	SD4
11/3/2008	Aluminum	16 mg/L	0.75 mg/L	SD5
11/3/2008	Iron	9.4 mg/L	1.0 mg/L	SD1
11/3/2008	Iron	23 mg/L	1.0 mg/L	SD4
11/3/2008	Iron	23 mg/L	1.0 mg/L	SD5
11/3/2008	Zinc	1.0 mg/L	0.117 mg/L	SD1
11/3/2008	Zinc	0.47 mg/L	0.117 mg/L	SD4
11/3/2008	Zinc	0.59 mg/L	0.117 mg/L	SD5
11/3/2008	COD	390 mg/L	120 mg/L	SD1
11/3/2008	COD	360 mg/L	120 mg/L	SD4
11/3/2008	COD	490 mg/L	120 mg/L	SD5
4/23/2008	TSS	1200 mg/L	100 mg/L	SD1
4/23/2008	TSS	4700 mg/L	100 mg/L	SD4
4/23/2008	Specific Conductivity	878 µmho/cm	200 µmho/cm (proposed)	SD1
4/23/2008	Specific Conductivity	1000 µmho/cm	200 µmho/cm (proposed)	SD4
4/23/2008	Aluminum	34 mg/L	0.75 mg/L	SD1
4/23/2008	Aluminum	70 mg/L	0.75 mg/L	SD4
4/23/2008	Copper	0.14 mg/L	0.0636 mg/L	SD1

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
4/23/2008	Copper	0.22 mg/L	0.0636 mg/L	SD4
4/23/2008	Iron	54 mg/L	1.0 mg/L	SD1
4/23/2008	Iron	98 mg/L	1.0 mg/L	SD4
4/23/2008	Lead	0.18 mg/L	0.0816 mg/L	SD1
4/23/2008	Lead	0.21 mg/L	0.0816 mg/L	SD4
4/23/2008	Zinc	0.93 mg/L	0.117 mg/L	SD1
4/23/2008	Zinc	1.1 mg/L	0.117 mg/L	SD4
4/23/2008	COD	760 mg/L	120 mg/L	SD1
4/23/2008	COD	1700 mg/L	120 mg/L	SD4
1/25/2008	TSS	690 mg/L	100 mg/L	SD1
1/25/2008	TSS	1500 mg/L	100 mg/L	SD4
1/25/2008	Oil & Grease	18 mg/L	15 mg/L	SD1
1/25/2008	Aluminum	16 mg/L	0.75 mg/L	SD1
1/25/2008	Aluminum	40 mg/L	0.75 mg/L	SD4
1/25/2008	Copper	0.12 mg/L	0.0636 mg/L	SD4
1/25/2008	Iron	28 mg/L	1.0 mg/L	SD1
1/25/2008	Iron	80 mg/L	1.0 mg/L	SD4
1/25/2008	Lead	0.092 mg/L	0.0816 mg/L	SD1
1/25/2008	Lead	0.17 mg/L	0.0816 mg/L	SD4
1/25/2008	Zinc	0.49 mg/L	0.117 mg/L	SD1
1/25/2008	Zinc	0.86 mg/L	0.117 mg/L	SD4
1/25/2008	COD	240 mg/L	120 mg/L	SD4
1/4/2008	TSS	230 mg/L	100 mg/L	SD1
1/4/2008	TSS	860 mg/L	100 mg/L	SD4
1/4/2008	TSS	2300 mg/L	100 mg/L	SD5
1/4/2008	Aluminum	11 mg/L	0.75 mg/L	SD1
1/4/2008	Aluminum	22 mg/L	0.75 mg/L	SD4
1/4/2008	Aluminum	81 mg/L	0.75 mg/L	SD5
1/4/2008	Copper	0.1 mg/L	0.0636 mg/L	SD4
1/4/2008	Copper	0.16 mg/L	0.0636 mg/L	SD5
1/4/2008	Iron	14 mg/L	1.0 mg/L	SD1
1/4/2008	Iron	35 mg/L	1.0 mg/L	SD4
1/4/2008	Iron	120 mg/L	1.0 mg/L	SD5
1/4/2008	Lead	0.14 mg/L	0.0816 mg/L	SD4
1/4/2008	Lead	0.11 mg/L	0.0816 mg/L	SD5
1/4/2008	Zinc	0.29 mg/L	0.117 mg/L	SD1
1/4/2008	Zinc	0.9 mg/L	0.117 mg/L	SD4
1/4/2008	Zinc	0.77 mg/L	0.117 mg/L	SD5
1/4/2008	COD	170 mg/L	120 mg/L	SD1

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
1/4/2008	COD	580 mg/L	120 mg/L	SD4
1/4/2008	COD	180 mg/L	120 mg/L	SD5
12/6/2007	TSS	6600 mg/L	100 mg/L	SD1
12/6/2007	TSS	5800 mg/L	100 mg/L	SD4
12/6/2007	TSS	470 mg/L	100 mg/L	SD5
12/6/2007	Oil & Grease	25 mg/L	15 mg/L	SD4
12/6/2007	Aluminum	120 mg/L	0.75 mg/L	SD1
12/6/2007	Aluminum	700 mg/L	0.75 mg/L	SD4
12/6/2007	Aluminum	50 mg/L	0.75 mg/L	SD5
12/6/2007	Copper	0.4 mg/L	0.0636 mg/L	SD1
12/6/2007	Copper	1.7 mg/L	0.0636 mg/L	SD4
12/6/2007	Copper	0.19 mg/L	0.0636 mg/L	SD5
12/6/2007	Iron	180 mg/L	1.0 mg/L	SD1
12/6/2007	Iron	1100 mg/L	1.0 mg/L	SD4
12/6/2007	Iron	77 mg/L	1.0 mg/L	SD5
12/6/2007	Lead	0.49 mg/L	0.0816 mg/L	SD1
12/6/2007	Lead	1.3 mg/L	0.0816 mg/L	SD4
12/6/2007	Lead	0.27 mg/L	0.0816 mg/L	SD5
12/6/2007	Zinc	2.6 mg/L	0.117 mg/L	SD1
12/6/2007	Zinc	7.8 mg/L	0.117 mg/L	SD4
12/6/2007	Zinc	3.7 mg/L	0.117 mg/L	SD5
12/6/2007	COD	170 mg/L	120 mg/L	SD1
12/6/2007	COD	520 mg/L	120 mg/L	SD4
12/6/2007	COD	260 mg/L	120 mg/L	SD5
10/12/2007	TSS	1000 mg/L	100 mg/L	SD1
10/12/2007	TSS	3600 mg/L	100 mg/L	SD4
10/12/2007	Oil & Grease	41 mg/L	15 mg/L	SD1
10/12/2007	Aluminum	39 mg/L	0.75 mg/L	SD1
10/12/2007	Aluminum	94 mg/L	0.75 mg/L	SD4
10/12/2007	Copper	0.22 mg/L	0.0636 mg/L	SD1
10/12/2007	Iron	87 mg/L	1.0 mg/L	SD1
10/12/2007	Iron	190 mg/L	1.0 mg/L	SD4
10/12/2007	Iron	1.1 mg/L	1.0 mg/L	US1
10/12/2007	Lead	0.28 mg/L	0.0816 mg/L	SD1
10/12/2007	Lead	0.35 mg/L	0.0816 mg/L	SD4
10/12/2007	Zinc	2.5 mg/L	0.117 mg/L	SD1
10/12/2007	Zinc	2.6 mg/L	0.117 mg/L	SD4
10/12/2007	Zinc	0.14 mg/L	0.117 mg/L	US1
10/12/2007	COD	260 mg/L	120 mg/L	SD4

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
4/23/2007	TSS	190 mg/L	100 mg/L	SD1
4/23/2007	Copper	1.7 mg/L	0.0636 mg/L	SD1
4/23/2007	Zinc	1.8 mg/L	0.117 mg/L	SD1
4/23/2007	COD	290 mg/L	120 mg/L	SD1
2/26/2007	TSS	1500 mg/L	100 mg/L	MP1
2/26/2007	TSS	2200 mg/L	100 mg/L	MP2
2/26/2007	TSS	1600 mg/L	100 mg/L	MP4
2/26/2007	Oil & Grease	16 mg/L	15 mg/L	MP2
2/26/2007	Aluminum	27 mg/L	0.75 mg/L	MP1
2/26/2007	Aluminum	19 mg/L	0.75 mg/L	MP2
2/26/2007	Aluminum	21 mg/L	0.75 mg/L	MP4
2/26/2007	Copper	0.11 mg/L	0.0636 mg/L	MP1
2/26/2007	Copper	0.1 mg/L	0.0636 mg/L	MP2
2/26/2007	Copper	0.11 mg/L	0.0636 mg/L	MP4
2/26/2007	Iron	60 mg/L	1.0 mg/L	MP1
2/26/2007	Iron	38 mg/L	1.0 mg/L	MP2
2/26/2007	Iron	50 mg/L	1.0 mg/L	MP4
2/26/2007	Lead	0.33 mg/L	0.0816 mg/L	MP1
2/26/2007	Lead	0.28 mg/L	0.0816 mg/L	MP2
2/26/2007	Lead	0.21 mg/L	0.0816 mg/L	MP4
2/26/2007	Zinc	1.0 mg/L	0.117 mg/L	MP1
2/26/2007	Zinc	0.92 mg/L	0.117 mg/L	MP2
2/26/2007	Zinc	1.3 mg/L	0.117 mg/L	MP4
2/26/2007	COD	410 mg/L	120 mg/L	MP1
2/26/2007	COD	820 mg/L	120 mg/L	MP2
2/26/2007	COD	610 mg/L	120 mg/L	MP4
11/13/2006	pH	9.7	6.0 – 9.0	SD1
11/13/2006	TSS	1300 mg/L	100 mg/L	SD1
11/13/2006	TSS	710 mg/L	100 mg/L	SD4
11/13/2006	Specific Conductivity	299 µmho/cm	200 µmho/cm (proposed)	SD1
11/13/2006	Oil & Grease	410 mg/L	15 mg/L	SD1
11/13/2006	Oil & Grease	21 mg/L	15 mg/L	SD4
11/13/2006	Aluminum	29 mg/L	0.75 mg/L	SD1
11/13/2006	Aluminum	9.2 mg/L	0.75 mg/L	SD4
11/13/2006	Copper	0.13 mg/L	0.0636 mg/L	SD1
11/13/2006	Iron	4.6 mg/L	1.0 mg/L	SD1
11/13/2006	Iron	12 mg/L	1.0 mg/L	SD4
11/13/2006	Lead	0.14 mg/L	0.0816 mg/L	SD1

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
11/13/2006	Zinc	1.1 mg/L	0.117 mg/L	SD1
11/13/2006	Zinc	0.35 mg/L	0.117 mg/L	SD4
11/13/2006	COD	1000 mg/L	120 mg/L	SD1
11/13/2006	COD	270 mg/L	120 mg/L	SD4
2/27/2006	TSS	130 mg/L	100 mg/L	MP1
2/27/2006	TSS	160 mg/L	100 mg/L	MP2
2/27/2006	TSS	110 mg/L	100 mg/L	MP3
2/27/2006	TSS	230 mg/L	100 mg/L	SD1
2/27/2006	Aluminum	3.6 mg/L	0.75 mg/L	MP1
2/27/2006	Aluminum	3.2 mg/L	0.75 mg/L	MP2
2/27/2006	Aluminum	3.0 mg/L	0.75 mg/L	MP3
2/27/2006	Aluminum	5.6 mg/L	0.75 mg/L	SD1
2/27/2006	Iron	7.0 mg/L	1.0 mg/L	MP1
2/27/2006	Iron	6.3 mg/L	1.0 mg/L	MP2
2/27/2006	Iron	6.0 mg/L	1.0 mg/L	MP3
2/27/2006	Iron	10 mg/L	1.0 mg/L	SD1
2/27/2006	Zinc	0.43 mg/L	0.117 mg/L	MP1
2/27/2006	Zinc	0.38 mg/L	0.117 mg/L	MP2
2/27/2006	Zinc	0.33 mg/L	0.117 mg/L	MP3
2/27/2006	Zinc	0.21 mg/L	0.117 mg/L	SD1
2/27/2006	COD	200 mg/L	120 mg/L	MP1
2/27/2006	COD	160 mg/L	120 mg/L	MP2
2/27/2006	COD	190 mg/L	120 mg/L	MP3
2/27/2006	COD	540 mg/L	120 mg/L	SD1
1/30/2006	TSS	640 mg/L	100 mg/L	MP1
1/30/2006	TSS	340 mg/L	100 mg/L	MP3
1/30/2006	TSS	300 mg/L	100 mg/L	SD1
1/30/2006	Aluminum	17 mg/L	0.75 mg/L	MP1
1/30/2006	Aluminum	19 mg/L	0.75 mg/L	MP3
1/30/2006	Aluminum	17 mg/L	0.75 mg/L	SD1
1/30/2006	Iron	24 mg/L	1.0 mg/L	MP1
1/30/2006	Iron	35 mg/L	1.0 mg/L	MP3
1/30/2006	Iron	26 mg/L	1.0 mg/L	SD1
1/30/2006	Lead	0.13 mg/L	0.0816 mg/L	MP3
1/30/2006	Lead	0.087 mg/L	0.0816 mg/L	SD1
1/30/2006	Zinc	0.51 mg/L	0.117 mg/L	MP1
1/30/2006	Zinc	0.81 mg/L	0.117 mg/L	MP3
1/30/2006	Zinc	0.54 mg/L	0.117 mg/L	SD1
1/3/2006	TSS	500 mg/L	100 mg/L	MP1

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
1/3/2006	TSS	130 mg/L	100 mg/L	MP2
1/3/2006	Oil & Grease	48 mg/L	15 mg/L	MP1
1/3/2006	Aluminum	8.4 mg/L	0.75 mg/L	MP1
1/3/2006	Aluminum	52 mg/L	0.75 mg/L	MP2
1/3/2006	Copper	0.13 mg/L	0.0636 mg/L	MP2
1/3/2006	Iron	13 mg/L	1.0 mg/L	MP1
1/3/2006	Iron	86 mg/L	1.0 mg/L	MP2
1/3/2006	Zinc	0.72 mg/L	0.117 mg/L	MP1
1/3/2006	Zinc	0.5 mg/L	0.117 mg/L	MP2
1/3/2006	COD	320 mg/L	120 mg/L	MP1
1/3/2006	COD	300 mg/L	120 mg/L	MP2

The information in the above table reflects data gathered from WSCD's self-monitoring during the 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010 rainy seasons. CSPA and PRC allege that during the each of those rainy seasons and continuing through today, WSCD has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- pH – 6.0 – 9.0
- Total Suspended Solids – 100 mg/L
- Oil & Grease – 15 mg/L
- Chemical Oxygen Demand – 120 mg/L
- Aluminum – 0.75 mg/L
- Zinc – 0.117 mg/L
- Iron – 1 mg/L
- Copper – 0.0636 mg/L
- Lead – 0.0816 mg/L

CSPA's and PRC's investigation, including their review of WSCD's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards, EPA's benchmark values, and the State Board's proposed benchmark for electrical conductivity, indicates that WSCD has not implemented BAT and BCT at the Facility for its discharges of TSS, pH, oil and grease, specific conductivity, aluminum, copper, iron, lead, zinc, COD, and other pollutants in violation of Effluent Limitation B(3) of the General Permit. WSCD was required to have implemented BAT and BCT by no later than November 19, 1996. Thus, WSCD is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the above numbers and observations indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water

Limitations C(1) and C(2) of the General Permit. CSPA and PRC also allege that such violations have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least June 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 and PRC allege that WSCD has discharged storm water containing impermissible levels of TSS, pH, oil and grease, specific conductivity, aluminum, copper, iron, lead, zinc, and COD in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants 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, WSCD is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

B. Failure to Sample and Analyze Storm Events and Mandatory Parameters

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). “Facility operators 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.” *Id.* “All storm water discharge locations shall be sampled.” *Id.* “Facility operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled.” *Id.* Collected samples must be analyzed for TSS, pH, specific conductance, and either TOC or O&G. *Id.* at Section B(5)(c)(i). On information and belief, CSPA and PRC allege that WSCD failed to sample a second storm event from discharge location SD5 during the 2007-2008 rainy season, and failed to sample a second storm event from one of its three discharge locations during the 2006-2007 rainy season for a total of two violations of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, WSCD is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

Additionally, on information and belief, CSPA’s and PRC’s review of WSCD’s monitoring data indicates that it failed to analyze for pH and specific conductance in the following samples taken on the following dates at the identified storm water discharge locations at the Facility:

Date	Pollutant Not Analyzed	Location (as identified by the Facility)
2/26/2007	pH	MP1
2/26/2007	pH	MP2
2/26/2007	pH	MP4
2/26/2007	Specific Conductance	MP1
2/26/2007	Specific Conductance	MP2
2/26/2007	Specific Conductance	MP4
11/13/2006	pH	SD4
11/13/2006	Specific Conductance	SD4

Each of the above listed failures to analyze for pH and specific conductance is a violation of General Permit, Section B(5)(c)(i). These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, WSCD is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Section A 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 General Permit 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 include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must 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)).

CSPA's and PRC's investigation of the conditions at the Facility as well as WSCD's Annual Reports indicates that WSCD has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. WSCD has failed to evaluate the effectiveness of its BMPs, to implement structural BMPs, and to revise its SWPPP as necessary. WSCD has failed to implement BAT and BCT at the facility. WSCD has been in continuous violation of Section A and Provision E(2) of the General Permit every day since at least June 4, 2005, and will continue to be in violation every day that WSCD fails to prepare, implement, review, and update an effective SWPPP. WSCD is subject to penalties for violations of the Order and the Act occurring since June 4, 2005.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(4)(c) requires visual observation records to note, among other things, the date of each monthly observation. Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event." WSCD failed to sample and analyze at least two storm water discharges from all storm water discharge locations as required by Section B(5) of the General Permit when it only took one sample from discharge location SD5 during the 2007-2008 rainy season and one from its third discharge location¹ during the 2006-2007 rainy season. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen

¹ During the 2006-2007 rainy season, WSCD sampled discharge locations SD1 and SD4 on 11/13/2006, and locations MP1, MP2, and MP4 on 2/26/2007. Though it is not clear how WSCD would identify the third discharge location that is missing from the 11/13/2006 sample, it is clear that three discharge locations should have been sampled even though only two were actually sampled.

enforcement actions brought pursuant to the federal Clean Water Act, WSCD is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

One of the objectives of Section B of the General Permit is to “[e]nsure that storm water discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in this General Permit.” (Section B(2)(a)). In order to meet that and other objectives, the General Permit requires analysis of storm water samples for parameters “dependent on the facility’s standard industrial classification (SIC) code.” (Section B(5)(c)(iii)). Facility operators must identify “the analytical methods and corresponding method detection limits used to detect pollutants in storm water discharges. This shall include justification that the method detection limits are adequate to satisfy the objectives of the monitoring program.” (Section B(10)(a)(iii)). WSCD, with SIC codes 5093 and 5015, is required to sample for, among other things, copper. (Table D, p. 43). As detailed above, water quality standards for copper are set at 0.013 mg/L (CMC) and 0.009 mg/L (CCC), and the benchmark level is 0.0636 mg/L. However, in many of WSCD’s samples, the threshold level for detecting copper was set at 0.1 mg/L, a number that exceeds all of the water quality standards and the benchmark. As a result, WSCD’s water samples could contain excess amounts of copper but fail to be detected in the analysis because the amount did not reach the sampling threshold. Samples analyzed by WSCD for copper did not reach the 0.1 mg/L threshold on the following dates:

Date	Location
1/25/2010	SD1
1/25/2010	SD4
1/25/2010	SD5
1/21/2010	SD4
1/21/2010	SD5
1/18/2010	SD1
1/18/2010	SD5
11/20/2009	SD1
11/20/2009	SD5
1/4/2008	SD1
10/12/2007	US1
11/13/2006	SD4
2/27/2006	MP1
2/27/2006	MP2
2/27/2006	MP3
2/27/2006	SD1
1/30/2006	MP1
1/30/2006	MP3
1/30/2006	SD1
1/3/2006	MP1

James Ratto, James Salyers, Rick Holiday
West Sonoma County Disposal Service, Inc.
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Each of the above listed failures to properly analyze water samples for copper is a violation of General Permit Section B(10)(a)(iii). These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, WSCD is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

The above referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by WSCD is not representative of the quality of the Facility's various storm water discharges, and/or WSCD failed to sample for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities" (Section B(5)(c)(ii)), CSPA and PRC, on information and belief, allege that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) 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, WSCD is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since June 4, 2005.

E. Failure to File True and Correct Annual Reports.

Section B(14) of the General Industrial Storm Water 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) & (10) and B(14).

In addition, since 2005, WSCD and its agents, Rick Holiday and James R. Salyers², inaccurately certified in their Annual Reports that the Facility was in compliance with the General Permit. Consequently, WSCD has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time WSCD failed to submit a complete or correct report and every time WSCD or its agents falsely purported to comply with the Act. WSCD is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since June 4, 2005.

² Rick Holiday, Operations Manager, certified the 2008-2009 Annual Report; James R. Salyers, Vice-President, certified the Annual Reports for 2006-2007, and 2007-2008.

IV. Persons Responsible for the Violations.

CSPA and PRC put WSCD, James Ratto, James Salyers, and Rick Holiday 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 and PRC put WSCD, James Ratto, James Salyers, and Rick Holiday on notice that they intend to include those persons in this action.

V. Name and Address of Noticing Parties.

The names, addresses and telephone numbers of CSPA and PRC are as follows:

Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067
Fax (209) 464-1028

David Keller
Petaluma River Council
1327 I Street
Petaluma, CA 94952
Tel. (707) 763-9336

VI. Counsel.

CSPA and PRC have retained our office to represent them in this matter. Please direct all communications to:

Michael R. Lozeau
Richard T. Drury
David A. Zizmor
Lozeau Drury LLP
1516 Oak Street, Suite 216
Alameda, California 94501
Tel. (510) 749-9102
michael@lozeaudrury.com
richard@lozeaudrury.com
david@lozeaudrury.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; 73 FR 75340) each separate violation of the Act subjects WSCD to a penalty of up to \$37,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA and PRC will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a))

James Ratto, James Salyers, Rick Holiday
West Sonoma County Disposal Service, Inc.
June 4, 2010
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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.

CSPA and PRC believe this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CSPA and PRC intend to file a citizen suit under Section 505(a) of the Act against WSCD and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA and PRC would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA and PRC 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. CSPA and PRC 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 "Michael R. Lozeau". The signature is fluid and cursive, with a large, stylized initial "M" and "L".

Michael R. Lozeau
Attorney for California Sportfishing Protection
Alliance and Petaluma River Council

SERVICE LIST

R. Richard Williams [Registered Agent]
703 2nd Street, Third Floor
Santa Rosa, CA 95404

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

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

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

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

Catherine Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

ATTACHMENT A

Rain Dates, West Sonoma County Disposal Services, Inc., Santa Rosa, California

June 8, 2005	January 26, 2006	April 9, 2006
June 9, 2005	January 27, 2006	April 10, 2006
June 16, 2005	January 28, 2006	April 11, 2006
June 17, 2005	January 29, 2006	April 12, 2006
June 18, 2005	January 30, 2006	April 13, 2006
August 20, 2005	February 1, 2006	April 14, 2006
October 15, 2005	February 2, 2006	April 15, 2006
October 25, 2005	February 4, 2006	April 16, 2006
October 26, 2005	February 17, 2006	April 17, 2006
October 28, 2005	February 18, 2006	May 19, 2006
October 29, 2005	February 26, 2006	May 20, 2006
November 4, 2005	February 27, 2006	May 21, 2006
November 6, 2005	February 28, 2006	May 22, 2006
November 7, 2005	March 1, 2006	May 23, 2006
November 8, 2005	March 2, 2006	May 24, 2006
November 9, 2005	March 3, 2006	June 12, 2006
November 25, 2005	March 4, 2006	June 15, 2006
November 28, 2005	March 5, 2006	July 29, 2006
November 29, 2005	March 6, 2006	October 5, 2006
December 1, 2005	March 7, 2006	October 16, 2006
December 2, 2005	March 10, 2006	November 2, 2006
December 7, 2005	March 11, 2006	November 3, 2006
December 17, 2005	March 12, 2006	November 8, 2006
December 18, 2005	March 13, 2006	November 11, 2006
December 19, 2005	March 14, 2006	November 13, 2006
December 20, 2005	March 15, 2006	November 14, 2006
December 21, 2005	March 16, 2006	November 16, 2006
December 22, 2005	March 17, 2006	November 17, 2006
December 23, 2005	March 18, 2006	November 22, 2006
December 25, 2005	March 20, 2006	November 23, 2006
December 26, 2005	March 24, 2006	November 26, 2006
December 27, 2005	March 25, 2006	November 27, 2006
December 28, 2005	March 26, 2006	December 9, 2006
December 30, 2005	March 27, 2006	December 10, 2006
December 31, 2005	March 28, 2006	December 11, 2006
January 1, 2006	March 29, 2006	December 12, 2006
January 2, 2006	March 30, 2006	December 13, 2006
January 3, 2006	March 31, 2006	December 14, 2006
January 4, 2006	April 1, 2006	December 15, 2006
January 7, 2006	April 2, 2006	December 21, 2006
January 11, 2006	April 3, 2006	December 22, 2006
January 14, 2006	April 4, 2006	December 26, 2006
January 18, 2006	April 5, 2006	December 27, 2006
January 19, 2006	April 7, 2006	January 4, 2007
January 21, 2006	April 8, 2006	January 17, 2007

ATTACHMENT A

Rain Dates, West Sonoma County Disposal Services, Inc., Santa Rosa, California

January 26, 2007	November 19, 2007	March 15, 2008
January 27, 2007	December 2, 2007	March 29, 2008
February 7, 2007	December 4, 2007	April 23, 2008
February 8, 2007	December 5, 2007	May 24, 2008
February 9, 2007	December 6, 2007	September 19, 2008
February 10, 2007	December 7, 2007	September 20, 2008
February 11, 2007	December 17, 2007	October 4, 2008
February 12, 2007	December 18, 2007	October 31, 2008
February 21, 2007	December 20, 2007	November 1, 2008
February 22, 2007	December 28, 2007	November 2, 2008
February 23, 2007	December 29, 2007	November 3, 2008
February 24, 2007	December 30, 2007	November 4, 2008
February 25, 2007	January 3, 2008	November 8, 2008
February 26, 2007	January 4, 2008	November 9, 2008
February 27, 2007	January 5, 2008	November 20, 2008
February 28, 2007	January 6, 2008	November 25, 2008
March 1, 2007	January 7, 2008	November 26, 2008
March 2, 2007	January 8, 2008	December 14, 2008
March 7, 2007	January 10, 2008	December 15, 2008
March 26, 2007	January 11, 2008	December 16, 2008
April 7, 2007	January 12, 2008	December 18, 2008
April 11, 2007	January 21, 2008	December 19, 2008
April 12, 2007	January 22, 2008	December 21, 2008
April 14, 2007	January 23, 2008	December 22, 2008
April 20, 2007	January 24, 2008	December 24, 2008
April 21, 2007	January 25, 2008	December 25, 2008
April 22, 2007	January 26, 2008	December 27, 2008
May 2, 2007	January 27, 2008	December 28, 2008
May 4, 2007	January 28, 2008	December 29, 2008
July 11, 2007	January 29, 2008	January 2, 2009
July 18, 2007	January 30, 2008	January 5, 2009
September 22, 2007	January 31, 2008	January 8, 2009
October 1, 2007	February 1, 2008	January 21, 2009
October 6, 2007	February 2, 2008	January 22, 2009
October 10, 2007	February 3, 2008	January 23, 2009
October 12, 2007	February 19, 2008	January 24, 2009
October 15, 2007	February 20, 2008	January 25, 2009
October 16, 2007	February 21, 2008	February 5, 2009
October 17, 2007	February 22, 2008	February 6, 2009
October 19, 2007	February 23, 2008	February 7, 2009
October 20, 2007	February 24, 2008	February 8, 2009
November 10, 2007	March 13, 2008	February 9, 2009
November 11, 2007	March 14, 2008	February 11, 2009

ATTACHMENT A

Rain Dates, West Sonoma County Disposal Services, Inc., Santa Rosa, California

February 13, 2009	December 2, 2009	February 16, 2010
February 14, 2009	December 6, 2009	February 17, 2010
February 15, 2009	December 7, 2009	February 23, 2010
February 16, 2009	December 10, 2009	February 24, 2010
February 17, 2009	December 11, 2009	February 25, 2010
February 18, 2009	December 12, 2009	February 26, 2010
February 22, 2009	December 13, 2009	February 27, 2010
February 23, 2009	December 15, 2009	March 2, 2010
February 24, 2009	December 16, 2009	March 3, 2010
February 25, 2009	December 17, 2009	March 4, 2010
February 26, 2009	December 20, 2009	March 8, 2010
March 1, 2009	December 21, 2009	March 9, 2010
March 2, 2009	December 26, 2009	March 12, 2010
March 3, 2009	December 27, 2009	March 24, 2010
March 4, 2009	December 29, 2009	March 25, 2010
March 5, 2009	January 1, 2010	March 29, 2010
March 15, 2009	January 3, 2010	March 30, 2010
March 16, 2009	January 11, 2010	March 31, 2010
March 21, 2009	January 12, 2010	April 2, 2010
March 22, 2009	January 13, 2010	April 4, 2010
April 7, 2009	January 14, 2010	April 5, 2010
April 8, 2009	January 16, 2010	April 8, 2010
April 9, 2009	January 17, 2010	April 11, 2010
May 1, 2009	January 18, 2010	April 12, 2010
May 2, 2009	January 19, 2010	April 19, 2010
May 3, 2009	January 20, 2010	April 20, 2010
May 4, 2009	January 21, 2010	April 26, 2010
May 5, 2009	January 22, 2010	April 27, 2010
May 6, 2009	January 23, 2010	April 28, 2010
June 3, 2009	January 24, 2010	May 9, 2010
June 5, 2009	January 25, 2010	May 10, 2010
September 12, 2009	January 28, 2010	May 17, 2010
September 13, 2009	January 29, 2010	May 19, 2010
September 14, 2009	February 3, 2010	May 20, 2010
October 13, 2009	February 4, 2010	May 25, 2010
October 14, 2009	February 5, 2010	May 27, 2010
October 15, 2009	February 6, 2010	May 29, 2010
October 19, 2009	February 8, 2010	
November 5, 2009	February 9, 2010	
November 6, 2009	February 11, 2010	
November 18, 2009	February 12, 2010	
November 20, 2009	February 13, 2010	
November 22, 2009	February 15, 2010	

EXHIBIT B



T 510.749.9102
F 510.749.9103

1516 Oak Street, Suite 216
Alameda, Ca 94501

www.lozeaudrury.com
doug@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

June 4, 2010

James Ratto, President
James R. Salyers, Executive Vice-President
Rick Holiday, Operations Manager
Redwood Empire Disposal, Inc.
Redwood Empire Disposal Sonoma County, Inc.
3400 Standish Avenue
Santa Rosa, CA 95407

James Ratto, President
James R. Salyers, Executive Vice-President
Rick Holiday, Operations Manager
Redwood Empire Disposal, Inc.
Redwood Empire Disposal Sonoma County, Inc.
P.O. Box 1916
Santa Rosa, CA 95402

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

Dear Messrs. Ratto, Salyers and Holiday:

I am writing on behalf of the California Sportfishing Protection Alliance (“CSPA”) and the Petaluma River Council (“PRC”) in regard to violations of the Clean Water Act (“Act”) that CSPA and PRC believe are occurring at the Redwood Empire Disposal, Inc./Redwood Empire Disposal Sonoma County, Inc. facility (“Facility”) located at 3400 Standish Avenue in Santa Rosa, California. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the Russian River, Laguna de Santa Rosa, other North Coast watersheds, and other California waters. PRC is an unincorporated organization of concerned citizens, residing in and around Petaluma, committed to protecting and improving the health and character of the Petaluma River, Russian River, Laguna de Santa Rosa, and other North Coast watersheds and the surrounding environment.

James Ratto, James R. Salyers, Rick Holiday
Redwood Empire Disposal, Inc.
Redwood Empire Disposal Sonoma County Inc.
June 4, 2010
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This letter is being sent to you as the responsible owners, officers, or operators of Redwood Empire Disposal, Inc./Redwood Empire Disposal Sonoma County, Inc. and the Facility (all recipients are hereinafter collectively referred to as “Redwood Empire”).

This letter addresses Redwood Empire’s unlawful discharge of pollutants from the Facility into the Laguna de Santa Rosa and the Russian River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA S000001, State Water Resources Control Board (“State Board”) Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter “General Permit”). The Waste Discharge Identification Number (“WDID”) for the Facility listed on documents submitted to the State Board is 149I022101. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“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, CSPA and PRC hereby place Redwood Empire on formal notice that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CSPA and PRC intend to file suit in federal court against Redwood Empire Disposal, Inc., Redwood Empire Disposal Sonoma County Inc., James Ratto, James Salyers, and/or Rick Holiday under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the Order. These violations are described more extensively below.

I. Background.

On March 13, 2009, Redwood Empire filed its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). Redwood Empire certifies that the Facility is classified under SIC code 5093 (“Processing, Reclaiming, and Wholesale Distribution of Scrap and Waste Materials”). The Facility collects and discharges storm water from its 4.5-acre industrial site through at least eight outfalls that discharge into channels that flow into the Sonoma County Storm Drain System, which empties into Todd Creek, which then joins the Laguna de Santa Rosa, which in turn flows into the Russian River, which drains into the Pacific Ocean. Based on the documents currently available to CSPA and PRA, it appears that Redwood Empire took over the Facility on January 2, 2008 from a previous owner – Empire Waste Management. This notice letter addresses pollution discharges and storm water measures as of that date.¹

¹ To the extent that CSPA and PRC learn that Redwood Empire either operated or otherwise controlled, in whole or in part, the Facility prior to January 2, 2008, CSPA and PRC specifically include the following violations and

The California Regional Water Quality Control Board, North Coast Region (“Regional Board”) has identified beneficial uses of the North Coast region’s waters and established water quality standards for the region in the “Water Quality Control Plan for the North Coast Region,” generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan.shtml. The beneficial uses of these waters include among others contact and non-contact recreation, fish migration, endangered and threatened species habitat, shellfish harvesting, and fish spawning. Basin Plan at 2-1.00 – 2-18.00. The non-contact recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 2-2.00. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Laguna de Santa Rosa and Russian River, and their tributaries for contact and non-contact water recreation.

The Basin Plan establishes numeric water quality objectives for specified pollutants for all inland surface waters of the region, including the Russian River and the Laguna de Santa Rosa. Basin Plan at 3-3.00, 3-9.00. The Basin Plan establishes a water quality objective for aluminum of 1.0 mg/L. *Id.* at 3-9.00. The Basin Plan establishes a water quality objective for lead of 0.05 mg/L. *Id.* The EPA has adopted freshwater numeric water quality standards for zinc of 0.12 mg/L (Criteria Maximum Concentration – (“CMC”) and Criteria Continuous Concentration – (“CCC”)); for copper of 0.013 mg/L (CMC) and 0.009 mg/L (CCC); and for lead of 0.065 mg/L (CMC) and 0.0025 mg/L (CCC). 65 Fed.Reg. 31712 (May 18, 2000).

The Basin Plan includes a narrative toxicity standard which states that “All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life.” Basin Plan at 3-4.00. The Basin Plan includes a narrative oil and grease standard which states that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.” *Id.* The Basin Plan provides that “[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* The Basin Plan provides that “[t]he suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.” *Id.* at 3-3.00. The Basin Plan establishes a pH standard for the Laguna de Santa Rose of not less than 6.5 and not more than 8.5. *Id.* at 3-8.00

discharges that occurred prior to that date that are evidenced in the Annual Reports submitted for the Facility since 2005.

The EPA has published benchmark levels 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”). 65 Fed. Reg. 64767 (October 30, 2000). The following benchmarks have been established for pollutants discharged by Redwood Empire: pH – 6.0-9.0 units; total suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L; total organic carbon (“TOC”) – 110 mg/L; chemical oxygen demand (“COD”) – 120 mg/L; aluminum – 0.75 mg/L; zinc – 0.117 mg/L; iron – 1 mg/L; copper – 0.0636 mg/L, and; lead – 0.0816 mg/L. The State Board also has proposed adding a benchmark level to the General Permit for specific conductance (200 µmho/cm).

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit.

Redwood Empire has violated and continues to violate the terms and conditions of the General Industrial Storm Water 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 or authorized non-storm water discharges 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.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

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 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. The General Permit does not authorize the application of any mixing zones for complying with

Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Redwood Empire has discharged and continues to discharge storm water with unacceptable levels of pH, total suspended solids, oil & grease, COD, aluminum, copper, iron, lead, zinc and other pollutants in violation of the General Permit. Redwood Empire's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water 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 contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
2/16/2009	Oil & Grease	120 mg/L	No Sheen	SW 5
2/16/2009	Aluminum	21 mg/L	1 mg/L	SW-5
2/16/2009	Copper	0.13 mg/L	0.009 mg/L (CCC)	SW-5
2/16/2009	Lead	0.15 mg/L	0.05 mg/L; 0.065 mg/L (CMC); 0.0025 mg/L (CCC)	SW-5
2/16/2009	Zinc	2.3 mg/L	0.12 mg/L	SW-5
2/16/2009	Oil & Grease	100 mg/L	No Sheen	SW 4
2/16/2009	Aluminum	3.7 mg/L	1 mg/L	SW-4
2/16/2009	Lead	0.033 mg/L	0.0025 mg/L (CCC)	SW-4
2/16/2009	Zinc	0.49 mg/L	0.12 mg/L	SW-4
2/16/2009	Oil & Grease	22 mg/L	No Sheen	SW-3
2/16/2009	Aluminum	1.2 mg/L	1 mg/L	SW-3
2/16/2009	Oil & Grease	220 mg/L	No Sheen	SW-1
2/16/2009	Aluminum	4.5 mg/L	1 mg/L	SW-1
2/16/2009	Lead	0.014 mg/L	0.0025 mg/L (CCC)	SW-1
2/16/2009	Zinc	0.27 mg/L	0.12 mg/L	SW-1
11/3/2008	Aluminum	0.9 mg/L	1 mg/L	SW-5
11/3/2008	Lead	0.011 mg/L	0.0025 mg/L (CCC)	SW-5
11/3/2008	Zinc	0.14 mg/L	0.12 mg/L	SW-5
11/3/2008	pH	6.25	6.5 – 8.5	SW-4

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Objective	Location (as identified by the Facility)
11/3/2008	Oil & Grease	54 mg/L	No Sheen	SW-4
11/3/2008	Lead	0.0055 mg/L	0.0025 mg/L (CCC)	SW-4
11/3/2008	Zinc	0.14 mg/L	0.12 mg/L	SW-4
11/3/2008	pH	6.01	6.5 – 8.5	SW-3
11/3/2008	Aluminum	1.7 mg/L	1 mg/L	SW-3
11/3/2008	Lead	0.0084 mg/L	0.0025 mg/L (CCC)	SW-3
11/3/2008	Zinc	0.16 mg/L	0.12 mg/L	SW-3
11/3/2008	Aluminum	1.2 mg/L	1 mg/L	SW-2
11/3/2008	Aluminum	3.3 mg/L	1 mg/L	SW-1
11/3/2008	Lead	0.01 mg/L	0.0025 mg/L (CCC)	SW-1
11/3/2008	Zinc	0.14 mg/L	0.12 mg/L	SW-1
1/25/2008	Aluminum	1.8 mg/L	1 mg/L	SW-4
1/25/2008	Zinc	0.17 mg/L	0.12 mg/L	SW-4
1/25/2008	Oil & Grease	25 mg/L	No Sheen	SW-3
1/25/2008	Aluminum	1.6 mg/L	1 mg/L	SW-3
1/25/2008	Aluminum	9.4 mg/L	1 mg/L	SW-2
1/25/2008	Zinc	0.18 mg/L	0.12 mg/L	SW-2
1/25/2008	Oil & Grease	Sheen Observed	No Sheen	SW-2
1/25/2008	Aluminum	5.5 mg/L	1 mg/L	SW-1
1/25/2008	Zinc	0.14 mg/L	0.12 mg/L	SW-1
1/25/2008	Oil & Grease	Sheen Observed	No Sheen	SW-1

The information in the above table reflects data gathered from Redwood Empire’s self-monitoring during the 2007-2008 and 2008-2009 rainy seasons. CSPA and PRC allege that during each of those rainy seasons and continuing through the 2009-2010 rainy season through today, Redwood Empire has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- Aluminum – 1 mg/L
- Lead – 0.05 mg/L
- Lead – 0.0025 mg/L (CCC or 4-day average)
- Zinc – 0.12 mg/L (CMC and CCC)
- Copper – 0.009 mg/L (CCC or 4-day average)
- Oil & Grease – no sheen
- pH – not less than 6.5 or greater than 8.5

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) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
2/16/2009	TSS	1200 mg/L	100 mg/L	SW-5
2/16/2009	Iron	40 mg/L	1.0 mg/L	SW-5
2/16/2009	Oil & Grease	120 mg/L	15 mg/L	SW 5
2/16/2009	Aluminum	21 mg/L	0.75 mg/L	SW-5
2/16/2009	Copper	0.13 mg/L	0.0636 mg/L	SW-5
2/16/2009	Lead	0.15 mg/L	0.0816 mg/L	SW-5
2/16/2009	COD	740 mg/L	120 mg/L	SW-5
2/16/2009	Zinc	2.3 mg/L	0.117 mg/L	SW-5
2/16/2009	TSS	200 mg/L	100 mg/L	SW-4
2/16/2009	Iron	7 mg/L	1.0 mg/L	SW-4
2/16/2009	Oil & Grease	100 mg/L	15 mg/L	SW 4
2/16/2009	Aluminum	3.7 mg/L	0.75 mg/L	SW-4
2/16/2009	Lead	0.033 mg/L	0.0816 mg/L	SW-4
2/16/2009	Zinc	0.49 mg/L	0.117 mg/L	SW-4
2/16/2009	Iron	2.0 mg/L	1.0 mg/L	SW-3
2/16/2009	Oil & Grease	22 mg/L	15 mg/L	SW-3
2/16/2009	Aluminum	1.2 mg/L	0.75 mg/L	SW-3
2/16/2009	TSS	150 mg/L	100 mg/L	SW-1
2/16/2009	Iron	8.4 mg/L	1.0 mg/L	SW-1
2/16/2009	Oil & Grease	220 mg/L	15 mg/L	SW-1
2/16/2009	Aluminum	4.5 mg/L	0.75 mg/L	SW-1
2/16/2009	Lead	0.014 mg/L	0.0816 mg/L	SW-1
2/16/2009	Zinc	0.27 mg/L	0.117 mg/L	SW-1
11/3/2008	Aluminum	0.9 mg/L	0.75 mg/L	SW-5
11/3/2008	Iron	1.4 mg/L	1.0 mg/L	SW-5
11/3/2008	Zinc	0.14 mg/L	0.117 mg/L	SW-5
11/3/2008	pH	6.25	Not less than 6.5	SW-4
11/3/2008	Oil & Grease	54 mg/L	15 mg/L	SW-4
11/3/2008	Iron	1.3 mg/L	1.0 mg/L	SW-4
11/3/2008	Zinc	0.14 mg/L	0.117 mg/L	SW-4
11/3/2008	pH	6.01	Not less than 6.5	SW-3
11/3/2008	Aluminum	1.7 mg/L	0.75 mg/L	SW-3

Date	Parameter	Observed Concentration	Benchmark Value	Location (as identified by the Facility)
11/3/2008	Iron	3.3 mg/L	1.0 mg/L	SW-3
11/3/2008	Zinc	0.16 mg/L	0.117 mg/L	SW-3
11/3/2008	Aluminum	1.2 mg/L	0.75 mg/L	SW-2
11/3/2008	Iron	1.8 mg/L	1.0 mg/L	SW-2
11/3/2008	Aluminum	3.3 mg/L	0.75 mg/L	SW-1
11/3/2008	Iron	5.8 mg/L	1.0 mg/L	SW-1
11/3/2008	Zinc	0.14 mg/L	0.117 mg/L	SW-1
1/25/2008	Aluminum	1.8 mg/L	0.75 mg/L	SW-4
1/25/2008	Iron	2.0 mg/L	1.0 mg/L	SW-4
1/25/2008	Zinc	0.17 mg/L	0.117 mg/L	SW-4
1/25/2008	Oil & Grease	25 mg/L	15 mg/L	SW-3
1/25/2008	Aluminum	1.6 mg/L	0.75 mg/L	SW-3
1/25/2008	Iron	3.8 mg/L	1.0 mg/L	SW-3
1/25/2008	TSS	280 mg/L	100 mg/L	SW-2
1/25/2008	Aluminum	9.4 mg/L	0.75 mg/L	SW-2
1/25/2008	Iron	15 mg/L	1.0 mg/L	SW-2
1/25/2008	Zinc	0.18 mg/L	0.117 mg/L	SW-2
1/25/2008	TSS	150 mg/L	100 mg/L	SW-1
1/25/2008	Aluminum	5.5 mg/L	0.75 mg/L	SW-1
1/25/2008	Iron	10 mg/L	1.0 mg/L	SW-1
1/25/2008	Zinc	0.14 mg/L	0.117 mg/L	SW-1

The information in the above table reflects data gathered from Redwood Empire's self-monitoring during the 2007-2008 and 2008-2009 rainy seasons. CSPA and PRC allege that during the 2007-2008 and 2008-2009 rainy seasons and continuing through the 2009-2010 rainy season through today, Redwood Empire has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- Total Suspended Solids – 100 mg/L
- Oil & Grease – 15 mg/L
- Chemical Oxygen Demand – 120 mg/L
- Aluminum – 0.75 mg/L
- Zinc – 0.117 mg/L
- Iron – 1 mg/L
- Copper – 0.0636 mg/L
- Lead – 0.0816 mg/L

CSPA's and PRC's investigation, including their review of Redwood Empire's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values, indicates that Redwood Empire has not implemented BAT and BCT at the Facility for its discharges of total suspended solids, oil & grease, iron, aluminum, lead, zinc, copper, chemical oxygen demand and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. Redwood Empire was required to have implemented BAT and BCT by no later than the date it took over the facility, January 2, 2008. Thus, Redwood Empire is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the above numbers and observations indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CSPA and PRC also allege that such violations have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least April 16, 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 and PRC allege that Redwood Empire has discharged storm water containing impermissible levels of total suspended solids, oil & grease, iron, aluminum, lead, zinc, copper, pH, and chemical oxygen demand in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants 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, Redwood Empire is subject to penalties for violations of the General Permit and the Act since it took over the Facility on January 2, 2008.

B. Failure to Sample and Analyze Storm Events

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). "Facility operators 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." *Id.* "All storm water discharge locations shall be sampled." *Id.* "Facility operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled." *Id.* Section B(7) requires that the samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

Redwood Empire's SWPPP indicates that eight drop inlets are located at the Facility. SWPPP, p. 3. Redwood Empire has failed to collect the two required storm water samples from each storm water discharge location in each of the years it has operated the Facility despite discharging storm water from its facility. During the past five years, Redwood Empire has only sampled and analyzed storm water discharges from five locations at the Facility. CSPA and PRC allege that Redwood Empire discharges storm water from at least eight locations. The failures to collect two samples from three discharge locations for two rainy seasons results are twelve distinct violations of the General Permit.

These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Redwood Empire is subject to penalties for violations of the General Permit and the Act since it took over the Facility on January 2, 2008.

C. Failure to Conduct Visual Inspections and Misreporting of Visual Stormwater

Section B of the General Permit describes the visual monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)). Section B(7) requires that the visual observations must represent the "quality and quantity of the facility's storm water discharges from the storm event."

Redwood Empire's storm water data indicates very high concentrations of oil and grease in its storm water on specific dates. At the same time, Redwood Empire's annual reports certify that visual observations of storm water discharges at the same drop inlets showed no pollutants. Oil and grease at concentrations of 15 mg/L or greater will always be accompanied by a sheen on the water. Indeed, on January 25, 2008, a consultant for the Facility noted observing oily sheens at discharge locations SW-1 and SW-2 at a time when samples for those two discharge locations reported oil & grease concentrations of 7.8 mg/L and 11 mg/L. Accordingly, CSPA and PRC believe that each day that Redwood Empire certified through its staff that it did not observe any pollutants at times and locations where the Facility measured levels of oil & grease at 15 mg/L or greater, the claimed visual observations are inconsistent and inaccurate. Redwood Empire misreported its visual observations on the following dates at the following discharge locations:

Date	Discharge Location	Observer
2/16/2009	SW-1	Pat Lamb
2/16/2009	SW-3	Pat Lamb
2/16/2009	SW-4	Pat Lamb
2/16/2009	SW-5	Pat Lamb
11/3/2008	SW-4	Pat Lamb

These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Redwood Empire is subject to penalties for violations of the General Permit and the Act since it took over the Facility on January 2, 2008.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

The above referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Redwood Empire is not representative of the quality of the Facility's various storm water discharges, and/or Redwood Empire failed to sample for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities" (Section B(5)(c)(ii)), CSPA and PRC, on information and belief, allege that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) 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, Redwood Empire is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since it took over the Facility on January 2, 2008.

E. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Section A 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 General Permit 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 include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must 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)).

CSPA's and PRC's investigation of the conditions at the Facility as well as Redwood Empire's Annual Reports indicate that Redwood Empire has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Redwood Empire has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Redwood Empire has failed to implement BAT and BCT at the facility. Redwood Empire has been in continuous violation of Section A and Provision E(2) of the General Permit every day since it took over operation of the Facility on January 2, 2008, and will continue to be in violation every day that Redwood Empire fails to prepare, implement, review, and update an effective SWPPP. Redwood Empire is subject to penalties for violations of the Order and the Act occurring since it took over operation of the Facility on January 2, 2008.

F. Failure to File True and Correct Annual Reports.

Section B(14) of the General Industrial Storm Water 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).

For the last two years, Redwood Empire and its agents, Rick Holiday and James R. Salyers², inaccurately certified in the Facility's Annual Reports that the Facility was in compliance with the General Permit. Consequently, Redwood Empire has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time Redwood Empire failed to submit a complete or correct report and every time Redwood Empire

² Rick Holiday, Operations Manager, certified the 2008-2009 Annual Report; James R. Salyers, Executive Vice-President, certified the 2007-2008 Annual Report.

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or its agents falsely purported to comply with the Act. Redwood Empire is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since it took over operation of the Facility on January 2, 2008.

IV. Persons Responsible for the Violations.

CSPA and PRC put Redwood Empire, James Ratto, James R. Salyers, and Rick Holiday 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 and PRC put Redwood Empire, James Ratto, James R. Salyers, and Rick Holiday on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Parties.

The names, addresses and telephone numbers of CSPA and PRC are as follows:

Bill Jennings, Executive Director;
California Sportfishing Protection Alliance,
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067

David Keller, Executive Director
Petaluma River Council
1327 I Street
Petaluma, CA 94952
Tel. (707) 338-3833

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James Ratto, James R. Salyers, Rick Holiday
Redwood Empire Disposal, Inc.
Redwood Empire Disposal Sonoma County Inc.
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VI. Counsel.

CSPA and PRC have retained our office to represent them in this matter. Please direct all communications to:

Michael R. Lozeau
Lozeau Drury LLP
1516 Oak Street, Suite 216
Alameda, California 94501
Tel. (510) 749-9102
michael@lozeaudrury.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; 73 FR 75340) each separate violation of the Act subjects Redwood Empire to a penalty of up to \$37,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA and PRC 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.

CSPA and PRC believe this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CSPA and PRC intend to file a citizen suit under Section 505(a) of the Act against Redwood Empire and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA and PRC would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA and PRC 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. CSPA and PRC do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Michael R. Lozeau
Attorney for California Sportfishing Protection Alliance
and Petaluma River Council

SERVICE LIST

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

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

Catherine Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403-1072

ATTACHMENT A

Rain Dates, Redwood Empire, Santa Rosa, California

June 8, 2005	January 18, 2006	April 2, 2006
June 9, 2005	January 19, 2006	April 3, 2006
June 16, 2005	January 21, 2006	April 4, 2006
June 17, 2005	January 26, 2006	April 5, 2006
June 18, 2005	January 27, 2006	April 7, 2006
August 20, 2005	January 28, 2006	April 8, 2006
October 15, 2005	January 29, 2006	April 9, 2006
October 25, 2005	January 30, 2006	April 10, 2006
October 26, 2005	February 1, 2006	April 11, 2006
October 28, 2005	February 2, 2006	April 12, 2006
October 29, 2005	February 4, 2006	April 13, 2006
November 4, 2005	February 17, 2006	April 14, 2006
November 6, 2005	February 18, 2006	April 15, 2006
November 7, 2005	February 26, 2006	April 16, 2006
November 8, 2005	February 27, 2006	April 17, 2006
November 9, 2005	February 28, 2006	May 19, 2006
November 25, 2005	March 1, 2006	May 20, 2006
November 28, 2005	March 2, 2006	May 21, 2006
November 29, 2005	March 3, 2006	May 22, 2006
December 1, 2005	March 4, 2006	May 23, 2006
December 2, 2005	March 5, 2006	May 24, 2006
December 7, 2005	March 6, 2006	June 12, 2006
December 17, 2005	March 7, 2006	June 15, 2006
December 18, 2005	March 10, 2006	July 29, 2006
December 19, 2005	March 11, 2006	October 5, 2006
December 20, 2005	March 12, 2006	October 16, 2006
December 21, 2005	March 13, 2006	November 2, 2006
December 22, 2005	March 14, 2006	November 3, 2006
December 23, 2005	March 15, 2006	November 8, 2006
December 25, 2005	March 16, 2006	November 11, 2006
December 26, 2005	March 17, 2006	November 13, 2006
December 27, 2005	March 18, 2006	November 14, 2006
December 28, 2005	March 20, 2006	November 16, 2006
December 30, 2005	March 24, 2006	November 17, 2006
December 31, 2005	March 25, 2006	November 22, 2006
January 1, 2006	March 26, 2006	November 23, 2006
January 2, 2006	March 27, 2006	November 26, 2006
January 3, 2006	March 28, 2006	November 27, 2006
January 4, 2006	March 29, 2006	December 9, 2006
January 7, 2006	March 30, 2006	December 10, 2006
January 11, 2006	March 31, 2006	December 11, 2006
January 14, 2006	April 1, 2006	December 12, 2006

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December 13, 2006	October 10, 2007	February 3, 2008
December 14, 2006	October 12, 2007	February 19, 2008
December 15, 2006	October 15, 2007	February 20, 2008
December 21, 2006	October 16, 2007	February 21, 2008
December 22, 2006	October 17, 2007	February 22, 2008
December 26, 2006	October 19, 2007	February 23, 2008
December 27, 2006	October 20, 2007	February 24, 2008
January 4, 2007	November 10, 2007	March 13, 2008
January 17, 2007	November 11, 2007	March 14, 2008
January 26, 2007	November 19, 2007	March 15, 2008
January 27, 2007	December 2, 2007	March 29, 2008
February 7, 2007	December 4, 2007	April 23, 2008
February 8, 2007	December 5, 2007	May 24, 2008
February 9, 2007	December 6, 2007	September 19, 2008
February 10, 2007	December 7, 2007	September 20, 2008
February 11, 2007	December 17, 2007	October 4, 2008
February 12, 2007	December 18, 2007	October 31, 2008
February 21, 2007	December 20, 2007	November 1, 2008
February 22, 2007	December 28, 2007	November 2, 2008
February 23, 2007	December 29, 2007	November 3, 2008
February 24, 2007	December 30, 2007	November 4, 2008
February 25, 2007	January 3, 2008	November 8, 2008
February 26, 2007	January 4, 2008	November 9, 2008
February 27, 2007	January 5, 2008	November 20, 2008
February 28, 2007	January 6, 2008	November 25, 2008
March 1, 2007	January 7, 2008	November 26, 2008
March 2, 2007	January 8, 2008	December 14, 2008
March 7, 2007	January 10, 2008	December 15, 2008
March 26, 2007	January 11, 2008	December 16, 2008
April 7, 2007	January 12, 2008	December 18, 2008
April 11, 2007	January 21, 2008	December 19, 2008
April 12, 2007	January 22, 2008	December 21, 2008
April 14, 2007	January 23, 2008	December 22, 2008
April 20, 2007	January 24, 2008	December 24, 2008
April 21, 2007	January 25, 2008	December 25, 2008
April 22, 2007	January 26, 2008	December 27, 2008
May 2, 2007	January 27, 2008	December 28, 2008
May 4, 2007	January 28, 2008	December 29, 2008
July 11, 2007	January 29, 2008	January 2, 2009
July 18, 2007	January 30, 2008	January 5, 2009
September 22, 2007	January 31, 2008	January 8, 2009
October 1, 2007	February 1, 2008	January 21, 2009
October 6, 2007	February 2, 2008	January 22, 2009

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Rain Dates, Redwood Empire, Oakland, California

January 23, 2009	October 13, 2009	February 4, 2010
January 24, 2009	October 14, 2009	February 5, 2010
January 25, 2009	October 15, 2009	February 6, 2010
February 5, 2009	October 19, 2009	February 8, 2010
February 6, 2009	November 5, 2009	February 9, 2010
February 7, 2009	November 6, 2009	February 11, 2010
February 8, 2009	November 18, 2009	February 12, 2010
February 9, 2009	November 20, 2009	February 13, 2010
February 11, 2009	November 22, 2009	February 15, 2010
February 13, 2009	December 2, 2009	February 16, 2010
February 14, 2009	December 6, 2009	February 17, 2010
February 15, 2009	December 7, 2009	February 23, 2010
February 16, 2009	December 10, 2009	February 24, 2010
February 17, 2009	December 11, 2009	February 25, 2010
February 18, 2009	December 12, 2009	February 26, 2010
February 22, 2009	December 13, 2009	February 27, 2010
February 23, 2009	December 15, 2009	March 2, 2010
February 24, 2009	December 16, 2009	March 3, 2010
February 25, 2009	December 17, 2009	March 4, 2010
February 26, 2009	December 20, 2009	March 8, 2010
March 1, 2009	December 21, 2009	March 9, 2010
March 2, 2009	December 26, 2009	March 12, 2010
March 3, 2009	December 27, 2009	March 24, 2010
March 4, 2009	December 29, 2009	March 25, 2010
March 5, 2009	January 1, 2010	March 29, 2010
March 15, 2009	January 3, 2010	March 30, 2010
March 16, 2009	January 11, 2010	March 31, 2010
March 21, 2009	January 12, 2010	April 2, 2010
March 22, 2009	January 13, 2010	April 4, 2010
April 7, 2009	January 14, 2010	April 5, 2010
April 8, 2009	January 16, 2010	April 8, 2010
April 9, 2009	January 17, 2010	April 11, 2010
May 1, 2009	January 18, 2010	April 12, 2010
May 2, 2009	January 19, 2010	April 19, 2010
May 3, 2009	January 20, 2010	April 20, 2010
May 4, 2009	January 21, 2010	April 26, 2010
May 5, 2009	January 22, 2010	April 27, 2010
May 6, 2009	January 23, 2010	April 28, 2010
June 3, 2009	January 24, 2010	May 9, 2010
June 5, 2009	January 25, 2010	May 10, 2010
September 12, 2009	January 28, 2010	May 17, 2010
September 13, 2009	January 29, 2010	May 19, 2010
September 14, 2009	February 3, 2010	May 20, 2010

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May 25, 2010

May 27, 2010

May 29, 2010

EXHIBIT C



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VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

June 4, 2010

James Ratto, President
James Salyers, Vice-President
Rick Holiday, Operations Manager
Novato Disposal Service, Inc.
2543 Petaluma Boulevard South
Petaluma, California 94952

James Ratto, President
James Salyers, Vice-President
Rick Holiday, Operations Manager
Novato Disposal Service, Inc.
P.O. Box 1916
Santa Rosa, CA 95402

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

Dear Messrs. Ratto, Salyers, and Holiday:

I am writing on behalf of the California Sportfishing Protection Alliance and the Petaluma River Council (collectively, "CSPA and PRC") regarding violations of the Clean Water Act ("Act") that CSPA and PRC believe are occurring at Novato Disposal Service, located at 2543 Petaluma Boulevard South in Petaluma, California ("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 San Francisco Bay ("Bay") and other California waters. PRC is an unincorporated organization of concerned citizens, residing in and around Petaluma, committed to protecting and improving the health and character of the Petaluma River and other North Coast watersheds and the surrounding environment. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Novato Disposal").

This letter addresses Novato Disposal's unlawful discharge of pollutants from the Facility into channels that flow into the Petaluma River, and the San Francisco Bay. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Water Quality Order No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-DWQ and Water Quality Order No. 97-03-DWQ (hereinafter "General Permit"). The Waste Discharge Identification Number ("WDID") for the Facility listed on documents submitted to the State

James Ratto, James Salyers, Rick Holiday
Novato Disposal Service, Inc.
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Board is 249I017656¹. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

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

As required by the Clean Water Act, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, CSPA and PRC hereby place Novato Disposal on formal notice that, after the expiration of sixty days from the date of this Notice of Violation and Intent to Sue, CSPA and PRC intend to file suit in federal court against Novato Disposal, including the responsible managers, directors, or operators, 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 Permit. These violations are described more extensively below.

I. Background.

On November 25, 2002, Novato Disposal filed its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). Novato Disposal certified that the Facility is classified under SIC code 5093 (“Processing, Reclaiming, and Wholesale Distribution of Scrap and Waste Materials”). The Facility collects and discharges storm water from its approximately five (5) acre industrial site into at least two storm water discharge locations at the Facility. The storm water discharged by Novato Disposal is discharged to a privately owned and maintained storm drain system which flows into the Petaluma River; the Petaluma River then flows into San Pablo Bay (the northern extension of San Francisco Bay).

The Regional Board has identified beneficial uses of the Bay’s waters and established water quality standards for San Pablo Bay and San Francisco Bay as well their tributaries, including the Petaluma River, in the “Water Quality Control Plan for the San Francisco Bay Basin,” generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/basin_plan/docs/basin_plan07.pdf. The beneficial uses of these waters include, among others, contact and non-contact recreation, fish migration, endangered and threatened species habitat, shellfish harvesting, and fish spawning. The non-contact recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities. Water quality considerations relevant to non-contact water recreation, such as hiking, camping, or boating, and those activities

¹ Novato Disposal also has a Construction Storm Water WDID of 249C352447).

related to tide pool or other nature studies require protection of habitats and aesthetic features.” *Id.* at 2.1.16. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs peoples’ use of San Francisco Bay and its tributaries for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that are lethal or that produce other detrimental responses in aquatic organisms.” *Id.* at 3.3.18. The Basin Plan includes a narrative oil and grease standard which states that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or otherwise adversely affect beneficial uses.” *Id.* at 3.3.7. The Basin Plan provides that “[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.” *Id.* at 3.3.21. The Basin Plan provides that “[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3.3.14. The Basin Plan provides that “[t]he suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.” *Id.* at 3.3.12. The Basin Plan provides that “[t]he pH shall not be depressed below 6.5 nor raised above 8.5.” *Id.* at 3.3.9.

Both the Regional Board and EPA have established numeric water quality standards for pollutants discharged by Novato Disposal that flow into San Francisco Bay. The Basin Plan establishes Marine Water Quality Objectives for zinc of 0.081 mg/L (4-day average) and 0.090 mg/L (1-hour average); for copper of 0.0031 mg/L (4-day average) and 0.0048 mg/L (1-hour average); and for lead of 0.0081 mg/L (4-day average) and 0.21 mg/L (1-hour average). *Id.* at Table 3-3. The EPA has adopted saltwater numeric water quality standards for zinc of 0.090 mg/L (Criteria Maximum Concentration – “CMC”) and 0.081 mg/L (Criteria Continuous Concentration – “CCC”); for copper of 0.0031 mg/L (CMC) and 0.0048 mg/L (CCC); and for lead of 0.210 mg/L (CMC) and 0.0081 mg/L (CCC). 65 Fed. Reg. 31712 (May 18, 2000).

The EPA has published benchmark levels 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”). 65 Fed. Reg. 64767 (October 30, 2000). The following benchmarks have been established for pollutants discharged by Novato Disposal: pH – 6.0-9.0 units; total suspended solids (“TSS”) – 100 mg/L; aluminum – 0.75 mg/L, copper – 0.0636 mg/L, iron – 1.0 mg/L, lead – 0.0816 mg/L, zinc – 0.117 mg/L, chemical oxygen demand (“COD”) – 120 mg/L, and biochemical oxygen demand (“BOD”) – 30 mg/L. The State Water Quality Control Board also has proposed adding a benchmark level to the General Permit for specific conductance of 200 µmho/cm.

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit.

Novato Disposal 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 or authorized non-storm water discharges 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.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

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 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. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility’s discharge monitoring locations.

Novato Disposal has discharged and continues to discharge storm water with unacceptable levels of TSS, specific conductivity, aluminum, copper, iron, lead, zinc, COD, BOD, and possibly other pollutants in violation of the General Permit. Novato Disposal’s sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water 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 contained concentrations of pollutants in excess of narrative and numeric water quality standards established in the Basin Plan or promulgated by EPA and thus violated Discharge Prohibitions A(1) and A(2) and

Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit:

Date	Parameter	Observed Concentration	Basin Plan Water Quality Objective	Location (as identified by the Facility)
2/16/2009	Copper	0.058 mg/L	0.0031 mg/L (4-day average) Marine	MP1
2/16/2009	Copper	0.058 mg/L	0.0048 mg/L (1-hour average) Marine	MP1
2/16/2009	Copper	0.04 mg/L	0.0031 mg/L (4-day average) Marine	MP2
2/16/2009	Copper	0.04 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
2/16/2009	Lead	0.078 mg/L	0.0081 mg/L (4-day average) Marine	MP1
2/16/2009	Zinc	1.5 mg/L	0.081 mg/L (4-day average) Marine	MP1
2/16/2009	Zinc	1.5 mg/L	0.09 mg/L (1-hour average) Marine	MP1
2/16/2009	Zinc	0.16 mg/L	0.081 mg/L (4-day average) Marine	MP2
2/16/2009	Zinc	0.16 mg/L	0.09 mg/L (1-hour average) Marine	MP2
11/3/2008	pH	8.58	6.5 – 8.5	MP2
11/3/2008	Copper	0.16 mg/L	0.0031 mg/L (4-day average) Marine	MP1
11/3/2008	Copper	0.16 mg/L	0.0048 mg/L (1-hour average) Marine	MP1
11/3/2008	Copper	0.14 mg/L	0.0031 mg/L (4-day average) Marine	MP2
11/3/2008	Copper	0.14 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
11/3/2008	Lead	0.12 mg/L	0.0081 mg/L (4-day average) Marine	MP1
11/3/2008	Zinc	1.2 mg/L	0.081 mg/L (4-day average) Marine	MP1
11/3/2008	Zinc	1.2 mg/L	0.09 mg/L (1-hour average) Marine	MP1
11/3/2008	Zinc	0.56 mg/L	0.081 mg/L (4-day average) Marine	MP2
11/3/2008	Zinc	0.56 mg/L	0.09 mg/L (1-hour average) Marine	MP2

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10/12/2007	Copper	0.15 mg/L	0.0031 mg/L (4-day average) Marine	MP1
10/12/2007	Copper	0.15 mg/L	0.0048 mg/L (1-hour average) Marine	MP1
10/12/2007	Copper	0.11 mg/L	0.0031 mg/L (4-day average) Marine	MP2
10/12/2007	Copper	0.11 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
10/12/2007	Lead	0.4 mg/L	0.0081 mg/L (4-day average) Marine	MP1
10/12/2007	Lead	0.4 mg/L	0.21 mg/L (1-hour average) Marine	MP1
10/12/2007	Zinc	1.7 mg/L	0.081 mg/L (4-day average) Marine	MP1
10/12/2007	Zinc	1.7 mg/L	0.09 mg/L (1-hour average) Marine	MP1
10/12/2007	Zinc	0.35 mg/L	0.081 mg/L (4-day average) Marine	MP2
10/12/2007	Zinc	0.35 mg/L	0.09 mg/L (1-hour average) Marine	MP2
3/26/2007	Copper	0.15 mg/L	0.0031 mg/L (4-day average) Marine	MP1
3/26/2007	Copper	0.15 mg/L	0.0048 mg/L (1-hour average) Marine	MP1
3/26/2007	Copper	0.091 mg/L	0.0031 mg/L (4-day average) Marine	MP2
3/26/2007	Copper	0.091 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
3/26/2007	Lead	0.13 mg/L	0.0081 mg/L (4-day average) Marine	MP1
3/26/2007	Zinc	0.95 mg/L	0.081 mg/L (4-day average) Marine	MP1
3/26/2007	Zinc	0.95 mg/L	0.09 mg/L (1-hour average) Marine	MP1
3/26/2007	Zinc	0.15 mg/L	0.081 mg/L (4-day average) Marine	MP2
3/26/2007	Zinc	0.15 mg/L	0.09 mg/L (1-hour average) Marine	MP2
11/2/2006	Copper	0.22 mg/L	0.0031 mg/L (4-day average) Marine	MP1
11/2/2006	Copper	0.22 mg/L	0.0048 mg/L (1-hour average) Marine	MP1
11/2/2006	Copper	0.11 mg/L	0.0031 mg/L (4-day	MP2

Notice of Violation and Intent to File Suit

			average) Marine	
11/2/2006	Copper	0.11 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
11/2/2006	Lead	0.26 mg/L	0.0081 mg/L (4-day average) Marine	MP1
11/2/2006	Lead	0.26 mg/L	0.21 mg/L (1-hour average) Marine	MP1
11/2/2006	Zinc	1.8 mg/L	0.081 mg/L (4-day average) Marine	MP1
11/2/2006	Zinc	1.8 mg/L	0.09 mg/L (1-hour average) Marine	MP1
11/2/2006	Zinc	0.38 mg/L	0.081 mg/L (4-day average) Marine	MP2
11/2/2006	Zinc	0.38 mg/L	0.09 mg/L (1-hour average) Marine	MP2
3/16/2006	Oil & Grease Sheen Observed		Narrative	Yard
2/28/2006	Oil & Grease Sheen Observed		Narrative	Yard
2/27/2006	Copper	0.07 mg/L	0.0031 mg/L (4-day average) Marine	MP2
2/27/2006	Copper	0.07 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
2/27/2006	Zinc	0.23 mg/L	0.081 mg/L (4-day average) Marine	MP2
2/27/2006	Zinc	0.23 mg/L	0.09 mg/L (1-hour average) Marine	MP2
11/7/2005	Copper	0.12 mg/L	0.0031 mg/L (4-day average) Marine	MP2
11/7/2005	Copper	0.12 mg/L	0.0048 mg/L (1-hour average) Marine	MP2
11/7/2005	Zinc	0.55 mg/L	0.081 mg/L (4-day average) Marine	MP2
11/7/2005	Zinc	0.55 mg/L	0.09 mg/L (1-hour average) Marine	MP2

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) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit:

Date	Parameter	Observed	Benchmark	Location (as
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		Concentration	Value	identified by the Facility)
2/16/2009	TSS	740 mg/L	100 mg/L	MP1
2/16/2009	TSS	220 mg/L	100 mg/L	MP2
2/16/2009	Specific Conductivity	350 µmho/cm	200 µmho/cm (proposed)	MP1
2/16/2009	Specific Conductivity	410 µmho/cm	200 µmho/cm (proposed)	MP2
2/16/2009	Aluminum	7.4 mg/L	0.75 mg/L	MP1
2/16/2009	Aluminum	17 mg/L	0.75 mg/L	MP2
2/16/2009	Iron	15 mg/L	1.0 mg/L	MP1
2/16/2009	Iron	24 mg/L	1.0 mg/L	MP2
2/16/2009	Zinc	1.5 mg/L	0.117 mg/L	MP1
2/16/2009	Zinc	0.16 mg/L	0.117mg/L	MP2
11/3/2008	TSS	620 mg/L	100 mg/L	MP1
11/3/2008	TSS	1300 mg/L	100 mg/L	MP2
11/3/2008	Specific Conductivity	546 µmho/cm	200 µmho/cm (proposed)	MP1
11/3/2008	Specific Conductivity	310 µmho/cm	200 µmho/cm (proposed)	MP2
11/3/2008	Aluminum	28 mg/L	0.75 mg/L	MP1
11/3/2008	Aluminum	60 mg/L	0.75 mg/L	MP2
11/3/2008	Copper	0.16 mg/L	0.0636 mg/L	MP1
11/3/2008	Copper	0.14 mg/L	0.0636 mg/L	MP2
11/3/2008	Iron	43 mg/L	1.0 mg/L	MP1
11/3/2008	Iron	94 mg/L	1.0 mg/L	MP2
11/3/2008	Lead	0.12 mg/L	0.0816 mg/L	MP1
11/3/2008	Zinc	1.2 mg/L	0.117 mg/L	MP1
11/3/2008	Zinc	0.56 mg/L	0.117mg/L	MP2
11/3/2008	COD	140 mg/L	120 mg/L	MP1
11/3/2008	BOD	39 mg/L	30 mg/L	MP1
10/12/2007	TSS	680mg/L	100 mg/L	MP1
10/12/2007	TSS	360 mg/L	100 mg/L	MP2
10/12/2007	Aluminum	16 mg/L	0.75 mg/L	MP1
10/12/2007	Aluminum	20 mg/L	0.75 mg/L	MP2
10/12/2007	Copper	0.15 mg/L	0.0636 mg/L	MP1
10/12/2007	Copper	0.11 mg/L	0.0636 mg/L	MP2
10/12/2007	Iron	36 mg/L	1.0 mg/L	MP1
10/12/2007	Iron	42 mg/L	1.0 mg/L	MP2
10/12/2007	Lead	0.4 mg/L	0.0816 mg/L	MP1
10/12/2007	Zinc	1.7 mg/L	0.117 mg/L	MP1
10/12/2007	Zinc	0.35 mg/L	0.117mg/L	MP2

10/12/2007	COD	290 mg/L	120 mg/L	MP1
10/12/2007	BOD	65 mg/L	30 mg/L	MP1
3/26/2007	TSS	180 mg/L	100 mg/L	MP1
3/26/2007	TSS	250 mg/L	100 mg/L	MP2
3/26/2007	Specific Conductivity	415 µmho/cm	200 µmho/cm (proposed)	MP1
3/26/2007	Specific Conductivity	309 µmho/cm	200 µmho/cm (proposed)	MP2
3/26/2007	Aluminum	7.4 mg/L	0.75 mg/L	MP1
3/26/2007	Aluminum	3.9 mg/L	0.75 mg/L	MP2
3/26/2007	Copper	0.15 mg/L	0.0636 mg/L	MP1
3/26/2007	Copper	0.091 mg/L	0.0636 mg/L	MP2
3/26/2007	Iron	16 mg/L	1.0 mg/L	MP1
3/26/2007	Iron	5.8 mg/L	1.0 mg/L	MP2
3/26/2007	Lead	0.13 mg/L	0.0816 mg/L	MP1
3/26/2007	Zinc	0.95 mg/L	0.117 mg/L	MP1
3/26/2007	Zinc	0.15 mg/L	0.117mg/L	MP2
3/26/2007	COD	320 mg/L	120 mg/L	MP1
3/26/2007	COD	180 mg/L	120 mg/L	MP2
3/26/2007	BOD	88 mg/L	30 mg/L	MP1
3/26/2007	BOD	85 mg/L	30 mg/L	MP2
11/2/2006	TSS	210 mg/L	100 mg/L	MP1
11/2/2006	TSS	480 mg/L	100 mg/L	MP2
11/2/2006	Specific Conductivity	366 µmho/cm	200 µmho/cm (proposed)	MP1
11/2/2006	Specific Conductivity	382 µmho/cm	200 µmho/cm (proposed)	MP2
11/2/2006	Aluminum	12 mg/L	0.75 mg/L	MP1
11/2/2006	Aluminum	26 mg/L	0.75 mg/L	MP2
11/2/2006	Copper	0.22 mg/L	0.0636 mg/L	MP1
11/2/2006	Copper	0.11 mg/L	0.0636 mg/L	MP2
11/2/2006	Iron	25 mg/L	1.0 mg/L	MP1
11/2/2006	Iron	43 mg/L	1.0 mg/L	MP2
11/2/2006	Lead	0.26 mg/L	0.0816 mg/L	MP1
11/2/2006	Zinc	1.8 mg/L	0.117 mg/L	MP1
11/2/2006	Zinc	0.38 mg/L	0.117mg/L	MP2
11/2/2006	COD	240 mg/L	120 mg/L	MP1
11/2/2006	COD	340 mg/L	120 mg/L	MP2
2/27/2006	Specific Conductivity	209 µmho/cm	200 µmho/cm (proposed)	MP1
2/27/2006	Aluminum	1.3 mg/L	0.75 mg/L	MP1
2/27/2006	Aluminum	16 mg/L	0.75 mg/L	MP2

2/27/2006	Copper	0.07 mg/L	0.0636 mg/L	MP2
2/27/2006	Iron	1.5 mg/L	1.0 mg/L	MP1
2/27/2006	Iron	26 mg/L	1.0 mg/L	MP2
2/27/2006	Zinc	0.23 mg/L	0.117mg/L	MP2
2/27/2006	COD	200 mg/L	120 mg/L	MP2
11/7/2005	TSS	130mg/L	100 mg/L	MP1
11/7/2005	Specific Conductivity	2126 µmho/cm	200 µmho/cm (proposed)	MP1
11/7/2005	Specific Conductivity	501 µmho/cm	200 µmho/cm (proposed)	MP2
11/7/2005	Aluminum	4 mg/L	0.75 mg/L	MP1
11/7/2005	Aluminum	2.2 mg/L	0.75 mg/L	MP2
11/7/2005	Copper	0.12 mg/L	0.0636 mg/L	MP2
11/7/2005	Iron	12 mg/L	1.0 mg/L	MP1
11/7/2005	Iron	3.6 mg/L	1.0 mg/L	MP2
11/7/2005	Zinc	0.55 mg/L	0.117mg/L	MP2
11/7/2005	COD	140 mg/L	120 mg/L	MP1
11/7/2005	COD	160 mg/L	120 mg/L	MP2

CSPA's and PRC's investigation, including their review of Novato Disposal's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards, EPA's benchmark values, and the State Board's proposed benchmark for electrical conductivity, indicates that Novato Disposal has not implemented BAT and BCT at the Facility for its discharges of TSS, pH, specific conductivity, aluminum, copper, iron, lead, zinc, COD, BOD, and other pollutants in violation of Effluent Limitation B(3) of the General Permit. Novato Disposal was required to have implemented BAT and BCT by no later than October 1, 1992. Thus, Novato Disposal is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the above numbers and observations indicate that the facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CSPA and PRC also allege that such violations have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least June 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 and PRC allege that Novato Disposal has discharged storm water containing impermissible levels of TSS, pH, specific conductivity, aluminum, copper, iron, lead, zinc, COD, and BOD in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants 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, Novato Disposal is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

B. Failure to Sample and Analyze Storm Events and Mandatory Parameters

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). “Facility operators 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.” *Id.* “All storm water discharge locations shall be sampled.” *Id.* “Facility operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled.” *Id.* Novato Disposal failed to sample a second storm event during the 2007-2008 rainy season for a total of two violations (one season of violations at two storm drains) of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Novato Disposal is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Section A 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 General Permit 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 include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must 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)).

CSPA's and PRC's investigation of the conditions at the Facility as well as Novato Disposal's Annual Reports indicates that Novato Disposal has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Novato Disposal has failed to evaluate the effectiveness of its BMPs, to implement structural BMPs, and to revise its SWPPP as necessary. Novato Disposal has failed to implement BAT and BCT at the facility. Novato Disposal has been in continuous violation of Section A and Provision E(2) of the General Permit every day since at least June 4, 2005, and will continue to be in violation every day that Novato Disposal fails to prepare, implement, review, and update an effective SWPPP. Novato Disposal is subject to penalties for violations of the Order and the Act occurring since June 4, 2005.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(4)(c) requires visual observation records to note, among other things, the date of each monthly observation. Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event." Novato Disposal failed to make and report monthly visual observations as required under Section B(4) of the General Permit in October 2008, December 2008, January 2009, March 2009, April 2009, and May 2009, for a total of six (6) violations of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Novato Disposal is subject to penalties for violations of the General Permit and the Act since June 4, 2005.

The above referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent

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Limitations in the General Permit. To the extent the storm water data collected by Novato Disposal is not representative of the quality of the Facility's various storm water discharges, and/or Novato Disposal failed to sample for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities" (Section B(5)(c)(ii)), CSPA and PRC, on information and belief, allege that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) 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, Novato Disposal is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since June 4, 2005.

E. Failure to File True and Correct Annual Reports.

Section B(14) of the General Industrial Storm Water 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) & (10) and B(14).

In addition, since 2005, Novato Disposal and its agents, Rick Holiday and James R. Salyers², inaccurately certified in their Annual Reports that the Facility was in compliance with the General Permit. Consequently, Novato Disposal has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time Novato Disposal failed to submit a complete or correct report and every time Novato Disposal or its agents falsely purported to comply with the Act. Novato Disposal is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since June 4, 2005.

² Rick Holiday, Operations Manager, certified the 2008-2009 Annual Report; James R. Salyers, Vice-President, certified the Annual Reports for 2005-2006, 2006-2007, and 2007-2008.

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IV. Persons Responsible for the Violations.

CSPA and PRC put Novato Disposal Service, Inc., James Ratto, James Salyers, and Rick Holiday 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 and PRC put Novato Disposal, James Ratto, James Salyers, and Rick Holiday on notice that they intend to include those persons in this action.

V. Name and Address of Noticing Parties.

Our names, addresses, and contact information is as follows:

Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067
Fax (209) 464-1028
E-Mail: deltakeep@aol.com

David Keller
Petaluma River Council
1327 I Street
Petaluma, CA 94952
Tel. (707) 763-9336
E-Mail: dkeller1@sonic.net

VI. Counsel.

CSPA and PRC have retained legal counsel to represent them in this matter. Please direct all communications to:

Michael R. Lozeau
Richard T. Drury
David A. Zizmor
Lozeau Drury LLP
1516 Oak Street, Suite 216
Alameda, California 94501
Tel. (510) 749-9102
michael@lozeaudrury.com
richard@lozeaudrury.com
david@lozeaudrury.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; 73 FR 75340) each separate violation of the Act subjects Novato Disposal to a penalty of up to \$37,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA and PRC will seek

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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.

CSPA and PRC believe this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CSPA and PRC intend to file a citizen suit under Section 505(a) of the Act against Novato Disposal and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA and PRC would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA and PRC 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. CSPA and PRC 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 "Michael R. Lozeau". The signature is fluid and cursive, with a large, stylized initial "M" and "L".

Michael R. Lozeau
Attorney for California Sportfishing Protection
Alliance and Petaluma River Council

SERVICE LIST

R. Richard Williams [Registered Agent]
703 2nd Street, Third Floor
Santa Rosa, CA 95404

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

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

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

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

Bruce H. Wolfe, Executive Officer II
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

ATTACHMENT A

Rain Dates, Novato Disposal Services, Inc., Petaluma, California

June 4, 2005	January 2, 2006	March 30, 2006
June 5, 2005	January 3, 2006	March 31, 2006
June 16, 2005	January 6, 2006	April 1, 2006
August 16, 2005	January 7, 2006	April 2, 2006
September 23, 2005	January 13, 2006	April 3, 2006
October 14, 2005	January 14, 2006	April 4, 2006
October 15, 2005	January 17, 2006	April 5, 2006
October 21, 2005	January 18, 2006	April 7, 2006
October 25, 2005	January 19, 2006	April 9, 2006
October 26, 2005	January 20, 2006	April 10, 2006
October 28, 2005	January 21, 2006	April 11, 2006
October 29, 2005	January 27, 2006	April 12, 2006
November 3, 2005	January 28, 2006	April 15, 2006
November 4, 2005	January 30, 2006	April 16, 2006
November 6, 2005	February 1, 2006	April 28, 2006
November 7, 2005	February 2, 2006	April 29, 2006
November 8, 2005	February 4, 2006	May 1, 2006
November 16, 2005	February 17, 2006	May 2, 2006
November 17, 2005	February 18, 2006	May 3, 2006
November 21, 2005	February 26, 2006	May 5, 2006
November 22, 2005	February 27, 2006	May 8, 2006
November 23, 2005	February 28, 2006	May 9, 2006
November 24, 2005	March 1, 2006	October 4, 2006
November 25, 2005	March 2, 2006	October 5, 2006
November 28, 2005	March 3, 2006	October 13, 2006
November 29, 2005	March 4, 2006	October 14, 2006
November 30, 2005	March 5, 2006	October 16, 2006
December 1, 2005	March 6, 2006	October 17, 2006
December 7, 2005	March 7, 2006	October 18, 2006
December 14, 2005	March 8, 2006	October 19, 2006
December 17, 2005	March 9, 2006	October 20, 2006
December 18, 2005	March 10, 2006	October 25, 2006
December 19, 2005	March 12, 2006	October 26, 2006
December 20, 2005	March 13, 2006	October 28, 2006
December 21, 2005	March 14, 2006	October 30, 2006
December 22, 2005	March 15, 2006	November 1, 2006
December 23, 2005	March 16, 2006	November 2, 2006
December 25, 2005	March 17, 2006	November 9, 2006
December 26, 2005	March 20, 2006	November 11, 2006
December 27, 2005	March 23, 2006	November 12, 2006
December 28, 2005	March 24, 2006	November 13, 2006
December 29, 2005	March 25, 2006	November 16, 2006
December 30, 2005	March 27, 2006	November 19, 2006
December 31, 2005	March 28, 2006	November 22, 2006
January 1, 2006	March 29, 2006	November 26, 2006

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Rain Dates, Novato Disposal Services, Inc., Petaluma, California

November 27, 2006	March 21, 2007	December 20, 2007
December 8, 2006	March 24, 2007	December 27, 2007
December 9, 2006	March 26, 2007	December 28, 2007
December 10, 2006	March 30, 2007	December 29, 2007
December 11, 2006	March 31, 2007	January 3, 2008
December 12, 2006	April 3, 2007	January 4, 2008
December 13, 2006	April 6, 2007	January 5, 2008
December 14, 2006	April 7, 2007	January 6, 2008
December 21, 2006	April 9, 2007	January 7, 2008
December 26, 2006	April 11, 2007	January 8, 2008
December 27, 2006	April 13, 2007	January 9, 2008
January 3, 2007	April 14, 2007	January 10, 2008
January 4, 2007	April 17, 2007	January 14, 2008
January 14, 2007	April 19, 2007	January 16, 2008
January 16, 2007	April 20, 2007	January 21, 2008
January 17, 2007	April 21, 2007	January 23, 2008
January 18, 2007	April 22, 2007	January 24, 2008
January 25, 2007	April 26, 2007	January 25, 2008
January 26, 2007	April 27, 2007	January 26, 2008
January 27, 2007	April 28, 2007	January 27, 2008
February 7, 2007	May 1, 2007	January 28, 2008
February 8, 2007	May 2, 2007	January 29, 2008
February 9, 2007	May 3, 2007	January 30, 2008
February 10, 2007	May 4, 2007	January 31, 2008
February 11, 2007	May 7, 2007	February 1, 2008
February 12, 2007	May 17, 2007	February 2, 2008
February 20, 2007	June 2, 2007	February 3, 2008
February 21, 2007	June 5, 2007	February 12, 2008
February 22, 2007	June 6, 2007	February 13, 2008
February 24, 2007	June 7, 2007	February 18, 2008
February 25, 2007	June 8, 2007	February 19, 2008
February 26, 2007	June 9, 2007	February 20, 2008
February 27, 2007	December 3, 2007	February 21, 2008
March 1, 2007	December 4, 2007	February 22, 2008
March 7, 2007	December 5, 2007	February 23, 2008
March 8, 2007	December 6, 2007	February 24, 2008
March 13, 2007	December 7, 2007	March 3, 2008
March 14, 2007	December 14, 2007	March 4, 2008
March 16, 2007	December 16, 2007	March 12, 2008
March 17, 2007	December 17, 2007	March 13, 2008
March 19, 2007	December 18, 2007	March 14, 2008
March 20, 2007	December 19, 2007	March 15, 2008

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Rain Dates, Novato Disposal Services, Inc., Petaluma, California

March 18, 2008	December 18, 2008	March 16, 2009
March 27, 2008	December 19, 2008	March 21, 2009
March 28, 2008	December 21, 2008	March 22, 2009
March 29, 2008	December 22, 2008	March 26, 2009
March 30, 2008	December 23, 2008	March 30, 2009
March 31, 2008	December 24, 2008	April 6, 2009
April 4, 2008	December 25, 2008	April 7, 2009
April 7, 2008	January 1, 2009	April 8, 2009
April 9, 2008	January 2, 2009	April 9, 2009
October 3, 2008	January 5, 2009	April 22, 2009
October 4, 2008	January 13, 2009	April 23, 2009
October 7, 2008	January 14, 2009	April 24, 2009
October 8, 2008	January 19, 2009	April 25, 2009
October 10, 2008	January 20, 2009	April 26, 2009
October 12, 2008	January 21, 2009	April 29, 2009
October 14, 2008	January 22, 2009	May 1, 2009
October 18, 2008	January 23, 2009	May 2, 2009
October 20, 2008	January 24, 2009	May 3, 2009
October 21, 2008	January 29, 2009	May 4, 2009
October 22, 2008	February 3, 2009	May 5, 2009
October 23, 2008	February 5, 2009	May 6, 2009
October 24, 2008	February 6, 2009	May 10, 2009
October 25, 2008	February 8, 2009	May 13, 2009
October 26, 2008	February 10, 2009	June 5, 2009
October 30, 2008	February 11, 2009	June 6, 2009
October 31, 2008	February 12, 2009	June 7, 2009
November 1, 2008	February 13, 2009	October 13, 2009
November 3, 2008	February 14, 2009	October 15, 2009
November 7, 2008	February 15, 2009	October 19, 2009
November 8, 2008	February 16, 2009	December 11, 2009
November 14, 2008	February 17, 2009	December 12, 2009
November 15, 2008	February 18, 2009	December 13, 2009
November 17, 2008	February 22, 2009	December 16, 2009
November 18, 2008	February 23, 2009	December 18, 2009
November 20, 2008	February 25, 2009	December 20, 2009
November 26, 2008	February 26, 2009	December 21, 2009
December 1, 2008	March 1, 2009	December 26, 2009
December 5, 2008	March 2, 2009	December 27, 2009
December 10, 2008	March 3, 2009	December 29, 2009
December 14, 2008	March 4, 2009	January 1, 2010
December 15, 2008	March 5, 2009	January 2, 2010
December 16, 2008	March 15, 2009	January 3, 2010

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Rain Dates, Novato Disposal Services, Inc., Petaluma, California

January 12, 2010	April 4, 2010
January 17, 2010	April 5, 2010
January 18, 2010	April 9, 2010
January 19, 2010	April 10, 2010
January 20, 2010	April 11, 2010
January 21, 2010	April 12, 2010
January 22, 2010	April 14, 2010
January 23, 2010	April 17, 2010
January 24, 2010	April 18, 2010
January 25, 2010	April 20, 2010
January 26, 2010	April 21, 2010
January 29, 2010	April 23, 2010
January 31, 2010	April 24, 2010
February 1, 2010	April 27, 2010
February 3, 2010	April 28, 2010
February 4, 2010	April 30, 2010
February 6, 2010	May 2, 2010
February 8, 2010	May 3, 2010
February 9, 2010	May 4, 2010
February 11, 2010	May 5, 2010
February 12, 2010	May 6, 2010
February 14, 2010	May 7, 2010
February 17, 2010	May 8, 2010
February 18, 2010	May 9, 2010
February 21, 2010	May 10, 2010
February 23, 2010	May 11, 2010
February 24, 2010	May 12, 2010
February 26, 2010	May 13, 2010
February 27, 2010	May 14, 2010
March 2, 2010	May 15, 2010
March 3, 2010	May 17, 2010
March 8, 2010	May 18, 2010
March 9, 2010	May 19, 2010
March 12, 2010	May 20, 2010
March 22, 2010	May 21, 2010
March 24, 2010	May 22, 2010
March 25, 2010	May 23, 2010
March 29, 2010	May 24, 2010
March 30, 2010	May 25, 2010
March 31, 2010	May 27, 2010
April 1, 2010	May 31, 2010
April 2, 2010	