CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

ORDER NO. R3-2010-0037
(Adopted September 2, 2010)

GENERAL CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE REUSE OF NON-HAZARDOUS CRUDE OIL IMPACTED SOIL AND NON-HAZARDOUS SPENT SANDBLASTING AGGREGATE ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

The California Regional Water Quality Control Board, Central Coast Region (hereafter Central Coast Water Board), finds that:

1. Oil production results in large volumes of soils degraded by crude oil and non-hazardous spent sandblasting aggregates. This General Reuse Waiver conditionally authorizes the use of non-hazardous crude oil-impacted soils for road pavement and other uses on "active" oil leases and fee properties. If proper management practices as specified by this order are followed, reuse of non-hazardous crude oil-degraded soil will not pose a significant threat to water quality.

2. California Water Code (CWC) § 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board.

3. CWC § 13263(a) states that Water Boards shall prescribe requirements for existing and proposed waste discharges in their respective areas of jurisdiction that could affect water quality.

4. CWC § 13267 (Investigations; inspections) states:

   (a) A regional board, in establishing or reviewing any water quality control plan or Waste Discharge Requirements (WDRs), or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

   (b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

5. CWC § 13269(a) states:

   (1) On and after January 1, 2000, the provisions of subdivisions (a) and (c) of § 13260, subdivision (a) of § 13263, or subdivision (a) of § 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to § 11125 of the Government Code.

   (2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based, monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

   (3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

6. Pursuant to CWC §13269, waivers may be granted for discharges to land and may not be granted for point source discharges to surface waters or conveyances thereto.

7. In accordance with CWC § 13269, the Water Board shall regulate discharges of crude oil-impacted soils at reuse projects through the requirements of this general conditional waiver, or, for crude oil-impacted reuse projects that are not eligible for this waiver, through individual waste discharge requirements or individual conditional waivers.

8. Relevant factors in determining whether a waiver is in the public interest include the following:

   a. Whether the Discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
   b. Whether a feasible treatment method exists to control the pollutants in the discharge;
   c. Whether the waiver will have other positive environmental effects; and
   d. Whether conditionally waiving ROWDs and/or WDRs will adequately protect beneficial uses while allowing the Water Board to utilize more of its scarce resources to conduct field oversight, public outreach and, where necessary, enforcement.

9. **Basin Plan -** The Water Quality Control Plan, Central Coast Basin (Basin Plan), was adopted by the Water Board on September 8, 1994, and approved by the State Water Board on November 17, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of surface and groundwater throughout the Region. This General Waiver requires Dischargers to comply with all applicable provisions of the Basin Plan.

10. This General Waiver establishes minimum standards for maintenance and monitoring of Reuse projects. This Waiver requires each Discharger to comply with any more stringent relevant standards in the Basin Plan. In the event of a conflict between the provisions of this Waiver and the Basin Plan, the more water quality protective provision will prevail.

11. **Beneficial Uses** -- The Basin Plan (1994) identifies the following present and anticipated beneficial uses of the groundwater underlying the oil field areas where the Reuse projects will be located:

    a. Municipal and domestic supply,
    b. Agricultural supply,
    c. Industrial process and service supply.

12. Existing and potential beneficial uses of surface waters within the Central Coast region are specified by water body, in Table 2-1 of the Basin Plan. Surface waters that do not have beneficial uses designated in Table 2-1 of the Basin Plan have potential beneficial uses of municipal and domestic water supply, and recreation and aquatic life.

13. The Water Board, in establishing the requirements contained herein, considered factors including, but not limited to the following:

    a. Past, present, and probable future beneficial uses of water.
    b. Environmental characteristics of the hydrologic unit under consideration, including the quality of water available thereto.
    c. Water quality conditions that could reasonably be achieved through the coordinated control of all factors, which affect water quality in the area.
    d. Economic considerations.
    e. Beneficial uses to be protected and water quality objectives reasonably required for that purpose.
    f. Other waste discharges.
    g. The need to prevent nuisance.

14. Monitoring and Reporting Program No. R3-2010-0037 (hereafter "**MRP No. R3-2010-0037**") is part of this General Waiver and is included as **Attachment A**. MRP No. R3-2010-0037 requires the Discharger to perform regular monitoring and reporting of the effectiveness of management practices and ongoing maintenance associated with approved Reuse projects. MRP No. R3-2010-0037 may be modified by the Executive Officer to fit site-specific conditions. The monitoring and reporting requirements, including requirements to submit monitoring reports, are necessary to assess compliance with the conditions of the General Waiver and to determine whether and to what extent each reuse project is impacting waters of the State.

15. **Anti-Degradation** – This Order is consistent with the provisions of State Water Resources Control Board (State Water Board) Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California." Water Boards, in regulating the discharge of waste, must maintain high quality waters of the State unless it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a Water Board's policies. This conditional waiver will result in improved water quality throughout the region. Dischargers must comply with all applicable provisions of the Basin Plan, including water quality objectives, and implement management practices to prevent pollution or nuisance and to maintain the highest water quality consistent with the maximum benefit to the people of the State. The conditions of this waiver will protect high quality waters.

16. California Environmental Quality Act (CEQA) and other Legal References - The Central Coast Water Board is initiating the project of issuing a general waiver of waste discharge requirements for oil field reuse projects. The action to adopt this general waiver is intended to maintain or improve water quality. This general waiver contains conditions (Attachment "B") intended to

protect the environment by mitigating or avoiding impacts to water quality and the environment. This general waiver is for existing and future oil field reuse projects. Existing reuse projects are exempt from provisions of the California Environmental Quality Act (Public Resources Code, § 21000, et seq.) in accordance with Title 14, California Code of Regulations, Chapter 3, § 15301. Future projects shall comply with the California Environmental Quality Act pursuant to direction from the local lead agency.

17. The Central Coast Water Board followed appropriate procedures to satisfy the environmental documentation requirements of CEQA. In Resolution R3-2005-089, the Central Coast Water Board conducted an Initial Study and adopted a Negative Declaration for this project in accordance with CEQA and the CEQA Guidelines (Title 14, California Code of Regulations, § 15000 et seq.). The Negative Declaration concludes that the waiver of waste discharge requirements for the specific types of reuse projects addressed by this Order will not have a significant impact on the environment. Copies of the Negative Declaration were transmitted to all agencies and persons known to be interested in this matter according to the applicable provisions of CEQA.

18. This Order requires the Discharger to implement practices to control water quality impacts, including erosion and sedimentation. Local ordinances also require various controls. The conditions of this Order protect beneficial uses by:

    a. Prohibiting pollution, contamination or nuisance;
    b. Requiring monitoring and compliance with applicable water quality control plans;
    c. Requiring the Discharger to grant access to Central Coast Water Board staff to perform inspections.

19. The Central Coast Water Board finds that the adoption of "General Conditional Waiver of Waste Discharge Requirements for Reuse of Non-Hazardous Crude Oil Impacted Soil and Non-Hazardous Spent Sandblasting Aggregate on Active Oil Leases and Fee Properties in the Central Coast Region" will not have a significant impact on the environment and will be in the public interest provided that dischargers:

    a. Comply with the conditions of this Order;
    b. File with the Central Coast Water Board the applicable eligibility documents as described herein, to demonstrate that compliance with the waiver conditions will be achieved; and
    c. Comply with applicable State Water Board and Central Coast Water Board plans and policies and as those plans and policies may be amended from time to time through the amendment process.

20. Pursuant to CWC § 13269, the action of waiving the issuance of waste discharge requirements for certain specific types of discharges (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Coast Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.

21. A waiver of waste discharge requirements for this type of discharge may be superseded by the adoption by the State Water Board or Central Coast Water Board of specific waste discharge requirements or general waste discharge requirements for that type of discharge.

22. Requirements of this waiver include management practices to minimize water quality impacts. Management practices that control erosion and sedimentation are more feasible and more

effective than treatment methods and will be required. The waiver protects the environment in two ways: by encouraging recycling of oilfield waste rather than disposal in landfills or in place, and by ensuring that recycling occurs in a manner protective of water quality. The adoption of the waiver is also in the public interest because it includes conditions that will reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the state, and it contains more specific and more stringent conditions for protection of water quality compared to existing regulatory programs.

23. The issuance of this Order establishing a general waiver of waste discharge requirements is consistent with the goal to provide water resources protection, enhancement, and restoration, while balancing economic and environmental impacts, as stated in the Strategic Plan of the State Water Board and the Central Coast Water Board.

24. **Attachment "B"** to this Order identifies the types and conditions of discharges for which a waiver of waste discharge requirements is granted by this Order. These discharges will not have a significant effect on the quality of waters of the state provided the corresponding criteria and conditions are met.

25. Waiving waste discharge requirements for the discharge of non-hazardous crude oil-impacted soils as part of authorized reuse projects, as defined and conditioned in **Attachment "B"**, is in the public interest.

26. The adoption of general waiver of waste discharge requirements for managing crude oil-impacted soils as part of authorized reuse projects will assist in:

    a. Protecting groundwater and surface waters of the state from pollution or contamination.
    b. Simplifying and expediting the application process for the Discharger.
    c. Reducing Central Coast Water Board time preparing and considering individual waivers for individual reuse projects.

27. Issuance of this waiver does not preempt or supersede the authority of municipalities, flood control agencies, or other federal, state or local agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.

28. On **May 3, 2005,** the Central Coast Water Board notified the Discharger and interested agencies and persons of its intention to issue a general conditional waiver of waste discharge requirements for the discharge. All parties known to be interested in this matter were provided with a copy of the proposed General Order and an opportunity to submit written views and comments.

29. On September 2, 2010, the Central Coast Water Board held a public hearing and considered all the evidence concerning this matter. Notice of this hearing was given to all interested parties in accordance with the California Code of Regulations, Title 14, § 15072.

THEREFORE, IT IS HEREBY ORDERED:

1. In accordance with CWC § 13269, the requirement to obtain waste discharge requirements is waived for reuse of soils containing crude oil and non-hazardous spent sandblasting aggregate pursuant to waiver conditions outlined in **Attachment "B."** The Central Coast Water Board will regulate discharges related to the reuse of non-hazardous crude oil-impacted soil and non-hazardous spent sandblasting aggregate by implementing the conditions of **Attachment "B."**

2. Applicants seeking enrollment in this waiver shall submit a report of waste discharge (ROWD) or other application form approved by the Executive Officer that provides sufficient information to demonstrate that compliance with waiver conditions can and will be achieved. This waiver shall not take effect as to a particular reuse project until the Executive Officer approves the application. The application shall serve as the ROWD under CWC § 13260.

3. Enrollment in the general waiver shall terminate for cause, including, but not limited to, the following, upon written notice from the Executive Officer:

   a. Violation of any terms or conditions of this general waiver.
   b. Obtaining enrollment in this general waiver by misrepresentation or failure to fully disclose all relevant facts.

4. The Executive Officer may revoke or terminate the applicability of the general conditional waiver requirements to any reuse project at any time when the reuse project could adversely affect the quality or beneficial uses of the waters of the state. The Central Coast Water Board may terminate this waiver in its entirety or for any type of discharge or any specific discharge at any time.

5. The Discharger shall comply with all requirements of the Executive Officer pursuant to Monitoring and Reporting Program (MRP) No. R3-2010-0037.

6. The Discharger shall comply with all requirements of applicable water quality control plans and these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Central Coast Water Board and approved by the State Water Board, and water quality control plans and policies adopted by the State Water Board.

7. It is not necessary at this time to adopt individual or general waste discharge requirements for waste discharges related to reuse projects that meet the eligibility criteria specified in this General Waiver.

8. This waiver shall terminate on September 2, 2015, unless this Waiver is extended by Central Coast Water Board action. Dischargers who have gained eligibility under the general conditional waiver requirements prior to September 2, 2010 may continue the discharge until September 2, 2015, unless the Central Coast Water Board terminates this waiver before September 2, 2015, or its applicability to a specific discharge is terminated by the Executive Officer or the Central Coast Water Board.

9. This waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC § 13263. Authorization to discharge waste is conditioned upon the Discharger complying with provisions of Division 7 of the California Water Code and with any more stringent limitations necessary to implement the Basin Plan, to protect beneficial uses, and to prevent nuisance. Compliance with this General Waiver should ensure conditions are met and mitigate any potential changes in water quality due to the project.

10. The discharge of any waste not specifically regulated by the general conditional waiver described herein is prohibited unless the Discharger complies with CWC § 13260(a) and the Central Coast Water Board either issues waste discharge requirements pursuant to CWC § 13263 or an individual waiver pursuant to CWC § 13269 or the time frames specified in CWC § 13264(a) have elapsed.

11. As provided by CWC § 13350(a), any person who, in violation of any waiver condition, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, is subject to administrative or civil liability for the violation.

12. Upon receipt of notice of termination of waiver applicability, the Discharger shall immediately cease all activities related to the discharge of crude oil-impacted soils at reuse projects. Upon notice of termination, the Discharger shall initiate site closure activities by filing a report of waste discharge and application fee.

13. "Discharger" means the property owner (surface rights owner) and, if different, the operator of the active oil field lease or fee property.

14. "Active Oil Field" refers to any lease or fee property located within an active oil field. An active oil field is a lease or fee property that has not received formal closure approval from the Regional Board, DOGGR, and the local regulatory agency with jurisdictional authority.

15. The term "Management Practices" means a practice, or combination of practices, that is the most effective and feasible means of controlling pollution generated by nonpoint sources for the attainment of water quality objectives.

16. The definition of all other undefined terms used in this Order shall be as set forth in the California Water Code.

17. The general conditional waiver shall become effective on September 2, 2010, and shall expire on September 2, 2015, unless terminated or renewed by the Central Coast Water Board.

I, Roger W. Briggs, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an order adopted by the California Regional Water Quality Control Board, Central Coast Region, on **September 2, 2010**.

Roger W. Briggs
Executive Officer

ATTACHMENTS:

Attachment A: **Monitoring and Reporting Program No. R3-2010-0037**

Attachment B: **Conditions for Reuse of non-Hazardous Crude Oil Impacted Soil and Non-Hazardous spent Sandblasting Aggregate on Active Oil Leases and Fee Properties in the Central Coast Region.**

ATTACHMENT A
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

GENERAL MONITORING AND REPORTING PROGRAM NO. R3-2010-0037 FOR THE ONGOING MAINTENANCE OF AUTHORIZED REUSE PROJECT AREAS ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

A. SITE INSPECTIONS AND OBSERVATIONS

The Discharger shall inspect all reuse project areas according to the following schedule, recording, at a minimum, the following standard observations.

1. Site Inspection Schedule:
During the rainy season **(October 1 through April 1),** the Discharger shall make visual observations during scheduled facility operating hours and daylight hours. Visual observations are not required during adverse climatic conditions. The Discharger shall perform a minimum of one inspection prior to, one during, and one after the rainy season, or at any time a failed management measure and/or discharge is reported or observed.

2. Standard Observations: Standard observations shall be performed along the perimeter of all authorized reuse projects to inspect for evidence of erosion or washout after severe rain events, and integrity during wet seasons. The Discharger shall select a sufficient number of observation points as necessary to achieve compliance with the conditions of this Order. The proposed number and locations of the selected observation points shall be included as part of the report of waste discharge application package.

B. DATA LOGGING AND REPORTING REQUIREMENTS

1. **Logbooks**: The Discharger shall maintain logbooks for recording all visual and water analysis data. Logbooks shall include documentation of maintenance and repair of management practices. These logbooks shall be available for inspection to Central Coast Regional Water Quality Control Board (Central Coast Water Board), Santa Barbara County, and Division of Oil and Gas and Geothermal Resources (DOGGR) staff.

2. If at any time offsite erosion or washout (storm water, sediments, etc.) is observed, the Discharger shall determine and identify the failed management measures and/or source of discharge. Management measure failure is defined as: 1) whenever an implemented management measure creates a condition of pollution, contamination, or condition of nuisance, as defined by California Water Code (CWC) § 13050, or 2) when lack of implementation of a necessary management measure creates a condition of pollution, contamination, or condition of nuisance, as defined by CWC § 13050.

3. If management measures fail, the Discharger shall photo document them and shall implement management practices immediately to prevent discharge and impacts to water quality.

4. **Annual Report:** Unless otherwise indicated, the reporting period shall be July 1st through June 30th. By October 1 of each year, the Discharger shall submit an Annual Report to the Central Coast Water Board summarizing all preparedness measures performed to ensure discharges to surface or groundwater do not occur during the impending rainy season, and ensure all relevant Management

Practices have been successfully implemented. The Annual Report shall include the following information:

a. A status of all reuse projects. This section must include an accounting of all reuse materials including:

i. The source(s) of all materials;
ii. The approximate volume (cubic yards) of materials used; and
iii. The results of all soil chemical characterization performed.

b. A summary of all Management Practices implemented in preparation for the upcoming rainy season. Specifically, describe any actions taken to reduce or prevent pollutants in storm water discharges.

c. An evaluation of the previous year's Management Practices implemented and their effectiveness. Provide a description of any changes or improvements or planned activities that will be implemented based on the previous year's observation of wet weather problems.

d. Visual storm water observations and observation dates.

e. Stabilization and erosion control measures implemented.

f. A summary of all violations.

g. A summary of all standard observations performed.

h. A summary of the actions implemented for the protection of water quality and beneficial uses.

i. Documentation of rainfall amounts, measurement procedures, and locations. If requested to do so, the Discharger shall use data from the nearest atmospheric station to provide all requested rainfall data pertinent to the reuse project.

j. A summary of the water quality monitoring performed during the previous year. A location map showing the sampling locations must be provided. All water quality data collected must be presented in table form and copies of the certified analytical reports and chain of custody forms for all analyses performed must be included.

k. Recommendations for improving the monitoring and reporting program.

l. Maps:
i. A map or aerial photograph clearly showing the locations of all monitoring locations (if any) and relevant physical features (e.g. drainage ways, hills, roads, buildings).
ii. A map showing the area(s) in which waste materials have been placed and the location(s) of waste pile projects completed during the previous calendar year.

m. Laboratory Results:
Laboratory statements, concerning the results of all analysis, demonstrating compliance with the most recent Executive Officer approved sampling protocol. Additionally, results of all sampling and analysis performed, outside the requirements of this monitoring and reporting program, shall be summarized and reported. The following information must also be presented:
i. All monitoring analytical data obtained during the previous year, presented in tabular form and electronic format.
ii. The evaluation and interpretation of all available data.

5. Electronic Data Submittals: The Annual Report must be submitted electronically to the State Water Resources Control Board GeoTracker program. https://geotracker.waterboards.ca.gov/

6. The Discharger shall maintain records of all monitoring information and results. Records shall be maintained for a minimum of three years. This period may be extended during the course of any unresolved litigation or when requested by the Central Coast Water Board.

7. The Central Coast Water Board Executive Officer may modify or rescind this Monitoring and Reporting Program at any time, or may modify or rescind the monitoring and reporting program as to a specific discharger. Any such modification or rescission must comply with CWC §13269.

C. PHOTO MONITORING POINTS

Photo monitoring points shall be at locations within and outside the reuse area boundary where petroleum-impacted soil storage or processing activities have the greatest risk of potential discharge (sites may be established by Central Coast Water Board Executive Officer during or after the pre-winter inspection). All photo-point monitoring points shall be documented in the logbooks. Monitoring photos need to be of sufficient quality to record the effectiveness of the implemented management practice.

D. NOTIFICATION REQUIREMENTS

The Discharger is responsible for ensuring that all monitoring is done in a safe manner. The Discharger shall notify the Executive Officer within 48 hours by telephone or e-mail and within 14 days in writing, of:

1. Any noncompliance potentially or actually endangering health or the environment.

2. Any flooding, equipment failure, or other change in site conditions, which could impair the integrity of the site or any portion thereof.

3. Any time the Discharger observes a discharge (sediment, soil, other organic material, fluids [oil, hydraulic fluid, etc]) from the reuse area. The Discharger shall immediately correct the source(s) of the discharge if possible, or schedule corrective action at an appropriate time given the site conditions. The written report shall include photo documentation, water quality data, and the management measures or corrective actions and a description of their effectiveness. Upon review of the written report, the Central Coast Water Board Executive Officer will determine completeness of the report and the need for additional actions necessary for the protection of water quality and beneficial uses.

4. VIOLATIONS: Any violation of the waiver conditions: The written report shall include photo documentation and water quality data (if discharge enters waters of the state) before and after remedial action. Upon review of the report, the Central Coast Water Board Executive Officer will determine completeness of the report and the need for additional actions necessary for the protection of water quality and beneficial uses. The Discharger shall complete any additional monitoring the Executive Officer determines is necessary.

All reports required in this monitoring and reporting program are required pursuant to CWC § 13267. Pursuant to CWC § 13268, a violation of a request made pursuant to CWC § 13267 may subject you to civil liability of up to $1,000 per day for each day in which the violation occurs. The Central Coast Water Board will base all enforcement action, pursuant to this General Waiver, on the date the General Waiver becomes effective. The Central Coast Water Board needs the requested information to evaluate the overall water quality improvements resulting from implementation of the conditional Waiver. The information will ensure that compliance with the conditions of this Waiver is achieved.

ORDERED BY

Roger W. Briggs
Executive Officer

9-2-10
Date

S:\Shared\Site Cleanup Program\Non-site specific Issues\HC soils reuse\Oil Field Waivers\2010 - Oil Field Orders\Reuse\Reuse MRP No. R3-2010-0037 revised 7-2010.docx

ATTACHMENT B

WAIVER CONDITIONS FOR THE REUSE OF NON-HAZARDOUS CRUDE OIL IMPACTED SOILS AND NON-HAZARDOUS SPENT SANDBLASTING AGGREGATE ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

GENERAL WAIVER CONDITIONS

The following conditions apply to all discharges enrolled in the General Reuse Waiver in accordance with Order No. R3-2010-0037, as of the adoption date of this Order:

A. Prohibitions

1. Discharge of reuse materials classified as "hazardous," as defined in California Code of Regulations (CCR), Title 23, § 2521, or hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to § 25143 of the Health and Safety Code, or hazardous materials and hazardous wastes defined per CCR Title 22, Division 4, Chapter 30, and Article 11, or Resource Conservation and Recovery Act hazardous waste defined per 42 USCA § 6903, or chemical substances or mixtures regulated under § 6 of the Toxic Substances Control Act (15 USCA § 2605), is prohibited.

2. Any other reuse or discharge, except at a licensed disposal facility that is not specifically authorized by this General Waiver or individual waste discharge requirements, is prohibited. Discharge of reuse materials to areas outside the designated reuse project area and to areas outside "active" oil leases and fee properties, as defined by this Order, is prohibited. The Discharger shall identify the proposed reuse project areas in its report of waste discharge (ROWD) and shall provide specific locations for the limits of reuse material in each reuse project area. When these boundary limits are identified to the satisfaction of the Executive Officer, these boundaries will define the limits of the corresponding reuse project boundary for the purposes of this prohibition.

3. Activities posing a threat to public health and safety or water quality are prohibited.

4. Use of soil or reuse materials containing non-RCRA excluded petroleum wastes (e.g., diluent or "KD" Distillate) is prohibited.

5. Discharge (including overflow, bypass, seepage, erosion, sediment deposition and over spray) of solid waste, liquid waste or leachate to ponded water or waters of the state, including surface water, perched water, ephemeral drainages or groundwater, is prohibited.

6. Creation of a condition of pollution, contamination, or nuisance, as defined by California Water Code (CWC) § 13050, is prohibited.

7. Discharge of radioactive substances or chemical and biological warfare agents is prohibited.

8. Discharge of reuse materials containing substances in concentrations toxic to human, plant, animal, or aquatic life is prohibited.

9. The discharge of reuse materials to surface drainage courses or to usable groundwater is prohibited.

10. Reuse materials may not be used outside the county of their origin unless the project receives all applicable permits and written approval is granted by the Executive Officer.

11. The discharge of reuse materials that contain free liquid, determined by visual inspection or as defined by USEPA Method 9095 (Paint Filter Liquids Test), is prohibited. All free flowing liquids shall be removed within 48-hours.

12. Reuse of soils and materials containing flowing non-aqueous phase liquids under compaction, mixing or due to summer temperatures is prohibited.

13. Discharge of soil or spent aggregate for non-beneficial purposes (e.g., disposal) is prohibited. The determination of whether land application of waste soils constitutes beneficial reuse or disposal is the purview of the Executive Officer.

14. The establishment of a reuse project without written notification and full disclosure of the proposed activities to the property owner, a copy of which must be provided to the Central Coast Water Board, is prohibited.

15. The discharge of reuse materials shall not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

16. The discharge of reuse materials shall not conflict with any applicable habitat conservation plan or natural community conservation plan.

17. The discharge of reuse materials to the habitat of a sensitive, special status or candidate species without proper permitting and mitigation is prohibited.

18. The discharge of reuse materials shall not cause a substantial adverse change in the significance of a historical or archaeological resource as defined in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.

19. The discharge of reuse materials shall not directly or indirectly destroy a unique paleontological resource or sites of unique geologic feature, nor disturb any human remains, including those interred outside of formal cemeteries, as required in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.

20. Beneficial reuse materials shall not be placed in the upper parts of known landslides or in landslide-prone areas without a prior geologic evaluation.

21. The placement of permanent inhabited structures on beneficial reuse materials is prohibited.

B. Specifications

1. This General Waiver only authorizes the use of reuse materials for specified activities and as approved by the Executive Officer. Reuse materials shall be limited to soil containing non-hazardous crude oil and spent aggregates.

2. The design and construction of all approved reuse projects including all impervious working areas, and diversionary and containment structures (berms, curbing, etc.) shall be performed by experienced personnel and in accordance with "Good and Workmanlike" construction standards, as determined by oversight agency inspections. The Discharger shall contact the appropriate

city or county planning and building authorities to obtain construction permits, if needed. Specifications and plans shall be signed by a principal executive officer of at least the level of vice-president or their duly authorized representative.

3. Except as exempted below, Reuse materials may be used only on properties in active oil production from which they were derived, or per CCR Title 14, other active oilfield properties owned or leased by the same entity.

4. The Discharger shall provide assurance that all proposed reuse materials have been appropriately characterized and meet the intended end use.

5. Prior to receiving approval of lease/fee decommissioning from the appropriate local agency with jurisdictional authority, the Discharger shall remove all reuse materials or they may be left in place provided that the surface rights owner agrees with the operator in writing to accept joint and several future liability, including maintenance, monitoring and if necessary, disposal, for the reuse materials at the site. Such agreement shall not relieve the operator of any liability the operator would have had absent the written agreement. All reuse materials that are removed shall be handled and disposed of in accordance with applicable local and state requirements in effect at the time of such removal. For those facilities where reuse materials are to be left in place, the Discharger shall record a deed notice with the recorder of the county in which the site is located that identifies the prior use the property as an oil field facility where reuse materials were left in place. The notice shall include a description of the reuse materials and a map that identifies the location of the reuse materials. Confirmation of recordation and a copy of the deed notice shall be provided to the Executive Officer as a condition of final closure and decommissioning approval.

6. The Discharger shall apply and maintain reuse materials in a manner that reduces permeability, leaching and erosion.

7. Discharge of waste, other than crude oil-impacted soils and spent sandblasting aggregates, is prohibited, except in compliance with CWC § 13264.

8. The Discharger shall mix, compact and maintain reuse materials used for diversionary structures (berms, curbing, etc.) to minimize erosion. "Good and Workmanlike" construction will be recognized by the structure's ability to divert the expected flow with acceptable levels of berm or curbing erosion as determined by oversight agency inspection.

9. Reuse operations shall be in accordance with federal, state and local laws, codes and regulations (e.g., Fish & Game Code § 1603).

10. All sources of reuse materials used on construction projects must have proper engineering properties for their intended use, shall undergo the appropriate sampling protocol, and meet the appropriate reuse standards.

11. The Discharger may temporarily stockpile reuse materials at Executive Officer-authorized Waste Pile Facilities during inclement weather.

13. Any applicable exemption from permitting requirements for industrial facilities under the National Pollutant Discharge Elimination System (NPDES) regulations of the Clean Water Act does not exempt reuse projects from the storm water requirements of this general conditional waiver.

14. The Discharger shall implement the attached Monitoring and Reporting Program (MRP) No. R3-2010-0037, or any individual MRP issued by the Executive Officer, in order to detect any impacts

on waters of the state associated with and or caused by the discharge, past disposal practices and to ensure implementation of all necessary management practices and long-term maintenance activities.

15. The Discharger shall neither cause nor contribute to any surface water contamination, pollution, or nuisance.

16. The Discharger shall not violate Basin Plan prohibitions.

17. The Discharger shall not cause an increase in concentration of waste constituents in soil-pore gas, soil-pore liquid, perched water, groundwater or geologic materials outside of the reuse property boundary.

18. The Discharger shall maintain all reuse projects with visible erosion damage as soon as practicable.

19. By **October 1 of each year**, the Discharger shall complete implementation of all necessary Management Practices and maintenance activities in preparation for the upcoming rainy season, including but not limited to the following:

    a. Completion of all necessary run-on and run-off diversion and erosion prevention measures.
    b. Completion of all necessary construction (grading), maintenance, or repairs of precipitation and drainage control facilities shall be completed.
    c. Ensure the structural integrity and effectiveness of all containment structures are maintained.

C. Water Quality Protection Standards

1. Reuse materials shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Central Coast Water Board or the State Water Board.

2. Reuse materials shall not cause concentrations of metals, salts, chemicals, petroleum hydrocarbons or radionuclides in groundwater underlying and down gradient of the reuse area to exceed the State Department of Health Services latest recommended drinking water Action Levels or Maximum Contaminant Levels of the CCR Title 22, Division 4, Chapter 15, Article 5.5.

3. The Discharger shall install surface water monitoring devices, as deemed necessary and appropriate by the Executive Officer, to comply with this Order.

4. The Discharger is responsible for waste containment, monitoring, and maintenance so long as the waste poses a threat to water quality. The Discharger is also responsible for correcting any problems that may arise in the future as a result of the waste discharged. This responsibility continues as long as the waste has the potential to discharge to or affect waters of the state, as determined by the Executive Officer.

5. Discharge of waste shall comply with all applicable requirements contained in the Basin Plan. If any applicable requirements overlap or conflict in any manner with the requirements of this General Waiver, the most water quality protective requirement shall govern in all cases, unless specifically stated otherwise in this Order.

D. Provisions

1. The Discharger shall maintain records of weights or volumes of reuse material placed, where the reuse material came from, and chemical characterization of any waste soil used at an approved reuse project area.

2. The Discharger shall maintain a copy of this General Waiver at the Discharger's local offices and shall be available to on-site operating personnel.

3. The Discharger shall furnish any information that the Executive Officer may request to determine whether cause exists for modifying, revoking and reissuing, or terminating enrollment under this General Waiver. The Discharger shall also furnish to the Executive Officer, upon request, copies of records required to be kept by this General Waiver.

4. The Central Coast Water Board and its authorized representatives shall be allowed to:

    a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this General Waiver.
    b. Have access to and copy any records that must be kept under the conditions of this General Waiver.
    c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this General Waiver.
    d. Photograph, sample or monitor for the purposes of assuring compliance with this General Waiver.

5. The Discharger shall have a continuing responsibility for waste containment, monitoring, maintenance, and to ensure protection of usable waters from discharged wastes, so long as the reuse materials pose a threat to water quality.

6. The Discharger shall furnish the Central Coast Water Board, within a reasonable time, any information that the Central Coast Water Board may request to determine compliance with this General Waiver.

7. Dischargers seeking coverage under this General Waiver shall submit an application package to the Central Coast Water Board for Executive Officer approval. This package will serve as a report of waste discharge. The Discharger shall provide a minimum of one application package per lease or fee property. Multiple reuse projects located within a single lease or within the Discharger's existing business plan, as defined by the respective county or Certified Unified Public Agency, may be addressed in a single application. The application must contain, at a minimum, but not limited to, the following information:

    a. Source – The source of the reuse material must be identified by name of the lease or fee property and description of location where the spill occurred or where material was generated. Include maps and latitude and longitudinal coordinates, if known and when readily available. [**Note:** if this information has already been documented as part of the Waste Pile General Order No. R3-2010-0036 requirements, it does not need to be provided again].
    b. Destination – The proposed location of the approved reuse project must be identified by name of the lease or fee property and a positional description with reference to oil wells or other existing landmarks. Include maps showing roads that will be surfaced or other infrastructure that will be maintained. If long-term, ongoing reuse is proposed, the applicant must submit an inventory with maps showing the roads and infrastructure that will be

maintained and a prioritization that will determine the progression of reuse as material becomes available.

c. Material characterization – Results of sampling that show compliance with this General Waiver must be included. This must include a specific description of the sampling and analyses protocol utilized to characterize the reuse materials.
d. Compliance plan – This plan shall describe the proposed strategy/plan of action to achieve compliance with the conditions of the General Waiver and General MRP.
i. A schedule for the installation of <u>any</u> proposed monitoring system/devices. If monitoring devices are planned, the proposed monitoring locations shall be presented.
j. A topographical scale map showing the location of all surface water bodies (creeks, rivers, lakes, etc.,) located topographically downgradient from the approved reuse project.
k. Any other information pertinent to protection of water quality or public health and prevention of nuisance.
1. Proposed Reuse Management Plan (Reuse Plan) to document each proposed reuse project area. The Reuse Plan shall include detailed information concerning the design specifications, and construction plans including the following information:
   i. Details concerning the proposed reuse materials to be utilized during the construction.
   ii. Tonnage (cubic yards) used, material thickness, project area size, project location map, and GPS tracking data clearly depicted on a map for each reuse project,
   iii. Description of sampling protocol used and results of all analytical data collected, and
   iv. A detailed summary of compliance with all General Waiver conditions.

   The Discharger shall make such changes to the Reuse Plan as may be necessary to maintain continued compliance with all applicable General Waiver conditions (e.g., in the event of design changes, or as directed by the Executive Officer).
m. A proposed Management Practices (MP) Plan to ensure that reuse activities do not add pollutants to storm waters. The MP Plan shall address the following items:
   (i) Identify and map potential sources of pollution.
      (a) Develop a map of all proposed reuse project areas including but not limited to existing parking areas, roads, pads, drainages (including ephemeral drainages), planned reuse areas, and other areas where reuse has occurred.
   (ii) Document and ensure implementation of MPs.
      (a) Assess pollutants' risks from sources identified in the step (a.), above.
      (b) Develop non-structural MPs. These typically include processes, prohibitions, procedures, activity schedules, etc., that prevent pollutants from contacting storm water discharges. Examples include good housekeeping, preventative maintenance, spill response, material handling and storage, employee training, waste handling, record keeping, inspections, and quality assurance.
      (c) Develop structural MPs. These generally consist of structural devices that reduce or prevent pollutants in storm water discharges. Examples may include control devices such as berms, secondary containment structures, and treatments such as erosion control, vegetative swales, etc.
   (iii) Identify and provide location map of all nearby (within 0.5 miles) all surface waters (creeks, rivers, lakes, etc.,) that may be impacted by a storm water discharge.
n. Fee – The application shall include a one-time fee corresponding to the lowest "threat" and "complexity" ratings, as identified in the State Water Board's (SWRCB's) fee schedule.
o. Landowner Notification – a copy of the formal notification letter sent to the property landowner noticing the proposed Reuse project.

8. Upon receipt of a complete application, the Executive Officer will notify the applicant of General Waiver enrollment if the facility meets the conditions of this Order, or will deny enrollment. The applicant may start the reuse project upon receipt of the Executive Officer's notification. The Executive Officer will inform the **Central Coast** Water Board of General Waiver enrollments in the agenda of its next regularly scheduled hearing.

9. The Discharger shall not discharge waste associated with a reuse project before receiving notification from the Executive Officer stating that this General Waiver covers the proposed reuse project and that an individual conditional waiver is not required. The notification letter will specify the following:

    a. Any modification to MRP No. R3-2010-0037 or, if applicable, to the Discharger's existing individual MRP.
    b. If applicable, that the Discharger's existing individual MRP (including any necessary modifications) shall continue in force in lieu of MRP No. R3-2010-0037.
    c. The effective period of coverage under this General Waiver.
    d. Any additional conditions based on site-specific considerations.

10. Where the Discharger becomes aware that it failed to submit any relevant facts in a report of waste discharge or submitted incorrect information in a report of waste discharge or in any report to the Central Coast Water Board, it shall promptly submit such facts or information.

11. By **October 1 of each year**, the Discharger shall submit an Annual Report summarizing all preparedness measures performed to ensure discharges to surface or groundwater do not occur during the impending rainy season, and ensure all relevant Management Practices (**Provision D.7.m)** have been successfully implemented. The report shall be submitted in accordance with MRP No. R3-2010-0036.

12. The filing of a request by the Discharger for the modification or termination of this General Waiver, or notification of planned changes or anticipated noncompliance does not stay any condition of this General Waiver.

13. The Central Coast Water Board may require any Discharger covered under this General Waiver to apply for and obtain individual conditional waivers. A Discharger covered under this General Waiver may apply for individual conditional waivers.

14. Discharger shall obtain all required federal, state and local agency permits or variances prior to commencing any proposed reuse operation.

15. At any time, the Discharger may file a written request (including appropriate supporting documents) with the Central Coast Water Board Executive Officer, proposing appropriate modifications to the monitoring and reporting program. The Executive Officer shall either reject the proposal for reasons listed, or shall incorporate the proposed changes into a revised Monitoring and Reporting Program. The Discharger shall implement any changes in the monitoring and reporting program, upon issuance by the Executive Officer.

16. The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this General Waiver, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

17. Except for data determined to be confidential under CWC § 13267(b), all technical reports prepared in accordance with this General Waiver are non-exempt public records and shall be sent by the Discharger to the appropriate local agencies with jurisdictional authority (e.g., Santa Barbara County, Fire Prevention Division, Division of Oil, Gas and Geothermal Resources, etc.). All reports shall be signed as follows:

    a. For a public agency - by either a principal executive officer or ranking elected official*.
    b. For a partnership or sole proprietorship - by a general partner or the proprietor, respectively*.

c. For a corporation - by a principal executive officer of at least the level of vice-president*.

* or a duly authorized representative. A "duly authorized representative" means a person who has a written authorization from the Discharger to sign the required reports on behalf of the Discharger. The written authorization must be signed by one of the individuals described in a., b., or c

18. This General Waiver is not transferable. The Discharger shall notify the Central Coast Water Board in writing of any proposed change in ownership or responsibility of the property where an authorized reuse project area is located. Notification shall be performed by filing a Notice of Termination within 30 days following the effective date of change in ownership or responsibility. Failure to submit a Notice of Termination shall be considered a violation of CWC § 13264.

19. This General Waiver does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liability under federal, state, or local laws, nor create a vested right for the owner and operator to continue the regulated activity.

20. Provisions of this General Waiver are severable. If any provision of this General Waiver is found invalid, the remainder of this General Waiver shall not be affected.

21. Any person signing a document under this section shall make the following certification:

    " I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

22. The Discharger shall submit reports required under this General Waiver and other information requested by the Executive Officer, to:

    Central Coast Water Board
    895 Aerovista Place, Suite 101
    San Luis Obispo, CA 93401-7906

23. Except for data determined to be confidential under CWC § 13267(b), all reports and electronic data submitted to the Central Coast Water Board must be uploaded to the SWRCB GeoTracker database: https://geotracker.waterboards.ca.gov/.

24. The Discharger shall comply with all conditions of this General Waiver and any additional conditions prescribed by the Water Board in amendments thereto. Any noncompliance with this General Waiver constitutes a violation of the CWC and is grounds for: (a) enforcement action [CWC § 13261, 13263, 13265, 13267, 13268, 13300, 13301, 13304, 13340, 13350]; (b) termination or modification of enrollment under this General Waiver; or (c) denial of enrollment under this General Waiver.

25. The requirement that the Discharger submit a report of waste discharge is also pursuant to CWC § 13260. CWC § 13261 states that a violation of a request made pursuant to CWC § 13260 may subject the Discharger to administrative civil liability of up to $1,000 per day.

26. As provided by CWC § 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.