



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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April 8, 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chris Ottone, President
North State Rendering
15 Shippee Road
Oroville, CA 95965

Chris Ottone, President
North State Rendering
P.O. Box 1478
Chico, CA 95927-1478

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

Dear Sir:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at the North State Rendering Tallow Plant facility owned and/or operated by Christopher J. Ottone, located at 15 Shippee Road, Oroville, CA 95965 ("the Facility"). The WDID identification number for the Facility is 5R04I004410. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of the Sacramento River, its tributaries, and other California waters. This letter is being sent to you as the responsible owners, officers, or operators of the North State Rendering ("North State") facility.

This letter addresses North State's unlawful discharges of pollutants from the Facility directly and indirectly through an unnamed tributary to Gold Run, which flows into Dry Creek and ultimately drains to the Sacramento River and the Sacramento-San Joaquin Delta. This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("General Industrial Storm Water Permit" or "General Permit").

CSPA is particularly concerned about these ongoing unlawful discharges because North State has been repeatedly warned by the Regional Water Quality Control Board that storm water runoff from the facility exceeds US EPA benchmark values for common storm water pollutants, and that the General Permit requires discharges to implement best management practices (BMPs) using best available pollutant control technology (BAT) and best available pollutant control technology (BCT) to reduce or eliminate the

discharge of pollutants.¹ It is CSPA's intention, through this letter, to bring these violations to North State's attention so that they may be resolved in a comprehensive and efficient manner.

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

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

I. Background.

On or about April 6, 1992, North State submitted a notice of intent to comply with the terms of the General Industrial Storm Water Permit. The Facility is primarily used to manufacture tallow, grease, and other animal by-products to make soap, candles, and pet and livestock feed. Accordingly, the Facility is classified as a landfill facility under Standard Industrial Classification ("SIC") code 2077. North State is not a member of any monitoring group. The Facility collects and discharges storm water from its roughly 28-acre industrial site through at least one discharge point to storm water drains which drain through an unnamed tributary to Gold Run, which flows into Dry Creek and, ultimately, to the Delta.

The Central Valley Regional Water Quality Control Board (the "Regional Board" or "Board") has established water quality standards for the Sacramento River and the Delta in the "Water Quality Control Plan for the Sacramento River and San Joaquin River Basins," generally referred to as the Basin Plan. The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." For the Delta, the Basin Plan establishes standards for several metals, including (at a hardness of 40 mg/L) 0.01 mg/L for arsenic, 0.1 mg/L for copper, 0.3 mg/L for iron, and 0.1 mg/L for zinc. *Id.* at III-4.00. The Basin Plan states

¹ CSPA is aware of at least five letters from the California Regional Water Quality Control Board, Central Valley Region, that were sent to the North State on August 8, 2001, August 14, 2002, August 24, 2004, May 18, 2007, and May 23, 2007, warning North State of benchmark exceedances in its storm water discharges and the need for the employment of BMPs, BATs, and BCTs.

that “[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain lead in excess of 0.015 mg/L.” *Id.* at III-3.00. The Basin Plan also provides that “[t]he pH shall not be depressed below 6.5 nor raised above 8.5.” *Id.* at III-6.00. The Basin Plan also prohibits the discharges of oil and grease, stating that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.” *Id.* at III-5.00

The Basin Plan also provides that “[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs).” *Id.*, at III-3.0. The EPA has issued a recommended water quality criteria for aluminum for freshwater aquatic life protection of 0.087 mg/L. EPA has established a secondary MCL, consumer acceptance limit for aluminum of 0.05 mg/L to 0.2 mg/L. EPA has established a secondary MCL, consumer acceptance limit for the following: zinc – 5.0 mg/L; copper – 1.0 mg/L; and iron – 0.3 mg/L. EPA has established a primary MCL, consumer acceptance limit for the following: chromium – 0.1 mg/L; copper – 1.3 mg/L; and lead – 0.0 (zero) mg/L. *See* <http://www.epa.gov/safewater/mcl.html>. The California Department of Health Services has also established the following MCL, consumer acceptance levels: aluminum – 1.0 mg/L (primary) and 0.2 mg/L (secondary); arsenic – 0.01 mg/L (primary); cadmium – 0.005 mg/L (primary); copper – 1.0 (secondary); iron – 0.3 mg/L; mercury 0.002 mg/L (primary); selenium – 0.05 mg/L (primary); and zinc – 5.0 mg/L. *See* California Code of Regulations, title 22, §§ 64431, 64449.

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

The Regional Board has identified waters of the Delta as failing to meet water quality standards for unknown toxicity, electrical conductivity, numerous pesticides, and mercury. *See* <http://www.swrcb.ca.gov/tmdl/docs/2002reg5303dlist.pdf>. Discharges of listed pollutants into an impaired surface water may be deemed a “contribution” to the exceedance of CTR, a water quality standard, and may indicate a failure on the part of a discharger to implement adequate storm water pollution control measures. *See Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 375 F.3d 913, 918 (9th Cir. 2004); *see also Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 2005 WL 2001037 at *3, 5 (E.D. Cal., Aug. 19, 2005) (discharger covered by the General Industrial Storm Water Permit was “subject to effluent limitation as to certain pollutants, including zinc, lead, copper, aluminum and lead” under the CTR).

The General Industrial Storm Water Permit also incorporates benchmark levels established by EPA as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). The following benchmarks have been established for pollutants discharged by North State: pH – 6.0-9.0; total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; chemical oxygen demand (“COD”) – 120 mg/L; biochemical oxygen demand (“BOD”) – 30 mg/L; and nitrate + nitrite – 0.68 mg/L. The State Water Quality Control Board also proposed adding a benchmark level for specific conductance of 200 μ mho/cm.

II. Pollutant Discharges in Violation of the NPDES Permit.

North State 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 Industrial Storm Water Permit. Discharge Prohibition A(1) of the General Industrial Storm Water 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 Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

The General Permit further prohibits any discharges of storm water associated with industrial activities that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand (“BOD”) and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

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

Based on its review of available public documents, CSPA is informed and believes that North State failed to comply with the requirements of the General Permit

and has continued to operate in violation of the General Permit despite the Regional Board's repeated warnings and notices of violation issued to North State. North State's ongoing violations are discussed further below.

A. North State Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

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

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

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

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
01/04/2006	Shippee Road Manhole	TSS	180 mg/L	100 mg/L
02/28/2006	Shippee Road Manhole	TSS	140 mg/L	100 mg/L

2. Discharges of Storm Water Containing Specific Conductivity (SC) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
01/04/2006	Shippee Road Manhole	SC	880 µmho/cm	200 µmho/cm
02/28/2006	Shippee Road Manhole	SC	610 µmho/cm	200 µmho/cm

12/27/2006	Shippee Road Manhole	SC	1080 μ mho/cm	200 μ mho/cm
02/28/2007	Shippee Road Manhole	SC	908 μ mho/cm	200 μ mho/cm
01/31/2008	Shippee Road Manhole	SC	1160 μ mho/cm	200 μ mho/cm
02/09/2008	Shippee Road Manhole	SC	1120 μ mho/cm	200 μ mho/cm
02/17/2009	Shippee Road Manhole	SC	1030 μ mho/cm	200 μ mho/cm
03/13/2009	Shippee Road Manhole	SC	983 μ mho/cm	200 μ mho/cm

3. Discharges of Storm Water Containing Chemical Oxygen Demand (COD) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
12/27/2006	Shippee Road Manhole	COD	140 mg/L	120 mg/L
01/31/2008	Shippee Road Manhole	COD	150 mg/L	120 mg/L

4. Discharges of Storm Water Containing Biochemical Oxygen Demand (BOD) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
02/17/2009	Shippee Road Manhole	BOD	60 mg/L	30 mg/L
03/13/2009	Shippee Road Manhole	BOD	35.7 mg/L	30 mg/L

5. Discharges of Storm Water Containing Nitrate + Nitrite Nitrogen (N+N) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
01/04/2006	Shippee Road Manhole	N+N	27 mg/L	0.68 mg/L
02/28/2006	Shippee Road Manhole	N+N	0.74 mg/L	0.68 mg/L
12/27/2006	Shippee Road Manhole	N+N	10.6 mg/L	0.68 mg/L
02/28/2007	Pasture Discharge #2	N+N	33.5 mg/L	0.68 mg/L
01/31/2008	Shippee Road Manhole	N+N	155 mg/L	0.68 mg/L
02/09/2008	Shippee Road Manhole	N+N	230 mg/L	0.68 mg/L
02/17/2009	Shippee Road Manhole	N+N	52.8 mg/L	0.68 mg/L
03/13/2009	Shippee Road Manhole	N+N	20.8 mg/L	0.68 mg/L

CSPA's investigation, including its review of North State's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of EPA's benchmark values and the Basin Plan's benchmark for pH, indicates that North State has not implemented BAT and BCT at the Facility for its discharges of total suspended solids (TSS), specific conductivity (SC), chemical oxygen demand (COD), biochemical oxygen demand (BOD), nitrate + nitrite nitrogen (N+N), and other pollutants. North State was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. North State is discharging polluted storm water associated with its industrial operations in violation of the General Permit without having implemented BAT and BCT.

CSPA is informed and believes that North State has known that its storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least April 8, 2005. CSPA alleges that such violations also have occurred and will occur on other rain dates, including during every single significant rain event that has occurred since April 8, 2005, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that North State has discharged storm water containing impermissible levels of total suspended solids, specific

conductivity, chemical oxygen demand, and nitrate + nitrite nitrogen in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of stormwater containing any pollutants from the Facility without the implementation of BAT/BCT constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, North State is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since April 8, 2005.

B. North State Has Failed to Implement an Adequate Monitoring & Reporting Plan.

Section B of the General Industrial Storm Water Permit requires that dischargers develop and implement an adequate Monitoring and Reporting Plan by no later than October 1, 1992 or the start of operations. Sections B(3), B(4) and B(7) require that dischargers conduct regularly scheduled visual observations of non-storm water and storm water discharges from the Facility and to record and report such observations to the Regional Board. Section B(5)(a) of the General Industrial Storm Water Permit requires that dischargers “shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season. All storm water discharge locations shall be sampled.” Section B(5)(c)(i) further requires that the samples shall be analyzed for total suspended solids, pH, specific conductance, and total organic carbon. Oil and grease may be substituted for total organic carbon. Facilities, such as North State, designated under SIC 2077 are also required to sample for chemical oxygen demand, biochemical oxygen demand, and nitrate + nitrite nitrogen. Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.”

Based on its investigation, CSPA is informed and believes that North State has failed to develop and implement an adequate Monitoring & Reporting Plan. First, North State has failed to collect storm water samples from *each* discharge point during at least two qualifying storm events (as defined by the General Permit) during each of the past five years. Second, North State has failed to analyze its storm water for all pollutants likely to be present in significant quantities in its storm water discharge. Each of these failures constitutes a separate and ongoing violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, North State is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since April 8, 2005. These violations are set forth in greater detail below.

1. North State Has Failed to Collect at Least Two Storm Water Samples From Each Facility Discharge Point During Each of the Last Five Years.

Based on its review of publicly available documents, CSPA is informed and believes that North State has failed to collect storm water samples from all discharge points at the Facility for at least two storm events during each Wet Season as required by Section B(5)(a). Based on the annual reports, and attached laboratory testing documents filed by North State over the past five years, the facility has made a practice of reporting the existence of fewer discharge points than actually exist at the facility. For example, each of the annual reports filed by North State over the past five years state that there is only one storm water discharge location at the facility, designated as “Shippee Road Manhole” in the annual reports. However, according to the lab report from Monarch Laboratory, Inc., dated March 19, 2007, which North State attached to the 2007 Annual Report filed with the regional board, a storm water discharge sample was taken from “Pasture Discharge #2” on February 28, 2007, thereby indicating that at least two known discharge locations exist at the facility. North State has routinely failed to collect and analyze samples from more than one discharge location during the past five years. Based on CSPA’s review of publicly available rainfall data from this region and a review of the historic rainfall monitoring station data, any assertion that there were less than two qualifying storm producing a discharge from each of the facility’s discharge locations during any of the wet seasons over the past five years is quite simply very difficult to believe. North State’s failure to comply with the sampling requirements of the Act and the Permit constitute separate and ongoing violations of the Permit and the Act.

2. North State Has Failed to Analyze Its Storm Water for All Pollutants Likely to Be Present in Significant Quantities in Its Storm Water Discharge.

Section B(5)(c)(i) further requires that the samples shall be analyzed for total suspended solids, pH, specific conductance, and total organic carbon. Oil and grease may be substituted for total organic carbon. Facilities, such as North State, designated under SIC 2077 are also required to sample for chemical oxygen demand, biochemical oxygen demand, and nitrate + nitrite nitrogen. Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.” Based on a review of North State’s Annual Reports submitted to the Regional Board over the past five years, CSPA believes that North State has failed to monitor for at least seven pollutants likely to be present in storm water discharges in significant quantities – chloride, magnesium, ammonia, copper, nickel, zinc, and lead. Moreover, North State failed to monitor its storm water for total suspended solids, pH, and chemical oxygen during the 2008 – 2009 wet season. Each failure to monitor for each separate parameter constitutes a separate violation of the General Industrial Storm Water Permit and the Act.

The Facility's failure to monitor these mandatory parameters has caused and continues to cause multiple separate and ongoing violations of the General Permit and Act.

3. North State Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since April 8, 2005.

CSPA is informed and believes that available documents demonstrate North State's consistent and ongoing failure to implement an adequate Monitoring & Reporting Plan in violation of Section B of the General Industrial Storm Water Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, North State is subject to penalties for these violations of the General Industrial Storm Water Permit and the Act since April 8, 2005.

C. North State Has Failed to Implement BAT and BCT.

Effluent Limitation B(3) of the General Industrial Storm Water Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). CSPA's investigation indicates that North State has not implemented BAT and BCT at the Facility for its discharges of total suspended solids, specific conductivity, chemical oxygen demand, nitrate + nitrite nitrogen, and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

On August 8, 2001; August, 14, 2002; August 24, 2004; May 18, 2007; and again on May 23, 2007, an agent from the Storm Water and Water Certification Unit of the Regional Board sent letters to North State warning it that U.S. EPA benchmarks had been exceeded at the facility. The Regional Board noted that the "storm water samples indicate that the current BMPs implemented at the site are not sufficient to reduce pollutant concentrations below benchmark levels." The Regional Board ordered that additional BMPs must be implemented to reduce or eliminate the discharge of pollutants from the site. The Board further ordered North State to modify its existing Storm Water Pollution Prevention Plan ("SWPPP"). Based on available documents, CSPA is informed and believes that North State failed to implement any additional BMPs and/or to inform the Regional Board of any such improvements or revisions to the SWPPP.

To meet the BAT/BCT requirement of the General Permit, North State must evaluate all pollutant sources at the Facility and implement the best structural and non-structural management practices economically achievable to reduce or prevent the discharge of pollutants from the Facility. Based on the limited information available regarding the internal structure of the Facility, CSPA believes that at a minimum North

State must improve its housekeeping practices, store materials that act as pollutant sources under cover or in contained areas, treat storm water to reduce pollutants before discharge (e.g., with filters or treatment boxes), and/or prevent storm water discharge altogether. North State has failed to implement such measures adequately.

North State was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, North State has been in continuous violation of the BAT and BCT requirements every day since October 1, 1992, and will continue to be in violation every day that North State fails to implement BAT and BCT. DWP is subject to penalties for violations of the Order and the Act occurring since April 8, 2005.

D. North State Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

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

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (“BMPs”) to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must also include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP 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 waterbodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water

discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). Receiving Water Limitation C(3) of the Order requires that dischargers submit a report to the appropriate Regional Water Board that describes the BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce the discharge of any pollutants causing or contributing to the exceedance of water quality standards.

CSPA's investigation and review of available documents regarding conditions at the Facility indicate that North State has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. North State has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. North State has been in continuous violation of Section A(1) and Provision E(2) of the General Industrial Storm Water Permit every day since October 1, 1992, and will continue to be in violation every day that North State fails to develop and implement an effective SWPPP. North State is subject to penalties for violations of the Order and the Act occurring since April 8, 2005.

E. North State Has Failed to Address Discharges Contributing to Exceedances of Water Quality Standards.

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

As indicated above, North State is discharging elevated levels of total suspended solids, specific conductivity, chemical oxygen demand, and nitrate + nitrite nitrogen that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutants, North State was required to submit a report pursuant to Receiving Water Limitation C(4)(a) within 60-days of becoming aware of levels in its storm water exceeding the EPA Benchmarks and applicable water quality standards. North State has failed to do so.

Based on CSPA's review of available documents, North State was aware of high levels of these pollutants prior to April 8, 2005. Likewise, North State has not filed any reports describing its noncompliance with the General Industrial Storm Water Permit in violation of Section C(11)(d). Lastly, the SWPPP and accompanying BMPs do not appear to have been altered as a result of the annual evaluation required by Section A(9). North State has been in continuous violation of Receiving Water Limitation C(4)(a) and Sections C(11)(d) and A(9) of the General Industrial Storm Water Permit every day since April 8, 2005, and will continue to be in violation every day that North State fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. North State is subject to penalties for violations of the General Industrial Storm Water Permit and the Act occurring since April 8, 2005.

F. North State Has Failed to File Timely, True and Correct 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).

CSPA's investigation indicates that North State has signed and submitted incomplete Annual Reports and purported to comply with the General Industrial Storm Water Permit despite significant noncompliance at the Facility. As indicated above, North State has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, North State has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time North State submitted an incomplete, untimely, or incorrect annual report, that falsely certified compliance with the Act in the past years. North State's failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. North State is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since April 8, 2005.

III. Persons Responsible for the Violations.

CSPA puts Mr. Christopher Ottone and North State on notice that they are the persons responsible for the violations described above. If additional persons are

subsequently identified as also being responsible for the violations set forth above, CSPA puts North State on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Party.

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

V. Counsel.

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

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Tel: (707) 763-7227
Fax: (707) 763-9227
E-mail: Andrew@PackardLawOffices.com

VI. Penalties.

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

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the Act against North State and its agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be

Notice of Violation and Intent To File Suit
April 8, 2010
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completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Jennings".

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

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

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

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

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

Pamela Creedon, Executive Officer
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Chris Ottone, President
North State Rendering
15 Shippee Road
Oroville, CA 95965

Chris Ottone, President
North State Rendering
P.O. Box 1478
Chico, CA 95927-1478

ATTACHMENT A
Notice of Intent to File Suit
North State Rendering Co.
Significant Rain Events, April 8, 2005 – April 8, 2010

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

ATTACHMENT A
Notice of Intent to File Suit
North State Rendering Co.
Significant Rain Events, April 8, 2005 – April 8, 2010

October 10, 2007	October 4, 2008	May 2, 2009
October 16, 2007	October 30, 2008	May 3, 2009
October 19, 2007	October 31, 2008	May 4, 2009
November 10, 2007	November 1, 2008	May 5, 2009
November 11, 2007	November 3, 2008	June 3, 2009
December 3, 2007	December 14, 2008	June 4, 2009
December 4, 2007	December 15, 2008	September 14, 2009
December 6, 2007	December 18, 2008	October 13, 2009
December 7, 2007	December 21, 2008	October 19, 2009
December 16, 2007	December 24, 2008	November 17, 2009
December 17, 2007	December 25, 2008	November 20, 2009
December 19, 2007	January 2, 2009	November 27, 2009
December 20, 2007	January 22, 2009	December 11, 2009
December 28, 2007	January 23, 2009	December 12, 2009
December 29, 2007	January 24, 2009	December 13, 2009
January 3, 2008	January 25, 2009	December 16, 2009
January 4, 2008	February 5, 2009	December 20, 2009
January 5, 2008	February 6, 2009	December 21, 2009
January 6, 2008	February 8, 2009	December 27, 2009
January 8, 2008	February 9, 2009	December 29, 2009
January 10, 2008	February 10, 2009	December 30, 2009
January 12, 2008	February 11, 2009	January 1, 2010
January 21, 2008	February 12, 2009	January 12, 2010
January 24, 2008	February 13, 2009	January 13, 2010
January 25, 2008	February 15, 2009	January 17, 2010
January 26, 2008	February 16, 2009	January 18, 2010
January 27, 2008	February 17, 2009	January 19, 2010
January 29, 2008	February 18, 2009	January 20, 2010
January 31, 2008	February 22, 2009	January 21, 2010
February 2, 2008	February 23, 2009	January 22, 2010
February 19, 2008	February 24, 2009	January 23, 2010
February 20, 2008	February 25, 2009	January 24, 2010
February 21, 2008	February 26, 2009	January 25, 2010
February 22, 2008	March 1, 2009	January 30, 2010
February 23, 2008	March 2, 2009	February 4, 2010
February 24, 2008	March 3, 2009	February 5, 2010
March 19, 2008	March 21, 2009	February 6, 2010
March 29, 2008	March 22, 2009	February 8, 2010
April 22, 2008	April 9, 2009	February 9, 2010
April 23, 2008	April 10, 2009	February 20, 2010
October 3, 2008	May 1, 2009	February 23, 2010

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Notice of Intent to File Suit
North State Rendering Co.
Significant Rain Events, April 8, 2005 – April 8, 2010

February 24, 2010
February 26, 2010
February 27, 2010
March 2, 2010

March 3, 2010
March 9, 2010
March 10, 2010
March 12, 2010

March 24, 2010
March 30, 2010
April 2, 2010
April 4, 2010