

1 ANDREW L. PACKARD (State Bar No. 168690)  
2 ERIK M. ROPER (State Bar No. 259756)  
3 HALLIE B. ALBERT (State Bar No. 258737)  
4 Law Offices of Andrew L. Packard  
5 100 Petaluma Blvd. N., Suite 301  
6 Petaluma, CA 94952  
7 Tel: (707) 763-7227  
8 Fax: (707) 763-9227  
9 E-mail: Andrew@packardlawoffices.com  
10 Erik@packardlawoffices.com  
11 Hallie@packardlawoffices.com

12 ROBERT J. TUERCK (State Bar No. 255741)  
13 Jackson & Tuerck  
14 P. O. Box 148  
15 429 W. Main Street, Suite C  
16 Quincy, CA 95971  
17 Tel: (530) 283-0406  
18 E-mail: bob@jacksontuerck.com

19 Attorneys for Plaintiff  
20 CALIFORNIA SPORTFISHING  
21 PROTECTION ALLIANCE

22 UNITED STATES DISTRICT COURT  
23 EASTERN DISTRICT OF CALIFORNIA

24 CALIFORNIA SPORTFISHING  
25 PROTECTION ALLIANCE, a non-profit  
26 corporation,

27 Plaintiff,

28 vs.

29 SIEMENS WATER TECHNOLOGIES  
30 CORP., a Massachusetts corporation,

31 Defendant.

Case No. 2:11-CV-00413-JAM-DAD

**[PROPOSED] CONSENT AGREEMENT**

(Federal Water Pollution Control Act,  
33 U.S.C. §§ 1251 to 1387)

32 **WHEREAS**, Plaintiff California Sportfishing Protection Alliance (hereinafter “CSPA”) is a  
33 non-profit public benefit corporation dedicated to the preservation, protection, and defense of the  
34 environment, wildlife, and natural resources of California’s waters;

35 **WHEREAS**, Defendant Siemens Industry, Inc., a Delaware corporation and successor-in-  
36 interest by merger to Siemens Water Technologies Corp. (hereinafter “Defendant”) owns an

1 approximately 22-acre metal fabrication and spent carbon regeneration facility located at 11711  
2 Reading Road, in Red Bluff, California (the “Facility”);

3 **WHEREAS**, CSPA and Defendant collectively shall be referred to as the “Parties;”

4 **WHEREAS**, the Facility collects and discharges storm water to unnamed drainage ditches that  
5 ultimately flow into the Sacramento River, and the Sacramento-San Joaquin Delta (a map of the  
6 Facility is attached hereto as **Exhibit A** and incorporated herein by reference);

7 **WHEREAS**, storm water discharges associated with industrial activity are regulated pursuant  
8 to the National Pollutant Discharge Elimination System (“NPDES”), General Permit No. CAS000001  
9 [State Water Resources Control Board], Water Quality Order No. 91-13-DWQ (as amended by Water  
10 Quality Order 92-12 DWQ and 97-03-DWQ), issued pursuant to Section 402 of the Clean Water Act,  
11 33 U.S.C. § 1342 (hereinafter “General Permit”);

12 **WHEREAS**, on or about December 13, 2010, Plaintiff provided notice of Defendant’s  
13 violations of the Act, and of its intention to file suit against Defendant (“CWA Notice Letter”), to the  
14 Administrator of the United States Environmental Protection Agency (“EPA”); the Administrator of  
15 EPA Region IX; the Executive Director of the State Water Resources Control Board (“State Board”);  
16 the Executive Officer of the Regional Water Quality Control Board, Central Valley Region (“Regional  
17 Board”); and to Defendant, as required by the Act, 33 U.S.C. § 1365(b)(1)(A) (a true and correct copy  
18 of CSPA’s CWA Notice Letter is attached as **Exhibit B** and incorporated herein by reference);

19 **WHEREAS**, Defendant denies the occurrence of the violations alleged in the CWA Notice  
20 Letter and maintains that it has complied at all times with the provisions of the General Permit;

21 **WHEREAS**, CSPA filed a complaint (“Complaint”) against Defendant in the United States  
22 District Court, Eastern District of California, on February 14, 2011;

23 **WHEREAS**, for purposes of this Consent Agreement, the Parties stipulate that venue is proper  
24 in this Court, and that Defendant does not contest the exercise of jurisdiction by this Court to enter this  
25 Consent Agreement;

26 **WHEREAS**, this Consent Agreement shall be submitted to the United States Department of  
27 Justice for the 45-day statutory review period, pursuant to 33 U.S.C. § 1365(c); and shall thereafter be  
28

1 submitted for approval by the Court, the date of which approval shall be referred to herein as the  
2 “**Court Approval Date;**”

3 **WHEREAS,** at the time the Consent Agreement is submitted for approval to the United States  
4 District Court, CSPA shall request a dismissal of the Complaint with prejudice and the Parties shall  
5 stipulate and request that the Court retain jurisdiction for the enforcement of this Agreement as  
6 provided herein;

7 **AND WHEREAS,** the Parties agree that it is in their mutual interest to resolve this matter  
8 without further litigation.

9 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE SETTLING**  
10 **PARTIES, AND ORDERED AND DECREED BY THE COURT, AS FOLLOWS:**

11 **I. COMMITMENT OF DEFENDANTS**

12 **1. Compliance With General Permit & Clean Water Act.** Throughout the term of this  
13 Consent Agreement, Defendant shall operate the Facility in full compliance with the applicable  
14 requirements of the General Permit and of the Clean Water Act, subject to any defenses available  
15 under the law.

16 **2. Defendant’s Implementation of Specific Storm Water Best Management Practices.**  
17 Unless otherwise specified, on or before October 1, 2011, Defendant shall complete the  
18 implementations of the following storm water control measures/best management practices (“BMPs”)  
19 at the Facility:

20 (a) Defendant shall install impervious berms around the interior of the Facility’s  
21 northern, western and southern fences designed to prevent the unabated run-off of storm water  
22 from the Facility. Defendant shall design and install these impervious berms in a manner that  
23 directs all storm water contacting the Facility to discharge from either of the two storm water  
24 drop inlets located on the north and south sides of the Facility (i.e., the “Fab Shop Out Fall”  
25 and the “Plant Out Fall,” respectively) or as described in Section III(1)(g) of the Facility’s  
26 SWPPP;

27 (b) Defendant shall maintain and operate a sock filter and a carbon filtration device  
28

1 as described in Section III(1)(g) of the Facility’s SWPPP;

2 (c) Defendant shall identify and take actions necessary to prevent ponding of  
3 stormwater on the paved area at the west side of the Facility as denoted on Exhibit A (“Facility  
4 Site Map”);

5 (d) Defendant shall remove and properly dispose of all the uncovered, inutile metal  
6 parts and materials in the Facility’s “boneyard,” located directly west of the Facility’s western  
7 fence line;

8 (e) Defendant shall sweep all paved impervious surfaces within the Facility’s  
9 perimeter fence with a sweeper no less than once per week during the Wet Season and once  
10 every two (2) weeks during the Dry Season, conditions permitting;

11 (f) Defendant shall create, use and maintain a visual inspection checklist for use  
12 during visual inspections of storm water and non-storm water discharges from the Facility;

13 (g) Defendant shall perform regular maintainance of the Facility’s drop inlets to  
14 remove settled contaminants at those sampling points; and,

15 (h) Defendant shall regularly monitor and maintain the Facility’s storm water  
16 drainage system, BMPs, and drop inlets; document such maintenance; and maintain records  
17 thereof with the Facility’s SWPPP as required by the terms of the General Permit. Further,  
18 Defendant shall ensure that appropriate Facility personnel are properly trained in storm water  
19 management and records of any such storm water management training shall be maintained  
20 along with the Facility’s SWPPP.

21 **3. SWPPP Amendments/Additional BMPs.** By October 1, 2011, Defendant shall  
22 formally amend the SWPPP for the Facility to incorporate all of the relevant requirements of this  
23 Consent Agreement, as well as the revised Facility map attached hereto as **Exhibit A**.

24 **4. Sampling Frequency.** Defendant shall collect and analyze samples from four (4)  
25 storm events, as qualified in the General Permit<sup>1</sup> for sampling purposes, in each of the two Wet

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27 <sup>1</sup> “Qualifying Storm Events” under the General Permit are those events in which (i) the samples taken are  
28 preceded by at least three (3) working days during which no storm water discharges from the Facility have  
occurred; (ii) the samples are collected within the first hour that flow is observed at the Discharge Point being

1 Seasons occurring during the term of this Consent Agreement (2011-2012 and 2012-2013). The storm  
2 water sample results shall be compared with the values set forth in **Exhibit C**, attached hereto, and  
3 incorporated herein by reference. If the results of any such samples exceed the parameter values set  
4 forth in **Exhibit C** Defendant shall comply with the “Action Memorandum” requirements set forth  
5 below.

6 **5. Sampling Parameters.** All samples shall be analyzed for each of the constituents  
7 listed in **Exhibit C** by a laboratory accredited by the State of California. All samples collected from  
8 the Facility shall be delivered to the laboratory as soon as possible to ensure that sample “hold time” is  
9 not exceeded. Analytical methods used by the laboratory shall be adequate to detect the individual  
10 constituents at or below the values specified on **Exhibit C**. Sampling results shall be provided to  
11 CSPA pursuant to the Notice provisions below within seven (7) days of Defendant’s receipt of the  
12 laboratory report from each sampling event.

13 **6. “Action Memorandum” Trigger; CSPA Review Of “Action Memorandum”; Meet-**  
14 **and-Confer.** If the analytical results of any sample of storm water discharge collected during the two  
15 (2) Wet Seasons referenced in Paragraph 4 above exceeds the evaluation levels set forth in **Exhibit C**,  
16 or if Defendant fails to collect and analyze samples from four (4) storm events, as qualified in the  
17 General Permit, Defendant shall prepare a written statement discussing the exceedance(s) and /or  
18 failure to collect and analyze samples from four (4) storm events, the possible cause and/or source of  
19 the exceedance(s), and additional measures that will be taken to reduce or eliminate future  
20 exceedances (“Action Memorandum”). The Action Memorandum shall be provided to CSPA not later  
21 than July 15 following the conclusion of each Wet Season during the term of this Consent Agreement.  
22 Recognizing that a SWPPP is an ongoing iterative process meant to encourage innovative BMPs, such  
23 additional measures may include, but are not limited to, taking confirmation samples, further material  
24 improvements to the storm water collection and discharge system, changing the frequency of Facility  
25 sweeping, changing the type and extent of storm water filtration media or modifying other industrial  
26 activities or management practices at the Facility. Within 15 days of its receipt of an Action

27 \_\_\_\_\_  
28 sampled; and (iii) the samples are collected during daylight operating hours.

1 Memorandum CSPA may provide comment on such Action Memorandum and suggest any additional  
2 pollution prevention measures it believes are appropriate; however, CSPA's failure to do so shall not  
3 be deemed to constitute agreement with the proposals set forth in the Action Memorandum. Upon  
4 request by CSPA, Defendant agrees to meet and confer in good faith (at the Facility, if requested by  
5 Plaintiff) regarding the contents and sufficiency of the Action Memorandum. Defendant shall not be  
6 required to implement any pollution prevention measure proposed by CSPA, but remains responsible  
7 for the operation of the Facility in full compliance with the applicable requirements of the General  
8 Permit and of the Clean Water Act. Additional measures identified by Defendant in the Action  
9 Memorandum or identified as a result of the meet-and-confer process described above will be  
10 implemented within 60 days after the due date of the Action Memorandum, or after the conclusion of  
11 the meet-and-confer process, whichever is longer, unless a longer implementation period is specified  
12 in the Action Memorandum or agreed to in writing by Defendant during the meet-and-confer process.  
13 Within thirty (30) days of implementation, the Facility SWPPP shall be amended to include all  
14 additional BMP measures designated in the Action Memorandum.

15 **7. Inspections During The Term Of This Agreement.** In addition to any site  
16 inspections conducted as part of the meet-and-confer process concerning an Action Memorandum as  
17 set forth above, Defendant shall permit representatives of CSPA to perform one (1) physical inspection  
18 of the Facility during the term of this Consent Agreement. These inspections shall be performed by  
19 CSPA's counsel and consultants and may include the receipt of split-samples of stormwater discharged  
20 from the Facility,<sup>2</sup> photographing, and/or videotaping and CSPA shall provide Defendant with a copy  
21 of all sampling reports, photographs and/or video within a reasonable period of time following the  
22 inspection visit, not to exceed ten (10) business days for photographs and/or videos and not to exceed  
23 ten (10) days after CSPA's receipt of any laboratory report for split samples. CSPA shall provide at  
24 least two (2) business days advance notice of such physical inspection, except that Defendant shall  
25 have the right to deny access if circumstances would make the inspection unduly burdensome and pose

26 \_\_\_\_\_  
27 <sup>2</sup> Any sample(s) taken during such inspection shall be taken by Defendant in the presence of the CSPA  
28 representative(s) present, and a split of such sample(s) shall be provided to CSPA at the time of the sampling  
for independent testing and analysis by CSPA.

1 significant interference with business operations or any party/attorney, or the safety of individuals. In  
2 such case, Defendant shall specify at least three (3) dates within the two (2) weeks thereafter upon  
3 which a physical inspection by CSPA may proceed. Defendant shall not make any alterations to  
4 Facility conditions during the period between receiving CSPA's initial two (2) business days advance  
5 notice and the start of CSPA's inspection that Defendant would not otherwise have made but for  
6 receiving notice of CSPA's request to conduct a physical inspection of the Facility, excepting any  
7 actions taken in compliance with any applicable laws or regulations. Nothing herein shall be construed  
8 to prevent Defendant from continuing to implement any BMPs identified in the SWPPP during the  
9 period prior to an inspection by CSPA or at any time.

10 **8. Defendant's Communications To/From Regional and State Boards.** During the  
11 term of this Consent Agreement, Defendant shall provide CSPA with copies of all documents  
12 submitted to or received from the Regional Board or the State Board concerning storm water  
13 discharges from the Facility, including, but not limited to, all documents and reports submitted to the  
14 Regional Board and/or State Board as required by the General Permit. Such documents and reports  
15 shall be provided to CSPA pursuant to the Notice provisions herein (at ¶ 26) and within fourteen (14)  
16 calendar days of their production or receipt by Defendant.

17 **9. SWPPP Amendments.** Defendant shall provide CSPA with a copy of any  
18 amendments to the Facility SWPPP made during the term of the Consent Agreement within fourteen  
19 (14) days of such amendment.

20 **II. MITIGATION, COMPLIANCE MONITORING AND FEES AND COSTS**

21 **10. Mitigation Payment in lieu of Civil Penalties.** As mitigation of the Clean Water Act  
22 violations alleged in CSPA Complaint, Defendant agrees to pay the sum of \$47,500 within fourteen  
23 (14) calendar days after the Court Approval Date to the Rose Foundation for Communities and the  
24 Environment ("Rose Foundation") for projects to improve water quality in the Sacramento River and  
25 the Sacramento-San Joaquin River Delta. Payment shall be provided to the Rose Foundation as  
26 follows: Rose Foundation, Attn: Tim Little, 6008 College Avenue, Oakland, CA 94618.

27 **11. Compliance Monitoring Funding.** To defray CSPA's reasonable investigative,  
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1 expert, consultant and attorneys' fees and costs associated with monitoring Defendant's compliance  
2 with this Consent Agreement, Defendant agrees to contribute \$5,000 for each of the two years covered  
3 by this Consent Agreement (\$10,000 total for the life of the Consent Agreement), to a compliance  
4 monitoring fund maintained by counsel for CSPA as described below. Compliance monitoring  
5 activities may include, but shall not be limited to, site inspections, review of water quality sampling  
6 reports, review of annual reports, discussions with representatives of Defendant concerning the Action  
7 Memoranda referenced above, and potential changes to compliance requirements herein, preparation  
8 for and participation in meet-and-confer sessions, water quality sampling and analysis, and  
9 compliance-related activities. Payments of \$5,000 shall be made out to the Law Offices of Andrew L.  
10 Packard Attorney-Client Trust Account and sent no later than September 1, 2012 and September 1,  
11 2013 to the Law Offices of Andrew L. Packard, 100 Petaluma Boulevard North, Suite 301, Petaluma,  
12 CA 94952.

13 **12. Attorneys' Fees and Costs.** Defendant agrees to reimburse CSPA in the amount of  
14 \$23,000 to defray CSPA's reasonable investigative, expert, consultant and attorneys' fees and costs,  
15 and all other costs incurred as a result of investigating the activities at the Facility, bringing the Action  
16 and negotiating a resolution in the public interest. Such payment shall be made to the Law Offices of  
17 Andrew L. Packard Attorney-Client Trust Account within seven (7) days after the Court Approval  
18 Date.

19 **III. DISPUTE RESOLUTION AND ENFORCEMENT OF CONSENT AGREEMENT**

20 **13.** With the exception of the timelines set forth above for addressing exceedances of  
21 values specified on **Exhibit C** and Action Memoranda, if a dispute under this Consent Agreement  
22 arises, or either Party believes that a breach of this Consent Agreement has occurred, the Parties shall  
23 meet and confer within fourteen (14) calendar days of receiving written notification from the other  
24 Party of a request for a meeting to determine whether a violation has occurred and to develop a  
25 mutually agreed upon plan, including implementation dates, to resolve the dispute. If the Parties fail to  
26 meet and confer, or the meet-and-confer does not resolve the issue, after at least seven (7) days have  
27 passed after the meet-and-confer occurred or should have occurred, either Party shall be entitled to all  
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1 rights and remedies under the law, including filing a motion with the District Court of California,  
2 Eastern District, which shall retain jurisdiction over the Action for the limited purposes of enforcement  
3 of the terms of this Consent Agreement. The Parties shall be entitled to seek fees and costs incurred in  
4 any such motion, and such fees and costs shall be awarded, pursuant to the provisions set forth in  
5 Section 505(d) of the Clean Water Act, 33 U.S.C. §1365(d), applicable case law interpreting such  
6 provision, and any such other applicable law and case law.

7 **14. CSPA Waiver and Release.** Upon Court approval and entry of this Consent  
8 Agreement, CSPA, on its own behalf and on behalf of its members, subsidiaries, successors, assigns,  
9 directors, officers, agents, attorneys, representatives, and employees, releases Defendants and their  
10 officers, directors, employees, shareholders, parents, subsidiaries, and affiliates, and each of their  
11 predecessors, successors and assigns, and each of their agents, attorneys, consultants, and other  
12 representatives (each a “Released Defendant Parties”) from, and waives all claims which arise from or  
13 pertain to the Action or which arise or may arise from the allegations contained in the Complaint,  
14 including, without limitation, all claims for injunctive relief, damages, penalties, fines, sanctions,  
15 mitigation, fees (including fees of attorneys, experts, and others), costs, expenses or any other sum  
16 incurred or claimed or which could have been claimed in this Action, for the alleged failure of  
17 Defendants to comply with the Clean Water Act at the Facility, up to the Effective Date of this  
18 Consent Decree.

19 **15. Defendant’s Waiver and Release.** Defendant, on its own behalf and on behalf  
20 of those Released Defendant Parties under its control, releases CSPA (and its officers,  
21 directors, employees, members, parents, subsidiaries, and affiliates, and each of their  
22 successors and assigns, and its agents, attorneys, and other representative) from, and waives all  
23 claims which arise from or pertain to the Action, including all claims for fees (including fees  
24 of attorneys, experts, and others), costs, expenses or any other sum incurred or claimed or  
25 which could have been claimed for matters associated with or related to the Action.

26 **16.** The Parties acknowledge that the releases in Paragraphs 14 and 15 above is not a  
27 “general release” as that phrase is used in California Civil Code section 1542.  
28

1           **17. Covenant Not to Sue.** From the Court Approval Date and ending on the termination  
2 date, CSPA agrees that neither CSPA, its officers, executive staff, members of its governing board nor  
3 any organization under the control of CSPA, its officers, executive staff, or members of its governing  
4 board, will file any lawsuit against Defendants or against the individuals identified in CSPA’s “Notice  
5 of Violations and Intent to Sue Under the Federal Water Pollution Control Act” letter December 13,  
6 2010 seeking relief for alleged violation of the Clean Water Act or the General Permit or any revisions,  
7 amendments, or successors to the General Permit, arising out of Defendants’ operation of the Facility,  
8 nor will CSPA support such lawsuits against the Defendants brought by other groups or individuals by  
9 providing financial assistance, personnel time, or any other affirmative actions.

10           **18.** Upon the Court Approval Date, the Parties shall file with the Court a Stipulation and  
11 Order that shall provide that:

12           a. the Complaint and all claims therein shall be dismissed with prejudice pursuant  
13 to Federal Rule of Civil Procedure 41(a)(2); and

14           b. the Court shall retain and have jurisdiction over the Parties with respect to  
15 disputes arising under this Agreement. Nothing in this Consent Agreement shall be construed  
16 as a waiver of any party’s right to appeal from an order that arises from an action to enforce the  
17 terms of this Consent Agreement.

18 **IV. MISCELLANEOUS PROVISIONS**

19           **19.** The Parties enter into this Consent Agreement for the purpose of avoiding prolonged  
20 and costly litigation. Nothing in this Consent Agreement shall be construed as, and Defendant  
21 expressly does not intend to imply, an admission as to any fact, finding, issue of law, or violation of  
22 law, nor shall compliance with this Consent Agreement constitute or be construed as an admission by  
23 Defendant of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph  
24 shall not diminish or otherwise affect the obligation, responsibilities, and duties of the Parties under  
25 this Consent Agreement.

26           **20.** The Consent Agreement shall terminate on September 30, 2013.

27           **21.** The Consent Agreement may be executed in one or more counterparts which, taken  
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1 together, shall be deemed to constitute one and the same document. An executed copy of this Consent  
2 Agreement shall be valid as an original.

3 22. In the event that any one of the provisions of this Consent Agreement is held by a court  
4 to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

5 23. The language in all parts of this Consent Agreement, unless otherwise stated, shall be  
6 construed according to its plain and ordinary meaning. This Consent Agreement shall be construed  
7 pursuant to California law, without regarding to conflict of law principles.

8 24. The undersigned are authorized to execute this Consent Agreement on behalf of their  
9 respective parties and have read, understood and agreed to be bound by all of the terms and conditions  
10 of this Consent Agreement.

11 25. All agreements, covenants, representations and warranties, express or implied, oral or  
12 written, of the Parties concerning the subject matter of this Consent Agreement are contained herein.  
13 This Consent Agreement and its attachments are made for the sole benefit of the Parties, and no other  
14 person or entity shall have any rights or remedies under or by reason of this Stipulated Judgment,  
15 unless otherwise expressly provided for therein.

16 26. **Notices.** Any notices or documents required or provided for by this Consent  
17 Agreement or related thereto that are to be provided to CSPA pursuant to this Consent Agreement  
18 shall be hand-delivered or sent by U.S. Mail, postage prepaid, and addressed as follows or, in the  
19 alternative, shall be sent by electronic mail transmission to the email addresses listed below:

20 //

21 Bill Jennings, Executive Director  
22 California Sportfishing Protection Alliance  
23 3536 Rainier Avenue  
24 Stockton, CA 95204  
25 E-mail: DeltaKeep@aol.com

26 With copies sent to:

27 Andrew L. Packard  
28 Erik M. Roper  
Law Offices of Andrew L. Packard  
100 Petaluma Boulevard North, Suite 301  
Petaluma, CA 94952  
Tel: (707) 763-7227

1 E-mail: Andrew@packardlawoffices.com  
Erik@packardlawoffices.com

2 And to:

3 Robert J. Tuerck, Esq.  
4 Jackson & Tuerck  
5 P.O. Box 148  
6 429 W. Main Street, Suite C  
7 Quincy, CA 95971  
8 Tel: 530-283-0406  
9 Fax: 530-283-0416  
10 E-mail: Bob@JacksonTuerck.com

11 Any notices or documents required or provided for by this Consent Agreement or related thereto that  
12 are to be provided to Defendant pursuant to this Consent Agreement shall be sent by U.S. Mail,  
13 postage prepaid, and addressed as follows or, in the alternative, shall be sent by electronic mail  
14 transmission to the email addresses listed below:

15 Gary Turman  
16 Siemens Industry, Inc  
17 2430 Rose Place  
18 Roseville, MN 55113  
19 Tel: 651-638-1300  
20 Fax.: 651-633-5074  
21 E-mail:gary.turman@siemens.com

22 With copies sent to:

23 Richard S. Davis  
24 Beveridge & Diamond, PC  
25 1350 "I" Street NW, Suite 700  
26 Washington, D.C. 20005  
27 Tel: 202.789.6025  
28 Fax.: 202.789.6190  
E-mail: RDavis@bdlaw.com

Each Party shall promptly notify the other of any change in the above-listed contact information.

27. Signatures of the Parties transmitted by facsimile or email shall be deemed binding.

28. No Party shall be considered to be in default in the performance of any of its obligations  
when a failure to perform is due to a "Force Majeure." A Force Majeure event is any circumstances  
beyond the Party's control, including, without limitation, any act of God, war, fire, earthquake, flood,  
and restraint by court order or public authority. A Force Majeure event does not include normal  
inclement weather or inability to pay any amount specifically identified in this Consent Agreement.  
Any Party seeking to rely upon this paragraph shall have the burden of establishing that it could not

1 reasonably have been expected to avoid, and which by exercise of due diligence has been unable to  
2 overcome, the Force Majeure.

3           **29.** If for any reason the Court should decline to approve this Consent Agreement in the  
4 form presented, the Parties shall use their best efforts to work together to modify the Consent  
5 Agreement within thirty (30) days so that it is acceptable to the Court. If the Parties are unable to  
6 modify this Consent Agreement in a mutually acceptable manner, this Consent Agreement shall  
7 become null and void.

8           **30.** This Consent Agreement shall be deemed to have been drafted equally by the Parties,  
9 and shall not be interpreted for or against any Settling Party on the ground that any such party drafted  
10 it.

11           **31.** This Consent Agreement constitutes a full and final settlement of this matter. The  
12 Parties expressly understand and agree that each Party has freely and voluntarily entered into this  
13 Consent Agreement with and upon advice of counsel.

14           **32.** This Consent Agreement and the attachments contain all of the terms and conditions  
15 agreed upon by the Parties relating to the matters covered by the Consent Agreement, and supersede  
16 any and all prior and contemporaneous agreements, negotiations, correspondence, understandings, and  
17 communications of the Parties, whether oral or written, respecting the matters covered by this Consent  
18 Agreement. This Consent Agreement may be amended or modified only by a writing signed by the  
19 Parties or their authorized representatives, and then by order of the Court.


20           **33.** Except in case of an emergency but subject to the regulatory authority of any applicable  
21 governmental authority, any breach of or default under this Consent Agreement capable of being cured  
22 shall be deemed cured if, within five (5) days of first receiving notice of the alleged breach or default,  
23 or within such other period approved in writing by the Party making such allegation, which approval  
24 shall not be unreasonably withheld, the party allegedly in breach or default has completed such cure or,  
25 if the breach or default can be cured but is not capable of being cured within such five (5) day period,  
26 has commenced and is diligently pursuing to completion such cure.

27           The Parties hereto enter into this Consent Agreement and respectfully submit it to the Court for  
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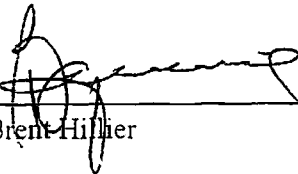
1 its approval and entry as an Order and Final Judgment.

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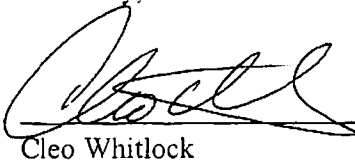
Dated: July 19, 2011 California Sportfishing Protection Alliance

By:   
Bill Jennings, Executive Director

Dated: July 12, 2011 Siemens Industry, Inc.

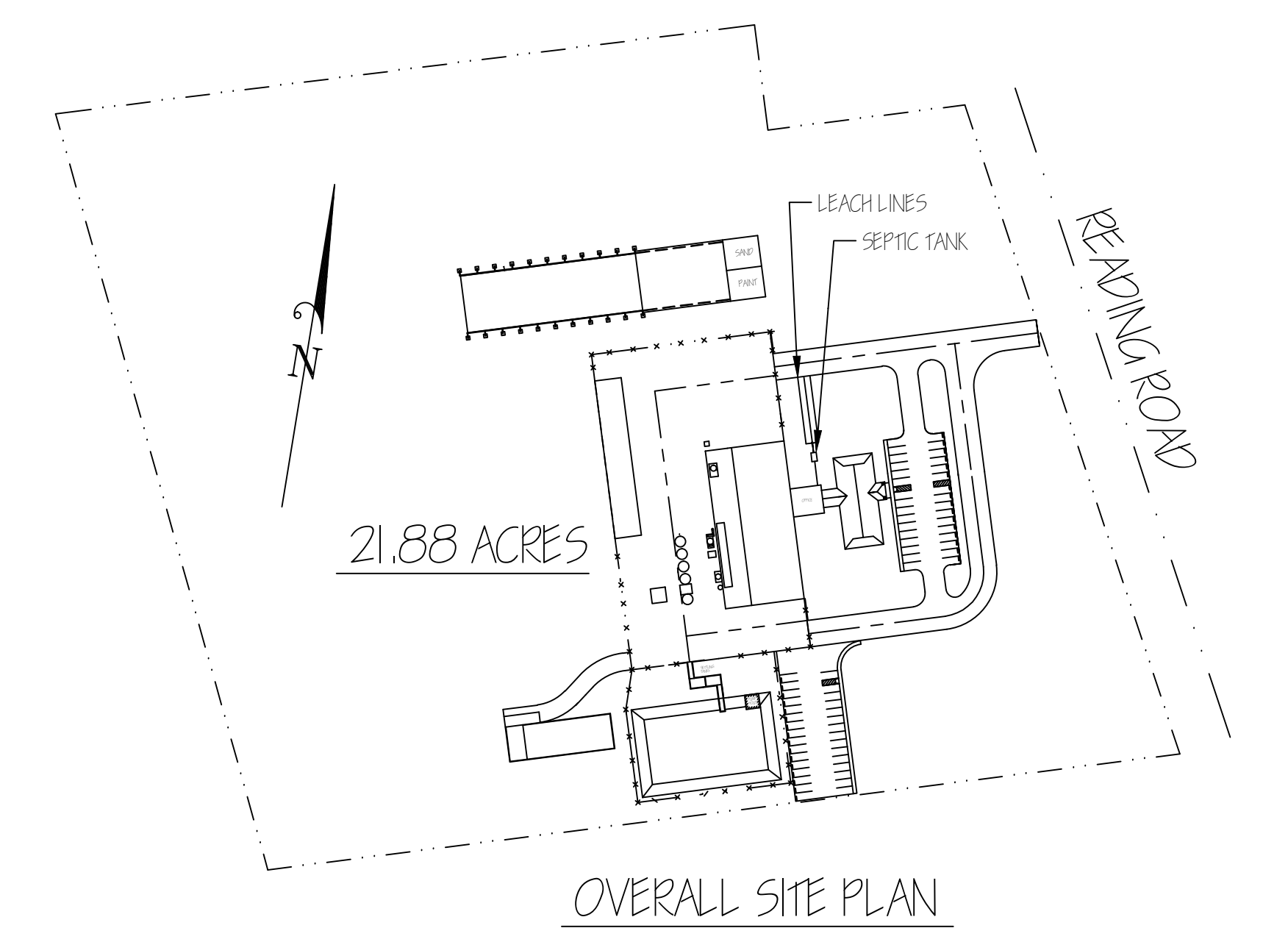
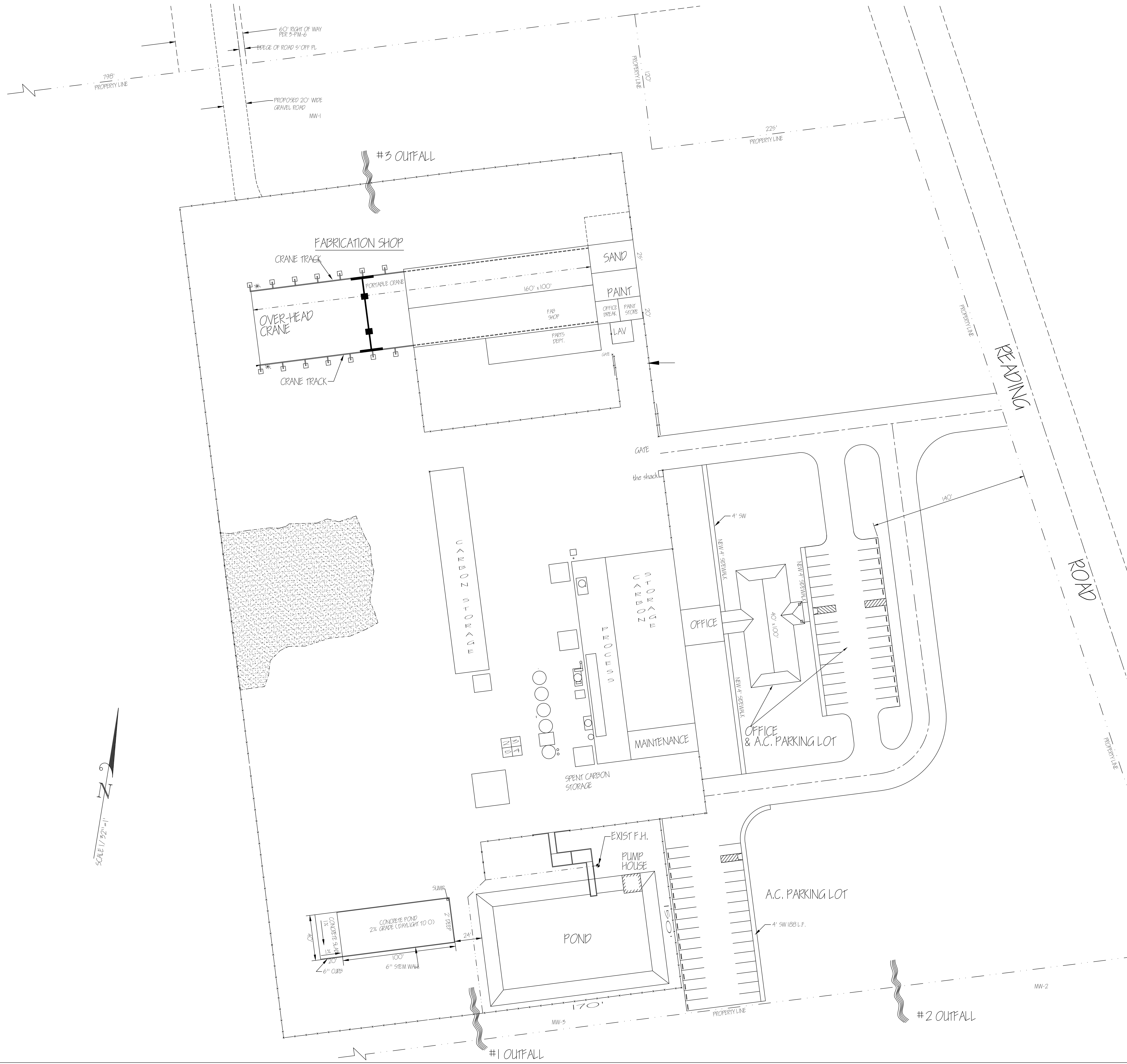
By:   
Brent Hillier

Dated: July 12, 2011 Siemens Industry, Inc.

By:   
Cleo Whitlock

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**EXHIBIT A – Facility Site Map**



SCALE: 1/32" = 1'  
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△	9-9-08	CAR	SCALE: 1/32" = 1'
DWG. NAME: FABSITE3			APPROVED: DRS
			DRAWN BY: DRS
			JOB NO. 117

**SIEMENS**  
 WATER TECHNOLOGIES CORP.  
 11711 READING ROAD  
 RED BLUFF CA 96080  
 PHONE (530) 527-2664  
 FAX (530) 527-0554



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**EXHIBIT B – CWA Notice Letter**



**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

December 13, 2010

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Bret Meyer, Facility Manager  
Mary Ann Hall, Facility Environmental Health & Safety Specialist  
Siemens Water Technologies Corp.  
11711 Reading Rd.  
Red Bluff, CA 96080

C T Corporation System, Agent for Service of Process  
Siemens Water Technologies Corp.  
818 W. 7<sup>th</sup> Street  
Los Angeles, CA 90017

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

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Dear Bret Meyer and Mary Ann Hall:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at the Siemens Water Technologies Corp. ("Siemens") solid waste combustion facility located at 11711 Reading Road in Red Bluff, California ("the Facility"). The WDID identification number for the Facility is 5R52I018030. 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 and other California waters. This letter is being sent to you as the responsible owner, officer, or operator of the Facility. Unless otherwise noted, Siemens, Bret Meyer and Mary Ann Hall shall hereinafter be collectively referred to as Siemens.

This letter addresses Siemens' unlawful discharges of pollutants from the Facility to unnamed storm water drainage ditches, which ultimately flow into the Sacramento River and the Sacramento San Joaquin Delta. This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended by Order No. 97-03-DWQ ("General Permit" or "General Industrial Storm Water

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, Siemens, Bret Meyer and Mary Ann Hall are 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 Siemens, Bret Meyer and Mary Ann Hall 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 Permit. These violations are described more fully below.

## **I. Background.**

Siemens owns and operates a solid waste combustion facility located in Red Bluff, California. The Facility is used to receive, store, handle and transport solid waste for combustion. Other activities at the Facility include the handling, use and storage of hazardous wastes and the use, storage and maintenance of heavy machinery and motorized vehicles, including trucks used to haul materials to and from the Facility.

The Facility is classified as a facility that receives, stores and/or disposes of industrial and hazardous wastes under Standard Industrial Classification (“SIC”) Code 4953 (“Refuse Systems”). The Facility collects and discharges storm water from its approximately 22-acre industrial site through at least two discharge points to unnamed drainages, which ultimately drain 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 discharge and unauthorized non-storm water discharge 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 (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): arsenic – 0.01 mg/L; copper – 0.01; iron – 0.3 mg/L for iron; and zinc – 0.1 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) (finding that a 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 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 Siemens: pH – 6.0-9.0; total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; iron – 1.0 mg/L; aluminum – 0.75 mg/L; zinc – 0.117 mg/L; and, nitrate + nitrite – 0.68 mg/L. The State Water Quality Control Board has also proposed adding a benchmark level for specific conductance of 200 µmhos/cm. Additional EPA benchmark levels have been established for other parameters that CSPA believes are being discharged from the Facility, including but not limited to, ammonia – 19 mg/L; arsenic – 0.16854 mg/L; cadmium – 0.0159 mg/L; chemical oxygen demand – 120 mg/L; cyanide – 0.0636 mg/L; lead – 0.0816 mg/L; magnesium – 0.0636 mg/L; mercury – 0.0024 mg/L; selenium – 0.2385 mg/L; and, silver – 0.0318 mg/L.

## **II. Siemens 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). An industrial facility 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).

The Sacramento-San Joaquin Delta are waters of the United States. Accordingly, Siemens’ discharges of storm water containing pollutants from the Facility to the Sacramento River are discharges to waters of the United States.

Industrial facilities subject to regulation under the General Industrial Storm Water Permit are required to file a Notice of Intent to Comply with the terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). CSPA notes that the NOI on file at the Central Valley Regional Water Quality Control Board

office in Redding lists the operator of the Facility as Westates Carbon – Arizona, Inc. However, for the past five Wet Seasons, Siemens has filed Annual Reports indicating that it is the operator of the facility. Accordingly, for at least the last five years, Siemens has discharged pollutants from the Facility into the Sacramento River and Delta without having properly filed a NOI. Additionally, the NOI currently on file for the Facility is insufficient to the extent that it fails to report each SIC Code that the Facility should be classified under. To wit, the NOI only reports that the Facility should be classified as SIC Code 4953 (“Non-hazardous solid waste combustor”). However, the 2008-2009 Annual Report on file for the Facility indicates that it should also be classified as falling within SIC Code 3443 (“Fabricated Plate Work”).

CSPA is informed and believes, and thereupon alleges, that Siemens 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, Siemens is subject to penalties for violations of the Act since December 13, 2005.

### **III. Pollutant Discharges in Violation of the NPDES Permit.**

Siemens 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 such as the General Permit. 33 U.S.C. § 1342. 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.

Further, Discharge Prohibition A(1) of the General Permit provides: “Except as allowed in Special Conditions (D.1.) of this General Permit, materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.” Special Conditions D(1) of the General Permit sets forth the conditions that must be met for any discharge of non-storm water to constitute an authorized non-storm water discharge.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that

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

On May 23, 2007, the Regional Water Quality Control Board, Region 5, sent Siemens a letter ("the May 2007 letter") conveying its conclusion that, among other things, Siemens' 2005-2006 Annual Report contained evidence that the BMPs then in effect were "not sufficient to reduce pollutant concentrations below [EPA] benchmark levels." The May 2007 letter informed Siemens that its 2005-2006 Annual Report indicated storm water samples in excess of US EPA benchmark values for certain parameters. Based on this evidence, the Board ordered Siemens to: (1) Identify sources of pollutants at the Facility that contributed to the exceedance(s); (2) Review current BMPs; and (3) Modify existing BMPs or implement additional BMPs to reduce or eliminate discharge of pollutants. The Board also requested that the Facility's Storm Water Pollution Prevention Plan ("SWPPP") and Monitoring Plan be updated to reflect these changes.

Based on its review of available public documents, CSPA is informed and believes that Siemens continues to discharge these very same pollutants in excess of benchmarks and that Siemens has failed to implement BMPs adequate to bring its discharge of these and other pollutants in compliance with the General Permit. Siemens' ongoing violations are discussed further below.

**A. Siemens Has Discharged Storm Water Containing Pollutants in Violation of the Permit.**

Siemens has discharged and continues to discharge stormwater with unacceptable levels of Total Suspended Solids (TSS), Specific Conductivity (SC), Oil and Grease (O&G), Iron (Fe), Aluminum (Al), Zinc (Zn) and Nitrate + Nitrite Nitrogen (N+N) 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. Siemens' Annual Reports and Sampling and Analysis Results confirm discharges of materials other than storm water 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 Applicable EPA Benchmark Value**

<b>Date</b>	<b>Sampling Location</b>	<b>Parameter</b>	<b>Concentration in Discharge</b>	<b>EPA Benchmark Value</b>
10/13/2009	Fab Shop Outfall	TSS	178 mg/L	100 mg/L
12/15/2008	Plant Outfall	TSS	536 mg/L	100 mg/L
12/15/2008	Fab Shop Outfall	TSS	136 mg/L	100 mg/L
12/04/2007	SW Outfall Outside of Plant Fence	TSS	177 mg/L	100 mg/L
12/04/2007	NE Outfall Outside of Fab Shop Fence	TSS	562 mg/L	100 mg/L
05/02/2007	SW Outfall Outside of Plant Fence	TSS	690 mg/L	100 mg/L
05/02/2007	NE Outfall Outside of Fab Shop Fence	TSS	1130 mg/L	100 mg/L
11/02/2006	SW Outfall Outside of Plant Fence	TSS	102 mg/L	100 mg/L

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

<b>Date</b>	<b>Sampling Location</b>	<b>Parameter</b>	<b>Concentration in Discharge</b>	<b>Proposed Benchmark Value</b>
11/02/2006	SW Outfall Outside of Plant Fence	SC	448 µmhos/cm	200 µmhos/cm
11/02/2006	NE Outfall Outside of Fab Shop	SC	203 µmhos/cm	200 µmhos/cm



	Fence			
02/27/2006	SW Outfall Outside of Plant Fence	SC	309 µmhos/cm	200 µmhos/cm
12/19/2005	SW Outfall Outside of Plant Fence	SC	460 µmhos/cm	200 µmhos/cm

**3. Discharges of Storm Water Containing Oil and Grease (O&G) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Sampling Location	Parameter	Concentration in Discharge	EPA Benchmark Value
12/15/2008	Plant Outfall	O&G	30.6 mg/L	15 mg/L

**4. Discharges of Storm Water Containing Iron (Fe) at Concentrations in Excess of Applicable EPA Benchmark Value**

Date	Sampling Location	Parameter	Concentration in Discharge	EPA Benchmark Value
04/12/2010	Plant Outfall	Fe	2.0 mg/L	1.0 mg/L
04/12/2010	Fab Shop Outfall	Fe	1.05 mg/L	1.0 mg/L
10/13/2009	Plant Outfall	Fe	3.22 mg/L	1.0 mg/L
10/13/2009	Fab Shop Outfall	Fe	4.02 mg/L	1.0 mg/L
12/15/2008	Plant Outfall	Fe	16.9 mg/L	1.0 mg/L
12/15/2008	Fab Shop Outfall	Fe	27.1 mg/L	1.0 mg/L
12/04/2007	NE Outfall Outside of Fab Shop Fence	Fe	30.5 mg/L	1.0 mg/L
05/02/2007	NE Outfall Outside of Fab Shop Fence	Fe	46.5 mg/L	1.0 mg/L
05/02/2007	SW Outfall Outside of Plant Fence	Fe	9.01 mg/L	1.0 mg/L
02/27/2006	SW Outfall Outside of	Fe	1.72 mg/L	1.0 mg/L

	Plant Fence			
12/19/2005	NE Outfall Outside of Fab Shop Fence	Fe	3.81 mg/L	1.0 mg/L

**5. Discharges of Storm Water Containing Aluminum (Al) at Concentrations in Excess of Applicable EPA Benchmark Value**

<b>Date</b>	<b>Sampling Location</b>	<b>Parameter</b>	<b>Concentration in Discharge</b>	<b>Proposed Benchmark Value</b>
10/13/2009	Plant Outfall	Al	1.46 mg/L	0.75 mg/L
10/13/2009	Fab Shop Outfall	Al	2.03 mg/L	0.75 mg/L
12/15/2008	Fab Shop Outfall	Al	17.6 mg/L	0.75 mg/L
12/04/2007	NE Outfall Outside of Fab Shop Fence	Al	13.7 mg/L	0.75 mg/L
05/02/2007	NE Outfall Outside of Fab Shop Fence	Al	25.3 mg/L	0.75 mg/L
11/02/2006	NE Outfall Outside of Fab Shop Fence	Al	0.755 mg/L	0.75 mg/L
12/19/2005	NE Outfall Outside of Fab Shop Fence	Al	2.06 mg/L	0.75 mg/L

**6. Discharges of Storm Water Containing Zinc (Zn) at Concentrations in Excess of Applicable EPA Benchmark Value**

<b>Date</b>	<b>Sampling Location</b>	<b>Parameter</b>	<b>Concentration in Discharge</b>	<b>EPA Benchmark Value</b>
10/13/2009	Fab Shop Outfall	Zn	0.266 mg/L	0.117 mg/L
12/15/2008	Fab Shop Outfall	Zn	0.52 mg/L	0.117 mg/L
12/04/2007	NE Outfall Outside of	Zn	0.644 mg/L	0.117 mg/L

	Fab Shop Fence			
05/02/2007	NE Outfall Outside of Fab Shop Fence	Zn	0.602 mg/L	0.117 mg/L
11/02/2006	NE Outfall Outside of Fab Shop Fence	Zn	0.315 mg/L	0.117 mg/L
12/19/2005	NE Outfall Outside of Fab Shop Fence	Zn	0.168 mg/L	0.117 mg/L

**7. Discharges of Storm Water Containing Nitrate + Nitrite Nitrogen (N+N) at Concentrations in Excess of Applicable EPA Benchmark Value**

<b>Date</b>	<b>Sampling Location</b>	<b>Parameter</b>	<b>Concentration in Discharge</b>	<b>EPA Benchmark Value</b>
11/02/2006	SW Outfall Outside of Plant Fence	N+N	2.36 mg/L	0.68 mg/L
11/02/2006	NE Outfall Outside of Fab Shop Fence	N+N	1.53 mg/L	0.68 mg/L

CSPA’s investigation, including its review of Siemens’ analytical results documenting pollutant levels in the Facility’s storm water discharges well in excess of EPA’s benchmark values and the State Board’s proposed benchmark for specific conductivity, indicates that Siemens has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS), Specific Conductivity (SC), Oil and Grease (O&G), Iron (Fe), Aluminum (Al), Zinc (Zn), Nitrate + Nitrite Nitrogen (N+N) and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. Siemens was required to have implemented BAT and BCT by no later than October 1, 1992 of the start of its operations. Thus, Siemens is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

CSPA is informed and believes that Siemens has known that its storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least December 13, 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 13, 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 Siemens has discharged storm water containing impermissible levels of Total Suspended Solids (TSS), Specific Conductivity (SC), Oil and Grease (O&G), Iron (Fe), Aluminum (Al), Zinc (Zn), Nitrate + Nitrite Nitrogen (N+N) and other unmonitored pollutants in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of stormwater 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, Siemens is subject to penalties for violations of the General Permit and the Act since December 13, 2005.

**B. Siemens 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 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 further 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 Siemens has failed to develop and implement an adequate Monitoring & Reporting Plan. First, based on its review of publicly available documents, CSPA is informed and believes that Siemens has failed to collect storm water samples during at least two qualifying storm events (as defined by the General Permit) during each of the past five years. Second, based on its review of publicly available documents, CSPA is informed and believes that Siemens has failed to analyze its storm water discharges for Specific Conductivity (also often referred to as Electrical Conductivity) and “[t]oxic chemicals and other pollutants that are likely to be present” therein during each of the past five years. Third, based on its review of publicly available documents, CSPA is informed and believes that Siemens handles, stores and/or disposes of hazardous wastes and that Siemens has failed to analyze its storm water discharges for all additional analytical parameters required to be monitored

by facilities that handle, store or dispose of hazardous wastes. 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, Siemens is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since December 13, 2005. These violations are set forth in greater detail below:

**1. Siemens 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 Siemens 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. Moreover, based on its investigation, CSPA is informed and believes that storm water discharges from the Facility at points other than the two discharge points currently designated by Siemens. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

**2. Siemens Has Failed to Analyze Its Storm Water for All Pollutants Required by the General Permit.**

Section B(5)(c)(i) of the General Permit requires Siemens to sample for total suspended solids, specific conductivity, pH, and oil & grease or total organic carbon. Notably, Siemens has completely failed to analyze the Facility's samples of storm water discharges for specific conductivity as required by the General Permit for the last three Wet Seasons (i.e., 2007-2008 Wet Season; 2008-2009 Wet Season; and, 2009-2010 Wet Season).

Additionally, based on its review of publicly available documents, CSPA is informed and believes that Siemens handles, stores and/or disposes of hazardous wastes at the Facility. For example, on January 11, 2005, the Regional Water Quality Control Board, Region 5, sent Bret Meyer a letter ("the January 2005 letter") stating that:

"it is our understanding that you are generally a small quantity generator, and you store hazardous waste materials outside adjacent to your fabrication shop. Since the runoff from your hazardous waste storage area is characterized by sampling of your 'fabrication shop' runoff, you only need to perform additional hazardous waste sampling on runoff from this location. ... Please begin sampling for these parameter (*sic*) during the 2005/2006 rainy season."

As pointed out by the Regional Board in its January 2005 letter, facilities such as this Facility that handle, store and/or dispose of hazardous wastes are properly classified under Standard Industrial Classification ("SIC") Code 4953. Table D of the General Permit provides that such facilities must analyze their samples of storm water discharges

for the following additional parameters: ammonia; magnesium; chemical oxygen demand; arsenic; cadmium; cyanide; lead; mercury; selenium; and, silver. Further, based on its investigation, CSPA is informed and believes that Siemens has failed to monitor for other pollutants likely to be present in storm water discharges in significant quantities. Siemens' failure to monitor these pollutants extends back to at least December 13, 2005. Siemens' 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. Siemens Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since December 13, 2005.**

CSPA is informed and believes that available documents demonstrate Siemens' 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, Siemens is subject to penalties for these violations of the General Permit and the Act since December 13, 2005.

**C. Siemens Has Failed to Implement BAT and 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). CSPA's investigation indicates that Siemens has not implemented BAT and BCT at the Facility for its discharges of TSS, Specific Conductivity, Oil and Grease, Iron, Aluminum, Zinc, Nitrate + Nitrite 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, Siemens 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 Siemens 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. Siemens has failed to adequately implement such measures.

Siemens was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, Siemens 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 VSS fails to implement BAT and BCT. Siemens is subject to penalties for violations of the General Permit and the Act occurring since December 13, 2005.

**D. Siemens Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.**

Section A(1) and Provision E(2) of the General 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 Water Quality Order No. 97-03-DWQ to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (“BMPs”) to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must also include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby 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 Siemens has been operating with an inadequately developed or

implemented SWPPP in violation of the requirements set forth above. Siemens has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Accordingly, Siemens has been in continuous violation of Section A(1) and Provision E(2) of the General Permit every day since October 1, 1992, and will continue to be in violation every day that it fails to develop and implement an effective SWPPP. Siemens is subject to penalties for violations of the Order and the Act occurring since December 13, 2005.

**E. Siemens 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, Siemens is discharging elevated levels of Total Suspended Solids (TSS), Specific Conductivity (SC), Oil and Grease (O&G), Iron (Fe), Aluminum (Al), Zinc (Zn), Nitrate + Nitrite Nitrogen (N+N) and other unmonitored pollutants that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutant exceedances, Siemens 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, Siemens was aware of high levels of these pollutants prior to December 13, 2005. Likewise, Siemens has generally failed to file reports describing its noncompliance with the General 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). Siemens has been in continuous violation of Receiving Water Limitation C(4)(a) and Sections C(11)(d) and A(9) of the General Permit every day since December 13, 2005, and will continue to be in violation every day VSS fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. Siemens is subject to penalties for violations of the General Permit and the Act occurring since December 13, 2005.



**F. Siemens 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 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 Siemens has signed and submitted incomplete Annual Reports and purported to comply with the General Permit despite significant noncompliance at the Facility. For example, the 2007-2008 Annual Report filed by Siemens for the Facility reports that (1) Siemens collected samples of storm water discharged from the Facility from the first storm event of the wet season that produced a discharge during scheduled facility operating hours and (2) that the first storm event of the wet season that produced a discharge during scheduled facility operating hours occurred on December 4, 2007. However, based on CSPA's review of publicly available rainfall data, CSPA believes it cannot possibly be true that December 4, 2007 was the first storm event of the 2007-2008 Wet Season that produced a storm water discharge during scheduled facility operating hours. To wit, publicly available rainfall data for the area indicates that on December 4, 2007, 0.26" of rain fell on the Facility. However, on December 3, 2007, 0.58" of rain was recorded as having fallen on the Facility.

Recall that under the General Permit, a qualifying storm event is a storm that generates a storm water discharge from the facility and that was preceded by at least three days without a storm water discharge from that facility. Here, assuming that 0.26" of rainfall is enough to generate a storm water discharge at the Facility then there would have been storm water discharging from the Facility the day before the date of the reported "First Storm Event" thereby rendering December 4, 2007 a non-qualifying storm event. Furthermore, assuming again that 0.26" of rain is enough to generate a storm water discharge at the Facility, December 4, 2007 was not the first qualifying storm event of the 2007-2008 Wet Season. That distinction belongs to Tuesday, October 9, 2007, a date during which 0.29" of rain fell on the Facility following at least three days without rain. This is only one example of how Siemens has failed to file completely true and accurate reports.

As indicated above, Siemens has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, Siemens has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time Siemens submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. Siemens' failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. Siemens is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since December 13, 2005.

**IV. Persons Responsible for the Violations.**

CSPA puts Siemens Water Technologies Corp., Bret Meyer and Mary Ann Hall 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 Siemens Water Technologies Corp., Bret Meyer and Mary Ann Hall 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  
Erik M. Roper  
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  
Erik@PackardLawOffices.com

And to:

Robert J. Tuerck  
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 Siemens Water Technologies Corp., Bret Meyer and Mary Ann Hall to a

Notice of Violation and Intent To File Suit

December 13, 2010

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penalty 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, during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA 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 Siemens Water Technologies Corp. 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". The signature is written in a cursive, flowing 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

**ATTACHMENT A**  
**Notice of Intent to File Suit, Siemens Water Technologies Corp. (Red Bluff, CA)**  
**Significant Rain Events,\* December 13, 2005-December 13, 2010**

Dec. 17 2005	April 16 2006	Jan. 24 2008	Dec. 21 2009
Dec. 18 2005	April 21 2006	Jan. 25 2008	Dec. 27 2009
Dec. 19 2005	April 22 2006	Jan. 26 2008	Dec. 29 2009
Dec. 20 2005	May 19 2006	Jan. 27 2008	Jan. 01 2010
Dec. 21 2005	Nov. 02 2006	Jan. 31 2008	Jan. 12 2010
Dec. 22 2005	Nov. 11 2006	Feb. 02 2008	Jan. 17 2010
Dec. 25 2005	Nov. 12 2006	Feb. 21 2008	Jan. 18 2010
Dec. 26 2005	Nov. 13 2006	Feb. 22 2008	Jan. 19 2010
Dec. 27 2005	Nov. 26 2006	Feb. 23 2008	Jan. 20 2010
Dec. 28 2005	Dec. 08 2006	Feb. 24 2008	Jan. 21 2010
Dec. 29 2005	Dec. 09 2006	May 26 2008	Jan. 23 2010
Dec. 30 2005	Dec. 11 2006	Oct. 03 2008	Jan. 24 2010
Dec. 31 2005	Dec. 12 2006	Oct. 04 2008	Jan. 25 2010
Jan. 01 2006	Dec. 13 2006	Oct. 30 2008	Jan. 30 2010
Jan. 03 2006	Dec. 21 2006	Oct. 31 2008	Feb. 01 2010
Jan. 04 2006	Dec. 26 2006	Nov. 01 2008	Feb. 04 2010
Jan. 07 2006	Feb. 07 2007	Nov. 03 2008	Feb. 06 2010
Jan. 14 2006	Feb. 08 2007	Dec. 14 2008	Feb. 08 2010
Jan. 17 2006	Feb. 09 2007	Dec. 15 2008	Feb. 09 2010
Jan. 18 2006	Feb. 10 2007	Dec. 21 2008	Feb. 20 2010
Jan. 20 2006	Feb. 22 2007	Dec. 24 2008	Feb. 21 2010
Jan. 28 2006	Feb. 24 2007	Jan. 21 2009	Feb. 23 2010
Jan. 30 2006	Mar. 20 2007	Jan. 22 2009	Feb. 24 2010
Feb. 01 2006	Mar. 26 2007	Jan. 24 2009	Feb. 26 2010
Feb. 26 2006	April 11 2007	Feb. 08 2009	Mar. 02 2010
Feb. 27 2006	April 14 2007	Feb. 11 2009	Mar. 03 2010
Mar. 02 2006	April 21 2007	Feb. 13 2009	April 02 2010
Mar. 03 2006	May 01 2007	Feb. 14 2009	April 04 2010
Mar. 05 2006	May 03 2007	Feb. 15 2009	April 11 2010
Mar. 06 2006	Oct. 09 2007	Feb. 16 2009	April 12 2010
Mar. 10 2006	Oct. 10 2007	Feb. 17 2009	April 14 2010
Mar. 12 2006	Oct. 12 2007	Feb. 18 2009	April 20 2010
Mar. 13 2006	Nov. 10 2007	Feb. 22 2009	May 10 2010
Mar. 20 2006	Nov. 19 2007	Feb. 23 2009	May 17 2010
Mar. 23 2006	Dec. 03 2007	Mar. 01 2009	May 21 2010
Mar. 24 2006	Dec. 04 2007	Mar. 04 2009	May 25 2010
Mar. 27 2006	Dec. 06 2007	April 09 2009	May 27 2010
Mar. 29 2006	Dec. 07 2007	April 10 2009	Oct. 04 2010
Mar. 31 2006	Dec. 18 2007	May 01 2009	Oct. 23 2010
April 01 2006	Dec. 19 2007	Oct. 13 2009	Oct. 24 2010
April 02 2006	Dec. 20 2007	Oct. 19 2009	Oct. 28 2010
April 03 2006	Dec. 28 2007	Nov. 17 2009	Oct. 29 2010
April 05 2006	Dec. 29 2007	Nov. 20 2009	Nov. 07 2010
April 07 2006	Jan. 03 2008	Dec. 11 2009	Nov. 20 2010
April 09 2006	Jan. 04 2008	Dec. 12 2009	Nov. 27 2010
April 11 2006	Jan. 08 2008	Dec. 15 2009	Dec. 02 2010
April 12 2006	Jan. 10 2008	Dec. 16 2009	Dec. 05 2010
April 15 2006	Jan. 12 2008	Dec. 20 2009	Dec. 06 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, Siemens Water Technologies Corp. (Red Bluff, CA)**  
**Significant Rain Events,\* December 13, 2005-December 13, 2010**

Dec. 08 2010

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

**EXHIBIT C**

<b>Parameter</b>	<b>Value</b>
pH	6.0 – 9.0
Specific Conductivity	200 µmhos/cm
Total Suspended Solids	100 mg/L
Oil & Grease	15 mg/L
Aluminum	0.75 mg/L
Ammonia	19 mg/L
Arsenic	0.16854 mg/L
Cadmium	0.0159 mg/L
Chemical Oxygen Demand	120 mg/L
Cyanide	0.0636 mg/L
Iron	1.0 mg/L
Lead	0.0816 mg/L
Magnesium	0.0636 mg/L
Mercury	0.0024 mg/L
Nitrate + Nitrite	0.68 mg/L
Selenium	0.2385 mg/L
Silver	0.0318 mg/L
Zinc	0.117 mg/L