

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

DRAFT STAFF REPORT FOR REGULAR MEETING OF SEPTEMBER 9, 2005

Prepared August 1, 2005

ITEM NUMBER: 16

SUBJECT: ORDER NO. R3-2005-006, GENERAL CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR THE MANAGEMENT OF PETROLEUM-IMPACTED SOILS AT AUTHORIZED WASTE PILE MANAGEMENT FACILITIES ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION

KEY INFORMATION:

Location: Central Coast Region
Type of Waste: Petroleum-Impacted Soils and Sandblasting Grit.
Waste In Place: None
Containment System: Liners, Covers, Surface flow berms & Erosion Control Management Practices.
Threat to Water Quality: Erosion of Petroleum-impacted soils and subsequent deposition to the environment.
Existing Orders: None

SUMMARY

Oil recovery, production, and delivery operations generate large volumes of petroleum-impacted soils. Significant quantities of petroleum-impacted soils exist in the Santa Maria area. Approximately twenty sites, primarily in the Santa Maria-Cat Canyon area, are known to have waste piles currently. Most of this material still sits on oil production sites where it was generated. Redevelopment of the former oilfield properties surrounding Santa Maria requires that these soils be removed and disposed and/or treated. The impacted material is often hauled to active lease soil treatment/processing areas. When handled properly, with well-established and maintained erosion control Management Practices, petroleum-impacted soils pose a limited threat to Water Quality.

The proposed General Order authorizes locating Waste Pile Management Facilities within active oil field leases and fee properties in the central coast region. These permitted facilities provide a staging area for waste soil screening and temporary storage while chemistry analytical data is obtained to make decisions about the ultimate treatment, disposal or beneficial reuse options for the impacted soil material. We encourage the separation of crude oil impacted soils from those impacted by refined hydrocarbons, since only the crude oil-impacted soils are acceptable for beneficial reuse projects.

The proposed General Order applies to all active oil field leases and fee properties within the jurisdiction of the Central Coast Regional Water Quality Control Board (Water Board) and is consistent with the California Water Code and other goals, policies and objectives of the State of California.

The issuance of the proposed General Order establishing a General Conditional Waiver of Waste Discharge Requirements that regulates discharges of waste in compliance with the California Water Code 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 this Water Board. Waiving waste discharge requirements for the discharge of petroleum-impacted soils at authorized Waste Pile Management Facilities, as defined and conditioned in Attachment "A" of the proposed General Order, is consistent with any applicable state or regional water quality control plan and is in the public interest.

The action of waiving waste discharge requirements as addressed by the proposed General Order (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 Water Board from pursuing enforcement remedies (including civil liability) pursuant to the California Water Code. Waivers may not exceed five years in duration, but may be renewed by the State Water Resources Control Board (State Water Board) or this Water Board. Thus, if adopted, the General Conditional Waiver would become effective on September 9, 2005, and would expire on September 9, 2010, unless terminated or renewed by the Water Board.

Adoption of the proposed General Order 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 the proposed General Order;
- b. File with the Water Board the applicable eligibility documents as described in the proposed General Order, 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.

Note: For clarity purposes and to help minimize review time associated with Items Nos. 16 and 17, Water Board staff recommends review of Item 16 first.

Parallel to proposed Item No. 16, Water Board staff is also proposing the adoption of Item No. 17 (*Order No.R3-2005-005, General Conditional Waiver of Waste Discharge Requirements for Reuse of Non-Hazardous Crude Oil Impacted Soil and Non-Hazardous Sandblasting Aggregate on Active Oil Leases and Fee Properties in the Central Coast Region*). In general, these two items are very similar in that they both address the management of hydrocarbon-impacted soils on active oil field leases and fee properties in the central coast region.

Proposed General Waste Pile Order (Item 16) sets forth conditions for the management of **petroleum-impacted soils** at authorized Waste Pile Management Facilities. These permitted facilities provide a staging area for waste soil screening and temporary storage while chemistry analytical data is obtained to make decisions about the ultimate treatment, disposal or beneficial reuse options for the impacted material. While the bulk of petroleum-impacted soils is not hazardous waste and is classified as designated waste, it may include a variety of pollutants including unrefined "crude" oil, a variety of refined petroleum products, and to a lesser degree, chemical solvents, stabilizers, acids, metals, anti-fouling biocides, anti-rust and corrosion inhibiting compounds. The primary focus of the monitoring requirements associated with these waste pile facilities will be the implementation of appropriate Management Practices to contain storm water onsite and prevent offsite storm water discharges.

Proposed General Reuse Order (Item 17) sets forth conditions for authorizing the beneficial reuse of non-hazardous **crude oil impacted soils** are separated from those impacted by refined hydrocarbons. Authorized beneficial reuse projects may include roads, berms, and parking areas on active oilfields

and for encapsulated fill uses elsewhere. The primary focus of the monitoring requirements associated with approved reuse projects will be the implementation of Management Practices to minimize the erosion of reuse projects and control sedimentation of nearby surface water bodies.

The most significant differences and similarities between Items No. 16 and 17 are outlined below:

- Staff Report: The staff reports for both of these items are very similar in structure and format. As explained in both staff reports, most all comments received were intended to apply to both of the proposed Orders. As such, Water Board staff only separated those comments that specifically addressed one of the items. To a large extent, the “Comments” section is nearly the same for both staff reports.
- Attachment 1 (Resolutions Nos. R3-2005-0092 and R3-2005-0089): Except for the titles, these resolutions are identical.
- Attachment 2 (Initial Study and Negative Declaration): The structure, format, and Environmental Checklist of these environmental documents are identical. The only differences are the “Project Description” and “Discussion of Environmental Impacts” sections.
- Attachment 3 (Order Nos. R3-2005-006 and R3-2005-005): The structure, format, and basis for issuing a waiver of waste discharge requirements are identical. The primary differences are the project descriptions and pertinent details.
- Attachment 4 (General Waiver Conditions presented as “Attachment A”): The structure, format and sections associated with “Attachment A” are identical for both items. Most general conditions pertaining to the implementation of appropriate Management Practices to ensure waters of the state are adequately protected are practically identical. Both items specify prohibitions, specifications, water quality protection standards, and provisions. The “Provision” section outlines the enrollment process for participating in both of these programs.
- Attachment 5 (DTSC Management Memo #EO-94-015-MM): This attachment only pertains to the General Waste Pile Order (Item No. 16). This memo is referenced in proposed Order No. R3-2005-006 and pertains to DTSC’s interpretation of the Petroleum Exclusion.
- Attachment 6 (General Monitoring and Reporting Program Nos. R3-2005-006 and R3-2005-005): The structure, format, and sections associated with the respective monitoring programs are identical. The primary differences are the “Standard Observations”, “Data Logging and Reporting Requirements” and “Annual Report” sections. These sections differ in that the respective requirements associated with Waste Pile Management Facilities are more extensive and critical. As such a higher level of observations and data reporting is necessary.
- Attachment 7 (Public Comments): The “Public Comments” section associated with both items are identical. All written comments received addressed both of the proposed items.

DISCUSSION

By their nature, oil recovery, production, and delivery operations generate large volumes of soils degraded by petroleum hydrocarbons and non-hazardous spent sandblasting aggregates. Sources of impacted soils include operations and maintenance, well drilling and abandonment, cleanup of spent drilling muds and oil from sumps and leaking pipelines and tank batteries, tank bottom sludge materials, spent sandblasting aggregates, and road materials. Pollutant types include unrefined “crude” oil, a variety of refined petroleum products, and to a lesser degree, chemical solvents, stabilizers, acids, metals, anti-fouling biocides, anti-rust and corrosion inhibiting compounds. The

bulk of this material that is not hazardous waste and is classified as designated waste. Typical practices include stockpiling hydrocarbon-impacted material, screening out debris (e.g., pipeline segments, larger tar balls) and characterization for disposal/reuse. Oil-field operators need areas to temporarily store waste soils, treat and process them for reuse or disposal.

Presently, there are eight active oil field areas of the Central Coast region including, Santa Barbara, offshore Gaviota Coast, Santa Maria Valley (including Cat Canyon and Guadalupe), Casmalia Hills-Orcutt, Lompoc, Cuyama, Price Canyon near Arroyo Grande and the Salinas Valley (including San Ardo, King City & Monroe Swell). The proposed General Order is needed to properly manage these waste soils generated at existing "active" oil field areas.

Waiver Conditions: The proposed General Order establishes conditions under which petroleum-impacted waste materials may be managed. The General Order authorizes the Executive Officer to revoke or terminate the applicability of the general conditional waiver requirements to any petroleum-impacted waste pile activities at any time when the waste pile management activities could affect the quality or beneficial uses of the waters of the State. The Water Board may terminate this Waiver in its entirety or for any type of discharge or any specific discharge at any time. Dischargers that wish to enroll in the General Order are required to provide, for Executive Officer approval, a report of waste discharge or other documentation that provides sufficient information to demonstrate that compliance with the proposed General Order conditions can and will be achieved. The application fee will be a one-time-only enrollment fee that will be based on the discharge's Threat to Water Quality and Complexity Rating, as defined in the fee schedule in California Code of Regulations Title 23, Division 3, Chapter 9, Article 1, Section 2200. Applicants are not permitted to discharge pursuant to the proposed General Order until the Executive Officer notifies the applicants that they have been enrolled. The Executive Officer will update the Water Board concerning all new enrollments during regularly scheduled meetings.

One provision in the proposed General Waste Pile Order requires a facility closure report within 60 days following the cessation of waste pile management operations. The closure report must detail the proposed facility closure procedures that will ensure the entire facility is restored to its original state. Specifically, the closure report shall outline the proposed steps and implementation schedule to completely remove and appropriately dispose of all petroleum-impacted soils from all storage, treatment, or processing areas.

Monitoring/Management Practices - The primary water quality related concern associated with Waste Pile Management Facilities is storm water runoff. As such, any applicable exemption from permitting requirements for industrial facilities under the National Pollutant Discharge Elimination System (NPDES) regulations or the Clean Water Act does not exempt Waste Pile Management Facilities from the storm water requirements of the proposed General Order.

The conditions of the proposed General Order ensure that petroleum-impacted soils will not pose a significant threat to Water Quality by requiring that Waste Pile Management Facilities be properly operated and managed, with well-established and maintained erosion and run-on/off control Management Practices. The proposed General Order establishes minimum standards for long-term maintenance, monitoring and reporting, and implementation of appropriate Management Practices. Management Practices that control erosion and sedimentation, and contain storm water runoff are more feasible and more effective than treatment methods and will be required. The proposed General Order requires Waste Pile Management Facilities be equipped with features that will ensure full and complete containment of the waste for the treatment or storage period.

The Water Board will use a variety of tools to evaluate the overall effectiveness of the General Waiver program. The Executive Officer will approve all proposed Waste Pile projects individually via approval of a complete report of waste discharge. Water Board staff will coordinate with local

enforcement agencies to ensure compliance with approved management practices (MP) and monitoring requirements are achieved. Water quality-monitoring (as applicable), inspections/observations by local enforcement agencies will be used in conjunction with Management Practices implementation to determine progress toward meeting conditions of the General Order. Water Board staff will routinely review progress and evaluate program effectiveness on an on-going basis.

The proposed General Order 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 the proposed General Order and the Basin Plan, the more water quality protective provision will prevail. The proposed waiver protects the environment because it encourages the appropriate management of petroleum-impacted soils by providing a staging area where waste soils may be temporarily stored while they are screened and analyzed to make environmentally sound decisions about the ultimate treatment, disposal or reuse options. The adoption of the proposed 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.

The issuance of the proposed General Order 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 Board and the Water Board. Further, the adoption of the proposed General Order will assist in:

- Protecting waters of the state from pollution or contamination.
- Simplifying and expediting the application process for the Discharger.
- Reducing Water Board time preparing and considering individual Waste Pile Waivers.

Implementing Agencies - Primarily Water Board staff will carry out implementation of the General Order. Where a memorandum of understanding exists with local government to implement Water Board requirements, the local agency will also implement the proposed General Order. For example, Santa Barbara County has a process in place for permitting these types of projects. After permitting by the County, Water Board staff will review the application package (i.e., Report of Waste Discharge) and annual reports, and provide enforcement support as needed. County staff will perform field inspections/observations. Water Board staff is presently coordinating with Santa Barbara County to develop an MOU that establishes agency responsibilities pertaining to all authorized Waste Pile Management Facilities.

Parallel to the proposed General Waste Pile Waiver Order is "*Order No.R3-2005-005, General Conditional Waiver of Waste Discharge Requirements 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 Reuse Waiver). The General Reuse Waiver authorizes restricted beneficial reuse of crude oil-impacted soils on existing roads, berms and parking areas on active oilfields and for encapsulated fill uses elsewhere. The proposed General Waste Pile Waiver Order will provide a staging area to triage waste impacted soils for disposal, treatment and/or beneficial reuse options. Proposed General Waste Pile Waiver Order No. R3-2005-006 and proposed General Reuse Waiver Order No. R3-2005-005 is an attempt to balance the regulatory requirements and needed water quality protections with the economic benefit of oilfield beneficial reuse. The proposed Waivers are intended to provide a streamlined method of implementing needed regulatory structure.

Enrollment Process: All applicants will be required to submit the following information as part of their complete application package for enrollment consideration:

- A complete Report of Waste Discharge (ROWD) and an appropriate filing fee for each proposed Waste Pile Management Facility.
- Demonstration that compliance with all waste pile conditions listed in Attachment “A” and the proposed general monitoring and reporting program can and will be achieved.

Details of the proposed General Order conditions including prohibitions, specifications, and provisions, are contained in *Attachment A, Waiver Conditions for the Management of Petroleum-Impacted Soils to Waste Piles, Treatment and Processing Areas at Authorized Waste Pile Management Facilities on Active Oil Filed Leases and Fee Properties in the Central Coast Region*. Details of the proposed monitoring and reporting requirements are contained in *General Monitoring and Reporting Program No. R3-2005-006 for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region*. The discharge of petroleum-impacted soils at authorized Waste Pile Management Facilities will not have a significant effect on the quality of waters of the state provided the corresponding criteria and conditions are met.

ENVIRONMENTAL SUMMARY:

The Central Coast Water Board is the lead agency for the project of issuing a general waiver of waste discharge requirements for oil field Waste Pile Management Facilities. The action to adopt the proposed General Waiver will maintain or improve water quality. The proposed General Waiver contains conditions (Attachment “A”) will protect the environment by avoiding impacts to water quality and the environment. The proposed General Waiver is for existing and future oil field Waste Pile Management Facilities. Existing Waste Pile Management Facilities are exempt from provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) in accordance with Title 14, California Code of Regulations, Chapter 3, Section 15301.

The Water Board followed appropriate procedures to satisfy the environmental documentation requirements of CEQA. In proposed Resolution R3-2005-092, the Water Board staff approved an Initial Study and proposed adopting a Negative Declaration for this project in accordance with CEQA and the CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.). The draft Negative Declaration concludes that the waiver of waste discharge requirements for the specific types of waste pile management facilities addressed by the proposed General Order will not have a significant impact on the environment. Copies of the draft Negative Declaration were transmitted to all agencies and persons known to be interested in this matter according to the applicable provisions of CEQA. A copy of proposed Resolution R3-2005-092 including the Initial Study and Negative Declaration pertaining to the proposed General Order is attached for your consideration.

GENERAL ORDER ACCOMPLISHMENTS:

- The proposed General Order protects waters of the State from pollution or contamination by requiring proper control and management of petroleum-impacted soil waste piles (i.e., prohibits offsite storm water discharges).
- Provides for a staging area where petroleum-impacted soils may be screened and temporarily stored while chemistry analytical data is obtained to make decisions about the ultimate treatment, disposal or beneficial reuse options for the impacted soil material.
- Minimizing Water Board staff and Discharger’s time preparing or revising individual waivers.
- Providing the Executive Officer defined enforcement authority to ensure compliance with the control and management of petroleum-impacted soil waste piles.

COMMENTS

On May 4, 2005, the first draft of the proposed General Waste Pile Order No. R3-2005-006 and proposed Resolution No. R3-2005-092 including copies of the proposed Initial Study and Negative Declaration documents were sent to interested parties and agencies such as State Clearinghouse for review and request for public comments. Interested parties and agencies have been consulted

throughout the development of the proposed General Order. Water Board staff met with, or contacted by phone or email, oilfield industry representatives, environmental groups (e.g., calls to ECOSLO, Sierra Club, and Environmental Defense Center prior to workshops) and local entities such as Division of Oil, Gas and Geothermal Resources from the Santa Maria Office, Santa Barbara County Energy Division, Santa Barbara County Petroleum Division, Santa Barbara County Fire Protection Division, and Santa Barbara County Health Department. In addition, Water Board staff hosted held three public workshops to hear public testimony prior to finalizing the draft proposed General Order and Initial Study and Negative Declaration documents. The following table lists all workshop participants.

PARTICIPANT	REPRESENTING	WORKSHOP #1 (June 3, 2005)	WORKSHOP #2 (June 22, 2005)	WORKSHOP #3 (July 20, 2005)
Sheila Soderberg	Water Board	X	X	X
Hector Hernandez	Water Board	X	X	X
Tom Dahlgren	Greka Energy	X	--	--
Harland Felt	Greka Energy	X	X	X
Dan Vosler	CCRRI	X	X	
James Sage	Sage Consulting and Shell	X	X	X
Glenn Oliver	Plains Exploration and Production	X	X	
Gonzalo F. Garcia	Unocal Corp.	X	--	--
David White	Self	X	--	--
Bob Poole	Western States Petroleum Association (WSPA)	X	X	--
Tom Gibbons	Gibbons & Associates	X	--	--
Greg Vogelpohl	ATC		X	--
Bruce Falkenhagen	Phoenix Energy, Corege Hydrocarbons, BC Conway Energy, GTI	X	X	X
Kristy Bosard	Santa Barbara County Fire Department	X	--	--
Deana Lewotsky	Santa Barbara County Petroleum Division	X	X	X
Greg Underwood	Peak Management Solutions, Inc	X	X	X
Julie Doane-Allmon	URS	X	--	--
Ron Chambers	Aera Energy	X	X	X
Ed Brannon	DOGGR, Santa Maria Division	X	--	--
Harvey Packard	Water Board	--	X	--
Steve Nailor	Santa Barbara County Fire Department	--		X

Following is a listing of all interested parties and agencies that were provided an opportunity to review and submit comments concerning the proposed General Order and associated CEQA documents.

Mr. Ron Chambers
Mr. Mike Klancher
Aera Energy
P. O. Box 11164
Bakersfield, CA 93389-1164

Houston, TX 77002
Mr. Robert Moss
Thriftway Oil
501 Airport Drive, Suite 100
Farmington, NM 87401

Santa Barbara, CA 93101

Ms. Susan M. Whalan
Mr. Thomas G. Dahlgren
Randy Knight
Melissa Zugg
Robert G. Thompson
Greka Energy

Mr. Forrest E. Hand, Jr.
601 Jefferson Street, Room 1244

Mr. Randall Fox
116 E. Sola Street

6527 Dominion Road
Santa Maria, CA 93454

Mr. George Folks
201 South Broadway
Orcutt, CA 93455
Tracey L. Sizemore
1338 Phillips Bldg.
Bartlesville, OK 74004

Mr. Russ Hanscom
P. O. Box 1069
San Luis Obispo, CA 93401

Mr. Gary Beckerman
1035 Santa Barbara St., Ste. 8
Santa Barbara, CA 93101

Mr. S. Craig George
Vintage Oil Company
2651 E. 66th Street
Tulsa, OK 74136

Mr. Wayne Hamilton
Shell Oil
200 N. Dairy Ashford
Houston, TX 77079-1197

Mr. Derrick Vallance
Conoco
600 N. Dairy Ashford
Houston, TX 77079-1179

Ms. Kathy Gerber
301 S. Miller Street, Suite 210
Santa Maria, CA 93454

Aaron R. Allen/Jim Waldron
Chevron
9525 Camino Media, Room B-
1048A
Bakersfield, CA 93311

Mr. J. E. Pope
John D. Stieg
AERA ENERGY LLC
66893 Sargent Canyon Rd.
San Ardo, CA 93450

Mr. James Diani
P. O. Box 636
Santa Maria, CA 93456

Karol Ballantine
The Shaw Group
5290 Overpass Road, Suite 220
Santa Barbara, CA 93111

Mr. Blake Clancy
130 Robin Hill Road, Ste. 100
Santa Barbara, CA 93117

Mr. Dan Ringstmeyer
330 W. Carmen Lane
Santa Maria, CA 93428
Mr. Ken Hersh
901 Tower Way, Suite 302
Bakersfield, CA 93309

Mr. Jerome Summerlin
Padre
1861 Knoll Drive
Ventura, CA 93003

Mr. Jeff Dagdigian
Waterstone Environmental
4409 Daisy Court
Moorpark, CA 93021

Mr. Steve Little
SECOR International, Inc.
3437 Empressa Drive, Suite A
San Luis Obispo, CA 93401

Mr. Jon Rohrer, Komex
2146 Parker Street, Suite B-2
San Luis Obispo, CA 93401

Allen Waggoner, WZI
4700 Stockdale Hwy, Suite 120
Bakersfield, CA 93309

Ms. Diane S. Love
Tetratex
4213 State Street, Suite 100
Santa Barbara, CA 93110

Mr. John Wallace
Wallace Associates
4115 Broad Street, Suite B-5
San Luis Obispo, CA 93401

Mr. Dennis England and Michael
Hicguchi
England Geosystems, Inc.
15375 Barranca Parkway, Suite F-
106
Irvine, CA 92618-2207

Ms. Patti Whelen
364 Pacific Street
San Luis Obispo, CA 93401

Ms. Deanna Lewotsky
S. B. Co., Petroleum Division
624 West Foster Road, Ste C
Santa Maria, CA 93455

Mr. John Euphrat
San Luis Obispo County Planning
County Government Center
San Luis Obispo, CA 93408

Ms. Melissa Boggs-Balack

Department of Fish & Game, OSPR
213 Beach Street
Morro Bay, CA 93442
Mr. Ed Brannon
DOGGR
5075 So. Bradley Road, N221
Santa Maria, CA 93455

Mr. Steven Calanog
US EPA
75 Hawthorne Street
San Francisco, CA 94105-3901

Mr. Steve Henry
USFWS
2492 Portola Road, Suite B
Ventura, CA 93003

Mr. Jack Moline
USACOE
2151 Alessandro Drive, Suite 255
Ventura, CA 93001

Ms. Kristy Bosard
Santa Barbara County FPD
2125 South Centerpointe Pkwy #333
Santa Maria, CA 93455

Ms. Kate Sulka
Mr. Steve Nailor
Mr. Paul McCam
Mr. Tom Rejzek
Santa Barbara Co. Fire
Protection Division
195 W. Highway 246, #102
Buellton, CA 93427

Mr. John Zhao
City of Santa Maria, Public Works
2065 East Main Street
Santa Maria, CA 93454

Ms. Alice McCurdy
S. B. Co., Energy Division
30 E. Figueroa Street, 2nd Floor
Santa Barbara, CA 93101

Mr. Steve Senet
Cal Trans
50 Higuera Street
San Luis Obispo, CA 93401-5415

Mr. Larry Appel
Santa Barbara County Planning
624 W. Foster Road, Suite C
Santa Maria, CA 93455-3623

Mr. David Brown
CA Dept of Fish & Game
4949 Viewridge Avenue
San Diego, CA 92123

Mr. Jim Solis
P. O. Box 2255
Paso Robles, CA 93447-2255
Mr. Dean Wright
DTSC
1011 N. Grandview Avenue
Glendale, CA 91201

Ms. Cheryl Closson
DTSC
P. O. Box 806
Sacramento, CA 95812-0806

Mr. Louis Wolting
1200 Aguajito Road, #301
Monterey, CA 93940

Mr. Eric Lauritzen
Monterey Co. Ag Comm
1428 Abbott Street
Salinas, CA 93901

Mr. Robert Lilley
San Luis Obispo Co. Ag Comm
2156 Sierra Way, Suite A
San Luis Obispo, CA 93401-4556

Mr. William Gillette
Santa Barbara County
263 Camino Del Remedio
Santa Barbara, CA 93110-1335

Mr. Tim Boardman
DOGGR
466 N. Fifth Street
Coalinga CA 93210

Mr. Ken Wilson
DFG-OSPR
1933 Cliff Drive, Ste. 9
Santa Barbara, CA 93109

Ms. Penny Liotta
DFG-OSPR
P.O. Box 5302
Oxnard, CA 93031

Mr. Roy Butz
CA Air Resources Board-
Compliance
1001 I Street
Sacramento, CA 95814

Ms. Ellen Carroll
San Luis Obispo County
Environmental Division
County Gov. Center, Rm. 310
San Luis Obispo, CA 93408-2040

Mr. Bruce Carter
Santa Barbara Co.-OES
4410 Cathedral Oaks Road

Santa Barbara, CA 93110

Mr. John Cubit
NOAA
Federal Building, Ste 4470
591 W. Ocean Blvd.
Long Beach, CA 90802-4213

Ms. Alison Dettmer
CA Coastal Commission
45 Fremont Street, Ste. 2000
San Francisco, CA 94105

Mr. Larry Meyers
Native American Heritage
Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

Mr. Curt Batson
San Luis Obispo County
Environmental Health Dept.
P.O. Box 1489
San Luis Obispo, CA 93406

Ms. Christine Bucklin
DTSC
1011 N. Grandview Avenue
Glendale, CA 91201

Ms. Kathy Verrue-Slater
Department of Fish and Game
1700 K Street, Suite 2450
Sacramento, CA 94814

Mr. Jack Draper
5301 Office Park Dr. #205
Bakersfield, CA 93309

Donn Tognazzini
GATO CORP.
9930 Foxen Canyon Rd.
Los Olivos, CA 93441

Mr. Stewart Johnston
1363 West Main Street
Santa Maria, CA 93454

Mr. Lew Rosenberg
S.L.O. Co. Geologist
County Gov. Center, Rm. 310
San Luis Obispo, CA 93408-2040

Mr. Eric Firpo
P.O. Box 400
Santa Maria, CA 93456

Mr. Brian Baca
Santa Barbara County Geologist
30 E. Figeroa St., 2nd Floor
Santa Barbara, CA 93101

Rob Ricker, Ph.D.
Pacific Coast Branch Chief
Damage Assessment Center
Office of Response and Restoration,
NOAA
N/ORR3 Suite 10218
1305 East West Highway
Silver Spring, MD 20910-3281

Tom Gladney
ARGUELLO INC.
17100 Calle Mariposa Reina
Goleta, CA 93117

B. E. CONWAY ENERGY, INC.
C/o Bruce Falkenhagen
2275 Corbett Canyon Road
San Luis Obispo, CA 93401

B. E. Conway
B. E. CONWAY-ENOS LEASE
P.O. Box 2050
Orcutt, CA 93455

M. R. Marquez
CHEVRONTEXACO EXPL. &
PROD. CO.
P.O. Box 1392
Bakersfield, CA 93302

Lolita Miller
ERG OPERATING COMPANY
1555 Orcutt Hill Rd.
Orcutt, CA 93455

Gary Mock
E & B NATURAL RES. MGMT.
CORP.
34740 Merced Avenue
Bakersfield, CA. 93308

Dennis Timpe
GEO PETROLEUM, INC.
18281 Lemon Drive
Yorba Linda, CA 92886

E. Bruce Falkenhagen
GITTE-TEN, INC.
2275 Corbett Canyon Road
San Luis Obispo, CA 93401

Cheryl S. Grayson
GRAYSON SERVICE, INC.
4004 S. Enos Lane
Bakersfield, CA. 93312

Melvin Kirschenmann
HALLADOR PRODUCTION CO.
P.O. Box 179

New Cuyama, CA 93254

2000 Oak Street, Suite 200
Bakersfield, CA 93301

Bruce Conway
M. S. OPENSHAW
P.O. Box 2050
Orcutt, CA 93457

J. R. Kandle
TRI-VALLEY OIL & GAS CO.
5555 Business Park South, Suite 200
Bakersfield, CA 93309

Artnell Oil & Gas Co.
Agent: Edwin Miller
P. O. Box 808
Santa Maria, CA 93456

Suzanne Foley
NUEVO ENERGY CO.
1200 Discovery Drive, Suite 500
Bakersfield, CA 93309-7007

Dave Dueck
TWO BAY PETROLEUM
7100 Foothill Road
New Cuyama, CA 93254

Mr. Greg Feegle
2050-B South Broadway
Santa Maria, CA 93454

Lonnie Ratliff
NY OIL, INC.
P.O. Box 451
San Ardo, CA 93450

Don Nelson
VAQUERO ENERGY, INC.
P.O. Box 308
Edison, CA 93220

Mr. Joe Barulich
6527 Dominion Road
Santa Maria, CA 93454

Charles E. Katherman
OFF BROADWAY MINERAL
RIGHTS
P.O. Box 1812
Santa Maria, CA 93456

John McCarthy
VENOCO, INC.
5464 Carpinteria Ave., Suite J
Carpinteria, CA 93013-1423

Prentice Hall
2730 Gateway Oaks Drive, Ste. 100
Sacramento, CA 95833

Richard E. Bennett
PATRIOT RESOURCES, LLC
31910 Country Club Dr., Suite 1
Porterville, CA 93257

Mr. Bruce Hesson
DOGGR
1000 S. Hill Road, Ste. 116
Ventura, CA 93003

Mr. Robert Poole
WSPA
P.O. Box 21108
Santa Barbara, CA 93121-1108

C. Gregory Wagner
PLAINS EXPLOR. & PROD. CO.
5640 S. Fairfax Avenue
Los Angeles, CA 90056

Elliott Investments Inc.
800 N 5th Avenue
Avenal, CA 93204

Fred Cagle c/o Blue Moon Oil Co.
8700 River Spring Court
Bakersfield, CA 93312

Mr. Tom Gibbons
1103 E. Clark Ave, Suite A
Orcutt, CA 93455-5149

J. Ben Hathaway
PYRAMID OIL COMPANY
2008 21st Street
Bakersfield, CA 93301

Jack Herley, Operator
3085 Atlantic Avenue
Long Beach, CA 90807

Steve Smith
Cal/OSHA Supervising IH
2211 Park Towne Circle, Ste. 1
Sacramento, CA 95825

Mario Perea
RMR ENERGY RESOURCES
2311-C S. Oakley St.
Santa Maria, CA 93455

Dr. Kim McCleneghan
DFG-OSPR
1700 K. St., Ste. 250
Sacramento, CA 95814

Vic Paulson
WZI Inc.
4700 Stockdale Hwy., Suite 120
Bakersfield, CA 93309

Mario Perea
RICHARDS OIL CO.
P.O. Box 1715
Santa Maria, CA 93456

Bitterwater Development Co.
P. O. Box 542
Los Altos, CA 94023

Jeff Turnbull
Shell Exploration and Production
200 North Dairy Ashford
Houston, TX 77079-1197

Robert D. Eberts
SIERRA RESOURCES, INC.
P.O. Box 2788
Mammoth Lakes, CA 93546

Steven Arita
Senior Coordinator
Western States Petroleum
Association
1415 L Street, Suite 600
Sacramento, California 95814

Steven Evans Kirby
Hollister & Brace
1126 Santa Barbara St.
Santa Barbara, CA 93101

James D. Mansdorfer
SOUTHERN CALIF. GAS CO.
9400 Oakdale Avenue
Chatsworth, CA 91313

Megan Etter
Government Affairs Specialist
Aera Energy LLC
PO Box 11164
Bakersfield, CA 93389-1164

Monterey County Clerk
P.O. Box 29
Salinas, CA 93902

George G. Witter
TEMBLOR PETROLEUM CO.
LLC

Santa Clara Co. Clerk
East Wing, First Floor
70 West Hedding Street
San Jose, CA 95110

Santa Barbara Co. Clerk P.O. Box 159 Santa Barbara, CA 93102 Santa Cruz Co. Clerk Room 230 Co. Gov't. Center Santa Cruz, CA 95060	Sacramento, CA 95814 Department of Housing and Community Development 1800 Third Street Sacramento, CA 95814	Region 4 Native American Heritage Commission 915 Capitol Mall, Room 364 Sacramento, CA 95814
San Benito Co. Clerk County Admin. Bldg. 481 4 th St., 1 st Floor Hollister, CA 95023	Department of Parks and Recreation 1416 Ninth Street Sacramento, CA 95814	Integrated Waste Management Board 1001 I St Sacramento, CA 95814
County of Ventura Hall of Admin, Lower Plaza 800 S. Victoria Ave. Ventura, CA 93009-1210	Department of Pesticide Regulation 1001 I Street Sacramento, CA 95814	State Water Resources Control Board Division of Clean Water Programs P.O. Box 100(1001 "I" St Sacramento, CA 95812-4025
San Mateo Co. Clerk 555 County Center, Third Floor Redwood City, CA 94063-1665	Department of Water Resources 1416 Ninth Street Sacramento, CA 95814	DTSC CEQA Tracking Center 400 P Street, Fourth Floor P.O. Box 806 (1001 "I" St) Sacramento, CA 95812-0806
Coastal Commission, California Central Coast District Office 725 Front Street, Suite 300 Santa Cruz, CA 95060	State Water Resource Control Board 1001 I Street Sacramento, CA 95814	Mr. Babak Naficy Environmental Defense Center 906 Garden Street #2 Santa Barbara, CA 93101
Coastal Conservancy 1330 Broadway, Suite 1100 Oakland, CA 94612-2530	CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY Air Resources Board 1001 I St Sacramento, CA 95814-2814	Pam Heatherington ECOSLO P.O. Box 1014 San Luis Obispo, CA 93406
California Dept of Fish & Game P.O. Box 47 Yountville, CA 94599	Dept. of Conservation 801 K Street, 24th Floor Sacramento, CA 95814	Mr. Andrew Cristie Sierra Club Santa Lucia Chapter P.O. Box 1577 San Luis Obispo, CA 93406
California Dept of Food & Agriculture 1220 N Street Sacramento, CA 95814 Department of Forestry and Fire Protection 1416 Ninth Street Sacramento, CA 95814	Dept. of Parks and Recreation Resource Management Division P.O. Box 942896 Sacramento, CA 94296-0001	State Clearinghouse PO Box 3044 Sacramento, CA 95812-3044
Department of Health Services 714/744 P Street	Department of Water Resources 1416 Ninth St 3rd Floor Sacramento, CA 95814	
	Department of Fish and Game P.O. Box 47 Yountville, CA 94599	

Based on extensive comments and strong industry opposition to the conditions and regulatory structure proposed in the first draft version of the proposed General Order, Water Board staff determined it appropriate to re-structure and revise the proposed General Waste Pile Order by re-drafting it completely and changing it from "Waste Discharge Requirements" to a "Waiver of Waste Discharge Requirements". The primary differences between the two items is that the Proposed Waiver Order will not require annual fees and the Waiver conditions have been clarified and simplified. Overall, the Proposed Order includes very stringent, yet appropriate and reasonable conditions, which are protective of water quality. As such, Water Board staff determined that regulation of waste pile facilities via issuance of a conditional waiver is most appropriate. Such modification to the proposed General Order was significant and required Water Board staff to essentially re-draft the entire General Order and associated attachments.

Consequently, Water Board staff re-scheduled the Water Board Hearing from July 8, 2005 to September 9, 2005. To provide interested parties and agencies additional time to submit additional

comments concerning the extensive revisions incurred by proposed General Order, the public comment period was extended until July 27, 2005.

Water Board staff considered all comments received throughout the comment period and nearly all were either incorporated upon receipt or had previously been incorporated. The majority of the comments were discussed extensively and incorporated during the three public workshops. Most all of the comments received applied not only to the proposed General Waste Pile Order, but also to proposed General Reuse Order (Order No. R3-2005-005), which is also being proposed for Water Board consideration during this hearing. Refer to "implementing agencies" section, above. Most comments were received prior to re-structuring and re-drafting the proposed General Waste Pile Order from a General Waste Discharger Requirements to a Waiver of Waste Discharge Requirements. The objective and focus of most comments was in large part, in response to our original intent to regulate petroleum-impacted soil waste piles via the issuance of General Waste Discharge Requirements. Due the large number of comments received and because the majority of comments are intended to apply to both General Orders, Water Board staff responses have also been combined and generally apply to both of the proposed General Orders. Comments and responses have only been separated where it is clear that the specific comment refers to only one of two proposed General Orders.

Following is a summary listing of only the most significant comments, suggestions and concerns regarding our Water Board's proposal to issue a General Conditional Waiver Of Waste Discharge Requirements For The Management Of Petroleum-Impacted Soils At Authorized Waste Pile Management Facilities On Active Oil Leases And Fee Properties In The Central Coast Region. Copies of all written comments received are included in Attachment 7 of this staff report.

**ED BRANNON - DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES (DOGGR)
(MARCH 10, 2005):**

1. This is a huge amount of monitoring work and a huge amount of RWQCB time to review the data. The magnitude is such that the RWQCB will not be able to perform its function timely and as such will find it impossible to engage in meaningful enforcement. The program is so big as to render it impossible to comply and most likely impossible to administer. You are going to get into the same fix you are now in. Not enough time to enforce so nothing gets done. My feeling is that this program needs to be simplified.

Staff Response: As explained in the body of staff report, the proposed General Order was completely re-structured and re-drafted as a Waiver of Waste Discharge Requirements. The results of these extreme revisions produced a much more simplified program that renders it easier to achieve and monitor compliance.

1. The program might be feasible for a large remediation facility such as Chevron-Texaco's in Cat Canyon or the one AERA may be proposing. It would also be good for the huge piles in Greka leases. But a different program is necessary for small piles.

Staff Response: The proposed General Order is designed to allow the Water Board flexibility in determining the program's applicability to facilities with small piles. If a facility has small waste piles that are confirmed as "crude- impacted" only soils, the Discharger is not required to apply for this program. Such facilities may apply for the General Reuse Order and use its crude oil-impacted soils for reuse projects within its facility.

2. All small piles of contaminated material must be stored on impermeable materials and completely covered with impermeable material until removed to a central processing area or completely removed. Small piles may not remain in place longer than 30 days. Limit the number of central processing areas and really make sure the small piles are moved timely. This will substantially

reduce the number of areas that may be threatened. It will also make it easier for other agencies, such as the County Petroleum office, and ours help the Water Board enforce the standards.

Staff Response: Staff considered this suggestion and has incorporated a requirement for a low permeability barrier for all authorized waste pile management facilities. The objective of having a centralized waste pile management facility is to ensure impacted materials are stored and managed appropriately. By using these facilities, the threat to water quality will be substantially reduced.

3. How are you going to identify central processing area? What about the large piles already on location in the various fields? How are you going to define a pile? For those areas already in place will the operator have to remove the material to an impermeable base?

Staff Response: Facility operators are required to provide an enrollment application (Report of Waste Discharge). The report of waste discharge must specify the details concerning the proposed waste pile facility, its' proposed location, construction, operation and overall soil management. The proposed General Order addresses all of these issue in detail.

4. How quickly do you intend to enforce your standards? Past practices have been forever. You need specific and easily understood standards so that you can easily enforce your program. A bunch of "if then, then that or maybe this or that" type of standards will doom your program to failure. We need a simple, easily understood program that can be easily enforced. Without it, you do not have the staffing to even begin to address the industry needs.

Staff Response: Staff agrees that if not managed properly, existing staff will not be sufficient to address the industry needs. The proposed General Order has been simplified to ensure it is very clear to all what the program's objectives and expectations are. The proposed Order's standards and conditions have also been clarified to help facility operators achieve compliance. Overall, the proposed program includes reasonable expectations and common-sense approach to managing impacted soil at active oil field facilities. Staff's objective is that once applicants are enrolled, minimal effort from the Water Board will be required.

5. What penalties will you impose? I believe your penalty schedule should be published. That way no one can say someone is being treated differently than others. If you are going to have a program, you must make it simple, easy to understand, easy to comply with, easy to enforce and easy to punish. Clean, quick and certain. When it takes years to enforce violations you lose the ability to control the program.

Staff Response: Staff is aware of this potential problem. Staff will utilize the enforcement authority of the Water Code to ensure compliance with the proposed Orders. However, staff has worked very hard with the oil industry to develop a program that is accepted by most. Based on ongoing discussions with industry contacts, the proposed General Orders offer a common sense approach to managing impacted soils within the active oil field facilities. The program is relatively inexpensive to implement, and includes a reasonable regulatory structure and associated conditions. Staff is optimistic that our strong enforcement tools will not be necessary for most. Nonetheless, staff realizes there will be some that will choose not to enroll in our program and will mismanage their impacted waste piles. Staff aims to utilize our strongest enforcement tools when warranted and appropriate.

6. Except for the very big central processing areas, make the program simple by requiring small piles to be eliminated within a specified period of time. Then, you only have to deal with the small number of areas that could truly present a threat to water quality. The small piles individually pose a negligible threat, but cumulatively may pose the worst threat. Eliminate this issue effectively and concentrate on the real problems. Industry needs to get this program up and running pronto!! It will be good for them and good for the environment. Nothing will come of

this though if you make the program so complicated that no one understands it, is unable to comply and you are unable to enforce it.

Staff Response: The proposed General Orders have been simplified. The Executive Officer has discretion for determining how best to deal with the small piles that may or may not present a significant threat to water quality. We anticipate that by enrolling in the proposed General Order, the small quantity waste pile producers will have a centralized waste pile management facility where they will be able to appropriate manage all of their small piles.

7. Why do you need a registered professional to stamp a plan? Either it meets your standards or it does not. Your agency will be the final judge. Even if a PE or RG stamps a document and you do not approve it then what was the purpose of the RG? I think this is a nonsensical requirement left over from previous biases. A company is going to be judged according to compliance not according to who planned the project or who monitors it. If the project causes a threat to water quality it fails and enforcement action will be taken. An RG does not affect your ability to enforce your rules or prevent pollution. Each project is submitted to you for your approval regardless of who signs it. Why do you care who designed it. If it works and you approve it that it that. If the project fails your agency will take enforcement action. PERIOD!!!!

Staff Response: Staff discussed this issue extensively internally and during the workshop discussions. Based on the program goals and objectives, and the minimal potential threat that these proposed projects pose to the environment, staff agrees with your comment and has revised the proposed General Orders such that registered professionals are not required.

8. I think new sites and old sites should be treated the same way. There is no need to differentiate. Simplification!!! New project, meets old standards all is well. They submit a plan, pay the fees and you review and approve or disapprove it period. Get rid of the bureaucratic process. Simplify.

Staff Response: Staff agrees completely. As discussed throughout the comment section, the proposed Orders have been simplified and the beauracracy has been removed to the extent possible. The programs are designed to be simple, inexpensive and include reasonable conditions.

BOB POOLE - WESTERN STATES PETROLEUM ASSOCIATION (MARCH 23, 2005):

1. After more than 2 1/2 years without a Beneficial Reuse program in place and continuous good faith efforts to achieve reinstatement, what appears to have resulted is a program that the Integrated Waste Board specifically exempted from Title 27 which is now effectively being turned into a Title 27 activity. Frankly, industry is unable to grasp if something qualifies for a waiver, how and why does it need more than 80 conditions?

Staff Response: Staff concurs and has removed all Title 27 references from the proposed General Reuse Order. However, waste piles involve storage and not reuse, and are subject to Title 27, as are "discharges of residual wastes" from reuse. Further, the proposed General Reuse Order has been simplified to encourage recycling of crude oil-impacted soils for reuse projects. The primary focus of the monitoring program will be the implementation of Management Practices (i.e., inspections/observations) that will ensure authorized reuse projects are stable, and well constructed and maintained.

2. From an historical perspective: During a meeting at the Water Board in May, 2003 (Roger Briggs, Harvey Packard, Jennifer Soloway, Aaron Allen, Steve Kirby, Ron Chambers [via teleconference] and myself were in attendance), it was agreed: 1). Beneficial reuse of soils containing petroleum hydrocarbons is a practice to be encouraged; and, 2). To utilize the March 1999 Cal/EPA Final

Report on Oilfield Road Mix as the basis for developing a workable Beneficial Reuse program for existing oilfields on the Central Coast.

I have herewith attached this report for your reference. Its conclusion is summarized below:

"---The RMWG [Road Mix Work Group] recognizes that road mixing is a practice that has been ongoing in the Central Valley for decades. The RMWG finds no evidence of nonhazardous road mix contributing to or being implicated in environmental problems. The RMWG further recognizes that the beneficial use of road mix contributes to reduction of road dust and PM10 and enables all-weather access to remote sites for vehicles,...."
Excerpted from: "Final Report: Cal/EPA Exploration and Production Regulatory Task Force: Beneficial Reuse of Non-Hazardous Oil Field Road Mix, March 1999."

Without a workable beneficial reuse program (more specifically, having road mix on roads in the Region) what can result are the unintended consequences of higher than necessary sedimentation of stream channels adjacent to unpaved oilfield roads, loss of access to remote well sites that can result in delayed detection of spills and leaks, less safe driving conditions for employees and agency personnel. Preventing these potential occurrences must surely be of primary concern.

Staff Response: Staff concurs completely with this comment. The proposed Order has been simplified to ensure the focus of the beneficial reuse program is to encourage the reuse of crude oil impacted soils to be used as road mix for roads within active oil field facilities. Water Board staff realize these reuse projects will not present a significant threat to water quality. While the implementation of Management Practices will be required to ensure sedimentation and erosion of authorized projects is minimized to the extent possible, these projects do not present any more threat to the environment than existing asphalt roads and parking lots.

3. There have been two sets of WDR waivers for road mixing adopted by this Board. None of them were anywhere near as complicated as the proposed "reuse" waiver and Attachment A. The drafts being submitted are no less complicated than those being recommended for adoption for hazardous waste pits and Class III landfills. This is especially difficult to understand given that staff indicates that road mixing, done properly poses little risk to water quality and oilfield "waste piles" (meaning road mix facilities) which have been around for years and exempted from regulation by the CCRWQC Board itself on two separate occasions.

At this point, it is our assessment the program being proposed does not achieve a realistic and workable Beneficial Reuse opportunity.

Staff Response: Staff agrees completely. The proposed General Order has been simplified to ensure it is clear authorized reuse projects do not pose a significant threat to water quality. Beneficial reuse projects are encouraged and if implemented in accordance with the conditions of Attachment A, will not present a significant threat to water quality.

4. Once a reuse project (ex. road base, parking lot) is completed, is ongoing stormwater monitoring required indefinitely?

Staff Response: The proposed Order has been revised to require stormwater monitoring only if deemed necessary based on visual observations during storm events or if it is determined that significant sedimentation to a nearby surface water body has occurred.

BOB POOLE - WESTERN STATES PETROLEUM ASSOCIATION (JUNE 2, 2005)

1. Please clarify the applicability of NPDES stormwater requirements at industrial facilities (i.e., active oilfield facilities).

Staff Response: The language concerning the applicability of NPDES stormwater requirements has been revised as follows:

“Any applicable exemption from permitting requirements for industrial facilities under the National Pollutant Discharge Elimination System (NPDES) regulations or the Clean Water Act does not exempt Waste Pile Management Facilities from the storm water requirements of this general conditional waiver.”

2. No "free liquids" makes sense for reuse projects, but not at the processing areas.

Staff Response: Staff concurs. The proposed Order allows for limited and controlled use of free liquids within the processing areas.

3. Roads go where they go. The 5-foot prohibition does not make sense here like it does at the mixing area.

Staff Response: Staff agrees. The five-foot requirement (separation from groundwater) stems from the Title 27 land disposal regulations. As such, this requirement is only appropriate for waste pile management facilities, not roads.

4. Consider placing “inhabited” in front of structures, a covered parking awning could be considered a structure.

Staff Response: Staff concurs. The proposed Order has been revised to ensure it is clear that although structures may be constructed at reuse projects and or waste pile management facilities, “inhabited” structures are not allowed.

5. A vice-president of a company has to sign a road-building plan.

Staff Response: The proposed Order specifically allows technical reports required by the proposed Order to be signed by “an 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.

GREG UNDERWOOD - PEAK MANAGEMENT SOLUTIONS, INC. (JUNE 6, 2005):

1. The definition of a “waste pile” needs to be explained so we can determine exactly what is being regulated by the waiver.

Staff Response: The term “Waste Pile” is defined in the proposed General Order to mean, “any pile of petroleum-impacted earthen materials, including non-hazardous spent sandblasting aggregates. Petroleum-impacted soils include soil, silt, sand, clay and rock, unrefined “crude” oil, a variety of refined petroleum products, and to a lesser degree, chemical solvents, stabilizers, acids, metals, anti-fouling biocides, anti-rust and corrosion inhibiting compounds.”

2. Need to define “active facilities”. The County Petroleum Department mentioned that they perceive something as “active” when the pumps are operating but does not consider it “inactive” until the lease is fully abandoned (i.e., wells plugged, facilities demolished, sumps, roads and

pipelines removed). Perhaps complete “lease closure”, as defined by the County of Santa Barbara Petroleum Department, should be the definition of when an active oil field facility becomes inactive. The wells are always the first thing to be shut in and as such should not be the determining factor for defining “active”. By defining “active sites” as any site that has not achieved complete lease closure, these waivers can be applied to sump restoration projects as well and additional waivers will not be required.

Staff Response: For clarification purposes, the proposed General Order defines the terms “Active Oil Field” and “Discharger”, as follows:

“Discharger” means the landowner or operator of the Waste Pile Management Facilities.

“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.

3. Fee structures need to be discussed and applied appropriately taking into account project size and complexity.

Staff Response: The proposed General Order has been revised to only require a one-time-only enrollment fee that will be based on the discharge’s Threat to Water Quality and Complexity Rating, as defined in the fee schedule in California Code of Regulations Title 23, Division 3, Chapter 9, Article 1, Section 2200.

BRUCE FALKENHAGEN - CAREAGA HYDROCARBONS, INC. (JUNE 10, 2005):

1. I am a very small oil producer and I represent a few other small producers. Our concerns deal with the cost to comply and also to make the program to where it encourages everyone to do the right thing. Excess paperwork, testing, monitoring all directionally drive the small producer to non-compliance and to hide. If high fees are established, many small operators will ignore the program.

Staff Response: Staff is aware of this concern and has revised the proposed General Order to ensure the costs of enrolling in this program are kept at a minimum and simplifying the program. Practically all aspects of the proposed program have been simplified. Paperwork, testing, and monitoring are being kept to a minimum. Only those requirements that are believed to be reasonably required for the protection of water quality have remained.

2. The proposed Order must be modified to reflect the concept that the source material and the blended material may have free liquids present upon the initial introduction to the environment. Thus, the proposed Order must allow time for the free liquids to be absorbed or removed.

Staff Response: Staff addressed this concern by requiring all liquids be appropriately managed or removed within 48-hours.

3. Written permission from the landowner should not be required. For each of our leases, many years ago the landowner/mineral owner signed an agreement whereby he agreed to allow the oil company to produce the oil and gas and to use the land. These rights were given to the oil company in exchange for paying him an agreed royalty percentage on the oil and gas produced. Now years later, along comes the RWQCB saying that I need new landowner approval. This is unfair and is in violation of the contract we have. The landowner previously signed off on those rights to the company. Most likely the landowner has changed in the interim and the landowner

might not be as agreeable as the original one was. The Regional Board cannot come in and grant the landowner rights that are not RWQCB's to give.

Staff Response: Water Board staff does not intend to require a discharger to break or complicate any previous agreement the oil producer has with the landowner. The Water Board's intent is to ensure the landowner is aware of the reuse and water pile projects being implemented. To minimize complications with existing agreements between the landowners and oil producers, the proposed General Order has been modified to require the oil producer to only "notify" the landowners of any reuse or waste pile projects being implemented rather than to request their permission. This is appropriate since property owners are also responsible for waste discharges at or from their property.

4. There should be an exemption depending on the size of the pile or the volume of material to be reused. There should be some size where, even though the concern is minor on the large piles (as suggested by the entire waiver program), the concern then becomes less than negligible for a small pile. I suggest that the size break is around 15 cubic yards.

Staff Response: Staff agrees that there will situations or circumstances in which the volume of impacted soils will be such that enrollment into the General Waste Pile or General Reuse Waiver programs will not make much sense. Thus, the proposed Orders have been revised to allow much the Executive Officer flexibility in determining whether a particular waste pile must be enrolled or exempted from the proposed program. While the proposed General Order does not specify a specific size break for an exemption, the proposed Order allows the Executive Officer much discretion concerning the appropriateness of enrolling specific oil producers. Staff's objective is to be as "reasonable" as possible concerning the appropriateness of enrollments to this program. If a Discharger can demonstrate that they should not be enrolled in the proposed program, Staff will work with them to provide an appropriate exemption.

5. The condition to hire a qualified professional to oversee "small" reuse projects, cleanups, or to prepare plans is a deal killer for a small company and should be deleted. We are talking about a small volume of material, most likely from a stuffing box or minor leak. In the past, these material are laid out right then for a berm around the wellhead or to fill potholes near the well, or to strengthen the dike. Further, in the situation where tank bottoms are blended and used for roads, again, where is the need for a professional? In the majority of these situations no plans are needed; one simply takes the material with the backhoe, mixes in some loads of native material, blend it on the road and lay it down. Periodically, we blade it. Very simple, understandable, quick, inexpensive, and with no issue of any threat to water quality, health and safety, or erosion over many decades. Why develop a new "professional engineer" welfare program now? These roads are not used by the general public.

Staff Response: Staff agrees with this comment. Beneficial reuse projects are not intended to be used by the general public. These projects (e.g., roads) are to be authorized only within active oilfield properties. Thus, there should be no need for such projects to be overseen or approved by a qualified professional Engineer (P.E.) or Registered Engineering Geologist (R.E.G.). Nonetheless, water board staff believes there should be minimum construction standards for all authorized projects. Thus, the proposed General Order has been revised to require all authorized construction projects be performed by experienced personnel and in accordance with "Good and Workmanlike" construction standards, as determined by oversight agency inspections. Specifications and plans shall be signed by a principal executive officer of at least the level of vice-president or their duly authorized representative.

6. Testing should be split into two different testing routines. One testing routine would be for stuffing box, oil spill, and tank bottom material where one is dealing with natural production, then the second type of testing would be for sump material, which has the potential to have other

wastes, manmade chemicals, PCB's, old tires, etc. Each is a different animal, and the one size testing fits all approach is inappropriate.

Staff Response: Staff fully agrees with this comment. The proposed General Orders have been revised to ensure that all characterization of impacted soils is proposed by the Discharger as part of the enrollment application (Report of Waste Discharge). The Discharger will be required to propose for Executive Officer approval, a specific description of the proposed sampling and analyses protocol to be utilized to characterize the petroleum-impacted soil waste piles. This section must also include a description of the proposed criteria and sampling protocol to determine which soils meet beneficial reuse standards, require offsite disposal and require further processing and treatment. Further, if the Discharger is able to demonstrate that existing analytical data exists to adequately characterize a particular source of impacted soils, further characterization may not be required.

7. Please clarify whether at decommissioning the Discharger will be required to remove all reuse materials or may leave them in-place.

Staff Response: The proposed General Order does not address what will or will not be authorized during decommissioning of an oil field facility. Such decision will be made by the appropriate local authorities with jurisdictional authority.

8. The proposed Order requires notice be provided at least 90 days prior to the effective date of a change in ownership. This is unrealistic. When an oil property sells, it may close in 1-2 weeks or 1 month, not 3 months. Additionally, several other noticing deadlines pertaining to changes in operations or noticing every time a minor spill occurs are unreasonable.

The Order also states that the waiver is not transferable except after notice and subject to the approval of the Executive Officer. Why does the E.O. have any right to approve or disapprove a transfer of ownership?

Staff Response: Staff agrees completely and has revised the noticing deadlines to address the concern. Further Water Board staff acknowledges the E.O. does not have the legal right to approve or disapprove of a transfer of ownership. The proposed Order was revised to state, "The proposed General Waiver is not transferable to anyone. The Discharger shall notify the Water Board in writing of any proposed change in ownership or responsibility of the property where an authorized Waste Pile Management Facility is located. Notification shall be performed by filing a notice of termination (NOT) within 30-days following the effective date of change in ownership or responsibility. Failure to submit an NOT shall be considered a violation of §13264 of the Water Code."

9. Companies should be allowed to group facilities by County. The same agency will do all inspections, so it makes sense to allow a company to submit one application per county.

Staff Response: Significant discussion pertaining to this issue occurred during one of the Workshops. Based on these discussions, staff agreed to allow companies to group facilities as follows: "The Discharger shall provide a minimum of one application package (ROWD) per lease or fee property. Multiple Waste Pile Management Facilities located within a single lease or within the Discharger's existing Business Plan, as defined by the respective County or Certified Unified Public Agency in which the facility is located, may be addressed in a single ROWD."

10. The proposed General Orders require submittal of rainfall information. I suggest that if rainfall data is needed, then the Water Board or County can request it directly from NOAA. Rainfall data is readily available if and when needed.

Staff Response: Staff concurs and has modified this requirement as suggested.

11. The reporting period should be changed to coincide with the government's rainfall period, which is July 1st to June 30th. Also, please allow 60 days for the reporting, as opposed to 30.

Staff Response: Staff discussed this issue extensively during the 3rd workshop meeting and all in attendance agreed the annual report should be submitted by October 1 of each year. The specific requirement is as follows:

"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 8.i**) have been successfully implemented. The report shall be submitted in accordance with MRP No. R3-2005-006".

BOB POOLE - WESTERN STATES PETROLEUM ASSOCIATION (JUNE 15, 2005):

1. Unlike the proposed Oilfield Reuse WDR's, the general Order for other General WDRs and Waivers adopted by the Board (e.g., fertilizer and pesticide facilities) do not classify the enrolled facilities as waste management units with the subsequent application of Title 27 requirements such as those listed in item number 6 of the draft Order No. R3-2005-006. Additionally, the monitoring and reporting program for other types of facilities appear to be substantially more streamlined than the current oilfield proposal while still meeting the Board's need for data to support a finding that the operation of the facilities covered by the general order is protective of water quality. We believe that a similarly constructed oilfield reuse general WDR and monitoring program would provide the board with sufficient information pertaining to the construction, operation, and maintenance of processing areas in oilfields.

Staff Response: Staff concurs. Staff has reviewed the recently adopted General Waiver concerning Timber Harvest Operations and has utilized a similar general approach to streamline the monitoring requirements. Further, because of the Title 27 exemption for reuse, only those appropriate Title 27 requirements are applied. (See 27 C.C.R. section 20090(h).) The exemption does not apply to waste piles.

1. As discussed at the June 3, 2005 public hearing, we would also respectfully recommend that the Staff consider a "Small Producer" waiver from the General Order similar to the "Wineries, Order No. R3-2002-0084" which would still inform the Board and other interested agencies that smaller facilities are being operated, but relieve the operators from the annual monitoring and reporting requirements while still subjecting them to the prohibitions, recommendations and specifications contained in the general Order. If the application for coverage or waiver goes to the other interested agencies (DOGGR, local jurisdictional agencies) then they can verify compliance with either the general Order or waiver during inspections by their personnel. As part of either DOGGR or local lease restoration, closure of the processing facility to the satisfaction of the Board could be a milestone under either or both of the other agency's enforceable lease restoration programs.

Staff Response: Staff believes the Executive Officer has discretion to determine a "Small Producer" should be enrolled in the General Waste Pile Waiver based on whether or not the operation could pose a risk to water quality. Such decision would be made as part of the application process. For instance, if a Discharger believes it must be exempted from enrolling into the General Order, it must justify such exemption in its application package. The decision as to whether "Small Producers" will enroll will be based on site-specific considerations including waste pile volumes, sources, and location could pose a threat to water quality. As suggested above, the local agencies will help verify site considerations and present management practices.

2. We have used the “General Conditional Waiver of Waste Discharge Requirements - Timber Harvest Activities in the Central Coast Region - Resolution No. R3-2005-0066” for comparison when reviewing the proposed oilfield reuse waiver and determined that, once again, the waiver and monitoring programs are more streamlined while still meeting the Board’s mandate to protect surface and groundwater. Of particular note, the Timber Order is silent on the removal or continued use of installed roads at the end of harvesting activities. Also, the Monitoring and Reporting program contains numerous references to a road inventory template and forensic (visual) monitoring features that are substantially easier for the applicant than those currently identified in the proposed oilfield Reuse Waiver.

We also believe that the applicable statutes and regulations offer sufficient flexibility for the Regional Board to structure appropriate vehicles to deal with this situation in an efficient, cost-effective manner - one that ensures protection of water quality. For example, waivers under Water Code § 13269, with reasonable monitoring and reporting requirements, would in our view clearly be in the public interest. In addition, Title 27 CCR § 20080(b) provides for “engineered alternatives” to the general construction and prescriptive standards. Finally, Title 27 CCR § 20090(h) (reuse and recycling) represents an apparent regulatory preference for use of an exemption for such activities as reuse of soil containing oil on a variety of roads.

Staff Response: Water Board staff has considered this comment seriously and has used the above referenced Timber Harvest Waiver as a guide to revise the proposed Reuse and Waste Pile Waivers. However, timber harvest activities are significantly different than reuse and oily waste storage so the ability to make useful comparisons between the two programs is very limited.

BRUCE FALKENHAGEN – ENERGY ENTERPRISES (AUGUST 7, 2005)

1. Prohibitions, #21. The words “permanently inhabited” were to be added before “structures”

Staff Response: Staff has revised the Proposed Order as suggested.

2. Provisions, D.7.1. The first word needs to be capitalized.

Staff Response: Comment noted.

3. Provisions, D.18. The words “to anyone” should be deleted. It was picked up in D.20 of the Waste Pile Order but missed here. Should the first sentence be “General Waiver” as opposed to simple “Waiver” to match the Waste Pile Order?

Staff Response: Staff has made the recommended corrections.

Provisions, D. 18. I suggest spelling out NOT (notice of termination).

Staff Response: Item has been changed as recommended.

Prohibitions 4 and 7 should be moved to the Beneficial Reuse prohibitions.

Staff Response: Staff agrees to only move Prohibition 7. Prohibition 4 would require a five-foot separation between a beneficial reuse project and groundwater. Such prohibition would be unreasonable for reuse projects. The following prohibition has been incorporated into the proposed General Reuse Order, as prohibition No. 8:

“Discharge of waste, other than crude oil-impacted soils and spent sandblasting aggregates, is prohibited, except in compliance with Water Code Section 13264”.

RECOMMENDATIONS

- Adopt proposed “Resolution No. R3-2005-092, Approving an Initial Study and Adopting a Negative Declaration for General Conditional Waiver of Waste Discharge Requirements for the Management of Petroleum-Impacted Facilities on Active Oil Leases and Fee properties in the Central Coast Region.”
- Adopt proposed “Order No. R3-2005-006, General Conditional Waiver of Waste Discharge Requirements for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region.”

ATTACHMENTS

1. “Resolution No. R3-2005-092, Approving an Initial Study and Adopting a Negative Declaration for General Conditional Waiver of Waste Discharge Requirements for the Management of Petroleum-Impacted Facilities on Active Oil Leases and Fee properties in the Central Coast Region.”
2. “Initial Study and Negative Declaration for General Conditional Waiver of Waste Discharge Requirements for the Management of Petroleum-Impacted Facilities on Active Oil Leases and Fee properties in the Central Coast Region.”
3. “Order No. R3-2005-006, General Conditional Waiver of Waste Discharge Requirements for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region.”
4. “Attachment A, Waiver Conditions for the Management of Petroleum-Impacted Soils to Waste Piles, Treatment and Processing Areas at Authorized Waste Pile Management Facilities on Active Oil Filed Leases and Fee Properties in the Central Coast Region”
5. “DTSC Management Memo #EO-94-015-MM”
6. “General Monitoring and Reporting Program No. R3-2005-006 for the Management of Petroleum-Impacted Soils at Authorized Waste Pile Management Facilities on Active Oil Leases and Fee Properties in the Central Coast Region.”
7. Public Comments.