



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

3536 Rainier Avenue, Stockton, CA 95204

Tel: 209-464-5067, Fax: 209-464-1028, E: deltakeep@aol.com

September 22, 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

United Rentals Northwest, Inc.
Chris Kerber, Facility Operator
2942 Evergreen Parkway, Suite 303
Evergreen, CO 80439

Dennis Busby
United Rentals Branch No. 557
3040 Crossroads Drive
Redding, CA 96003

CSC - Lawyers Incorporating Service,
Agent for Service for
United Rentals Northwest, Inc.
2730 Gateway Oaks Dr., Ste. 100
Sacramento, CA 95833

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

Dear Sirs:

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 United Rentals Branch No. 557 located at 3040 Crossroads Drive, in Redding, CA 96003 ("the Facility"), which is owned by United Rentals Northwest, Inc., and is operated by Chris Kerber and Dennis Busby. The WID identification number for the Facility is 5R04I019907. 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 United Rentals Branch No. 557. For purposes of this Notice of Violations and Intent to File Suit under the Act (hereafter, the "Notice"), unless otherwise noted, CSPA will refer to United Rentals Northwest, Inc., United Rentals Branch No. 557, Mr. Kerber, and Mr. Busby collectively as "United Rentals" within this Notice.

This letter addresses United Rentals' unlawful discharges of pollutants from the Facility directly, and indirectly via the storm water conveyance system for the City of Redding, into Stillwater Creek, which is a tributary to the Sacramento River and the Sacramento-San Joaquin Delta. This letter places you on notice of 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”).

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, United Rentals 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 United Rentals 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.

United Rentals Branch No. 557 is classified as a construction equipment rental facility under Standard Industrial Classification (“SIC”) code 7353. The Facility is primarily used for storage and rental of construction and industrial equipment, as well as homeowner equipment and tool rentals. Other current activities at the Facility include the use, storage, and maintenance of motorized vehicles, including. The Facility is not a member of any monitoring group. The Facility collects and discharges storm water from its roughly 2.7 acre industrial site through at least five discharge points to storm water drains which drain to Stillwater Creek and, ultimately, to the Delta. United Rentals submitted a notice of intent to comply with the terms of the General Industrial Storm Water Permit on or about November 9, 2005.

CSPA is informed and believes that United Rentals has failed to comply the terms of the General Permit by discharging storm water containing pollutants, failing to implement an adequate monitoring and reporting plan, failing to implement best management practices (“BMPs”) using best available technology (“BAT”) and best conventional technology (“BCT”), failing to develop and implement an adequate Storm Water Pollution Prevention Plan, failing to address discharges contributing to exceedances of Water Quality Standards, and failing to file timely, true and correct annual reports with the Regional Water Quality Control Board.

CSPA is particularly concerned about the ongoing unlawful discharges at the Facility because United Rentals 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 United Rentals' attention so that they may be resolved in a comprehensive and efficient manner.

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 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); chromium – 0.5 mg/L (primary); copper – 1.0 (secondary); iron – 0.3 mg/L; and zinc – 5.0 mg/L. *See* California Code of Regulations, title 22, §§ 64431, 64449.

¹ CSPA is aware of at least one letter from the California Regional Water Quality Control Board, Central Valley Region, sent to United Rentals on May 23, 2007 advising United Rentals of benchmark exceedances in its storm water discharges and the need for the employment of BMPs and BCTs.

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>. Courts have held that 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 and best conventional pollutant control technology. The following benchmarks have been established for pollutants discharged by United Rentals: 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 proposed adding a benchmark level for specific conductance of 200 µmho/cm.

II. Pollutant Discharges in Violation of the NPDES Permit.

United Rentals 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 United Rentals has failed to comply with the requirements of the General Permit and has continued to operate in violation of the General Permit despite the warnings and notices of violation issued by the Regional Board to United Rentals. United Rentals’ ongoing violations are discussed further below.

A. United Rentals Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

United Rentals has discharged and continues to discharge stormwater with unacceptable levels of pH, Total Suspended Solids, Oil and Grease, and Iron 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. United Rentals’ Annual Reports and Sampling and Analysis Results confirm discharges of materials other than stormwater and specific pollutants in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed “conclusive evidence of an exceedance of a permit limitation.” *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

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

1. Discharges of Storm Water Containing pH levels in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
03/20/2006	Outfall #1	pH	9.6	6.0-9.0
04/11/2007	Outfall #2 South	pH	9.2	6.0-9.0
01/03/2008	South Gate	pH	9.11	6.0-9.0

2. 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
10/26/2005	#1 SE Gate	TSS	160.2 mg/L	100 mg/L
10/26/2005	#2 E Gate	TSS	220 mg/L	100 mg/L
10/04/2006	#1 North	TSS	140 mg/L	100 mg/L
10/04/2006	#2 South	TSS	110 mg/L	100 mg/L
04/11/2007	#1 North	TSS	580 mg/L	100 mg/L
04/11/2007	#2 South	TSS	430 mg/L	100 mg/L
01/03/2008	Center Gate	TSS	136 mg/L	100 mg/L
03/12/2010	North Gate	TSS	166 mg/L	100 mg/L
03/12/2010	South Gate	TSS	306 mg/L	100 mg/L

3. Discharges of Storm Water Containing Oil and Grease (O&G) at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
10/26/2005	#2 E Gate	O&G	18 mg/L	15 mg/L
03/20/2006	East	O&G	69 mg/L	15 mg/L

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

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
03/12/2010	North Gate	Fe	2.2 mg/L	1 mg/L
03/12/2010	South Gate	Fe	4.5 mg/L	1 mg/L

CSPA's investigation, including its review of United Rentals' 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 United Rentals has not implemented BAT and BCT at the Facility for its discharges of unacceptable levels of pH, Total Suspended Solids, Oil and Grease, Iron, and other pollutants. United Rentals was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations if they began after October 1, 1992. United Rentals 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 United Rentals has known that its storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least September 22, 2005. CSPA alleges that such violations have also occurred and will occur on other rain dates, including during every single significant rain event that has occurred since September 22, 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 United Rentals has discharged storm water containing impermissible levels of pH, Total Suspended Solids, Oil and Grease, Iron, and other 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 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, United Rentals is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since September 22, 2005.

B. United Rentals 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. Section B(5)(c)(ii) of the General Permit also 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 United Rentals has failed to develop and implement an adequate Monitoring & Reporting Plan. First, United Rentals 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, United Rentals 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, United Rentals is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since September 22, 2005. These violations are set forth in greater detail below.

1. United Rentals 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 United Rentals has failed to collect storm water samples from all discharge points at the Facility during at least two storm events for each Wet Season as required by Section B(5)(a). For example, United Rentals only collected and analyzed samples from one storm event in the 2009-2010 Wet Season, and failed to collect and analyze *any* samples in the 2008-2009 Wet Season. United Rentals’ failure to comply with the sampling requirements of the ACT and the Permit constitute separate and ongoing violations of the Permit and the Act.

Based on CSPA’s review of publicly available rainfall data from this region and a review of the historic rainfall monitoring station data, the assertion that there were no qualifying storm events during any the wet seasons over the past five years strains credulity. Simply put, a review of publicly available rainfall data and the historic rainfall monitoring station data from this region makes any the assertion that there were no qualifying storm events during any wet season over the past five years is very difficult to believe.

2. United Rentals 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)(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 United Rentals’ Annual Reports submitted to the Regional Board, CSPA believes that United Rentals has failed to monitor for at least one pollutant (iron) that is not only likely to be present in the Facility’s storm water discharges in significant quantities, but has actually been detected at levels in excess of the applicable EPA Benchmark value. 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. United Rentals is Subject to Penalties for its Failure to Implement an Adequate Monitoring & Reporting Plan Since September 22, 2005.

CSPA is informed and believes that available documents demonstrate United Rentals’ 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, United Rentals is subject to penalties for these violations of the General Industrial Storm Water Permit and the Act since September 22, 2005.

C. United Rentals 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 United Rentals has not implemented BAT and BCT at the Facility for its discharges of pH, Total Suspended Solids, Oil and Grease, Iron, other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

On May 23, 2007, an agent from the Storm Water and Water Certification Unit of the Regional Board sent letters to United Rentals 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 United Rentals to modify its existing Storm Water Pollution Prevention Plan (“SWPPP”). Based on available documents, CSPA is informed and believes that United Rentals 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, United Rentals 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 United Rentals 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. United Rentals has failed to implement such measures adequately.

United Rentals was required to have implemented BAT and BCT by no later than October 1, 1992, or the start of its operations. Therefore, United Rentals 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 United Rentals fails to implement BAT and BCT. United Rentals is subject to penalties for violations of the Order and the Act occurring since September 22, 2005.

D. United Rentals 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 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 United Rentals has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. United Rentals has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. United Rentals 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 United Rentals fails to develop and implement an effective SWPPP. United Rentals is subject to penalties for violations of the Order and the Act occurring since September 22, 2005.

E. United Rentals 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, United Rentals is discharging elevated levels of pH, Total Suspended Solids, Oil and Grease, and Iron that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutants, United Rentals 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. United Rentals has failed to do so.

Based on CSPA's review of available documents, United Rentals was aware of high levels of these pollutants prior to September 22, 2005. Likewise, United Rentals 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). United Rentals 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 September 22, 2005, and will continue to be in violation every day that United Rentals fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. United Rentals is subject to penalties for violations of the General Industrial Storm Water Permit and the Act occurring since September 22, 2005.

F. United Rentals 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 United Rentals 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, United Rentals has failed to comply with the Permit and the Act consistently for at least

the past five years; therefore, United Rentals has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time United Rentals submitted an incomplete, untimely, or incorrect annual report that falsely certified compliance with the Act in the past years. United Rentals' failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. United Rentals is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since September 22, 2005.

III. Persons Responsible for the Violations.

CSPA puts United Rentals Northwest, Inc., United Rentals Branch No. 557, Mr. Chris Kerber, and Mr. Dennis Busby 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 United Rentals 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:

Robert J. Tuerck (counsel for service)
Jackson & Tuerck
429 Main Street, Suite C
P.O. Box 148
Quincy, CA 95971
Tel: (530) 283-0406
Fax: (530) 283-0416
E-mail: Bob@jacksontuerck.com

Andrew L. Packard
Law Offices of Andrew L. Packard
100 Petaluma Boulevard, Suite 301
Petaluma, CA 94952
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 United Rentals Northwest, Inc., United Rentals Branch No. 557, Mr. Kerber, and Mr. Busby 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 United Rentals 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 completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jennings", written in a cursive style.

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

United Rentals Northwest, Inc.
Chris Kerber, Facility Operator
2942 Evergreen Parkway, Suite 303
Evergreen, CO 80439

Dennis Busby
United Rentals Branch No. 557
3040 Crossroads Drive
Redding, CA 96003

CSC - Lawyers Incorporating Service, Agent for Service for
United Rentals Northwest, Inc.
2730 Gateway Oaks Dr., Ste. 100
Sacramento, CA 95833

ATTACHMENT A
Notice of Intent to File Suit, United Rentals Northwest, Inc.
Significant Rain Events, September 22, 2005 – September 22, 2010

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

ATTACHMENT A
Notice of Intent to File Suit, United Rentals Northwest, Inc.
Significant Rain Events, September 22, 2005 – September 22, 2010

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

ATTACHMENT A
Notice of Intent to File Suit, United Rentals Northwest, Inc.
Significant Rain Events, September 22, 2005 – September 22, 2010

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