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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.
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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.
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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

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
1001 I Street Sacramento, CA 95814
P.O. Box 100
Sacramento, CA 95812-0100

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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Rain Dates, Redwood Empire, Oakland, California

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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Rain Dates, Redwood Empire, Oakland, California

May 25, 2010

May 27, 2010

May 29, 2010