



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

Mr. John Heath, Associate Engineer
Mr. Casey R. Scott, Supervising Engineer
West Central Landfill
14095 Clear Creek Rd.
Igo, CA 96047

Mr. Andy Clemens
City of Redding
777 Cypress Ave.
Redding, CA 96001

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

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

Dear Messrs. Starman, Heath, Scott and Clemens:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "the Act") occurring at the West Central Landfill (hereafter, "WCL") facility located at 14095 Clear Creek Road in Igo, California ("the Facility"). The WDID identification number for the Facility is 5R45I002913. The City of Redding ("the City") is the operator of the Facility. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of Dry Creek, Cottonwood Creek, the Sacramento River and other California

waters. This letter is being sent to you as the responsible owner, officer, or operator of the Facility.

This letter addresses the City's unlawful discharges of pollutants from the Facility to Dry Creek, a tributary of Cottonwood Creek, which ultimately drains to the Sacramento River and the Sacramento-San Joaquin Bay Delta ("the Delta"). This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and the National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("General Industrial Storm Water Permit"). Although the City discharges pollutants from the Facility into Dry Creek, a tributary of Cottonwood Creek, which ultimately drains to the Sacramento River and the Delta, the City has not obtained a National Pollutant Discharge Elimination System ("NPDES") permit authorizing these discharges. The City's ongoing discharges of pollutants from the Facility to these waters of the United States violate Section 301(a) of the Act, 33 U.S.C. § 1311(a).

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

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

I. Background.

The City owns and/or operates the Facility as a landfill facility approximately 12 miles southwest of Redding, California, near the unincorporated town of Igo, California. The Facility is primarily used to dispose of municipal solid waste; other current activities at the Facility include the use, storage, and maintenance of motorized vehicles, including trucks used to haul materials to, from and within the Facility.

On April 2, 1992, the County of Shasta (i.e., the former operator of the Facility) submitted its notice of intent ("NOI") to operate the Facility in compliance with the terms of the General Industrial Storm Water Permit ("the General Permit"). Based on its review of publicly available documents CSPA is informed and believes that the City of

Redding (i.e., the current operator of the Facility) has never filed a NOI indicating its intent to operate the Facility in compliance with the terms of the General Permit.

The Facility collects and discharges storm water from its 1,058-acre industrial site through at least four discharge points indirectly to Dry Creek, a tributary of Cottonwood Creek, which ultimately drains to the Sacramento River and the Sacramento-San Joaquin Bay Delta (“the Delta”). The Delta, the Sacramento River, and the creeks that receive storm water discharges from the Facility are waters of the United States within the meaning of the Clean Water Act.

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

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

EPA has also issued numeric receiving water limits for certain toxic pollutants in California surface waters, commonly known as the California Toxics Rule (“CTR”). 40 CFR §131.38. The CTR establishes the following numeric limits for freshwater surface

waters: arsenic – 0.34 mg/L (maximum concentration) and 0.150 mg/L (continuous concentration); chromium (III) – 0.550 mg/L (maximum concentration) and 0.180 mg/L (continuous concentration); copper – 0.013 mg/L (maximum concentration) and 0.009 mg/L (continuous concentration); lead – 0.065 mg/L (maximum concentration) and 0.0025 mg/L (continuous concentration).

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

The General Industrial Storm Water Permit incorporates benchmark levels established by EPA as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). The following benchmarks have been established for pollutants discharged by the Facility: pH – 6.0-9.0; total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; and iron – 1.0 mg/L. The State Water Quality Control Board also recently proposed adding a benchmark level for specific conductance of 200 µmhos/cm. Additional parameters for pollutants that CSPA believes are being discharged from the Facility are: aluminum – 0.75 mg/L; chemical oxygen demand (“COD”) – 120 mg/L; copper – 0.0636 mg/L; lead – 0.0816 mg/L; mercury – 0.0024 mg/L; and zinc – 0.117 mg/L.

II. The City is Violating the Act by Discharging Pollutants From the Facility to Waters of the United States Without a NPDES Permit.

Under the Act, it is unlawful to discharge pollutants from a “point source” to navigable waters without obtaining and complying with a permit governing the quantity and quality of discharges. *Trustees for Alaska v. EPA*, 749 F.2d 549, 553 (9th Cir. 1984). Section 301(a) of the Clean Water Act prohibits “the discharge of any pollutants by any person . . .” except as in compliance with, among other sections of the Act, Section 402, the NPDES permitting requirements. 33 U.S.C. § 1311(a). The duty to apply for a permit extends to “[a]ny person who discharges or proposes to discharge pollutants. . . .” 40 C.F.R. § 122.21(a).

The term “discharge of pollutants” means “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). Pollutants are defined to include, among other examples, a variety of metals, chemical wastes, biological

materials, heat, rock, and sand discharged into water. 33 U.S.C. § 1362(6). A point source is defined as “any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14). A landfill that discharges pollutants into a navigable water is subject to regulation as a “point source” under the Clean Water Act. *Comm. to Save Mokelumne River v. East Bay Mun. Util. Dist.*, 13 F.3d 305, 308 (9th Cir. 1993). “Navigable waters” means “the waters of the United States.” 33 U.S.C. § 1362(7). Navigable waters under the Act include man-made waterbodies and any tributaries or waters adjacent to other waters of the United States. *See Headwaters, Inc. v Talent Irrigation Dist.*, 243 F.3d 526, 533 (9th Cir. 2001).

Dry Creek and Cottonwood Creek are waters of the United States, which flow into the Sacramento River and ultimately to the Sacramento-San Joaquin Delta. Accordingly, the Facility’s discharges of storm water containing pollutants to Dry Creek are discharges to waters of the United States.

CSPA anticipates the City will assert it is lawfully operating the Facility under the General Permit because the former operator of the Facility, the County of Shasta, filed a NOI to operate the Facility in compliance with the terms of the General Permit on April 2, 1992. However, the plain language of the General Permit compels the opposite conclusion. Attachment 3 to the General Permit (**NOTICE OF INTENT (NOI) INSTRUCTIONS**) states, in relevant part:

Change of Information

If the information provided on the NOI or site map changes, you should report the changes to the State Water Board using an NOI form. Section I of the line-by-line instructions includes information regarding changes to the NOI.

NOI LINE-BY-LINE INSTRUCTIONS

Section I – NOI STATUS

Check box “B” if you are reporting changes to the NOI (e.g., new contact person, phone number, mailing address). Include the facility WDID #.
Highlight all the information that has been changed.

Please note that a change of information **does not** apply to a change of facility operator or a change in the location of the facility. These changes require a Notice of Termination (NOT) and submittal of a new NOI and annual fee.

Section II – Facility Operator Information

Part A: The facility operator is the legal entity that is responsible for all permit related compliance activities at the facility. In most cases, the facility operator is the owner of the business or operation where the industrial activity occurs. Give the legal name and the address of the person, firm, public organization, or any other entity that is responsible for complying with the General Permit. (Emphasis in original).

Based on the above-cited portion of the General Permit and its review of publicly available documents, CSPA is informed and believes that: (1) the County of Shasta filed the only NOI ever filed for the Facility in 1992; (2) the County of Shasta has never filed a Notice of Termination (NOT) for the Facility; (3) the City has never filed a NOI for the Facility since it began operating the Facility; and, (4) the City has operated the Facility unlawfully without a permit every day for the last five years.

For at least the last five years, the City has discharged pollutants from the Facility into Dry Creek and, ultimately, the Sacramento River and Delta without a NPDES permit. CSPA is informed and believes, and thereupon alleges, that the City has discharged and is discharging pollutants from the Facility to waters of the United States every day that there has been or will be any measurable flow of water from the Facility for the last five years. Each discharge on each separate day is a separate violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These unlawful discharges are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, the City is subject to penalties for violations of the Act since April 8, 2005.

III. Pollutant Discharges in Violation of the NPDES Permit.

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

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Industrial Storm Water Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an

exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan.

Based on its review of publicly available documents, CSPA is informed and believes that the Facility continues to operate the Facility in violation of the General Permit. The City's ongoing violations are discussed further below.

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

CSPA is informed and believes that the Facility has likely discharged and likely continues to discharge stormwater with unacceptable levels of pH, total suspended solids (TSS), specific conductivity (SC), Iron (Fe), Oil and Grease (O&G), aluminum (Al), zinc (Zn), chemical oxygen demand (COD) and lead (Pb) in violation of the General Permit. CSPA notes that every Annual Report on file for the Facility at the office of the Regional Board reports that the Facility is purportedly exempt from the General Permit requirement to collect and analyze samples of storm water from at least two storm events annually. The asserted exemption is based on a letter dated July 8, 1996, from the Regional Board's Carole Crowe to the Shasta County Department of Public Works ("the Exemption Letter"). The Exemption Letter purports to approve the Shasta County Department of Public Works' requested exemption from the sampling requirements of the General Permit. However, the Regional Board has never approved any requested exemption from the General Permit's storm water sampling requirements made by the City, the current operator of the Facility. CSPA is further informed and believes that Ms. Crowe lacked the legal authority to approve the storm water sampling exemption for the Facility requested by the Shasta County Department of Public Works in 1996. Alternatively, CSPA is informed and believes that even if Ms. Crowe did have legal authority to grant the exemption requested, the current operator of the Facility, the City, lacks the legal authority to rely on any exemption granted to the former operator of the Facility, the Shasta County Department of Public Works.

In any event, the purported exemption is facially invalid. Accordingly, the City may not rely on the Exemption Letter as the basis for having violated and continuing to violate the General Permit requirement to annually collect and analyze samples of storm water from each of the Facility's four discharge points from at least two storm events between the months of October through May. Based on its failure to sample its storm water discharges of pH, total suspended solids (TSS), specific conductivity (SC), Iron (Fe), Oil and Grease (O&G), aluminum (Al), zinc (Zn), chemical oxygen demand (COD) and lead (Pb), CSPA is informed and believes that the Facility is discharging storm water containing pollutants in violation of the General Permit.

CSPA is informed and believes that the City has known that the Facility's storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least 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 the Facility discharged storm water containing impermissible levels of TSS, O&G, Iron (Fe), Specific Conductivity (SC), Aluminum (Al), Zinc (Zn), Chemical Oxygen Demand (COD), Lead (Pb) and other un-monitored pollutants in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit.

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

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

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

The Facility’s NOI designates the Facility as conforming to SIC Code 4953 – an SIC which requires the sampling and analysis of additional parameters found in Table D of the General Permit. Under Table D, facilities designated as SIC Code 4953 must analyze samples of storm water for Iron (Fe) and Total Suspended Solids (TSS). Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.”

Based on its investigation, CSPA is informed and believes that the City has failed to develop and implement an adequate Monitoring & Reporting Plan at the Facility. First, the City has failed to collect storm water samples from each discharge point at the Facility during at least two qualifying storm events (as defined by the General Permit) during each of the past five years. Second, the City has failed to analyze the Facility’s

storm water samples for all additional analytical parameters required for facilities designated under SIC 4953 (i.e., iron and TSS) during each of the past five years. Finally, CSPA is informed and believes that the City has failed to conduct all required visual observations of non-storm water and storm water discharges at the Facility. Each of these failures constitutes a separate and ongoing violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, the City is subject to penalties for violations of the General Permit and the Act since April 8, 2005. These violations are set forth in greater detail below.

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

Based on its review of publicly available documents, CSPA is informed and believes that the City has failed to collect at least two storm water samples from all discharge points during qualifying rain events at the Facility during each of the past five years. For example, CSPA notes that for each Annual Report filed with the Regional Board for the Facility from the 2004-2005 wet season through the 2008-2009 wet season, the City has completely failed to collect any storm water samples from any of the Facility's discharge points. Each storm season the City failed to sample two qualifying storm events constitutes an additional and separate violation of the General Permit.

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

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

Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Based on its investigation, CSPA is informed and believes that the City has failed to monitor for pollutants likely to be present in storm water discharges in significant quantities. The City's failure to monitor for such pollutants extends back at least until April 8, 2005. The City's failure to monitor these mandatory parameters has caused and continues to cause multiple separate and ongoing violations of the General Permit and the Act.

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

CSPA is informed and believes that available documents demonstrate the City's consistent and ongoing failure to implement an adequate Monitoring Reporting Plan in

violation of Section B of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, the City is subject to penalties for these violations of the General Permit and the Act since April 8, 2005.

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

Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). CSPA's investigation indicates that the City has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS), Oil and Grease (O&G), iron (Fe), Specific Conductivity (SC), Aluminum (Al), Zinc (Zn), Chemical Oxygen Demand (COD), Lead (Pb) and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Permit.

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

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

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

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

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

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

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

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

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

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

As indicated above, CSPA is informed and believes the Facility is likely discharging elevated levels of total suspended solids, Iron (Fe), O&G, Specific Conductivity (SC), Aluminum (Al), Zinc (Zn), Chemical Oxygen Demand (COD) and Lead (Pb) that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutants, the City was required to submit a report pursuant to Receiving Water Limitation C(4)(a) within 60-days of becoming aware of levels in its storm water exceeding the EPA Benchmarks and applicable water quality standards.

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

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

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

Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

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

IV. Persons Responsible for the Violations.

CSPA hereby puts the City of Redding, Mr. Kurt Starman, Mr. John Heath, Mr. Casey R. Scott and Mr. Andy Clemens on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts the City of Redding, Mr. Kurt Starman, Mr. John Heath, Mr. Casey R. Scott and Mr. Andy Clemens on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Party.

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

VI. Counsel.

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

Andrew L. Packard, Esq.
Erik Roper, Esq.
Law Offices of Andrew L. Packard
100 Petaluma Blvd North, Suite 301
Petaluma, California 94952
Tel. (707) 763-7227
Fax. (707) 763-9227
Email: Andrew@PackardLawOffices.com

And to:

Robert J. Tuerck, Esq.

Notice of Violation and Intent To File Suit

April 8, 2010

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Jackson & Tuerck
P.O. Box 148
429 W. Main Street, Suite C
Quincy, CA 95971
Tel: 530-283-0406
Fax: 530-283-0416
E-mail: Bob@JacksonTuerck.com

VII. Penalties.

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

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

Sincerely,



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

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

ATTACHMENT A

**Notice of Intent to File Suit, West Central Landfill (Igo, CA)
Significant Rain Events,* April 8, 2005-April 8, 2010**

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

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

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**Notice of Intent to File Suit, West Central Landfill (Igo, CA)
Significant Rain Events,* April 8, 2005-April 8, 2010**

Jan. 25 2008	Mar. 02 2009	Dec. 27 2009	Feb. 13 2010
Jan. 26 2008	Mar. 03 2009	Dec. 28 2009	Feb. 14 2010
Jan. 27 2008	Mar. 04 2009	Dec. 29 2009	Feb. 15 2010
Jan. 28 2008	Mar. 05 2009	Dec. 30 2009	Feb. 16 2010
Jan. 30 2008	Mar. 15 2009	Dec. 31 2009	Feb. 17 2010
Jan. 31 2008	Mar. 16 2009	Jan. 01 2010	Feb. 18 2010
Feb. 01 2008	Mar. 17 2009	Jan. 02 2010	Feb. 19 2010
Feb. 02 2008	Mar. 22 2009	Jan. 03 2010	Feb. 20 2010
Feb. 03 2008	April 08 2009	Jan. 04 2010	Feb. 21 2010
Feb. 16 2008	April 09 2009	Jan. 05 2010	Feb. 21 2010
Feb. 17 2008	April 10 2009	Jan. 06 2010	Feb. 22 2010
Feb. 18 2008	May 02 2009	Jan. 07 2010	Feb. 23 2010
Feb. 19 2008	May 03 2009	Jan. 08 2010	Feb. 24 2010
Feb. 20 2008	May 04 2009	Jan. 09 2010	Feb. 25 2010
Mar. 29 2008	May 05 2009	Jan. 10 2010	Feb. 26 2010
April 23 2008	Oct. 13 2009	Jan. 11 2010	Feb. 27 2010
May 24 2008	Oct. 14 2009	Jan. 12 2010	Feb. 28 2010
May 25 2008	Oct. 15 2009	Jan. 13 2010	Mar. 01 2010
Oct. 04 2008	Oct. 19 2009	Jan. 14 2010	Mar. 02 2010
Oct. 31 2008	Oct. 20 2009	Jan. 15 2010	Mar. 03 2010
Nov. 01 2008	Nov. 06 2009	Jan. 16 2010	Mar. 04 2010
Nov. 02 2008	Nov. 18 2009	Jan. 17 2010	Mar. 05 2010
Nov. 03 2008	Nov. 21 2009	Jan. 18 2010	Mar. 06 2010
Nov. 04 2008	Dec. 01 2009	Jan. 19 2010	Mar. 07 2010
Dec. 15 2008	Dec. 02 2009	Jan. 20 2010	Mar. 08 2010
Dec. 19 2008	Dec. 03 2009	Jan. 21 2010	Mar. 09 2010
Dec. 22 2008	Dec. 04 2009	Jan. 22 2010	Mar. 10 2010
Dec. 24 2008	Dec. 05 2009	Jan. 23 2010	Mar. 11 2010
Dec. 28 2008	Dec. 06 2009	Jan. 24 2010	Mar. 12 2010
Dec. 30 2008	Dec. 07 2009	Jan. 25 2010	Mar. 13 2010
Jan. 02 2009	Dec. 08 2009	Jan. 26 2010	Mar. 14 2010
Jan. 22 2009	Dec. 09 2009	Jan. 27 2010	Mar. 15 2010
Jan. 23 2009	Dec. 10 2009	Jan. 28 2010	Mar. 16 2010
Feb. 06 2009	Dec. 11 2009	Jan. 29 2010	Mar. 17 2010
Feb. 09 2009	Dec. 12 2009	Jan. 30 2010	Mar. 18 2010
Feb. 11 2009	Dec. 13 2009	Jan. 31 2010	Mar. 19 2010
Feb. 12 2009	Dec. 14 2009	Feb. 01 2010	Mar. 20 2010
Feb. 13 2009	Dec. 15 2009	Feb. 02 2010	Mar. 21 2010
Feb. 14 2009	Dec. 16 2009	Feb. 03 2010	Mar. 22 2010
Feb. 15 2009	Dec. 17 2009	Feb. 04 2010	Mar. 23 2010
Feb. 16 2009	Dec. 19 2009	Feb. 05 2010	Mar. 24 2010
Feb. 17 2009	Dec. 20 2009	Feb. 06 2010	Mar. 25 2010
Feb. 18 2009	Dec. 21 2009	Feb. 07 2010	Mar. 26 2010
Feb. 22 2009	Dec. 22 2009	Feb. 08 2010	Mar. 27 2010
Feb. 23 2009	Dec. 23 2009	Feb. 09 2010	Mar. 28 2010
Feb. 24 2009	Dec. 24 2009	Feb. 10 2010	Mar. 29 2010
Feb. 26 2009	Dec. 25 2009	Feb. 11 2010	Mar. 30 2010
Mar. 01 2009	Dec. 26 2009	Feb. 12 2010	Mar. 31 2010

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

ATTACHMENT A

**Notice of Intent to File Suit, West Central Landfill (Igo, CA)
Significant Rain Events,* April 8, 2005-April 8, 2010**

April	01	2010	April	03	2010
April	02	2010			

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