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Attorneys for Plaintiff
CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a non-profit corporation, Plaintiff, vs. NOR-CAL BEVERAGE CO. INC., a California corporation, JASON GRAVIET, and PAUL OREBAUGH, Defendants.	Case No. 13-cv-00902-JAM-EFB **[PROPOSED] CONSENT AGREEMENT** (Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1387)

WHEREAS, Plaintiff California Sportfishing Protection Alliance (hereinafter "CSPA") is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of California's waters;

WHEREAS, Defendant NOR-CAL BEVERAGE CO. INC., a California corporation ("NCB"), owns and/or operates an approximately 10.5-acre beverage manufacturing and distribution facility located in West Sacramento, California (the "Facility") and employs Defendant PAUL OREBAUGH as Vice President of Engineering and formerly employed Defendant JASON GRAVIET as ISO Coordinator (collectively "Defendants");

WHEREAS, CSPA and Defendants collectively shall be referred to as the "Parties;"

WHEREAS, the Facility collects and discharges storm water from the Facility into the City of West Sacramento's storm water drainage system, which discharges the storm water from the Facility into the Deep Water Ship Channel at the Port of Sacramento (which is hydrologically connected to the Sacramento River) and thence to the Sacramento-San Joaquin Delta ("the Delta") (a map of the Facility is attached hereto as **Exhibit A** and incorporated herein by reference);

WHEREAS, storm water discharges associated with industrial activity are regulated pursuant to the 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 Water Quality Order 92-12 DWQ and 97-03-DWQ), issued pursuant to Section 402 of the Clean Water Act ("Act"), 33 U.S.C. § 1342 (hereinafter "General Permit");

WHEREAS, on or about March 4, 2013, Plaintiff provided notice of Defendants' alleged violations of the Act ("Notice Letter"), and of its intention to file suit against Defendants, to the Administrator of the United States Environmental Protection Agency ("EPA"); the Administrator of EPA Region IX; the U.S. Attorney General; the Executive Director of the State Water Resources Control Board ("State Board"); the Executive Officer of the Regional Water Quality Control Board, Central Valley Region ("Regional Board"); and to Defendants, as required by the Act, 33 U.S.C. § 1365(b)(1)(A) (a true and correct copy of CSPA's Notice Letter is attached as **Exhibit B** and incorporated herein by reference);

WHEREAS, Defendants deny the occurrence of the violations alleged in the Notice Letter and maintain that all Defendants have complied at all times with the provisions of the General Permit and the Clean Water Act;

WHEREAS, CSPA filed a Complaint for Declaratory and Injunctive Relief and Civil Penalties ("Complaint") against Defendant herein in the United States District Court, Eastern District of California, on May 8, 2013 (hereinafter "the Action");

WHEREAS, for purposes of this Agreement, the Parties stipulate that venue is proper in this Court, and that Defendant does not contest the exercise of jurisdiction by this Court to dismiss this matter with prejudice under the terms of this Agreement;

WHEREAS, Defendants filed an Answer to the Complaint on July 3, 2013, that denies the occurrence of the violations alleged in the Notice Letter and Complaint and maintains that all Defendants have complied at all times with the provisions of the General Permit and the Clean Water Act;

WHEREAS, the Parties agree that it is in their mutual interest to resolve this matter as to all entities and persons named in the Notice Letter and Action without litigation by entering into this Consent Agreement ("Agreement");

WHEREAS, this Agreement shall be submitted to the United States Department of Justice for the 45-day statutory review period, pursuant to 33 U.S.C. § 1365(c) and 40 C.F.R. § 135.5, which period shall be referred to herein as the "Agency Review Period", and shall thereafter be submitted for approval by the District Court;

WHEREAS, upon expiration of the Agency Review Period, the Parties shall file with the Court a Stipulation and Order that shall provide that the Complaint and all claims therein shall be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and that the Court shall retain jurisdiction for the enforcement of this Agreement as provided herein (the date of entry of the Order to dismiss is referred to herein as the "Court Approval Date");

AND WHEREAS, at the time the Agreement is submitted for approval to the United States Department of Justice, CSPA shall file a Notice of Settlement and inform the Court of the expected dismissal date;

NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE SETTLING PARTIES AS FOLLOWS:

I. COMMITMENT OF DEFENDANTS

1. Compliance With General Permit & Clean Water Act. Beginning immediately, and throughout the term of this Agreement, NCB shall continue implementing

all measures needed to operate the Facility in compliance with the requirements of the General Permit and the Clean Water Act, subject to any defenses available under the law.

2. Specific Storm Water Best Management Practices. NCB agrees to implement the following Best Management Practices ("BMPs") for storm water management at the Facility during the term of this Agreement:

(a) *Bermed Portion of Outdoor Production Area.* In October of 2013, NCB completed a series of facility improvements, including among other items a project whereby a 12" berm was constructed to create an approximately 48,000-gallon containment area within an approximately 14,716 square-foot portion of the Facility's Outdoor Production Yard area ("2013 Berm Project" or "Berm Project"). Pursuant to the protocol set forth in Appendix H to the current Facility SWPPP, a copy of which is attached hereto as **Exhibit C**, discharges of storm water from this containment area shall, for the initial portion of any storm event (approximately 30 minutes, depending on storm intensity), be directed to the Facility's pre-treatment system prior to discharging to the sanitary sewer. All subsequent storm water discharges from the containment area in that storm event shall be routed to the municipal storm drain system by way of two manually-operated valves linking the containment area's discharges to the municipal storm drain system through the v-gutter along the west side of Cebrian Street to Outfall No. 2, identified as "OF 002" on the Facility map attached hereto as **Exhibit A.** The protocol for responding to the audible alarm triggering the manual operation of the valve re-directing flows to the municipal storm drain system is set forth in Appendix H to the SWPPP.

(b) *Additional Roofing Over Recycling Area.* On November 18, 2013, NCB completed the extension, in a northerly direction, of the current awning roof over the recycling area by approximately 70 feet (this new roofing is identified as "Canopy Extension" in the Facility map attached hereto as **Exhibit A**). Defendants agree that all storm water falling within the Canopy Extension shall be directed to a trench drain routed to the Facility's pre-treatment system prior to discharging to the sanitary sewer.

(c) *Spent Tea Leaf Dumpster.* NCB agrees that, beginning on or before December 1, 2013, during all iced tea production runs, any dumpsters or other storage containers used to store spent tea leaves shall be located at all times within the containment area comprising the 2013 Berm Project and shall also at all times be covered by lids or tarps to prevent any storm water from coming into contact with the spent tea leaves inside the dumpster or other such storage container used to store spent tea leaves.

(d) *Threshold Areas on the East Side of the Production Building.* NCB agrees that, beginning on or before February 1, 2014, in all the thresholds to the production building's east-side entrances, including the ramped ingress/egress to the southeast near the aseptic production area, spill kits shall be located in close proximity to the threshold to ensure that any materials spilled are contained and cleaned up inside the production building. Each such spill kit shall include spill blocker dikes for use along door thresholds to contain all potential materials spilled indoors. With the exception of the blending room, NCB agrees that production materials shall not be stored or used in any of the thresholds to the production building's east-side entrances, including the ramped ingress/egress to the southeast near the aseptic production area. The roll-up door adjacent to the blending room shall be kept in the closed position at all times during production and the gasket on the door's bottom edge shall be maintained to contain any spilled materials inside the production area.

(e) *Properties East of Cebrian Street.* On or before February 1, 2014, NCB's SWPPP shall encompass the Fleet Shop/Materials Storage Area on the east side of Cebrian Street as part of NCB's permitted coverage area and shall specify BMPs and a sampling location identified as "DP#7-SL#6" on the Facility map attached hereto as **Exhibit A**. Among the BMPs applicable to the Fleet Shop/Materials Storage Area shall be the placement of drip pads beneath all NCB fleet vehicles whenever they are parked overnight. Also beginning immediately, the SWPPP shall be revised to prohibit NCB from using the gated employee parking area located between NCB's corporate offices and the Fleet Shop/Materials Storage Area for any industrial activities, including equipment or materials storage. On or before

February 1, 2014, NCB shall file an Amended Notice of Intent to Comply with the General Permit based on the addition of the Fleet Shop/Materials Storage Area to the permitted coverage area.

(f) *Oil/Water Separator, Northern Portion of the Production Area.* On or before February 1, 2014, NCB shall locate portable spill blocker berms near the steam cleaning area at the oil-water separator identified on the Facility map and shall use such portable spill blocker berms, by placing them around the entire washing area, to direct all wash water into the oil/water separator for conveyance to pre-treatment and ultimately the sanitary sewer system.

(g) *Revised Facility Sweeping Regime.* NCB agrees to refurbish its sweeper on or before February 1, 2013, and agrees to revise its SWPPP to require Facility-wide sweeping at least twice weekly during the Wet Season and monthly during the Dry Season, with all such sweeping logged as to date, time, individual(s) sweeping and area(s) swept.

(h) *Tracking BMPs.* On or before February 1, 2014, NCB agrees to implement the following BMPs to address potential tracking of materials (with all such activities logged as to date, time, individual(s) and actions taken):

i. Weekly wash-down of the production yard within the Berm Project's containment area during the Wet Season and monthly during the Dry Season;

ii. Use of spill kits to contain and clean up any production materials spills or vehicle fluid leaks;

iii. Use of drip pans during tank farm loading by vendors for corn syrup and sodium hydroxide deliveries; and

iv. Twice daily inspections of the production yard and north loading dock area.

(i) *Housekeeping BMPs, Biennial Employee S/W Training*. NCB shall conduct storm water management training of Facility employees at least biennially and shall maintain an employee training log showing training dates and participants. NCB shall

maintain a log documenting implementation of all inspection, sweeping and wash-down BMPs specified in its SWPPP attached hereto as **Exhibit C**.

(j) *Retention of Additional Storm Water Personnel.* NCB has increased to two the number of employee positions whose duties include, but are not limited to, storm water management and Permit compliance. One of the positions was created in 2013 to support NCB's Environmental Compliance and Worker Safety Manager position. NCB agrees to maintain those positions for the entire two-year term of the Agreement. NCB's authority and discretion to manage the positions is exclusive.

(k) *Annual Cleaning of Drop Inlets.* In September of 2014 and September of 2015, before the start of the Wet Season on October 1st, NCB shall clean out any accumulated debris at the Facility.

(l) *Weekly Monitoring & Maintenance of Discharge Points & Sampling Locations.* NCB shall monitor and maintain all discharge points and sampling locations within the permitted coverage area of the Facility on at least a weekly basis during the Wet Season (October 1 to May 30) and on a monthly basis during the Dry Season (June 1 to September 30).

3. Revisions to Monitoring & Reporting Program. Unless required by a change in law to do otherwise (such as the issuance of a new General Industrial Storm Water Permit), NCB agrees to implement the storm water sampling program set forth in Section 2.2 of the Facility SWPPP attached hereto as **Exhibit C** for the full term of this Agreement. In the event that NCB wishes to modify the sampling program set forth in **Exhibit C**, NCB shall provide CSPA thirty (30) days notice and, if requested by CSPA, meet and confer in good faith regarding any changes.

(a) All samples shall be analyzed for each of the constituents listed in **Exhibit D** by a laboratory accredited by the State of California. All samples collected from the Facility shall be delivered to the laboratory as soon as possible to ensure that sample "hold time" is not exceeded. The analytical methods used by the laboratory shall be those set forth

in **Exhibit D**. Sampling results shall be provided to CSPA within seven (7) business days of NCB's receipt of the laboratory report from each sampling event pursuant to the Notice provisions below.

(b) *Sampling Parameters.* Sampling for the parameters aluminum, copper, iron and zinc may be discontinued at any sampling location where, assuming all sampling required at that discharge point has been undertaken up to that date, NCB obtains four consecutive "non-detects" for that parameter at that discharge point using the analytical testing methods set forth in **Exhibit D**.

(c) *Sampling Locations.* Sampling shall be conducted at the six locations (SL-1 through SL-6) identified on the Facility Map attached hereto as **Exhibit A.**

(d) *Sampling Location No. 1.* Sampling Location No. 1, identified as ("DP#1 (DI) (SL#1") on the Facility Map attached hereto as **Exhibit A,** is now located at a point downstream from the convergence of the last series of flows contributing to the discharges from DP#1(DI)(SL#1).

(e) *Sampling Event Criteria.* The criteria for determining the occurrence of a Qualifying Storm Event for sampling is set forth in the General Permit.[1]

(f) *Number of Sampling Events.* NCB shall collect and analyze samples from four (4) qualifying storm events, as defined in the General Permit for sampling purposes, in the 2013-2014 and 2014-2015 Wet Seasons.

4. SWPPP Amendments/Additional BMPs. Within 30 days of the Court

[1] A "Qualifying Storm Event" under the General Permit is one in which (i) no storm water discharge has occurred from the Facility during the previous three (3) working days; (ii) there is sufficient rain to generate a discharge flow that can be physically sampled; and (iii) the discharge to be sampled occurs during normal operating hours (when the Facility is producing product). Further, samples are collected within the first hour that flow is observed at the Discharge Point being sampled, except that sampling storm water that has been temporarily contained must be collected upon release of the storm water. General Permit, Section B.5.b. However, consistent with General Permit Section B.8.b., in the event that NCB can demonstrate good cause as to why it was unable to collect samples of storm water discharges within the first hour of discharges occurring during an otherwise qualifying storm event, NCB may collect storm water discharge samples as soon as practicable during an otherwise qualifying storm event.

Approval Date for this Agreement, NCB shall ensure the Facility SWPPP, including the Facility Map, is formally amended to incorporate all of the relevant requirements of this Agreement. These revisions shall reflect all current site conditions and practices and identify potential Contaminants of Concern ("COC"), identify the location of all pervious and impervious areas, drop inlets, BMPs, and storm water flow vectors.

5. "Action Memorandum" Trigger; CSPA Review Of "Action Memorandum"; Meet-and-Confer. If any sample taken during the two (2) Wet Seasons referenced in Paragraph I(3)(f) above exceeds the evaluation levels set forth in **Exhibit D**, or if NCB fails to collect and analyze samples from four (4) qualifying storm events, then NCB shall prepare a written statement discussing the exceedance(s) and/or failure to collect and analyze samples from four (4) qualifying storm events, the possible cause and/or source of the exceedance(s), and additional measures that will be taken to address and eliminate future exceedances and/or failures to collect required samples ("Action Memorandum"). The Action Memorandum shall be provided to CSPA not later than July 15 following the conclusion of each Wet Season. Recognizing that a SWPPP is an ongoing iterative process meant to encourage innovative BMPs, such additional measures may include, but are not limited to, taking confirmation samples, further material, feasible improvements to the storm water collection and discharge system, changing the type and frequency of Facility sweeping, changing the type and extent of storm water filtration media or modifying other industrial activities or management practices at the Facility. In addition, if any sample tests from DP#1 (DI) (SL#1) exceed evaluation levels set forth in **Exhibit D**, NCB shall consider the efficacy of additional measures for storm water originating as roof runoff. Such additional measures, to the extent feasible, shall be implemented immediately and in no event later than sixty (60) days after the due date of the Action Memorandum. Within seven (7) days of implementation, the Facility SWPPP shall be amended to include all additional BMP measures designated in the Action Memorandum. CSPA may review and comment on an Action Memorandum and suggest any additional pollution prevention measures it believes are appropriate; however,

CSPA's failure to do so shall not be deemed to constitute agreement with the proposals set forth in the Action Memorandum. Upon request by CSPA, NCB agrees to meet and confer in good faith (at the Facility, if requested by Plaintiff) regarding the contents and sufficiency of the Action Memorandum.

6. Inspections During The Term Of This Agreement. In addition to any site inspections conducted as part of the settlement process and the meet-and-confer process concerning an Action Memorandum as set forth above, NCB shall permit representatives of CSPA to perform up to two (2) physical inspections of the Facility during the term of this Agreement. These inspections shall be performed by CSPA's counsel and consultants and may include sampling, photographing, and/or videotaping in exterior portions of the Facility; provided that NCB may prohibit sampling, photographing, and/or videotaping to protect trade secrets; and CSPA shall provide NCB with a copy of all sampling reports, photographs and/or video. CSPA shall provide at least forty-eight (48) hours advance notice of such physical inspection, except that NCB shall have the right to deny access if circumstances would make the inspection unduly burdensome and pose significant interference with business operations or any party/attorney, or the safety of individuals. In such case, NCB shall specify at least three (3) dates within the two (2) weeks thereafter upon which a physical inspection by CSPA may proceed. NCB shall not make any alterations to Facility conditions during the period between receiving CSPA's initial forty-eight (48) hour advance notice and the start of CSPA's inspection that NCB would not otherwise have made but for receiving notice of CSPA's request to conduct a physical inspection of the Facility, excepting any actions taken in compliance with any applicable laws or regulations. Nothing herein shall be construed to prevent NCB from continuing to implement any BMPs identified in the SWPPP during the period prior to an inspection by CSPA or at any time.

7. NCB Communications To/From Regional and State Water Boards. During the term of this Agreement, NCB shall provide CSPA with copies of all documents submitted to, or received from, the Regional Board or the State Board concerning storm water

discharges from the Facility, including, but not limited to, all documents and reports submitted to the Regional Board and/or State Board as required by the General Permit. Such documents and reports shall be provided to CSPA pursuant to the Notice provisions set forth below and contemporaneously with NCB's submission(s) to, or, receipt from, such agencies.

8. SWPPP Amendments. Pursuant to the Notice provisions set forth below, NCB shall provide CSPA with a copy of any amendments to the Facility SWPPP made during the term of the Agreement within fourteen (14) days of such amendment.

II. MITIGATION, COMPLIANCE MONITORING AND FEES AND COSTS

9. Mitigation Payment In Lieu Of Civil Penalties. As mitigation to address any potential harms from the Clean Water Act violations alleged in CSPA's Complaint, Defendant agrees to pay the sum of $40,000 to the Rose Foundation for Communities and the Environment ("Rose Foundation") for projects to improve water quality in the Sacramento River and the Sacramento-San Joaquin River Delta ("the Delta"). Such mitigation payment shall be remitted directly to the Rose Foundation at: Rose Foundation, Attn: Tim Little, 1970 Broadway, Suite 600, Oakland, CA 94612 within fifteen (15) days of the Court Approval Date.

10. Compliance Monitoring Funding. To defray CSPA's reasonable investigative, expert, consultant and attorneys' fees and costs associated with monitoring NCB's compliance with this Agreement, Defendants agree to contribute $5,000 for each of the two Wet Seasons covered by this Agreement to a compliance monitoring fund maintained by counsel for CSPA as described below. Payment shall be made payable to the "Law Offices of Andrew L. Packard Attorney-Client Trust Account" and remitted to Plaintiff's counsel within fifteen (15) days of the Court Approval Date. Compliance monitoring activities may include, but shall not be limited to, site inspections, review of water quality sampling reports, review of annual reports, discussions with representatives of NCB concerning the Action Memoranda referenced above, and potential changes to compliance requirements herein, preparation for and participation in meet-and-confer sessions, water quality sampling and analysis, and

compliance-related activities.

11. Reimbursement of Fees & Costs. Defendant agrees to reimburse CSPA in the amount of $40,000 to defray CSPA's reasonable investigative, expert, consultant and attorneys' fees and costs, and all other costs incurred as a result of investigating the activities at the Facility, bringing the Action and negotiating a resolution in the public interest. Payment shall be made payable to the "Law Offices of Andrew L. Packard Attorney-Client Trust Account" and remitted to Plaintiff's counsel within fifteen (15) days of the Court Approval Date.

III. DISPUTE RESOLUTION AND ENFORCEMENT OF CONSENT AGREEMENT

12. With the exception of the timelines set forth above for addressing exceedances of values specified on **Exhibit D** and Action Memoranda, if a dispute under this Agreement arises, or either Party believes that a breach of this Agreement has occurred, the Parties shall meet and confer within seven (7) days of receiving written notification from the other Party of a request for a meeting to determine whether a violation has occurred and to develop a mutually agreed upon plan, including implementation dates, to resolve the dispute. If the Parties fail to meet and confer, or the meet-and-confer does not resolve the issue, after at least seven (7) days have passed after the meet-and-confer occurred or should have occurred, either Party shall be entitled to all rights and remedies under the law, including filing a motion with the District Court of California, Eastern District, which shall retain jurisdiction over the Action for the limited purposes of enforcement of the terms of this Agreement. The Parties shall be entitled to seek fees and costs incurred in any such motion, and such fees and costs shall be awarded, pursuant to the provisions set forth in the then-applicable federal Clean Water Act and applicable case law interpreting such provisions.

13. CSPA's Waiver and Release. Upon the Court Approval Date of this Agreement, CSPA, on its own behalf and on behalf of its members, subsidiaries, successors, assigns, directors, officers, agents, attorneys, representatives, and employees, releases NCB, its

officers, directors, employees, shareholders, parents, subsidiaries, and affiliates, and each of its predecessors, successors and assigns, and each of their agents, attorneys, consultants, and other representatives (each a "Released Defendant Party") from, and waives all claims which arise from or pertain to the Action, including, without limitation, all claims for injunctive relief, damages, penalties, fines, sanctions, mitigation, fees (including fees of attorneys, experts, and others), costs, expenses or any other sum incurred or claimed or which could have been claimed in this Action, for the alleged failure of Defendants to comply with the Clean Water Act at the Facility, up to the Court Approval Date.

14. Defendant's Waiver and Release. Upon the Court Approval Date of this Agreement, Defendants, on their own behalf and on behalf of any Released Defendant Party under their control, release CSPA (and its officers, directors, employees, members, parents, subsidiaries, and affiliates, and each of their successors and assigns, and its agents, attorneys, and other representative) from, and waives all claims which arise from or pertain to the Action, including all claims for fees (including fees of attorneys, experts, and others), costs, expenses or any other sum incurred or claimed or which could have been claimed for matters associated with or related to the Action.

15. Within five (5) business days of the mutual execution of this Agreement, Plaintiff shall submit this Agreement to the United States Department of Justice ("DOJ") for the statutory 45-day agency review period set forth in 33 U.S.C. §1365(c) and submit a Notice of Settlement to the Court.

16. Within seven (7) days of the expiration of the agency review period, the Parties shall file with the Court a Stipulation and Order providing that:

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

b. the Court shall retain and have jurisdiction over the Parties with respect to disputes arising under this Agreement. Nothing in this Agreement shall be construed as a waiver of any Party's right to appeal from an order that arises from an action to enforce the

terms of this Agreement.

IV. MISCELLANEOUS PROVISIONS

17. The Parties enter into this Agreement for the purpose of avoiding prolonged and costly litigation. Nothing in this Agreement shall be construed as, and Defendants expressly do not intend to imply, an admission as to any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Defendants of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligation, responsibilities, and duties of the Parties under this Agreement.

18. The Agreement shall be effective upon mutual execution by all Parties. The Agreement shall terminate on the "Termination Date," which shall be January 1, 2016. All the Parties' rights, duties and obligations under the Agreement terminate on the Termination Date; except in the event that the parties have a compliance dispute on the Termination Date, in which case the parties' right to seek the assistance of the Court for enforcement purposes shall survive the Termination Date by a period of ninety (90) days. The Agreement may be executed in one or more counterparts which, taken together, shall be deemed to constitute one and the same document. An executed copy of this Agreement shall be valid as an original.

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

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

21. The undersigned are authorized to execute this Agreement on behalf of their respective Parties and have read, understood and agreed to be bound by all of the terms and conditions of this Agreement.

22. All agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties concerning the subject matter of this Agreement are contained

herein. This Agreement and its attachments are made for the sole benefit of the Parties, and no other person or entity shall have any rights or remedies under or by reason of this Agreement, unless otherwise expressly provided for therein.

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

Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue
Stockton, CA 95204
E-mail: DeltaKeep@me.com

With copies sent to:

Andrew L. Packard
Law Offices of Andrew L. Packard
100 Petaluma Boulevard North, Suite 301
Petaluma, CA 94952
Tel: (707) 763-7227
E-mail: Andrew@packardlawoffices.com

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

Nor-Cal Beverage Company, Inc.
ATTN: Mike Motroni
2286 Stone Boulevard
West Sacramento, CA 95691
E-mail: mmotroni@ncbev.com

With copies sent to:

Eric Robinson
Kronick, Moskovitz Tiedemann & Girard
400 Capitol Mall
27th Floor
Sacramento, CA 95814
E-mail: erobinson@kmtg.com

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

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

25. 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, such as anything less than or equal to a 100 year/24-hour storm event, or inability to pay. Any Party seeking to rely upon this paragraph shall have the burden of establishing that it could not reasonably have been expected to avoid, and which by exercise of due diligence has been unable to overcome, the Force Majeure.

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

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

28. This Agreement and the attachments contain all of the terms and conditions agreed upon by the Parties relating to the matters covered by the Agreement, and supersede any and all prior and contemporaneous agreements, negotiations, correspondence, understandings, and communications of the Parties, whether oral or written, respecting the matters covered by this Agreement. This Agreement may be amended or modified only by a writing signed by the Parties or their authorized representatives.

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

The Parties hereto enter into this Agreement and respectfully submit it to the Court for its approval and entry.

Dated: 16 January, 2014

California Sportfishing Protection Alliance

By: _____
Bill Jennings, Executive Director

Dated: _____, 2014

Nor-Cal Beverage Company, Inc.

By: _____
Shannon-Deary Bell, President
and Chief Executive Officer

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

The Parties hereto enter into this Agreement and respectfully submit it to the Court for its approval and entry.

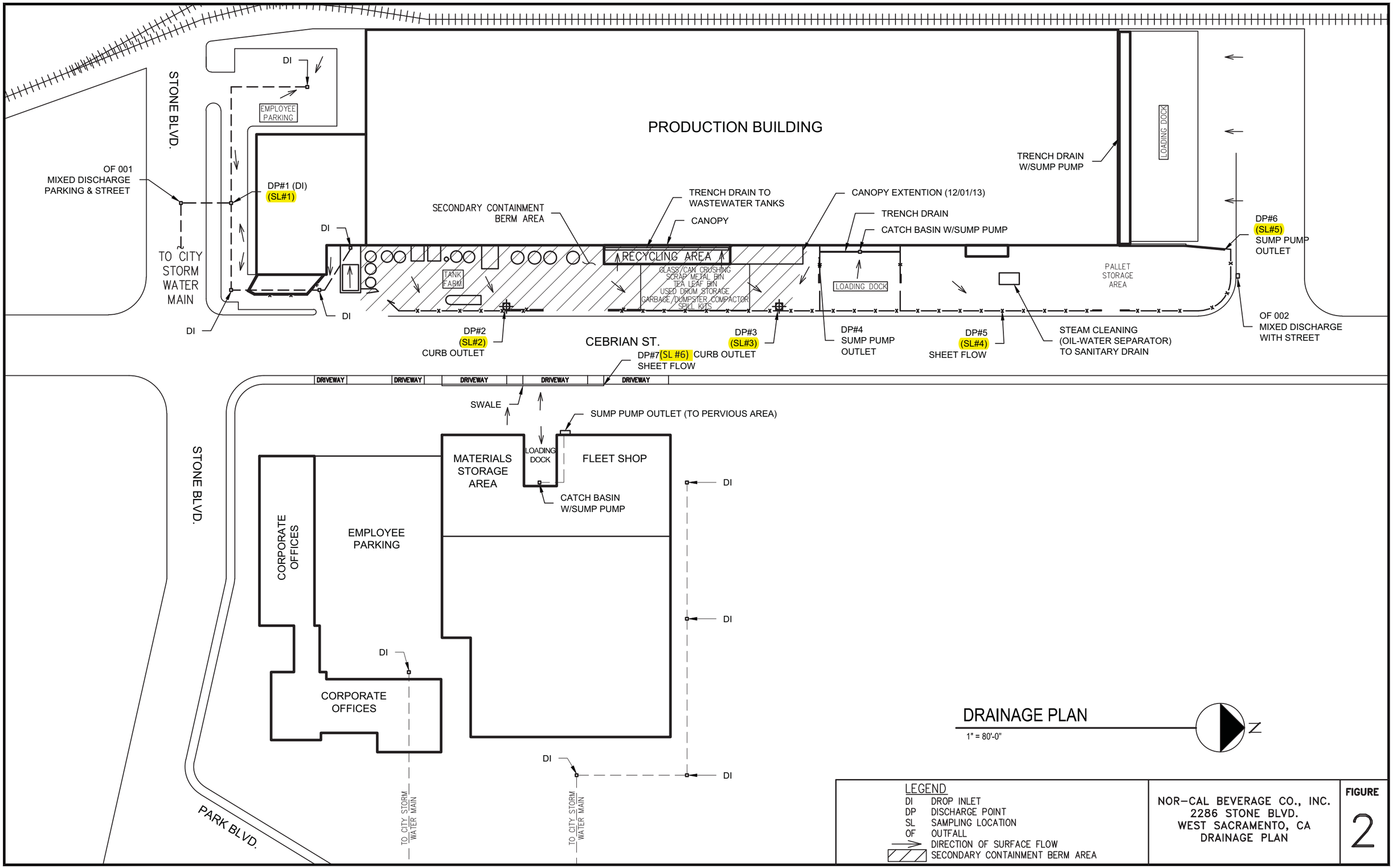
Dated: _____, 2014 California Sportfishing Protection Alliance

By: _____
Bill Jennings, Executive Director

Dated: 1/16, 2014 Nor-Cal Beverage Company, Inc.

By: _____
Shannon-Deary Bell, President
and Chief Executive Officer

EXHIBIT A – Facility Site Map



DRAINAGE PLAN

1" = 80'-0"

N

LEGEND

DI	DROP INLET
DP	DISCHARGE POINT
SL	SAMPLING LOCATION
OF	OUTFALL
→	DIRECTION OF SURFACE FLOW
▨	SECONDARY CONTAINMENT BERM AREA

NOR-CAL BEVERAGE CO., INC.
2286 STONE BLVD.
WEST SACRAMENTO, CA
DRAINAGE PLAN

FIGURE 2

H:\Blymyer_Jobs\2013\213015 Nor-Cal Beverage - CSPA Allegation\cad\FIGURE 2 DRAINAGE PLAN.dwg November 04, 2013 - 1:11PM LWittstock

EXHIBIT B – CWA Notice of Violation and Intent to Sue Letter

March 4, 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jason Graviet, ISO Coordinator and Facility Operator Contact
Paul Orebaugh, Plant Engineer and Facility Operator Contact
Nor-Cal Beverage Co., Inc.
2286 Stone Blvd
West Sacramento, CA 95691

Michael Motroni, Agent for Service of Process
Nor-Cal Beverage Co., Inc.
2286 Stone Blvd
West Sacramento, CA 95691

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

Dear Messrs. Graviet and Orebaugh:

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 Nor-Cal Beverage Co., Inc. ("Nor-Cal") facility, located at 2286 Stone Blvd in West Sacramento, California ("the Facility"). The WDID identification number for the Facility is 5S57I009538. 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, the Sacramento-San Joaquin River Delta, the Pacific Ocean and other California waters. This letter is being sent to you as the responsible owner, officer, or operator of the Facility. Unless otherwise noted, Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh shall hereinafter be collectively referred to as Nor-Cal.

This letter addresses Nor-Cal's unlawful discharges of pollutants from the Facility

to the City of West Sacramento's storm water drainage system, which discharges the storm water from the Facility 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, Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh 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 Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh 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.

Nor-Cal owns and operates a soft drink manufacturing and distribution facility located in West Sacramento, California. The Facility falls under Standard Industrial Classification ("SIC") Code 2086 ("Beverages"). The Facility is primarily used to handle, store, manufacture and transport beverages and beverage related materials. Other activities at the Facility include the use and storage of heavy machinery and motorized vehicles, including trucks used to haul materials to, from and within the Facility.

Nor-Cal discharges storm water from its approximately 10.5-acre Facility through at least three (3) discharge points into the City of West Sacramento's storm water drainage system, which discharges the storm water from the Facility into the Sacramento River and the Sacramento-San Joaquin Delta ("the Delta"). The Delta and its tributaries 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; copper – 0.01 mg/L; iron – 0.3 mg/L; and zinc – 0.1 mg/L. *Id*. at III-3.00, Table IIII-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 criterion 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 5.0 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 mg/L (secondary); iron – 0.3 mg/L; and zinc – 5.0 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 Nor-Cal: aluminum – 0.75 mg/L; iron – 1.0 mg/L; oil & grease – 15.0 mg/L; pH 6.0 – 9.0 s.u.; total suspended solids – 100.0 mg/L; biochemical oxygen demand – 30 mg/L; copper – 0.117 mg/L; and zinc – 0.117 mg/L. The State Water Quality Control Board has also proposed adding a benchmark level for total organic carbon, 110 mg/L, and for specific conductance, 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, arsenic – 0.16854 mg/L; cyanide – 0.0636 mg/L; magnesium – 0.0636 mg/L; and manganese – 1.0 mg/L.

II. Nor-Cal Is Violating the Act by Discharging Pollutants From the Facility to Waters of the United States.

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. § 122.30(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 River and the Delta and its tributaries are waters of the United States. Accordingly, Nor-Cal's discharges of storm water containing pollutants from the Facility are discharges to waters of the United States.

CSPA is informed and believes, and thereupon alleges, that Nor-Cal 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 since March 4, 2008. 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, Nor-Cal is subject to penalties for violations of the Act since March 4, 2008.

III. Pollutant Discharges in Violation of the NPDES Permit.

Nor-Cal 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, Oil & Grease ("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.

As recently as October 14, 2010, the Regional Board, Region 5, sent Nor-Cal a letter ("the October 2010 letter") conveying its conclusion that, among other things, Nor-Cal's 2009-2010 Annual Report contained evidence that the BMPs then in effect at the Facility were not sufficient to reduce pollutant concentrations below EPA benchmark levels. The October 2010 letter informed Nor-Cal that its 2009-2010 Annual Report indicated storm water samples in excess of US EPA benchmark values for certain parameters. Based on this evidence, the Regional Board ordered Nor-Cal to: (1) Review previously submitted Annual Reports and identify the number of consecutive years that

the Facility has exceeded benchmark levels; (2) Identify sources of pollutants at the Facility that contributed to the exceedances; (3) Review current BMPs; (4) Modify existing BMPs or implement additional BMPs to reduce or eliminate discharge of pollutants; and (5) Modify the SWPPP and Monitoring Plan for the Facility and maintain a copy of these required documents at the Facility.

Based on its review of available public documents, CSPA is informed and believes: (1) that Nor-Cal continues to discharge these very same pollutants in excess of benchmarks and (2) that Nor-Cal has failed to implement BMPs adequate to bring its discharge of these and other pollutants in compliance with the General Permit. Nor-Cal's ongoing violations are discussed further below.

A. Nor-Cal Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

Nor-Cal has discharged and continues to discharge storm water with unacceptable levels of Aluminum (Al), Iron (Fe), Zinc (Zn), Copper (Cu), Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Organic Carbon (TOC), Oil & Grease (O&G), pH and Specific Conductance (SC) 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. Nor-Cal's 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. Discharge of Storm Water Containing Aluminum (Al) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
12/15/2011	S/R	Al	1.6 mg/L	0.75 mg/L
10/4/2011	Aseptic	Al	3.3 mg/L	0.75 mg/L
10/4/2011	S/R	Al	1.4 mg/L	0.75 mg/L
3/3/2010	Aseptic	Al	2.3 mg/L	0.75 mg/L
1/20/2010	Aseptic	Al	4.9 mg/L	0.75 mg/L
1/18/2010	Aseptic	Al	4.7 mg/L	0.75 mg/L

1/18/2010	S/R	Al	4.2 mg/L	0.75 mg/L
12/15/2008	Aseptic	Al	0.91 mg/L	0.75 mg/L

2. Discharge of Storm Water Containing Iron (Fe) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
12/15/2011	S/R	Fe	2.36 mg/L	1.0 mg/L
12/15/2011	Aseptic	Fe	1.01 mg/L	1.0 mg/L
10/4/2011	Aseptic	Fe	5.45 mg/L	1.0 mg/L
10/4/2011	S/R	Fe	3.49 mg/L	1.0 mg/L
3/3/2010	Aseptic	Fe	4.5 mg/L	1.0 mg/L
1/20/2010	Aseptic	Fe	7.26 mg/L	1.0 mg/L
1/18/2010	Aseptic	Fe	9.06 mg/L	1.0 mg/L
1/18/2010	S/R	Fe	8.41 mg/L	1.0 mg/L
12/15/2008	Aseptic	Fe	1.8 mg/L	1.0 mg/L
12/18/2007	Aseptic	Fe	3.1 mg/L	1.0 mg/L

3. Discharge of Storm Water Containing Zinc (Zn) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
12/15/2011	S/R	Zn	0.46 mg/L	0.117 mg/L
12/15/2011	Aseptic	Zn	0.42 mg/L	0.117 mg/L
10/4/2011	Aseptic	Zn	1.73 mg/L	0.117 mg/L
10/4/2011	S/R	Zn	1.5 mg/L	0.117 mg/L
2/17/2011	Aseptic	Zn	0.14 mg/L	0.117 mg/L

2/17/2011	S/R	Zn	0.28 mg/L	0.117 mg/L
12/8/2010	Aseptic	Zn	0.23 mg/L	0.117 mg/L
12/8/2010	S/R	Zn	0.15 mg/L	0.117 mg/L
4/27/2010	Aseptic	Zn	0.33 mg/L	0.117 mg/L
4/27/2010	S/R	Zn	0.20 mg/L	0.117 mg/L
4/27/2010	Admin	Zn	0.15 mg/L	0.117 mg/L
3/3/2010	Aseptic	Zn	0.47 mg/L	0.117 mg/L
3/3/2010	S/R	Zn	0.12 mg/L	0.117 mg/L
1/20/2010	S/R	Zn	0.12 mg/L	0.117 mg/L
1/20/2010	Aseptic	Zn	0.53 mg/L	0.117 mg/L
1/18/2010	S/R	Zn	0.43 mg/L	0.117 mg/L
1/18/2010	Aseptic	Zn	0.47 mg/L	0.117 mg/L
12/15/2008	Aseptic	Zn	0.26 mg/L	0.117 mg/L
12/18/2007	Aseptic	Zn	0.31 mg/L	0.117 mg/L
12/18/2007	Truck Shop	Zn	0.17 mg/L	0.117 mg/L

4. Discharge of Storm Water Containing Copper (Cu) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	**Discharge Point**	**Parameter**	**Concentration in Discharge**	**Benchmark Value**
10/4/2011	Aseptic	Cu	0.07 mg/L	0.0636 mg/L
1/18/2010	Aseptic	Cu	0.08 mg/L	0.0636 mg/L
1/18/2010	S/R	Cu	0.07 mg/L	0.0636 mg/L

5. Discharge of Storm Water Containing Biochemical Oxygen Demand (BOD) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
12/15/2011	S/R	BOD	77.8 mg/L	30 mg/L
12/15/2011	Aseptic	BOD	80.2 mg/L	30 mg/L
10/4/2011	Aseptic	BOD	121 mg/L	30 mg/L
10/4/2011	S/R	BOD	>122 mg/L	30 mg/L
1/18/2010	Aseptic	BOD	124 mg/L	30 mg/L
1/18/2010	S/R	BOD	73.3 mg/L	30 mg/L
12/15/2008	Aseptic	BOD	40 mg/L	30 mg/L
12/18/2007	Aseptic	BOD	190 mg/L	30 mg/L

6. Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
10/4/2011	Aseptic	TSS	160 mg/L	100 mg/L
1/20/2010	Aseptic	TSS	184 mg/L	100 mg/L
1/18/2010	Aseptic	TSS	170 mg/L	100 mg/L
12/18/2007	Aseptic	TSS	120 mg/L	100 mg/L

7. Discharge of Storm Water Containing Total Organic Carbon (TOC) at Concentration in Excess of Proposed EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Proposed Benchmark Value
10/4/2011	Aseptic	TOC	140 mg/L	110 mg/L
10/4/2011	S/R	TOC	210 mg/L	110 mg/L

8. Discharge of Storm Water Containing Oil & Grease (O&G) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
3/3/2010	Aseptic	O&G	23 mg/L	15 mg/L

9. Discharge of Storm Water Containing pH at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Benchmark Value
12/18/2007	Aseptic	pH	5.8 s.u.	6.0 – 9.0 s.u.

10. Discharge of Storm Water Containing Specific Conductance (SC) at Concentration in Excess of Proposed State Board Value.

Date	Discharge Point	Parameter	Concentration in Discharge	Proposed State Board Value
10/4/2011	S/R	SC	208 µmhos/cm	200 µmhos/cm

CSPA's investigation, including its review of Nor-Cal's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of

EPA's benchmark values for Aluminum (Al), Iron (Fe), Zinc (Zn), Copper (Cu), Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Oil & Grease (O&G), pH and the State Board's proposed benchmark levels for total organic carbon and specific conductivity indicates that Nor-Cal has not implemented BAT and BCT at the Facility for its discharges of Aluminum (Al), Iron (Fe), Zinc (Zn), Copper (Cu), Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Organic Carbon (TOC), Oil & Grease (O&G), pH and Specific Conductance (SC) and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. Nor-Cal was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. Thus, Nor-Cal is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

CSPA is informed and believes that Nor-Cal has known that its storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least March 4, 2008. 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 March 4, 2008, 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 Nor-Cal has discharged storm water containing impermissible levels of Aluminum (Al), Iron (Fe), Zinc (Zn), Copper (Cu), Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Organic Carbon (TOC), Oil & Grease (O&G), pH and Specific Conductance (SC) and other unmonitored pollutants (e.g. lead) 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 storm water containing any pollutants from the Facility without the implementation of BAT/BCT constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Nor-Cal is subject to penalties for violations of the General Permit and the Act since March 4, 2008.

B. Nor-Cal 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." Section B(10) of the General Permit provides that "facility operators shall explain how the facility's monitoring program will satisfy the monitoring program objectives of [General Permit] Section B.2."

Based on its investigation, CSPA is informed and believes that Nor-Cal 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 Nor-Cal has failed to collect storm water samples during at least two qualifying storms events, as defined by the General Permit, during the past five Wet Seasons. Second, based on its review of publicly available documents, CSPA is informed and believes that Nor-Cal has failed to conduct the monthly visual monitoring of storm water discharges and the quarterly visual observations of unauthorized non-storm water discharges required under the General Permit during the past five Wet Seasons. Third, based on its review of publicly available documents, CSPA is informed and believes that for the past five Wet Seasons, Nor-Cal has failed to analyze samples for other pollutants that are likely to be present in significant quantities in the storm water discharged from the Facility. Fourth and finally, based on its review of publicly available documents, CSPA is informed and believes that Nor-Cal has failed to collect storm water samples from the first storm of the Wet Season that produced a discharge during scheduled Facility operating hours each of the past five years. 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, Nor-Cal is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since March 4, 2008. These violations are set forth in greater detail below:

1. Nor-Cal Has Failed to Collect Storm Water Samples During at Least Two Rain Events In Each of the Last Five Wet Seasons.

Based on its review of publicly available documents, CSPA is informed and believes that Nor-Cal has failed to collect storm water samples from all discharge points during at least two qualifying rain events at the Facility during each of the past five years, as required by the General Permit. For example, CSPA notes that the Annual Report filed by Nor-Cal for the Facility for the 2010-2011 Wet Season, Nor-Cal failed to sample a single qualifying storm event. Further, in the 2008-2009 Annual Report, Nor-Cal only reported analyzing a sample of storm water discharged during one storm event, which was not a qualifying storm event within the meaning of the General Permit.

Nor-Cal reported in most Wet Seasons that it sampled in the last five years (i.e., 2007-2008; 2008-2009; 2009-2010; 2010-2011; and 2011-2012 Wet Seasons), that the Facility sampled the first storm of the season, when in fact it did not sample the first storm of the season during four of the last five Wet Seasons. For example, Nor-Cal reported in its 2010-2011 Annual Report that it sampled the first storm of the Wet Season, but Nor Cal's first sample is from December 8, 2010. Based upon its review of

publicly available rainfall data, CSPA is informed and believes that the first storm of the 2010-2011 Wet Season occurred as early as Friday, November 19, 2010, when 0.64" of rain fell on the Facility. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

2. Nor-Cal Has Failed to Collect Storm Water Samples from Each Discharge Point During at Least Two Rain Events In Each of the Last Five Wet Seasons.

Based on its review of publicly available documents, CSPA is informed and believes that Nor-Cal has failed to collect storm water samples from all discharge points during at least two qualifying rain events at the Facility during each of the past five Wet Seasons. For example, based on its investigation, CSPA is informed and believes that storm water discharges from the Facility at points other than the three sampling/discharge points currently designated by Nor-Cal. Further, Nor-Cal only reported having two discharge locations in the 2009-2010 Annual Report. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

3. Nor-Cal Has Failed to Conduct the Monthly Wet Season Observations of Storm Water Discharges Required by the General Permit.

The General Permit requires dischargers to "visually observe storm water discharges from one storm event per month during the Wet Season (October 1 – May 30)." General Permit, Section B(4)(a). As evidenced by the lack of Facility personnel documenting their observation of qualified storm events on Form 4 Monthly Visual Observations contained in Nor-Cal's annual reports for the last five Wet Seasons, CSPA is informed and believes that Nor-Cal has failed to properly conduct this requirement of the General Permit.

Specifically, Nor-Cal failed to conduct monthly visual observations of discharges from qualifying storm events for most months during any of the past five Wet Seasons. Instead, Nor-Cal has either documented its visual observations of storm water that discharged during non-qualifying storm events or asserted that a qualifying storm never occurred at the Facility for most months during the entire Wet Season of each of the past five years (discussed further below). However, based on publicly available rainfall data, CSPA is informed and believes that there were many qualifying storm events during each of these Wet Seasons that Nor-Cal could have observed. For example, Nor-Cal reported in its 2011-2012 Annual Report that there were no discharges during business hours during the month of November 2011, when in fact, there was at least one observable qualifying storm event on Monday, November 7, 2011, during which 0.13" of rain fell on the Facility. Further, Nor-Cal reported that there were no discharges during the month of March 2012, when in fact, it rained at least 0.2" at the Facility on Tuesday, March 13, 2012. Nor-Cal's failure to conduct this required monthly Wet Season visual monitoring extends back to at least March 4, 2008. Nor-Cal's failure to conduct this required

monthly Wet Season visual monitoring has caused and continues to cause multiple, separate and ongoing violations of the General Permit and the Act.

4. Nor-Cal Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since March 4, 2008.

CSPA is informed and believes that publicly available documents demonstrate Nor-Cal's consistent and ongoing failure to implement an adequate Monitoring Reporting Plan in violation of Section B of the General Permit. For example, while in its 2010-2011 Annual Report Nor-Cal reported having collected samples of storm water discharged during events that neither of which were qualifying storm event. Based on publicly available rainfall data, CSPA is informed and believes that the storm event on Wednesday, December 8, 2010 could not possibly be a qualifying storm event because a qualifying storm event fell on the Facility two days before, on December 6, 2010, during which 0.12" of rain fell on the Facility. The storm event on December 6th likely invalidated the storm event sampled on December 8, 2010. Further, Nor-Cal took a second storm water discharge sample on February 17, 2011. This storm event was also not a qualifying storm event because on Wednesday, February 16, 2011, 0.46" of rain fell on the Facility. Therefore, this storm event is also not a qualifying storm event and Nor-Cal failed to sample a single qualifying storm event during the 2010-2011 Wet Season.

Additionally, Nor-Cal is in violation of the General Permit's requirement that the testing method employed in laboratory analyses of pollutant concentrations present in storm water discharged from the Facility be "adequate to satisfy the objectives of the monitoring program." General Permit Section B.10.a.iii. The Regional Board has determined appropriate tests and detection limits that should be applied when testing for pollutant parameters.

However, as demonstrated by Nor-Cal's annual report filed in 2011-2012, the laboratory employed by Nor-Cal to analyze the storm water sample collected for both samples applied an inappropriately high detection limit of 0.1 mg/L for copper instead of the appropriate detection level of 0.0005 mg/L. In fact, Nor-Cal used an inappropriate analysis detection limit for at least five parameters, including iron, aluminum, oil & grease, copper, and total suspended solids in all five of its Annual Reports. Nor-Cal also used an inappropriate lab method for copper of EPA 200.7 instead of EPA 200.8. In fact, Nor-Cal used an inappropriate analysis method for most parameters, including copper, aluminum, zinc and lead in all five of its Annual Reports.

Nor-Cal is in violation of the General Permit for failing to employ laboratory test methods and detection limits that are adequate to, among other things, "ensure that storm water discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in this General Permit." General Permit Section B.2.a. ("Monitoring Program Objectives").

Accordingly, consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Nor-Cal is

subject to penalties for these violations of the General Permit and the Act since March 4, 2008.

C. Nor-Cal 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 Nor-Cal has not implemented BAT and BCT at the Facility for its discharges of Aluminum (Al), Iron (Fe), Zinc (Zn), Copper (Cu), Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Organic Carbon (TOC), Oil & Grease (O&G), pH and Specific Conductance (SC) 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, Nor-Cal 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 Nor-Cal 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. Nor-Cal has failed to adequately implement such measures.

Nor-Cal was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, Nor-Cal 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 it fails to implement BAT and BCT. Nor-Cal is subject to penalties for violations of the General Permit and the Act occurring since March 4, 2008.

D. Nor-Cal 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 9, 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 publicly available documents regarding conditions at the Facility indicate that Nor-Cal has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Nor-Cal has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Accordingly, Nor-Cal 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. Nor-Cal is subject to penalties for violations of the Order and the Act occurring since March 4, 2008.

E. Nor-Cal 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, Nor-Cal is discharging elevated levels of Aluminum (Al), Iron (Fe), Zinc (Zn), Copper (Cu), Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Organic Carbon (TOC), Oil & Grease (O&G), pH and Specific Conductance (SC) and other unmonitored pollutants that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutant exceedances, Nor-Cal 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, Nor-Cal was aware of high levels of these pollutants prior to March 4, 2008. Likewise, Nor-Cal 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). Nor-Cal 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 March 4, 2008, and will continue to be in violation every day it fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. Nor-Cal is subject to penalties for violations of the General Permit and the Act occurring since March 4, 2008.

F. Nor-Cal 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 Nor-Cal has submitted incomplete Annual Reports and purported to comply with the General Permit despite significant noncompliance at the Facility. For example, Nor-Cal reported in most Annual Reports filed for the past five Wet Seasons (i.e., 2007-2008; 2008-2009; 2009-2010; 2010-2011; and 2011-2012) that it observed the first storm of every Wet Season. However, as discussed above, based on CSPA's review of publicly available rainfall data, CSPA believes this cannot possibly be true.

Further, Nor-Cal failed to comply with the monthly visual observations of storm water discharges requirement for every single Annul Report filed for the Facility for each of the last five years. In the last five Wet Seasons, Nor-Cal rarely made more than one monthly visual observations of storm water discharges, out of the eight month Wet Season. In the 2011-2012 Annual Report, Nor-Cal observed only one storm event that produced discharge. However, based on publicly available rainfall data, CSPA is informed and believes that storm events produced discharge at the Facility in most, if not every month of the 2011-2012 Wet Season. Further, in the 2010-2011 Annual Report, Nor-Cal did not include Form 4 – Monthly Visual Observations of Storm Water Discharges. Nor-Cal did include a form titled "Wet Season Observation Form," but it is unclear and unlikely that these forms represent monitored observations of storm water discharge. For example, the "Wet Season Observation Form" for January 2011 is dated January 18, 2011. However, CSPA is informed and believes that there was no rain event at the Facility this day. CSPA is informed and believes that there was a qualifying rain event earlier that month, on Wednesday, January 12, 2011, during which 0.17" of rain fell on the Facility. Further, the February 2011 "Wet Season Observation Form" is dated Thursday, February 17, 2011. CSPA is informed and believes that February 17, 2011 was not a qualifying storm event within the meaning of the General Permit because 0.92" of rain fell on the Facility this day, but also 0.46" of rain fell on the Facility one day prior, on Wednesday, February 16, 2011. The storm event on Wednesday February 16th likely invalidated any storm event for the next three days.

These are only a few examples of how Nor-Cal has failed to file completely true and accurate reports. As indicated above, Nor-Cal has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, Nor-Cal has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time Nor-Cal submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. Nor-Cal's failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. Nor-Cal is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since March 4, 2008.

IV. Persons Responsible for the Violations.

CSPA puts Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh under 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 Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh 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
Emily J. Brand
Law Offices of Andrew L. Packard
100 Petaluma Boulevard, Suite 301
Petaluma, CA 94952

Tel. (707) 763-7227
Fax. (707) 763-9227
Email:
Andrew@PackardLawOffices.com
Emily@PackardLawOffices.com

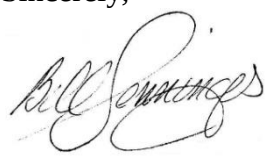
VII. Penalties.

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 Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh to a 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 Nor-Cal Beverage Co., Inc., Jason Graviet and Paul Orebaugh and their 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,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

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Dorothy R. Rice, Executive Director
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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, Nor-Cal Beverage Co., Inc. (West Sacramento, CA)
Significant Rain Events,* March 4, 2008 – March 4, 2013

Oct.	03	2008	Dec.	27	2009	Dec.	22	2010	Mar.	13	2012
Oct.	04	2008	Jan.	01	2010	Dec.	25	2010	Mar.	14	2012
Oct.	30	2008	Jan.	12	2010	Dec.	28	2010	Mar.	15	2012
Oct.	31	2008	Jan.	13	2010	Dec.	29	2010	Mar.	16	2012
Nov.	01	2008	Jan.	17	2010	Jan.	01	2011	Mar.	17	2012
Nov.	03	2008	Jan.	18	2010	Jan.	02	2011	Mar.	25	2012
Nov.	26	2008	Jan.	19	2010	Jan.	29	2011	Mar.	27	2012
Dec.	14	2008	Jan.	20	2010	Jan.	30	2011	Mar.	28	2012
Dec.	15	2008	Jan.	21	2010	Feb.	14	2011	Mar.	31	2012
Dec.	16	2008	Jan.	23	2010	Feb.	15	2011	April	03	2012
Dec.	21	2008	Jan.	25	2010	Feb.	16	2011	April	10	2012
Dec.	22	2008	Jan.	26	2010	Feb.	17	2011	April	11	2012
Dec.	24	2008	Jan.	29	2010	Feb.	18	2011	April	25	2012
Dec.	25	2008	Feb	04	2010	Feb.	19	2011	Oct.	22	2012
Jan.	21	2009	Feb.	05	2010	Feb.	24	2011	Oct.	31	2012
Jan.	22	2009	Feb.	06	2010	Feb.	25	2011	Nov	01	2012
Jan.	23	2009	Feb.	09	2010	Mar.	02	2011	Nov	16	2012
Feb.	05	2009	Feb.	23	2010	Mar.	06	2011	Nov	17	2012
Feb.	06	2009	Feb.	26	2010	Mar.	13	2011	Nov	18	2012
Feb.	08	2009	Feb.	27	2010	Mar.	14	2011	Nov	21	2012
Feb.	11	2009	Mar.	02	2010	Mar.	15	2011	Nov	28	2012
Feb.	13	2009	Mar.	03	2010	Mar.	16	2011	Nov	30	2012
Feb.	15	2009	Mar.	12	2010	Mar.	18	2011	Dec	15	2012
Feb.	16	2009	Mar.	31	2010	Mar.	19	2011	Dec	17	2012
Feb.	17	2009	April	02	2010	Mar.	20	2011	Dec	21	2012
Feb.	22	2009	April	04	2010	Mar.	23	2011	Dec	22	2012
Feb.	23	2009	April	11	2010	Mar.	24	2011	Dec	23	2012
Feb.	26	2009	April	12	2010	Mar.	25	2011	Dec	25	2012
Mar.	01	2009	April	20	2010	Mar.	26	2011	Jan	05	2013
Mar.	02	2009	April	21	2010	May	15	2011	Jan	06	2013
Mar.	03	2009	April	27	2010	May	16	2011	Jan	23	2013
Mar.	04	2009	April	28	2010	May	17	2011	Feb	19	2013
Apr.	07	2009	May	10	2010	May	25	2011			
Apr.	08	2009	May	25	2010	May	28	2011			
Apr.	09	2009	May	26	2010	Jun	04	2011			
Apr.	24	2009	May	27	2010	Jun	28	2011			
May	01	2009	Oct.	23	2010	Oct.	04	2011			
May	02	2009	Oct.	24	2010	Oct.	05	2011			
May	03	2009	Nov.	07	2010	Oct.	10	2011			
May	05	2009	Nov.	19	2010	Oct.	11	2011			
Jun	03	2009	Nov.	20	2010	Nov.	07	2011			
Jun	04	2009	Nov.	23	2010	Nov.	21	2011			
Sep	14	2009	Nov.	27	2010	Nov.	24	2011			
Oct.	13	2009	Dec.	02	2010	Dec.	15	2011			
Oct.	14	2009	Dec.	03	2010	Jan.	19	2012			
Oct.	19	2009	Dec.	04	2010	Jan.	20	2012			
Nov.	17	2009	Dec.	05	2010	Jan.	21	2012			
Nov.	20	2009	Dec.	06	2010	Jan.	22	2012			
Dec.	06	2009	Dec.	08	2010	Jan.	23	2012			
Dec.	07	2009	Dec.	14	2010	Feb.	07	2012			
Dec.	11	2009	Dec.	17	2010	Feb.	12	2012			
Dec.	12	2009	Dec.	18	2010	Feb.	13	2012			
Dec.	13	2009	Dec.	19	2010	Feb.	29	2012			
Dec.	16	2009	Dec.	21	2010	Mar.	01	2012			

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

EXHIBIT C

Facility Storm Water Pollution Prevention Plan ("SWPPP"), Dated January 2014

Nor Cal Beverage – West Sacramento

Storm Water Pollution Prevention Plan (SWPPP)

(Revised January 2014)

E N V I R O N M E N T A L

TABLE OF CONTENTS

Storm Water Pollution Prevention Plan

Modification and Change Form

Description:	Date:	Prepared By:

SWPPP CERTIFICATION

All documents required by the General Permit need to be certified by a responsible person of the company. The following is to certify that this SWPPP meets the needs of the General Permit.

> *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

Signature: _____

Title: Plant Manager

Date: 1-16-14

CHAPTER 1 INTRODUCTION

1.1 OBJECTIVES

In 1972 the Clean Water Act was amended to improve surface water quality in the United States. Regulations establishing a framework for storm water permitting were established in 1990 by the Environmental Protection Agency (EPA). In California, the State Water Resources Control Board (the Board) issued the National Pollutant Discharge Elimination System (NPDES) for Discharges of Storm Water Associated with Industrial Activities General Permit (general industrial storm water permit) in November 1991. The California general industrial storm water permit was reissued in April 1997. The general industrial storm water permit has been extended.

The Storm Water Pollution Prevention Plan (SWPPP) has two objectives. The first objective is to identify areas of the facility that may contribute pollutants that may affect the quality of industrial storm water discharge. The second objective is to implement best management practices (BMPs) at the facility that reduce pollutants in industrial storm water discharges.

1.2 GENERAL SWPPP REQUIREMENTS

The SWPPP is retained on site and made available upon request of a representative of the Regional Water Board and/or local storm water management agency which receives the storm water discharges.

The SWPPP shall be revised, as appropriate, and implemented prior to changes in industrial activities which may significantly increase the quantities of pollutants in storm water discharges, cause a new area of industrial activity at the facility to be exposed to storm water, or begin an industrial activity which would introduce a new pollutant source at the facility.

The Regional Water Board considers the SWPPP a report that shall be made available to the public under the Clean Water Act. The SWPPP shall be provided, upon request, to the Regional Water Board.

1.3 FACILITY DESCRIPTION

Nor-Cal Beverage Co. Inc. is located in the city of West Sacramento in the County of Yolo, California. The production facility is located at 2286 Stone Boulevard and corporate offices, fleet shop and material storage area is located at 2150 Stone Boulevard. The facility is approximately 10 acres and is over 95% impervious. This facility is surrounded by medium to large warehouses and small to medium manufacturing operations.

The facility operating hours vary depending on seasonal demand. During September through April, the production facility typically operates 16 hours/day, 5 days per week. During May through August, the production facility typically operates 20 hours/day, 6-7 days per week. The plant is an independent co-packer of teas, ades, juices, waters and energy drinks. The site operations consist of raw material receiving, blending, filling, packaging, shipping, process water treatment and administrative offices. Raw materials are brought into the facility via tank trucks and semi-trailers. Unloading activities take place in the north end of the facility, east side of the main production building, and at the material

storage building. Loading and shipping of finished product is located at the northern end of the production building. The fleet shop and corporate office are located across the street from the production building. All vehicle maintenance is performed in the fleet shop and maintenance activities are not exposed to storm water.

The Site Map is filed as Figure 1, the Drainage Map is filed as Figure 2, the Secondary Containment Berm Area is filed as Figure 3, the Tank Location Map is filed as Figure 4, and Topographic Map is filed as Figure 5. All are filed behind the Figures tab in the SWPPP.

1.4 FACILITY DRAINAGE & MANAGEMENT OF RUNOFF

The internal drains located in the administrative offices, material storage area, fleet shop and the production building discharge to the sanitary sewer. The high fructose corn syrup (HFCS) tank area and the recycling area are bermed and discharge to the sanitary sewer. The facility's yard is paved with asphalt and concrete. Runoff from the facility property west of Cebrian Street drains to two outfalls at the northern and southern ends of the facility. The outfalls receive discharges from the facility that are commingled with runoff from Cebrian Street and Stone Boulevard. As such, six discharge points have been identified upstream of the outfalls. These discharge points represent the quality and quantity of the facility's storm water discharges. Runoff from the fleet shop and material storage area sheet flows directly to Cebrian Street. One discharge point has been identified that is representative of industrial activities in this area.

A large area of the production yard is paved with concrete, graded and bermed to direct storm water to Discharge Points #2 and #3. The tank farms, dumpsters, recycling area and occasional outdoor storage of materials are located within the bermed area. The Discharge Points are curb outlets to Cebrian Street. These discharge points are fitted with manual valves that when closed direct storm water runoff to the facility's on-site waste water tanks. The facility keeps the valves closed during dry weather to ensure that any spills or leaks in the production yard are contained on-site and not discharged to storm water. The facility also utilizes this system to capture, treat and discharge to the sanitation sewer system the initial "flush" of storm water from a storm event. Approximately the first 30 minutes of discharge from every storm event is directed to the Facility's waste water tanks for pre-treatment prior to discharge to the public sanitary sewer system. The manual valves are then opened to direct storm water to the curb outlets on Cebrian Street.

Roof drainage from the central and northern portions of the production building drain via underground bypass pipes that discharge to the storm water sewer system on Cebrian Street and via roof downspouts on the west side of the production building. The pipes bypass the industrial activity areas present in the production yard. This area of the roof is coated with an acrylic emulsion. There are three swamp coolers present in the drainage area, which are common to commercial buildings and may result in cooler condensate, which is authorized by the Permit. Roof drainage from the southern portion of the production building drains to several roof downspouts within the production building employee parking and aseptic areas. These areas drain to drop inlets which connect underground to Discharge Point #1 (prior to outfall at Stone Blvd). This area of the roof is coated with TPO (thermoplastic polyolefin). There are cooler stacks and vents on this portion of the roof, but they do not emit particulates or other industrial materials that could mix with storm water.

CHAPTER 2 INSPECTION AND MONITORING REQUIREMENTS

2.1 VISUAL INSPECTIONS

The General Permit requires that various inspections and visual observations be conducted during the year. A detailed inspection protocol is provided in Appendix A.

2.1.1 Unauthorized Non-Storm Water Discharge Visual Observations (Dry Weather):

The general industrial storm water permit requires an observation of all discharge points associated with industrial activity **quarterly** on days with no storm water discharges for unauthorized non-storm water discharges. Observations are conducted within 6-18 weeks of each other. The inspection is completed to determine if there is evidence of unauthorized non-storm water discharges or abnormal conditions, such as discolorations, fluids, stains, sludge, floating materials, or odors. Drop inlets, trench drains, gutters, and other structures are cleared of debris if necessary. Non-storm water discharge visual observations are performed during daylight hours and during scheduled facility operating hours as per permit requirements at Discharge Points #1 - #7. Non-storm water discharge visual observations are documented on the **Quarterly Unauthorized Non-Storm Water Discharge Visual Observation Form (Inspection Form #1)**, filed in Appendix A.

2.1.2 Authorized Non-Storm Water Discharge Visual Observations (Dry Weather)

The general industrial storm water permit requires an observation of all authorized non-storm water discharges and their sources **quarterly** on days with no storm water discharges. Authorized non-storm water discharges as described in the paragraph below are inspected for the presence of discolorations, stains, floating materials, odors, etc. as they leave the facility. Drop inlets, trench drains, gutters, and other structures are cleared of debris if necessary. Non-storm water discharge visual observations are performed during daylight hours and during scheduled facility operating hours as per permit requirements. Authorized non-storm water discharge visual observations are documented on the **Quarterly Authorized Non-Storm Water Discharge Visual Observation Form (Inspection Form #2)**, filed in Appendix A.

The authorized discharges that occur at the facility include water cooler condensate and sprinkler water. Condensate from the water coolers on the facility's roof and sprinkler water runoff produces authorized non-storm water discharge at the southern side of the facility to DP #1.

2.1.3 Storm Water Discharge Visual Observations (Wet Weather)

Storm water discharges at all discharge points associated with industrial activity are observed **monthly between October 1 and May 30**. Visual observations are conducted to determine the presence of floating and suspended material, oil and grease (sheen), discolorations, foam, turbidity, odor, and the source of any pollutants in storm water. Each monthly observation is performed during the first hour of a discharge of storm water. The storm event must be preceded by three working days in which there is no storm water discharge. Storm water discharge visual observations are only required to be performed

during daylight hours and during scheduled facility operating hours as per permit requirements. Storm water discharge visual observations are completed at Discharge Points #1 - #7. The **Monthly Storm Water Discharge Visual Monitoring Form (Inspection Form #3),** is completed after each observation and filed in Appendix A.

2.1.4 Routine Facility Inspection

A routine facility inspection is completed monthly to ensure that no spills or leaks have occurred, structural controls and other facility equipment and systems are in working order, and housekeeping practices and spill response equipment are adequate. Good housekeeping includes clean-out of storm drains as necessary, ensuring proper disposal of material waste products and maintaining waste collection facilities properly, and inspecting outdoor process areas. All potential pollutant sources are inspected. Routine facility inspections are documented on the **Monthly Facility Inspection Form (Inspection Form #4)** and filed in Appendix A.

2.1.5 Annual Comprehensive Site Compliance Evaluation

In accordance with §A.9 of the general industrial storm water permit, a comprehensive site compliance evaluation is conducted at least once per year. Evaluations are to be conducted within 8-16 months of each other. A formal site inspection is conducted annually by a member of the Pollution Prevention Team to verify that the controls to reduce pollutants in storm water discharges identified in this SWPPP are adequate and properly implemented. If it is determined that existing control measures are not adequate, additional control measures will be recommended and implemented within 90 days of the evaluation.

The site evaluation will include a review of visual observation records, inspection records, any incidents of non-compliance and the corrective actions taken, and sampling and analysis results. Inspections will verify that best management practices are in place, including structural and nonstructural controls. Recommendation of additional or modifications to storm water controls, evaluation of good housekeeping techniques, and verification of erosion prevention will also be included as part of the annual compliance evaluation.

The SWPPP will be reviewed and compliance with it determined based on the annual compliance evaluation. If changes or modification are made in the existing operational procedure, the SWPPP will be revised within 90 days. The annual site compliance evaluation is documented on the **Annual Comprehensive Site Compliance Evaluation Form (Inspection Form #5)** and filed in Appendix A.

2.1.6 Visual Observation Exceptions

If the facility is unable to perform a required visual observation, a description of why the visual observation could not be performed during the designated event will be prepared. Examples which may preclude visual observations include various adverse climatic conditions (drought, extended freeze, dangerous weather, etc.) or the occurrence of all significant events during non-scheduled facility operating hours.

2.2 STORM WATER SAMPLING

This sampling program has been developed in accordance with Section 5.B.a of the general industrial storm water permit to meet the following objectives to:

- Ensure that storm water discharges are in compliance with the general industrial storm water permit
- Ensure that storm water management practices are evaluated and revised to meet changing conditions
- Aid in the implementation and revision of the SWPPP required by Section A of the general industrial storm water permit
- Measure the effectiveness of best management practices in removing pollutants from storm water discharges

The sampling program is amended as necessary to ensure that the objectives listed above are met. Samples are taken, preserved, and analyzed in accordance with 40 CFR Part 136.

Prior to a sampling event, arrangements are made with a state-certified laboratory, TestAmerica, Inc., to perform the required analyses. Storm water samples are analyzed per permit requirements for the following parameters: Total Suspended Solids, Specific Conductance, Oil & Grease, Aluminum, Iron, Zinc, Copper and Biological Oxygen Demand on a standard turnaround time. The pH is measured in the field. As of October 2012 the facility discontinued analytical monitoring for several parameters not explicitly required by the general industrial storm water permit and for which results were either non-detect or below EPA benchmark levels.

Samples will be collected twice per reporting year during the wet season, defined as October 1 - May 30. Samples shall be collected from (1) the first qualified storm event of the wet season, and (2) from at least one other qualified storm event in the wet season. Samples are collected by trained personnel. Training on storm water sample collection is conducted annually, prior to the wet season.

Arrangements for shipping and proper sample collection are made in advance of the sampling event. All samples are shipped from the field on the day of collection.

Grab samples are collected at each sampling location on a day and time that is characteristic of the discharge (see Section 2.2.1 for sampling locations). Storm event information is recorded on the **Sampling Form**, filed in Appendix C.

All samples are cooled immediately after collection by refrigeration or wet ice. Samples are packed and stored in a cooler and packed further with wet ice until they arrive at the laboratory. Some sample containers contain small amounts of acid preservative to prevent chemical changes in the storm water.

Proper field custody and shipping procedures are followed during and after sampling.
The laboratory is instructed to perform the following analyses:

Parameter	Analytical Method	Method Detection Limits
Oil & Grease	EPA 1644A	1.5 mg/l
Total Suspended Solids	SM 2450D	1.0 mg/l
Specific Conductance	SM 2510B	1.0 umhos/cm @ 25C
Biological Oxygen Demand (BOD)	SM 5210B	2.0 mg/l
Zinc	EPA 200.8	0.005 mg/l
Aluminum	EPA 200.8	0.005 mg/l
Iron	EPA 200.8	0.008 mg/l
Copper	EPA 200.8	0.005 mg/l
pH	40 CFR 136	-

The pH measurement is taken in the field at the time the grab sample is collected by using a pH meter that has been properly calibrated according to manufacturer's specifications and that displays results in numeric units. The pH calibrations, verification, and field measurements are recorded on the Sampling Form.

Records of monitoring information shall include:

- the date, exact place, and time of sampling
- the name of the individual(s) who performed the sampling
- the date(s) and time(s) the analyses were performed
- the individual(s) who performed the analyses
- the analytical techniques or methods and method detection limits used
- the results of all analyses
- quality assurance/quality control records

A **Sampling Protocol** is provided in Appendix C section of the SWPPP. Additionally, when the facility samples, a Sampling Form is completed and filed in Appendix C. The storm event information is documented on the Sampling Form.

2.2.1 Sampling Location Description

The facility has identified seven discharge points that are associated with industrial activities. Discharge points #1, #2, #3, #5 #6 and #7 are designated sampling locations. Industrial activities and BMPs within the drainage areas to discharge points #4 and #6 are substantially identical. Loading and unloading is performed under cover at these drainage areas. At both drainage areas, storm water sheet flows to a trench drain with a sump pump which discharges via an outlet pipe. Tractor and trailers are parked at the loading docks during loading and unloading activities. Discharge point #6 has been identified as the sampling location that is representative of the industrial activities in these drainage areas. These six sampling locations are representative of all industrial activities occurring at the facility (see facility site map). The sampling locations are shown on Figure 2 and are as follows:

SL-1: Storm water from the production building employee parking, aseptic loading dock, and a portion of the roof (southern end) drain to a series of drop inlets that are connected via underground piping. The underground piping converges at Discharge Point #1 before connecting to the city storm water main. Samples are collected at Discharge Point #1.

SL-2: Storm water from the production yard, including the tank farm, bulk deliveries and material storage areas, discharges via sheet flow to a curb outlet fitted with a manual storm water valve. The storm water valve remains in the closed position with water directed to the facility waste water tanks and pre-treatment system for the first 30 minutes of a discharge ("flush"). After the "flush," the storm water valve is opened and further runoff is discharged via a pipe outlet to the Cebrian Street gutter. That curb outlet is the sampling location (also identified as Discharge Point #2).

SL-3: Storm water from the production yard, including the recycling area, dumpsters, compactor and material storage areas, discharges via sheet flow to a curb outlet fitted with a manual storm water valve. The storm water valve remains in the closed position with water directed to the facility waste water tanks and pre-treatment system for the first 30 minutes of a discharge ("flush"). After the "flush," the valve is opened and further runoff is discharged via a pipe outlet to the Cebrian Street gutter. That curb outlet is the sampling location (also identified as Discharge Point #3).

SL-4: Storm water from areas where forklift and vehicle washing and pallet storage occur discharges via sheet flow to Cebrian Street. Discharge Point #5 has been identified as a point at which run-off from the washing area discharges to Cebrian Street.

SL-5: Storm water sheet flows from the northern loading docks to a trench drain. Once enough storm water has accumulated in the trench drain, a sump pump is activated and storm water is pumped to a discharge pipe along the eastern side of the loading docks (in the pallet storage area). Storm water is collected directly from the discharge pipe at Discharge Point #6.

SL-6: Storm water from the fleet shop and materials storage building yards sheet flows building toward Cebrian Street. Storm water from the fleet shop building flows to Cebrian Street via a driveway. Storm water from outside the material storage flows to a swale that borders facility property. The swale directs the storm water northward and ends at the fleet shop driveway. Samples are collected at the point downstream of where the swale flows into the driveway. This point is identified as Discharge Point #7.

CHAPTER 3 ANNUAL REPORT

The facility operator submits an Annual Report by July 1 of each year to the California Regional Water Quality Control Board responsible for the area in which the facility is located.

The Annual Report includes a summary and evaluation of visual observations and sampling results, the results of the Annual Comprehensive Site Compliance Evaluation and, if applicable, an explanation why any activities required by the permit were not implemented. The Annual Report requires a certification that the SWPPP is in compliance with the general industrial storm water permit requirements.

Copies of Annual Reports and attachments are retained for a minimum of 5 years. Completed Annual Reports are filed in Appendix E.

CHAPTER 4 POLLUTION PREVENTION TEAM

A pollution prevention team (PPT) is designated for the facility. All team members are trained on program requirements. The team members' responsibilities and duties are as follows:

Pollution Prevention Team Manager is responsible for the overall development and implementation of the SWPPP. The PPT Manager must have a clear line of communication with each employee responsible for and familiar with each component of the facility in order to remain fully up-to-date with facility operations and changes. The team manager may delegate various responsibilities for implementing the SWPPP to other members of the designated pollution prevention team.

Pollution Prevention Team Leader assists with the development and implementation of the SWPPP. The PPT Leader completes inspections, record keeping, storm water and non-storm water observations, follow-up inspections, storm water training, annual compliance inspection and the Annual Report. The team leader ensures that storm water sampling and visual monitoring will be completed by team members.

Pollution Prevention Team Members complete inspection and sampling requirements and assist(s) the team leader with complying with program requirements, as listed above.

STORM WATER POLLUTION PREVENTION TEAM	
TEAM MEMBER	**JOB TITLE & DEPARTMENT**
Patrick Sadorra	PPT Team Leader Environmental, Health and Safety Manager
Kareem Anderson	PPT Team Member EHS Coordinator
David Austin	PPT Team Manager Plant Manager
QA Staff	PPT Team Members Production

CHAPTER 5 EMPLOYEE TRAINING

General storm water awareness training will be given to all personnel upon hire and annually thereafter. The topics discussed during the training sessions include the goals of the Storm Water Pollution Prevention Plan, spill response procedures and cleanup, best management practices, good housekeeping practices, sources of potential pollutants on-site, knowledge of drainage routes near areas where industrial materials are handled, material management practices, employee responsibilities, and standard operating procedures.

Additional training is provided to pollution prevention team members and includes inspections, visual observations, and sampling.

Documentation of completed training classes for employees is filed in Appendix F.

CHAPTER 6 PREVENTIVE MAINTENANCE

A storm water preventive maintenance program is implemented to ensure that the facility maintains compliance with the general industrial storm water permit and to prevent discharges of pollutants to the storm drainage system. Facility personnel assess the yard and structural storm water management devices (such as drop inlets, trench drains, vaults, oil-water separators) at regular and appropriate intervals to ensure that proper housekeeping is being practiced and that storm water controls are properly maintained and effective.

The Facility Preventive Maintenance Log is used to document any major storm water drainage system maintenance or housekeeping efforts that have been completed. The Preventive Maintenance Log is filed in Appendix B.

CHAPTER 7 RECORD KEEPING

The results of all storm water inspections, storm water analytical sampling efforts, reports (including the Annual Report) will be kept on file for a period of at least 5 years from the date of the sample, observation, measurement, or report. The PPT Leader is responsible for maintaining all files and records regarding compliance with the General Permit.

These records include:

- The date, place, and time of inspections, sampling, visual observations and/or measurements.
- The individual(s) who performed the site inspections, sampling, visual observations and/or measurements.
- The date and time of analysis.
- The individual(s) who performed the analyses.
- The analytical results, method detection limits, and analytical techniques or methods used
- Quality Assurance/Quality Control results
- Dry season observation records
- Wet season observation records
- Visual observation and sample collection exception records
- Records of corrective actions and follow-up activities
- All equipment calibration and maintenance records of on-site instruments used
- Records of any on-site spills
- Annual comprehensive site compliance evaluation reports
- Annual Reports

CHAPTER 8 SPILL RESPONSE AND REPORTING

Emergency cleanup practices at the facility include the availability of spill kits at strategic locations around the facility, particularly where the potential for a spill exists. Typical components of a spill cleanup kit include, but are not limited to, dry absorbents such as pads, socks, mops, absorbing clay, neutralizing chemicals, portable booms or diverting structures, clean up instructions, and appropriate personal protective equipment (PPE).

All spills are reported and managed in accordance with the company's Safety and Environmental Policies. In the event of an accidental spill or release, personnel will:

- **Maintain personal safety at all times**
- **Contact immediate supervisor**
- **Identify potential safety and environmental hazards**
- **Identify the type and quantity of material spilled**
- **Control or contain the spill, if possible**

Notification procedures, including emergency responders and agencies, and spill response procedures are listed in the Emergency Procedures and Incident Command (SA-0005-WA) document and in the **Error! Unknown document property name.** document (**Error! Unknown document property name.**). The facility utilizes the Incident Reporting Form to document incidents. In the event of a significant spill, the facility's Emergency Response Contractor, Safety Kleen, is contacted at 1-888-375-5366.

Spill records are filed in Appendix G.

CHAPTER 9 LIST OF SIGNIFICANT MATERIALS

The significant materials currently stored and handled, the storage and handling methods, and the management practices used to minimize contact of these materials with storm water runoff are listed in the Description and Assessment of Potential Pollutant Sources and Corresponding Best Management Practices table found in Chapter 12, Storm Water Best Management Practices. The Hazardous Materials Business Plan also lists materials that are stored and handled at this facility. The HMBP is kept in a binder and retained by the Environmental Health and Safety (EHS) Manager.

CHAPTER 10 DESCRIPTION OF POTENTIAL POLLUTANT SOURCES

Most of the industrial processes and material storage and handling activities described below take place inside the production building or within the containment berm. Drainage from these areas goes to the facility wastewater tanks for pre-treatment, where it is stored and metered to the city sanitary sewer system. Drainage from these areas does not have the potential to mix with storm water.

10.1 Industrial Processes

Each major industrial process is described below in terms of the type and characteristics of significant materials used in or resulting from the process.

Overview of Manufacturing Process

Receiving

The facility receives sanitation chemicals, maintenance lubricants, and all ingredients and raw materials at the receiving docks and stores materials indoors. The facility receives other bulk raw materials via tanker truck. The quantities of raw ingredients received vary from shipment to shipment. Empty packaging containers such as cans, glass and PET bottles are received at the depalletizer area and fed directly to the packaging lines.

Water Treatment

The facility receives its water supply from City of West Sacramento and the facility has installed onsite water treatment to ensure the quality of the water supply. This treatment includes carbon filter, sand filter, Nano and Reverse Osmosis (RO) Filtration System. Mild acid and bleach are used to treat the water. RO reject water is transferred back to the city water storage tank located on-site for reprocessing and does not have the potential to mix with storm water. Treated water is stored in the Permeate Tank with secondary containment. The water treatment area floor drains to the facility wastewater tanks and does not have the potential to mix with storm water.

Blending

Blending is the first step of the manufacturing process in which several materials are mixed and prepared based on specific formulas. This process takes place at the Blend Room. Product prepared by the blending operation is stored in tanks and then pumped to the fillers. The Blend Room floor drains to the facility wastewater tanks and does not have the potential to mix with storm water.

Fillers

Once the product is blended and ready to be packed it is transferred at elevated temperatures to fillers located adjacent to the blend room. The fillers are located in an area called the Fill Room. The fillers are used to package finished product in cans and glass or PET bottles. The containers are then capped at the capper and transferred via conveyor for packaging. The Fill Room floor drains to the facility wastewater tanks and does not have the potential to mix with storm water.

Packaging

Filled containers from the Fill Room are brought to ambient temperature by coolers that spray fresh city water over the containers. Water used for the cooling process contains small amounts of chlorine. The containers are labeled, coded and packed in varying quantities.

The labeling process uses hot glue that is stored in small pallets and melted only at the time of packaging. The same process is used to secure packaging trays and boxes.

The coding process utilizes solvent-based ink. The ink and solvent mixture is sprayed on the container and/or the packaging tray and/or box. Each ink coder has a 5-gallon pail or smaller container. The coders are placed on a tray that is designed to collect minor leaks and spills. The ink and solvent mixture is stored in cabinets designed for flammable materials while not use. The packaging area floor drains to the facility wastewater tanks and does not have the potential to mix with storm water.

Warehouse and Shipping

Finished products are transferred to the warehouse located on the north end of the facility and stored until loaded into trucks for distribution. The storm drains at the loading docks are connected to a sump pump that pumps the storm water to yard level where it discharges off-site via sheet flow. As a result, leaks from finished product or from the delivery truck have the potential to mix with storm water. However, loading is performed inside a covered dock and spill kits are readily available. Any leaks, spills or drips are cleaned immediately.

Empty Drum Storage Area

Empty drums generated at the facility are stored at the east side of the property. Empty drums brought to this area are emptied and rinsed indoors. Drums used for raw ingredients may require removal of contents labels and are placed upside down or lidded, so that rain water does not collect in the empty drums. When a sufficient amount of drums accumulates an outside contractor is contacted to remove the drums for offsite shipment.

The residues from these drums have the potential to mix with storm water. However, the area is monitored by pollution prevention personnel and is located within the secondary containment berm. The empty drum storage area is located inside the containment berm and drains to the facility wastewater tanks and does not have the potential to mix with storm water. The facility conducts formal Monthly Environmental Audit and storm water inspections once a month.

Recycling Area

All recyclables and refuse from the plant are collected and stored at the recycling area on the east side of the facility. All recyclable materials such as PET, aluminum, glass and cardboard are baled or crushed. Non-recyclables are transferred to the trash bin. The recycling area is covered and sloped. The recycling area drains to the facility wastewater tanks and does not have the potential to mix with storm water.

10.2 Material Handling and Storage Areas

Ingredient Storage:

Some ingredients, such as fruit juice concentrates, must be stored at refrigerated temperatures and are stored in the ingredient cooler at the receiving department. Other ingredient containers (bags, pails, drums, etc.) are stored on racks at the ingredient receiving department. The ingredient storage and cooler area floor drains to the facility wastewater tanks and does not have potential to impact the storm water. Additional ingredient storage is located in the Material Storage Area (see Figure 1).

Chemical Cage:

The facility has a designated storage area in the production building for sanitation chemicals, the Chemical Cage. The chemical cage is fenced and secured to protect it from forklift traffic, unauthorized employees, contractors and visitors. The sanitation crew mixes and prepares sanitation chemicals in this cage. All chemicals stored in this area have secondary containment to collect accidental spills, leaks and overflows. The Chemical Cage floor drains to the facility wastewater tanks and does not have the potential to mix with storm water.

Blend Room and Fill Room:

Raw ingredients are handled and transferred in the blend and fill rooms. Except for initial blending, all other transfer of products is conducted in a closed loop to eliminate excess spills. Small quantities of sanitation chemicals are brought into this area from the chemical cage. Floor drains in these areas drain to the facility wastewater tanks and do not have the potential to mix with storm water.

Warehouse:

All finished products are stored in pallets and wrapped with shrink wrapper to prevent accidental falls and spills. The warehouse does not have the potential to mix with storm water.

10.3 Fleet Maintenance

All fleet maintenance is performed indoors in the fleet shop. Delivery and storage of maintenance materials is indoors. Any leaking fleet equipment is immediately brought inside the fleet shop for maintenance. Spill kits are located in the fleet shop. Activities related to fleet maintenance are not exposed to storm water.

10.4 Dust and Particulate Generating Activities

Most external facility surfaces are paved. There are no industrial activities that produce or generate significant amounts of dust or particulates.

10.5 Significant Spills and Leaks

The facility has an Emergency Procedures and Incident Command plan for the containment, cleanup and reporting of spills. If a significant spill of toxic or hazardous substances occurs at the facility, the SWPPP will be reviewed and amended as necessary to prevent such discharges in the future. Any spills that have occurred at the facility are documented on an **Incident Reporting Form**. Information recorded in the report includes the spill date, location of spill, material spilled, approximate volume of spill, cleanup response and corrective actions, and preventive measures taken to prevent future occurrences. Completed **Incident Reporting Forms** are retained in Appendix G.

10.6 Non-Storm Water Discharges

Activities that generate non-storm water discharges are strictly prohibited with the exception of the authorized non-storm water discharges listed below. Prohibited activities include, but are not limited to, vehicle washing (regardless of whether or not detergents are used), facility wash downs using detergent, wash down of stained external surfaces, disposal of mop water or other wash water, and any discharges into pipes or drains that connect to storm water conveyance systems.

All internal facility drains have been evaluated to confirm that they discharge to the sanitary sewer system and do not connect to the storm sewer system. BMPs have been established to prevent occurrences of unauthorized non-storm water discharges. All facility outfalls and drainage areas are inspected quarterly for evidence of unauthorized non-storm water discharges through visual observations. The results of the observations are recorded on the **Quarterly Unauthorized Non-Storm Water Discharge Visual Observation Form (Inspection Form #1)**. The completed forms are reviewed as part of the facility Annual Comprehensive Site Compliance Evaluation and the Annual Report. Any unauthorized discharges that are discovered are to be immediately inspected, the source identified, and the discharge eliminated or permitted under an applicable NPDES discharge permit.

The general industrial storm water permit has established a set of conditions to allow certain non-storm water discharges. If these conditions are met the following non-storm water discharges are allowed: fire hydrant flushing; potable water sources, including potable water sources related to the operation, maintenance or testing of potable water systems; drinking fountain water; atmospheric condensates including refrigeration, air conditioning, and compressor condensate; irrigation drainage; landscape watering; springs; ground water; foundation or footing drainage; and sea water infiltration where the sea waters are discharged back to into the sea water source.

The following conditions must be met in order for listed non-storm water discharges to be authorized by the general industrial storm water permit:

1. The non-storm water discharges are in compliance with Regional Water Board requirements.
2. The non-storm water discharges are in compliance with local agency ordinances and/or requirements.
3. BMPs are specifically included in the SWPPP to a) prevent or reduce the contact of non-storm water discharges with significant materials or equipment and b) minimize, to the extent practicable, the flow or volume of non-storm water discharges.
4. The non-storm water discharges do not contain significant quantities of pollutants.

5. The monitoring program includes quarterly visual observations of each non-storm water discharge and its sources to ensure that the BMPs are being implemented and are effective.
6. The non-storm water discharges are reported and described annually as part of the annual report.

The authorized discharges that occur at the facility include water cooler condensate and sprinkler water. Condensate from the water coolers on the facility roof and sprinkler water produces authorized non-storm water discharges at the southern side of the facility to drop inlets in the production building parking lot to Discharge Point #1. These discharges flow to the employee parking area and do not contact significant materials or equipment. The discharges are inspected once per quarter and the results recorded on the **Quarterly Authorized Non-Storm Water Discharge Visual Observation Form (Inspection Form #2)**. The completed forms are reviewed as part of the facility Annual Comprehensive Site Compliance Evaluation and the Annual Report.

10.7 Soil Erosion

Most external surfaces at the facility are covered with impervious surfaces (concrete, asphalt) and soil erosion is not a potential pollutant source.

CHAPTER 11 ASSESSMENT OF POTENTIAL POLLUTANT SOURCES

The Description and Assessment of Potential Pollutant Sources and Corresponding Best Management Practices table (see Chapter 12) presents a summary of all industrial activities at the facility, potential pollutant sources, potential pollutants and BMPs used to control the pollutant. Outfalls and potential source locations listed are shown on Figure 1 and Figure 2.

There are two types of BMPs employed at the facility – nonstructural controls and structural controls. Nonstructural controls are implemented by various personnel throughout the facility, while structural controls involve a physical barrier to contain potential pollutants. Both types of BMPs are described in the table in Chapter 12.

CHAPTER 12 STORM WATER BEST MANAGEMENT PRACTICES (BMPs)

Best Management Practices (BMPs) have been developed and implemented to reduce or prevent pollutants from entering storm water discharges and authorized non-storm water discharges. A narrative description of storm water BMPs implemented for each industrial activity and potential pollutants and sources are provided in the table below, Description and Assessment of Potential Pollutant Sources and Corresponding Best Management Practices. The table includes a list of significant materials handled and stored on-site.

In development of BMPs for the facility, both non-structural and structural BMPs are considered. Non-structural BMPs may include good housekeeping, preventive maintenance, spill response, employee training, inspections, waste handling and recycling practices, and record keeping. Structural BMPs may include construction of overhead coverage/roofing, storm water control devices, secondary containment structures, and treatment of storm water prior to discharge to the storm drain system.

As new technology becomes available, additional BMPs may be developed and implemented.

DESCRIPTION AND ASSESSMENT OF POTENTIAL POLLUTANT SOURCES AND CORRESPONDING BEST MANAGEMENT PRACTICES

Production: *Bulk delivery of production material is performed by mobile vendor. There is a potential of oil leaks or spills from the vendor's parked truck or spills of product and sugar during transfer from trucks to production bulk tanks. Production and Manufacturing operations occur inside the Production Building with no potential to mix with storm water. The outdoor storage area and recycling area has minimal potential to mix with storm water.*

Activity: **Production**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Scrubbing	East side of Production building	Waste water (BOD, pH, SC)	N/A	N/A	N	The wash water is discharged to the wastewater tanks. Any leak or spill of waste water from the scrubber is cleaned up immediately. Scrubber is stored in recycling area when not in use.	Y
Empty Wood Pallet Storage	East side of Production building	Wood debris (TSS)	N/A	N/A	Y	Stored neatly and in designated area. Accumulation of damaged units and wood debris is kept to a minimum.	Y
Empty Drum Storage	East side of Production building	Chemical leaks (BOD, pH, SC)	N/A	N/A	Y	Drums are stored outside within berm containment area. Empties are triple rinsed, lidded and stored on pallets to prevent exposure to storm water. Area is inspected regularly for signs of leaks.	Y
Waste/Trash Dumpster/Compactor	East side of Production building	Trash/debris, hydraulic oil (TSS, BOD, pH, O&G, SC)	N/A	N/A	Y	Outdoor dumpsters are stored with lids or covers except when waste is being added or removed. Any drips or spill from compactor unit or drips from liquids are cleaned immediately. The area drains to the recycling area, which drains to the facility wastewater tanks. The compactor is stored under the canopy.	Y
Tracking	General Yard	Product, oil (BOD, pH, O&G, SC)	N/A	N/A	Y	Yard is inspected during daily walk by designated personnel and any spills and leaks are cleaned. Industrial activity areas are swept at least twice weekly during the wet season and at least monthly during the dry season. A wash down of the production containment yard area is performed at least weekly during the wet season and at least monthly during the dry season.	Y

DESCRIPTION AND ASSESSMENT OF POTENTIAL POLLUTANT SOURCES AND CORRESPONDING BEST MANAGEMENT PRACTICES

Production: *Bulk delivery of production material is performed by mobile vendor. There is a potential of oil leaks or spills from the vendor's parked truck or spills of product and sugar during transfer from trucks to production bulk tanks. Production and Manufacturing operations occur inside the Production Building with no potential to mix with storm water. The outdoor storage area and recycling area has minimal potential to mix with storm water.*

Activity: **Production**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Production Building Roll-up doors	East side of Production building	Product, chemicals and ingredients (BOD, pH, SC)	N/A	N/A	N	Spill kits are located near the doors and include spill blocker dikes that are used to stop and contain spills indoors. Materials are stored away from roll-up doors.	Y
Recycling Dumpster	East side of Production building	Cardboard/paper debris, hydraulic oil (O&G, TSS)	N/A	N/A	Y	Dumpsters are kept covered or under cover unless trash is being added.	Y
Loading/Unloading Docks	North end and southeast corner of production building	Oil leaks, product spills, trash, debris, chemicals, ingredients (BOD, TSS, O&G, pH, SC)	N/A	N/A	Y	Spill kits are readily available at the docks; the docks are cleaned regularly.	Y
Transfer and Storage of High Fructose Corn Syrup (HFCS)	Cebrian Street, east side of production building	HFCS (BOD, pH)	3 x 9,800 gallons	3 x 9,800 gallons	Y	Drip pans are used to collect any leaks or spills which may occur during transfer. Hose down of sampling port is collected in bucket and discharged into waste water drain. Bulk tank storage area is equipped with secondary containment and drains to the facility wastewater tanks. Any leaks or spills that may occur are cleaned up immediately. Off-loading activities are supervised at all times. The lockable manually operated valves in the berm system remain in the closed position during material transfer (unless raining).	Y
Transfer and Storage of Carbon Dioxide	Cebrian Street, east side of production building	N/A	53,000 lbs	53,000 lbs	Y	Leaks of Carbon Dioxide are not potential pollutants to storm water. Any condensate produced by pressurized storage tanks is inspected for pollutants. Carbon Dioxide tank is within secondary containment which drains to the facility's pH system.	Y

Production: *Bulk delivery of production material is performed by mobile vendor. There is a potential of oil leaks or spills from the vendor's parked truck or spills of product and sugar during transfer from trucks to production bulk tanks. Production and Manufacturing operations occur inside the Production Building with no potential to mix with storm water. The outdoor storage area and recycling area has minimal potential to mix with storm water.*

Activity: **Production**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Transfer and Storage of Nitrogen	Cebrian Street, east side of production building	N/A	6,000 gal	6,000 gal	Y	Leaks of Nitrogen are not potential pollutants to storm water. Any condensate produced by pressurized storage tanks is inspected for pollutants. Off-loading activities are supervised at all times. The lockable manually operated valves in the berm system remain in the closed position during material transfer (unless raining).	Y
Transfer and Storage of Sucrose Tank	Cebrian Street, east side of production building	Sucrose (BOD, pH)	9,500 gallons	9,500 gallons	Y	Sucrose is stored within a secondary containment structure. Drip pans are used to collect any leaks or spills which may occur during bulk transfer. Bulk tank storage area is equipped with secondary containment which drains to the waste water system. Any leaks or spills that may occur are cleaned up immediately. Off-loading activities are supervised at all times. The lockable manually operated valves in the berm system remain in the closed position during material transfer (unless raining).	Y
Transfer and Storage of Sodium Hydroxide Solution	Cebrian Street, east side of production building	Sodium Hydroxide Solution (pH, SC)	704 gallons	704 gallons	Y	Sodium Hydroxide Solution is stored within a secondary containment structure. Drip pans are used to collect any leaks or spills which may occur during bulk transfer. Bulk tank storage area is equipped with secondary containment which drains to the waste water system. Any leaks or spills that may occur are cleaned up immediately. Off-loading activities are supervised at all times. The lockable manually operated valves in the berm system remain in the closed position during material transfer (unless raining).	Y

DESCRIPTION AND ASSESSMENT OF POTENTIAL POLLUTANT SOURCES AND CORRESPONDING BEST MANAGEMENT PRACTICES

Production: *Bulk delivery of production material is performed by mobile vendor. There is a potential of oil leaks or spills from the vendor's parked truck or spills of product and sugar during transfer from trucks to production bulk tanks. Production and Manufacturing operations occur inside the Production Building with no potential to mix with storm water. The outdoor storage area and recycling area has minimal potential to mix with storm water.*

Activity: **Production**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Transfer and Storage of Raw Water	Cebrian Street, east side of production building	Water	20,000 gal	20,000 gallons	Y	Raw water is stored within a secondary containment structure. Bulk tank storage area is equipped with secondary containment which drains to the waste water system. Any leaks or spills that may occur are cleaned up immediately. The lockable manually operated valves in the berm system remain in the closed position during material transfer (unless raining).	Y
Storage of Permeate Water	Cebrian Street, east side of production building	Water	20,000 gal	20,000 gallons	Y	Permeate is stored within a secondary containment structure. Water from permeate tank enters production building via piping.	Y
Storage of Waste Water	East side of production building	Waste water (BOD, pH,)	2 x 9,975 gallons	2 x 9,975 gallons	Y	The wastewater tanks are located within a secondary containment structure. Waste water is metered to the city sanitary system.	Y
Recycling Area - Can/Bottle Crushing	Cebrian Street, east side of production building	Waste product (BOD, pH, , Al)	N/A	N/A	N	Recycling area is under a canopy. The area discharges to waste water tanks and is inside the containment berm. The area is cleaned at least weekly during the wet season and at least monthly during the dry season with wash water directed to the wastewater tanks.	Y
Recycling Area- Tea Leaves Disposal	Cebrian Street, east side of production building	Tea leaves (BOD, pH, O&G)	N/A	N/A	N	Stored in dumpster which is located inside the containment berm.	Y
Recycling Area – Storage of Recyclables	Cebrian Street, east side of production building	Waste product (BOD, pH, SC, Al)	N/A	N/A	N	Recyclables stored under canopy inside the containment berm. If stored in an exposed area, recyclables are covered.	Y

DESCRIPTION AND ASSESSMENT OF POTENTIAL POLLUTANT SOURCES AND CORRESPONDING BEST MANAGEMENT PRACTICES

Production: *Bulk delivery of production material is performed by mobile vendor. There is a potential of oil leaks or spills from the vendor's parked truck or spills of product and sugar during transfer from trucks to production bulk tanks. Production and Manufacturing operations occur inside the Production Building with no potential to mix with storm water. The outdoor storage area and recycling area has minimal potential to mix with storm water.*

Activity: **Production**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Production Yard – Wash downs	Production Yard	Waste water (BOD, pH, O&G, SC)	N/A	N/A	N	The production yard inside the containment area is washed down at least weekly during the wet season and at least monthly during the dry season. The area is inside the containment berm and water is directed to wastewater tanks. A documentation log for wash downs is filed in Appendix B.	Y
Bottling	Production Bldg.	Product (BOD, pH)	N/A	N/A	N	All bottling operations take place in a covered facility. Indoor drainage to wastewater tanks and other controls are used to prevent liquid from discharging from the production area to outdoor storm drainage structures. Spills and leaks are cleaned up immediately.	Y
Production which includes water treatment, sanitation, cooling, laboratory analysis, filling, and packaging activities	Production Bldg.	See complete list of materials in Hazardous Materials Business Plan	See HazMat Business Plan	See HazMat Business Plan	N	The HazMat Business Plan contains a list of reportable hazardous materials, and includes a complete description of their location and quantities on-site. All activities are conducted indoors and are not exposed to storm water.	Y
Spill Response	All areas, including production, loading/unloading	N/A	N/A	N/A	N	Spill kits are readily available in case of spills or leaks. The spill kits are clearly labeled. Temporary spill containment berms are included in the spill kits near the roll-up doors to prevent spills from inside the building flowing outdoors. Used absorbent and other clean-up material is disposed of properly. Only dry methods used to clean spills and leaks. Employees clean spills immediately.	Y

Material Storage Area: *Loading and unloading preformed at covered loading docks. Best Management Practices are employed for routine activities that may generate potential pollutants to storm water.*

Activity: **Material Storage Area**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Loading/Unloading Docks	Material Storage Building	Oil leaks, product spills, trash, debris, chemicals, ingredients (BOD, TSS, O&G, pH, SC)	N/A	N/A	Y	Spill kits are readily available outside the dock; the dock is inspected for leaks and spills daily and cleaned if needed. Absorbent pads are placed under trucks during loading/unloading activity.	Y
Spill Response	Material Storage Building	N/A	N/A	N/A	Y	Spill kits are readily available in case of spills or leaks. The spill kits are clearly labeled. Used absorbent and other clean-up material is disposed of properly. Only dry methods used to clean spills and leaks. Employees clean spills immediately.	Y

Fleet Maintenance: *Fleet vehicles are routinely maintained to ensure there are in good condition. Maintenance and material storage occurs inside and is not exposed to storm water.*

Activity: **Fleet**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Vehicle Maintenance	Shop	N/A	N/A	N/A	N	All vehicle maintenance is performed indoors in the shop. All materials associated with maintenance are stored and used indoors and are not exposed to storm water. Company vehicles that are leaking are immediately brought into shop for maintenance. The Hazardous Materials Business Plan contains a list of all materials stored and used, including a complete description of their location and quantities stored in the shop.	Y
Spill Response	Shop	N/A	N/A	N/A	Y	Spill kits are readily available in case of spills or leaks. The spill kits are clearly labeled. Used absorbent and other clean-up material is disposed of properly. Only dry methods used to clean spills and leaks. Employees clean spills immediately.	Y

Steam Cleaning: *Performed outdoors with all wash water directed to an oil water separator that is connected to the sanitary system.*

Activity: **Steam Cleaning**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Steam Cleaning	Pallet Storage Area	Wash water (O&G, BOD, TSS, O&G, pH, SC)	N/A	N/A	Y	Steam washing is performed outdoors over a sanitary drain. Portable berms are placed around the washing area and wash water is directed to an oil-water separator and then to city sanitary. A final rinse down of the area is completed. The sanitary drain is covered when not in use with a metal plate. Washing is not performed during rain events.	Y
Spill Response	Shop	N/A	N/A	N/A	Y	Spill kits are readily available in case of spills or leaks. The spill kits are clearly labeled. Used absorbent and other clean-up material is disposed of properly. Only dry methods used to clean spills and leaks. Employees clean spills immediately.	Y

General Activities: *Good housekeeping practices are employed to maintain a clean and orderly facility. Best Management Practices are employed for routine activities that may generate potential pollutants to storm water.*

Activity: **General Yard**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Irrigation	Landscaped Areas	sediment, trash/debris (TSS)	N/A	N/A	Y	Only allowed if no fertilizers, herbicides and pesticides are used. Not permitted to come into contact with sediment or other potential contaminants prior to discharge.	Y
General yard, trench drains, drop inlets	Yard	N/A	N/A	N/A	Y	The general yard is inspected daily and any deficiencies are addressed. The drop inlets and trench drains are inspected at least monthly and cleaned as necessary. Drop inlets and trench drains are cleaned out prior to wet season. Facility property is also cleaned of debris prior to the wet season. The drop inlets in production building employee parking lot and outside of aseptic are equipped with drain filters which are replaced twice per year.	Y

DESCRIPTION AND ASSESSMENT OF POTENTIAL POLLUTANT SOURCES AND CORRESPONDING BEST MANAGEMENT PRACTICES

General Activities: *Good housekeeping practices are employed to maintain a clean and orderly facility. Best Management Practices are employed for routine activities that may generate potential pollutants to storm water.*

Activity: **General Yard**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
3rd Party Activities	Yard	Varies (BOD, pH, O&G, Al, Co, Zn, SC)	N/A	N/A	Y	Periodically 3rd party vendors may work on projects. When completing work outdoors, drop cloths are used, areas swept and exposure of materials is minimized.	Y
Containment Berm	Yard	N/A	N/A	N/A	Y	The containment berm is used to collect and direct rinse down water of the yard within the containment berm to the waste water tanks. The containment berm is also used as a flush during a rain event. A description of the Operation of Production Yard Flush System is filed in Appendix H.	Y
Outdoor use of hoses	Yard	Hose water	N/A	N/A	Y	Hoses used outdoors are for fill-use only or for scheduled wash downs of the yard. The wash down water is directed to a to the wastewater tanks.	Y
Truck Traffic	Yard	Tire and break pad wear and tear (Zn, Cu)	N/A	N/A	Y	The production yard inside the containment area is washed down at least weekly during the wet season and at least monthly during the dry season. Industrial activity areas and the production employee parking area are swept at least twice weekly during the wet season and at least monthly during the dry season.	Y
Yard Sweeping/Scrubbing	Yard	N/A	N/A	N/A	Y	Industrial activity areas (including the production yard, loading docks, pallet yard, area outside the fleet shop and material storage area east of Cebrian Street) and the production employee parking area are swept at least twice weekly during the wet season and at least monthly during the dry season. A documentation log for sweeping is filed in Appendix B.	Y

DESCRIPTION AND ASSESSMENT OF POTENTIAL POLLUTANT SOURCES AND CORRESPONDING BEST MANAGEMENT PRACTICES

General Activities: *Good housekeeping practices are employed to maintain a clean and orderly facility. Best Management Practices are employed for routine activities that may generate potential pollutants to storm water.*							
Activity: **General Yard**	Location	Potential Exposed Materials/Pollutant Sources	Container Size	Quantity Stored	Exposed to Storm Water?	Best Management Practices (BMPs)	BMPs Implemented?
Landscaping	Landscaped areas	Leaves, debris, trash (TSS, pH)	N/A	N/A	Y	Landscape vendor services the facility weekly and collects all tree and leaf debris, trash and litter.	Y

EXHIBIT D

Parameter	Level of Potential Concern Value	Test Method	Test Method Detection Limit (Minimum)
pH (by field testing)	6.0 – 9.0	40 CFR 136	
Specific Conductivity	200 µmhos/cm	SM 2510B	1.0 umhos/cm @ 25C
Total Suspended Solids	100 mg/L	SM 2450D	1.0 mg/l
Oil & Grease	15 mg/L	EPA 1664A	1.5 mg/l
Iron	1.0 mg/L	EPA 200.7	0.008 mg/l
Biological Oxygen Demand (BOD)	30 mg/L	SM 5210B	2.0 mg/l
Aluminum	0.75 mg/L	EPA 200.8	0.005 mg/l
Copper	0.0636 mg/L	EPA 200.8	0.005 mg/l
Zinc	0.117 mg/L	EPA 200.8	0.005 mg/l