



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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December 3, 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Linhart, Director
Glenn County Planning & Public Works Agency
P.O. Box 1070
Willows, CA 95988

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

Dear Mr. Linhart:

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 Glenn County Landfill facility ("GCL") facility located at 5700 County Road 33 approximately five miles west of the unincorporated town of Artois, California ("the Facility"). The WDID identification number for the Facility is 5R11I001568. Glenn County ("the County") operates the Facility; and you direct the County agency responsible for operating the Facility for the County. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of White Cabin Creek, Wilson Creek, the Sacramento River and other California waters. This letter is being sent to you as the responsible officer or operator of the Facility.

This letter addresses the County's unlawful discharges of pollutants from the Facility to White Cabin Creek, Wilson Creek, 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" or "General Permit"). The County'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 County 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 County and Mr. John Linhart 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 County operates the Facility as a landfill facility approximately five miles west of the unincorporated town of Artois, 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.

The Facility collects and discharges storm water from its 87-acre industrial site¹ through at least two discharge points indirectly to White Cabin Creek and/or Wilson Creek, both of which are tributaries of 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

¹ CSPA notes that publicly available documents indicate that the Facility is located on a 193-acre property but that industrial activity only occurs on 87 acres within that 193-acre property.

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. Pollutant Discharges in Violation of the NPDES Permit.

The County 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 County continues to operate the Facility in violation of the General Permit. The County’s ongoing violations are discussed further below.

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

CSPA is informed and believes that the Facility has discharged and likely continues to discharge storm water with unacceptable levels of total suspended solids (TSS), specific conductivity (SC), and Iron (Fe) in violation of the General 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 as Attachment A. The County’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 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	Parameter	Sampling Location	Concentration in Discharge	EPA Benchmark Value
1/18/2010	TSS	White Cabin Creek Downstream	3600 mg/L	100 mg/L

2. Discharges of Storm Water Containing Specific Conductivity (SC) at Levels in Excess of Proposed Benchmark Value.

Date	Parameter	Sampling Location	Concentration in Discharge	Proposed Benchmark Value
2/27/2008	SC	White Cabin Creek Downstream	209 µmhos/cm	200 µmhos/cm

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

Date	Parameter	Sampling Location	Concentration in Discharge	EPA Benchmark Value
12/27/2005	Fe	White Cabin Creek Downstream	1.5 mg/L	1.0 mg/L

CSPA’s investigation, including its review of the County’s analytical results documenting pollutant levels in the Facility’s storm water discharges well in excess of EPA’s Benchmark Values indicates that the County has not implemented BAT and BCT at the Facility for its discharges of TSS, Iron (Fe), Specific Conductivity (SC) and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. The County was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. Thus, the County is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

CSPA is informed and believes that the County has known that its stormwater contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least December 3, 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 December 3, 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 County has discharged storm water from the Facility containing impermissible levels of TSS, Iron (Fe), Specific Conductivity (SC) 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 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, the County is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since December 3, 2005.

B. The County 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.

CSPA notes that the County’s 2009-2010 Annual Report designates the Facility as conforming to Standard Industrial Classification (“SIC”) Code 4953 (“Landfills and Land Application Sites”). SIC Code 4953 governs landfill facilities. Pursuant to Table D of the General Permit, facilities designated under SIC Code 4953, are also required to analyze samples of storm water discharged from the Facility for iron. By contrast, the County has failed to analyze the Facility’s storm water for iron for the last four Wet Seasons. Additionally, 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 County has failed to develop and implement an adequate Monitoring & Reporting Plan. First, the County has failed to collect storm water samples from each of the Facility's storm water discharge points during at least two qualifying storm events (as defined by the General Permit) during each of the past five years. Second, the County has failed to designate appropriate storm water discharge and sampling locations consistent with the requirements set forth in the General Permit; consequently, the County has failed to comply with the Monitoring Program And Reporting Requirements set forth in Section B of the General Permit. Third, the County has failed to analyze its storm water samples for all additional analytical parameters required for facilities designated under SIC Code 4953 (i.e., iron) during each of the past five years. Finally, CSPA is informed and believes that the County 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 County is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since December 3, 2005. These violations are set forth in greater detail below.

1. The County Has Failed to Collect Storm Water Samples from Each Discharge Point 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 County 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 during the 2006-2007 wet season, the County failed to collect samples of storm water discharged from the Facility during at least two qualifying storm events.

The County attempted to explain away its failure to properly sample two storm events during the 2006-2007 Wet Season by stating in the explanation attached to the 2006-2007 Annual Report that "...the rainfall during the entire season did not produce any flows in our sampling areas," and that "[s]taff inspected [White Cabin] creek during each rain event, but no flowing water was ever present." CSPA notes that this explanation, and similar explanations contained in subsequent annual reports filed by the County for the Facility, indicates that the County's failure to collect samples of storm water discharged from the Facility during at least two storm events per Wet Season is driven in large part by the fact that the County is improperly collecting samples of "storm water discharge" from within White Cabin Creek itself.

While this sampling practice may conform to the monitoring requirements set forth in Regional Board Order R5-2006-0119 ("the WDR Order"), it clearly runs afoul of the Monitoring Program And Reporting Requirements set forth in Section B of the

General Industrial Storm Water Permit.² General Permit Section B.7 sets forth guidance on the proper location of storm water discharge locations. “Facility operators shall...collect samples of storm water discharges from all drainage areas that represent the quality and quantity of the facility’s storm water discharges from the storm event.” General Permit Section B.7.a. CSPA notes that White Cabin Creek is not a drainage area, but rather, is a receiving water body.

Further, CSPA notes that the County’s 2008-2009 Annual Report admits that: (1) the County failed to collect a storm water sample from the first storm event of the Wet Season; and, (2) the County failed to sample a qualifying storm event. In its 2008-2009 Annual Report, the County asserted that: “The storm event sampled on February 18, 2009 began several days earlier but did not produce flow in White Cabin Creek before the start of operations in the morning of February 18.” CSPA’s review of publicly available rainfall data indicates that the first storm event of the 2008-2009 Wet Season occurred at the Facility on October 3, 2008. Further, the County’s above-quoted assertion regarding the sampling conducted on February 18, 2009 evidences its complete misunderstanding of what constitutes a qualifying storm event under the General Permit. To wit, under the General Permit, a “Qualifying Storm Event” means those events in which (1) the samples taken are preceded by at least three working days during which no storm water discharges from the Facility have occurred (the three working days may be separated by non-working days such as weekends and holidays provided that no storm water discharges occur during the three (3) working days and the non-working days); and, (2) the samples are collected within the first hour that flow is observed at the Discharge Point. Further, sample collection is only required of storm water discharges that occur during scheduled Facility operating hours and that are preceded by at least three working days without storm water discharge.

By contrast, the County’s 2008-2009 Annual Report indicates that the “storm event sampled on February 18, 2009 began several days earlier....” Accordingly, the County failed to sample a qualifying storm event. The County’s failure to sample the first qualifying storm event, or in some instances, any qualifying storm event, constitutes an additional and separate violation of the General Permit.

Based on CSPA’s review of publicly available rainfall data from this region and a review of the historic rainfall monitoring station data, the County’s assertion that there were no qualifying storm events either before or after February 18, 2009 during the 2008-2009 Wet Season simply strains credulity. For example, records from a nearby precipitation monitoring station indicate that Friday, April 10, 2009 was a qualifying storm event at the Facility. Further, April 10, 2009 was directly preceded by more than three days with no rain. Given the amount of precipitation recorded, coupled with the sufficient amount of dry days directly preceding it, Friday, April 10, 2009 was clearly a qualifying storm event at the Facility. As stated above, each Wet Season during which

² CSPA notes that the WDR Order requires the County to conduct its monitoring and reporting of the Facility’s discharges of industrial storm water consistent with the General Industrial Storm Water Permit.

the County 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 County. Each of these failures to adequately monitor storm water discharges constitutes a separate and ongoing violation of the General Industrial Storm Water Permit and the Clean Water Act.

2. The County Has Failed to Analyze Its Storm Water for All Pollutants Required by the General Industrial Storm Water 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 County has failed to monitor for iron (as required by General Permit, Table D) and at least one other pollutant likely to be present in storm water discharges in significant quantities, i.e., magnesium. The County’s failure to monitor these pollutants extends back at least until December 3, 2005. The County’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 County Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since December 3, 2005.

CSPA is informed and believes that available documents demonstrate the County’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, the County is subject to penalties for these violations of the General Industrial Storm Water Permit and the Act since December 3, 2005.

C. The County 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 the County has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS), Iron (Fe), Specific Conductivity (SC) and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

To meet the BAT/BCT requirement of the General Permit, the County 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 County 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 County has failed to implement such measures adequately.

The County was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, the County 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 County fails to implement BAT and BCT. The County is subject to penalties for violations of the Order and the Act occurring since December 3, 2005.

D. The County 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 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 NVD has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. The County has continuously failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. The County 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 County fails to develop and implement an adequate SWPPP. The County is subject to penalties for violations of the Order and the Act occurring since December 3, 2005.

E. The County 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, the County is discharging elevated levels of total suspended solids, Iron (Fe) and Specific Conductivity (SC) that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutants, the

County 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 County was aware of high levels of these pollutants prior to December 3, 2005. Likewise, the County 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 County 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 December 3, 2005, and will continue to be in violation every day that the County fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. The County is subject to penalties for violations of the General Industrial Storm Water Permit and the Act occurring since December 3, 2005.

F. The County 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 the County 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, the County has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, the County has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time the County submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. The County's failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. The County is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since December 3, 2005.

III. Persons Responsible for the Violations.

CSPA hereby puts the County and Mr. John Linhart 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 County and Mr. John Linhart 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:

Andrew L. Packard, Esq.
Erik Roper, Esq.
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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 the County and Mr. John Linhart 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.

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December 3, 2010

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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 County and Mr. John Linhart 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". The signature is written in a cursive style with a large, prominent initial "B".

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
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Eric Holder
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U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
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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

ATTACHMENT A

**Notice of Intent to File Suit, Glenn County Landfill (Artois, CA)
Significant Rain Events,* December 3, 2005-December 3, 2010**

Dec. 18 2005	Dec. 09 2006	Oct. 03 2008	Jan. 26 2010
Dec. 19 2005	Dec. 12 2006	Oct. 04 2008	Jan. 30 2010
Dec. 20 2005	Dec. 13 2006	Nov. 01 2008	Feb. 04 2010
Dec. 21 2005	Dec. 21 2006	Nov. 02 2008	Feb. 05 2010
Dec. 22 2005	Dec. 25 2006	Nov. 03 2008	Feb. 06 2010
Dec. 25 2005	Dec. 27 2006	Nov. 04 2008	Feb. 09 2010
Dec. 26 2005	Feb. 08 2007	Nov. 09 2008	Feb. 23 2010
Dec. 28 2005	Feb. 09 2007	Dec. 24 2008	Feb. 24 2010
Dec. 30 2005	Feb. 10 2007	Dec. 25 2008	Feb. 26 2010
Dec. 31 2005	Feb. 22 2007	Dec. 28 2008	Mar. 02 2010
Jan. 02 2006	Feb. 25 2007	Jan. 22 2009	Mar. 03 2010
Jan. 04 2006	April 11 2007	Jan. 24 2009	Mar. 08 2010
Jan. 14 2006	April 14 2007	Feb. 06 2009	Mar. 12 2010
Jan. 18 2006	April 22 2007	Feb. 13 2009	April 01 2010
Feb. 02 2006	May 04 2007	Feb. 15 2009	April 05 2010
Feb. 27 2006	Oct. 10 2007	Feb. 16 2009	April 11 2010
Feb. 28 2006	Nov. 11 2007	Feb. 17 2009	April 12 2010
Mar. 02 2006	Dec. 04 2007	Feb. 22 2009	April 20 2010
Mar. 03 2006	Dec. 06 2007	Mar. 01 2009	April 21 2010
Mar. 05 2006	Dec. 07 2007	Mar. 02 2009	May 27 2010
Mar. 06 2006	Dec. 18 2007	Mar. 03 2009	Oct. 06 2010
Mar. 13 2006	Dec. 20 2007	April 10 2009	Oct. 23 2010
Mar. 14 2006	Dec. 28 2007	May 02 2009	Oct. 24 2010
Mar. 17 2006	Dec. 29 2007	Oct. 13 2009	Oct. 25 2010
Mar. 20 2006	Jan. 03 2008	Oct. 19 2009	Oct. 28 2010
Mar. 21 2006	Jan. 04 2008	Nov. 18 2009	Oct. 29 2010
Mar. 17 2006	Jan. 08 2008	Nov. 20 2009	Nov. 10 2010
Mar. 24 2006	Jan. 10 2008	Dec. 11 2009	Nov. 11 2010
Mar. 28 2006	Jan. 12 2008	Dec. 12 2009	Nov. 13 2010
Mar. 29 2006	Jan. 22 2008	Dec. 13 2009	Nov. 14 2010
April 03 2006	Jan. 23 2008	Dec. 16 2009	Nov. 16 2010
April 05 2006	Jan. 24 2008	Dec. 27 2009	Nov. 17 2010
April 08 2006	Jan. 25 2008	Jan. 12 2010	Nov. 22 2010
April 11 2006	Jan. 27 2008	Jan. 13 2010	Nov. 23 2010
April 12 2006	Jan. 28 2008	Jan. 17 2010	Nov. 24 2010
April 17 2006	Jan. 31 2008	Jan. 18 2010	Nov. 30 2010
May 20 2006	Feb. 03 2008	Jan. 19 2010	Dec. 02 2010
May 22 2006	Feb. 04 2008	Jan. 20 2010	
Nov. 02 2006	Feb. 21 2008	Jan. 21 2010	
Nov. 11 2006	Feb. 22 2008	Jan. 23 2010	
Nov. 13 2006	Feb. 23 2008	Jan. 24 2010	
Nov. 26 2006	Feb. 24 2008	Jan. 25 2010	

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