CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESPONSE TO WRITTEN COMMENTS
ON THE ISSUANCE OF WASTE DISCHARGE REQUIREMENTS FOR:

Cedar Fair Entertainment Company
California's Great America
4701 Great America Parkway, Santa Clara
NPDES No. CA0030180

I. Bay Area Clean Water Agencies
II. Central Contra Costa Sanitary District
III. San Francisco Baykeeper

Note: The format of this staff response begins with a brief introduction of the party's comments in italics, followed by staff's response in normal type face. Interested persons should refer to the original letters to ascertain the full substance and context of each comment.

I. Bay Area Clean Water Agencies

BACWA provided 35 comments on the Regional Water Board Standard Provisions in a letter dated May 18, 2009. After meeting with Regional Water Board staff to clarify its comments, BACWA revised comments 2, 3, 6, and 22 on June 10, 2009, and comment 10 on June 16, 2009. The comments shown below reflect BACWA's May 18, 2009, comments as revised on June 10 and June 16, 2009.

BACWA Comment 1
BACWA requests that the Water Board edit the introductory paragraph of Attachment G (under the Applicability section) for readability. Specifically, BACWA requests the following changes:

> *The purpose of this document is to supplement the requirements of Attachment D, Standard Provisions. Th~~is~~e requirements in this supplemental document are designed ~~is to provide more specifics~~ to ensure permit compliance through preventative planning, monitoring, recordkeeping, and reporting~~; and~~. In addition, this document requires proper characterization of ~~problems~~issues as they arise, and timely and full responses to problems encountered. To provide clarity on which sections of Attachment D this document supplements, this document is arranged in the same format as Attachment D.*

Response 1
We revised the Standard Provisions to include the above changes.

BACWA Comment 2
BACWA requests that the requirement for a Contingency Plan be revised as follows:

1. ***~~Emergency~~ Contingency Plan*** *- The Discharger shall maintain a contingency plan as originally required by Regional Water Board Resolution 74-10 and as prudent in accordance with current municipal facility emergency planning. The contingency plan shall describe procedures to ensure that existing facilities remain in, or are rapidly returned to, operation in the event of a process failure or emergency incident, such as employee strike, strike by suppliers of chemicals or maintenance services, power outage, vandalism, earthquake, or fire. The Discharger may combine ~~this document and~~ the Spill Prevention Plan and the Contingency Plan ~~(SPCP)~~ into one document. Discharge in violation of the permit where the Discharger has failed to develop ~~or adequately~~ and implement a contingency plan as described below will be the basis for considering the ~~such~~ discharge a willful and negligent violation of the permit pursuant to California Water Code Section 13387. The contingency plan shall, at a minimum, contain the provisions of a through g below.*

    a. *Provision of personnel for continued operation and maintenance of sewerage facilities during employee strikes or strikes against contractors providing services.*

    b. *Maintenance of adequate chemicals or other supplies and spare parts necessary for continued operations of sewerage facilities.*

    c. *Provisions of emergency standby power.*

    d. *Protection against vandalism.*

    e. *Expeditious action to repair failures of, or damage to, equipment and sewer lines.*

    f. *Report of spills and discharges of untreated or inadequately treated wastes including measures taken to clean up the effects of such discharges.*

    g. *Programs for maintenance, replacement, and surveillance of physical condition of equipment, facilities, and sewer lines.*

Response 2
After minor editing, we revised the Standard Provisions to reflect the above changes.

BACWA Comment 3
BACWA requests that the requirement for a Spill Prevention and Contingency Plan be revised as follows:

2. Spill Prevention Plan ~~and Contingency Plan (SPCP) for Oil and Other Hazardous Waste~~ *- The Discharger shall maintain a~~n~~ Spill Prevention Plan ~~SPCP~~ to prevent accidental discharges and minimize the effects of ~~any oil or other hazardous waste~~ such events. The Spill Prevention Plan ~~SPCP~~ shall:*

a. Identify the possible sources of accidental ~~loss~~ discharge, untreated or partially treated waste bypass, and polluted drainage. ~~Loading and storage areas, power outage, waste treatment unit outage, and failure of process equipment, tanks and pipes should be considered.~~

b. Evaluate the effectiveness of present facilities and procedures and state when they became operational.

c. Predict the effectiveness of the proposed facilities and procedures, and provide an implementation schedule containing interim and final dates when they will be constructed, implemented, or operational.

This Regional Water Board, after review of the Contingency and Spill Prevention Plan ~~SPCP~~ or updated revisions may establish conditions it deems necessary to control accidental discharges and to minimize the effects of such events. Such conditions may be incorporated as part of the permit upon notice to the Discharger. ~~If the discharger already has an approved SPCP, it shall update it as specified in the SPCP.~~ Dischargers shall review each plan annually and update them as needed.

Response 3
After minor editing, we revised the Standard Provisions to include the above changes.

BACWA Comment 4
BACWA points out that Attachment G should be consistent with the general waste discharge requirements (WDRs) for sanitary sewer overflows promulgated by the State Water Board (Order No. 2006-0003-DWQ). In particular, the proposed language for Attachment G adds a new threshold to the 1993 Standard Provisions that is inconsistent with the State Water Board general WDRs. Specifically, BACWA requests the following changes:

1. Neither the ~~transport,~~ treatment, nor the discharge of pollutants ~~untreated or partially treated wastewater or oil or hazardous materials~~ shall create pollution, contamination, or nuisance as defined by California Water Code Section 13050.

Response 4
We revised the Standard Provisions to include the above changes.

BACWA Comment 5
BACWA requests that Attachment G address the continuation of an expired permit. This is because many BACWA members are concerned when their permit is not renewed prior to the permit expiration date and the Regional Water Board does not issue a letter extending the permit prior to the expiration date. Therefore, BACWA requests that the Water Board include a provision addressing continuation. Specifically, BACWA requests that the Water Board include the following:

4. This permit continues in force and effect until a new permit is issued or the Regional Water Board rescinds the permit. Only those Dischargers authorized to discharge under the expiring permit are covered by the continued permit.

Response 5
To address BACWA's concern, we have revised the Standard Provisions to include the following:

> "If the Discharger submits a timely and complete Report of Waste Discharge for permit reissuance, this permit continues in force and effect until a new permit is issued or the Regional Water Board rescinds the permit."

40 CFR Part 122.6 allows administrative extension of a permit if a discharger submits a complete application for permit renewal. California Government Code Section 65943 and a USEPA/California State Water Board NPDES MOA indicate that if the Water Board fails to acknowledge whether or not a Report of Waste Discharge is complete within 51 days, the Report of Waste Discharge is considered complete. In other words, if a discharger submits a complete Report of Waste Discharge in a timely manner such as 180 days prior to expiration as required by all permits, its permit is administratively continued with or without a Water Board response.

BACWA Comment 6
BACWA asks that, when the public can come into contact with wastewater, that the Water Board consider situations where private property is involved. Specifically, BACWA requests the following changes:

> *3. Collection, treatment, storage, and disposal systems shall be operated in a manner that precludes public contact with wastewater, except in cases where excluding the public is ~~inappropriate~~ infeasible, such as private property. If public contact with wastewater could reasonably occur on public property, ~~in which case~~ warning signs shall be posted.*

Response 6
We revised the Standard Provisions to include the above changes.

BACWA Comment 7
BACWA indicates that minimum level determinations should be consistent with the State Implementation Policy (SIP). Therefore, BACWA requests that the Water Board revise Section III.A.2 to be consistent with the SIP and water and wastewater analytical methods. Specifically, BACWA requests that the Water Board revise Attachment G as follows:

> *For priority pollutant monitoring, when there is more than one ML value for a given substance, the discharger may select any one of those cited analytical methods for compliance determination. If no ML value is below the effluent limitation and water quality objective, then the Regional Water Board will assign the lowest ML value indicated in Table C, and its associated analytical method, for inclusion in the MRP. ~~the Discharger has the option of substituting another method for those listed in Table C, but only if that method has an ML level of quantification below the applicable water quality objective or below the lowest~~*

~~ML listed in Table C~~. For effluent monitoring, this alternate method shall also be U.S. EPA-approved (such as the ~~8000 or~~ 1600 series) or one of those listed in Table C. All monitoring instruments and equipment shall be properly calibrated and maintained to ensure accuracy of measurements.

Response 7

We revised the Standard Provisions to include the language BACWA suggested. However, we also added language shown in underline to BACWA's language as follows: "when there is more than one ML value for a given substance, the Discharger may select any one of those cited analytical methods for compliance determination provided the ML is below the effluent limitation and the water quality objective."

BACWA Comment 8

BACWA requests changes to influent sampling requirements. This is to reflect operating procedures at treatment plants, some of which are designed to accept recirculated flows. Specifically, BACWA requests that Attachment G be revised as follows:

The Discharger shall collect samples of influent ~~on varying days selected at random~~ and shall not include any plant recirculation or other sidestream wastes, unless otherwise stipulated by the MRP or the Executive Officer. ~~Any deviation from this must be approved by the Executive Officer.~~

Response 8

We disagree. Because dischargers only sample a few days per month for a given pollutant, we believe that sampling days should vary at random, which is consistent with current permit requirements. Therefore, we plan to keep this language. We will, however, incorporate BACWA's suggestion to allow the MRP, but not the Executive Officer, to stipulate other requirements.

BACWA Comment 9

BACWA indicates that monitoring periods need to be reasonable. Specifically, BACWA requests that the Water Board revise Attachment G as follows:

The Discharger shall collect grab samples of effluent during periods of day-time maximum peak effluent flows (or peak flows through secondary treatment units for facilities that recycle effluent flows).

Response 9

We modified the Standard Provisions to include this change.

BACWA Comment 10

BACWA indicates that the Water Board should revise the Standard Provisions to accommodate for disinfection methods other than chlorine. BACWA also points out that by requiring monitoring for all pollutants on at least one day of any multiple day bioassay test could be interpreted as requiring monthly effluent sampling for all

pollutants monitored under an NPDES Permit. Specifically, BACWA indicates that Attachment G should be changed as follows:

> *Effluent sampling for conventional pollutants shall occur on at least one day of any multiple-day bioassay test the MRP requires.*
>
> *or*
>
> *Effluent composite sampling ~~for pollutants~~ shall occur on at least one day of any multiple-day bioassay test the MRP requires.*
>
> *1) The Discharger shall perform bioassay tests on final effluent samples; when chlorine is used for disinfection, bioassay tests shall be performed on effluent after chlorination-dechlorination; and*

Response 10

We modified the Standard Provisions to indicate that effluent sampling for conventional pollutants shall occur on at least one day of any multiple-day bioassay test the MRP requires. We also added the following: "During the course of the test, on at least one day, the Discharger shall collect and retain samples of the discharge. In the event a bioassay test does not comply with permits limits, the Discharger shall analyze these retained samples for pollutants that could be toxic to aquatic life and for which it has effluent limits." Finally, we included the other changes BACWA suggested to reflect that not all treatment plants use chlorine for disinfection.

BACWA Comment 11

BACWA indicates that blending monitoring should allow for surrogate parameters. Specifically, BACWA requests that the Standard Provisions be revised as follows:

> *v. When any type of bypass occurs, the Discharger shall collect samples on a daily basis for all constituents at ~~all~~ affected discharge points that have effluent limits for the duration of the bypass, unless otherwise stipulated by the MRP or the Executive Officer.*

Response 11

We modified the Standard Provisions to include this change, with the exception of allowing stipulation only by the MRP.

BACWA Comment 12

BACWA requests that Attachment G clarify that storm water requirements only apply to facilities that are not covered by the State Water Board's General Permit for storm water discharges.

Response 12

We modified the Standard Provisions to include this clarification.

BACWA Comment 13
BACWA requests that exemption for facilities that direct "all site storm water" to the headworks should only include those areas of the plant that could potentially contribute pollutants. Specifically, BACWA requests that Attachment G be revised as follows:

> *The requirements of this section only apply to facilities where not all site storm drainage from process areas is directed to the headworks. For storm water not directed to the headworks during the wet season (October 1 to April 30) the Discharger shall:*

Response 13
We have made changes in response to this request. To clarify what is meant by "process areas" we have added the language shown in underline as follows: "(i.e., areas of the treatment facility where chemicals or wastewater could come in contact with storm water)."

BACWA Comment 14
BACWA requests that the threshold for collecting representative storm water samples be reasonable. Specifically, BACWA requests that Attachment G be revised as follows:

> *iv. Samples shall be collected from all locations where storm water is discharged. Samples shall represent the quality and quantity of storm water discharged from the facility. If a facility discharges storm water at multiple locations, the Discharger may sample a reduced number of locations if it establishes and documents through the monitoring program that storm water discharges from different locations are substantially ~~essentially~~ identical.*

Response 14
We modified the Standard Provisions to include this change.

BACWA Comment 15
BACWA indicates that receiving water sampling should be reasonable. Specifically, BACWA requests that Attachment G be revised as follows:

> *i. Receiving water samples shall be collected on days coincident with effluent sampling for conventional pollutants.*

Response 15
We modified the Standard Provisions to include this change.

BACWA Comment 16
BACWA requests that receiving water monitoring be conducted in a representative way. BACWA states that receiving water monitoring that is always collected during the lower slack water will not provide a representative picture of the receiving water and potential impacts, particularly in a tidal slough. BACWA suggests that monitoring reflect the full range of tidal conditions present in the receiving water.

Response 16

We have not made any changes in response to this request. The purpose of receiving water monitoring is to capture a worst-case scenario of potential impacts. Collecting samples at slack tide is when mixing is minimal and receiving water impacts would be most pronounced.

BACWA Comment 17

BACWA indicates that land retention or disposal area observations should not be duplicative. Specifically, BACWA indicates that dischargers who have reclamation permits for land retention should be exempt from this requirement and that for those dischargers whom the requirement applies, it should only apply when the impoundment is in use.

Response 17

We have made the following changes to address BACWA's suggestion that the requirement only apply to surface impoundments that are in use:

> "The requirements of this section only apply to facilities with on-site surface impoundments or disposal areas that are in use."

Regarding facilities that are covered by water reclamation requirements, we are unclear as to how this would be a duplicative requirement, so we have not made any change specific to that comment.

BACWA Comment 18

BACWA requests clarification on recording the flow volume. To accommodate different plant designs, BACWA believes some flexibility is appropriate. Specifically, BACWA requests that Attachment G be revised as follows:

> *For all required flow monitoring (e.g., influent and effluent flows), the additional records shall include the following, unless otherwise stipulated by the MRP or the Executive Officer:*
>
> *a. Total volume for each day; and*
>
> *b. Maximum, minimum, and average daily flows for each calendar month.*

Response 18

We modified the Standard Provisions to include this change, with the exception of allowing stipulation only by the MRP.

BACWA Comment 19

BACWA indicates that the quantity of biosolids removed from a treatment plant is typically measured at the time of transport, which may not be done monthly. Therefore, BACWA requests that Attachment G include flexible wording, such as "each calendar month or other time period as appropriate, but not to exceed annually."

Response 19
We modified the Standard Provisions to include this change.

BACWA Comment 20
BACWA points out that chlorine residual in chlorine contact basins varies greatly so recordkeeping for chlorine in chlorine contact basins should not be required. Additionally, BACWA points out that there are facilities that do not use chlorine for disinfection so the Standard Provisions should indicate that this requirement does not apply to such facilities. Specifically, BACWA requests the following changes:

> *For the disinfection process, these additional records shall be maintained documenting process operation and performance:*
>
> .
> .
> .
>
> *b. For the chlorination process, when chlorine is used for disinfection, at least daily average values for the following:*
>
> ~~*1) Chlorine residual in contact basin (mg/L);*~~
>
> *2) Chlorine dosage (kg/day); and*
>
> *3) Dechlorination chemical dosage (kg/day).*

Response 20
We have made changes in response to this request. We agree that this requirement should not apply to facilities that do not use chlorine for disinfection and have included BACWA's underlined language. On the requirement to record chlorine residual in the contact basin, we have clarified this language to read: "Chlorine residual of treated wastewater as it enters the contact basin (mg/L)." This requirement is necessary to evaluate if facilities are over or under dosing treated wastewater with chlorine.

BACWA Comment 21
BACWA indicates that bypass records should not be duplicative. Specifically, BACWA requests that the Standard Provisions be revised as follows:

> ***5. Treatment Process Bypasses***
> *A chronological log of all treatment process bypasses, including wet weather blending, shall include the following:*
>
> *a. Identification of the treatment process bypassed;*
>
> *b. Dates and times of bypass beginning and end;*
>
> *c. Total bypass duration;*

d. Estimated total bypass volume; and

e. Description of, or reference to other reports describing, the bypass event, the cause, the corrective actions taken (except for wet weather blending), and any additional monitoring conducted.

Response 21
We have made changes in response to this request. We understand that facilities that blend during wet weather typically have long-range corrective action plans and that it is a duplicative requirement for dischargers to reiterate these planned corrective actions. As a clarification, we added the language shown in underline to BACWA's language as follows: "except for wet weather blending that is in compliance with permit conditions."

BACWA Comment 22
BACWA indicates that decisions on quality assurance/quality control should be made by qualified laboratory staff or a qualified responsible official, not Regional Water Board staff. To reflect this concern, BACWA requests that the Standard Provisions be revised as follows:

> *5) Data invalidation (Data should not be submitted in an SMR if it does not meet quality assurance/quality control standards. However, ~~I~~if the Discharger wishes to invalidate any measurement after it was submitted in an SMR, ~~the~~ a letter shall identify the measurement suspected to be invalid and state the Discharger's intent to submit, within 60 days, a formal request to invalidate the measurement. This request shall include the original measurement in question, the reason for invalidating the measurement, all relevant documentation that supports invalidation [e.g., laboratory sheet, log entry, test results, etc.], and discussion of the corrective actions taken or planned [with a time schedule for completion] to prevent recurrence of the sampling or measurement problem.);*

Response 22
We modified the Standard Provisions to reflect this change.

BACWA Comment 23
BACWA indicates that member agencies need flexibility with respect to who signs self-monitoring reports. Specifically, BACWA requests the following change:

> *Results of analyses and observations*
>
> *1) Tabulations of all required analyses and observations, including parameter, date, time, sample station, type of sample, test result, method detection limit, method minimum level, and method reporting level, if applicable, signed by the laboratory director or other responsible official.*

Response 23

We modified the Standard Provisions to include this change

BACWA Comment 24
BACWA indicates that requirements for submitting results should be consistent with the Water Board's Electronic Reporting System (ERS). Specifically, BACWA points out that some of the information required by Section V.C.1.c.1 is not provided for in ERS (such as sample time, ML, and MDL for all parameters). To comply with this requirement, dischargers would need to submit additional printouts, which seems contradictory to the Water Board's goal of reducing paper usage. BACWA suggests that data submission requirements conform to ERS and that any other data be retained on site.

Response 24
We have made changes in response to this request. See Response 15 to Central Contra Costa Sanitary District comments.

BACWA Comment 25
BACWA indicates that data that are not quantified should not be used for compliance. Specifically, BACWA requests a clarification regarding how medians are determined, as follows:

> *ii. The median value of the data set shall be determined. If the data set has an odd number of data points, then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of the points are ND or DNQ, in which case the median value shall be made equal to zero for purposes of compliance ~~the lower of the two data points where DNQ is lower than a quantified value and ND is lower than DNQ~~.*

Response 25
We have not made changes in response to this request. The original proposed language is consistent with the *Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (SIP).

BACWA Comment 26
BACWA points out that the Pollutant Minimization Program needs to be characterized correctly. Specifically, BACWA requests that we correct the following typographical error:

> *If a sample result, or the arithmetic mean or median of multiple sample results, is below the reporting limit, and there is evidence that the priority pollutant is present in the effluent above an effluent limitation and the discharger conducts a Pollut~~ion~~ant Minimization Program, the discharger shall not be deemed out of compliance.*

Response 26
We modified the Standard Provisions to correct this typographical error.

BACWA Comment 27
BACWA indicates that estimated values for dioxin-TEQ should not be used for compliance. Specifically, BACWA requests that language in Section V.C.1.c.3 be revised as follows:

> *3) Dioxin-TEQ Reporting: The Discharger shall report for each dioxin and furan congener the analytical results of effluent monitoring, including the Minimum Level (ML) ~~quantifiable limit (reporting level)~~, and the method detection limit.~~, and the measured or e~~Estimated concentrations shall be reported for individual congeners, but shall be set equal to zero in determining the dioxin-TEQ value. The Discharger shall multiply each measured or estimated congener concentration by its respective toxicity equivalency factor (TEF) shown in Table A and report the sum of these values.*

Response 27
We have made changes in response to this request. While we kept the term "quantifiable limit (reporting level)" because it is consistent with the SIP, we made the remaining changes suggested by BACWA.

BACWA Comment 28
BACWA indicates that monitoring should be consistent with ERS. Specifically, BACWA requests the following change:

> *3) ~~Both t~~Tabular ~~and graphical~~ summaries of the monitoring data for the previous year*

Response 28
We modified the Standard Provisions to indicate that tabular and graphical summaries of monitoring data for the previous year shall be included if parameters are monitored at a frequency of monthly or greater.

BACWA Comment 29
To reduce paperwork, BACWA suggests that copies of lab reports be kept on site. Specifically, BACWA request that Section V.C.1.e.4(ii) be revised as follows:

> *(ii) List of analyses performed for the Discharger by a separate certified laboratory ~~(~~and copies of reports signed by the laboratory director of that laboratory~~)~~; shall not be submitted but retained on site.*

Response 29
We modified the Standard Provisions to include this change.

BACWA Comment 30
BACWA indicates that annual self-monitoring reports for ERS participants should not include duplicative reporting. Specifically, BACWA requests the following revisions:

3) Annual Reporting Requirements: Dischargers who have submitted data using the ERS for at least one calendar year are exempt from submitting the portion of the annual report required under Section V.C.1.e(1) and (3).

Response 30
We modified the Standard Provisions to include this change.

BACWA Comment 31
BACWA indicates that reporting of spills should be reserved for situations that pose a real environmental impact. BACWA points out that Section V.E.1a does not distinguish between spills that reach the environment and ones that are in contained areas. Specifically, BACWA requests the following revisions:

a. Within 24 hours of becoming aware of a spill of oil or other hazardous material that is not contained on-site and completely cleaned up, the Discharger shall report by telephone to the Regional Water Board (510) 622-2369.

Response 31
We modified the Standard Provisions to include this change.

BACWA Comment 32
BACWA indicates that reporting to the Office of Emergency Services (OES) should be more clear. Specifically, BACWA requests the following changes:

b. The Discharger shall also report such spills to the State Office of Emergency Services [telephone (800) 852-7550] only when the spills are in accordance with applicable reporting quantities for hazardous materials.

Response 32
We modified the Standard Provisions to include this clarification.

BACWA Comment 33
BACWA requests that 2-hour reporting of unauthorized discharges not be included in Standard Provisions. This is because BACWA believes that it is inappropriate to place this State-level requirement into permits, which will result in federal exposure to third party lawsuits.

Response 33
We have made changes in response to this request. To clarify that this section only applies to treatment plants (not collection systems), we changed the title of this provision as follows: "Unauthorized Discharges from Municipal Wastewater Treatment Plants." Additionally, we included the language shown in underline as follows: "The following requirements apply to municipal wastewater treatment plants that experience an unauthorized discharge at their treatment facilities and…" We kept the requirement for

two-hour reporting of unauthorized discharges. We already require this reporting pursuant to Water Code Section 13267. We do not view the threat of third party lawsuits as a compelling reason to leave this requirement out of NPDES permits. Moreover, we believe including all reporting requirements in one place in the Standard Provisions will facilitate compliance.

BACWA Comment 34
BACWA requests flexibility in the units used for reporting removal efficiency. Specifically BACWA requests the following changes:

> *d. POTW removal efficiency is the ratio of pollutants removed by the treatment facilities to pollutants entering the treatment facilities (expressed as a percentage). The Discharger shall determine removal efficiencies using monthly averages (by calendar month unless otherwise specified) of pollutant concentration of influent and effluent samples collected at about the same time and using the following equation (or its equivalent):*
>
> *Removal Efficiency (%) = 100 × [1-(Effluent Concentration/Influent Concentration)]*
>
> *When preferred, the Discharger may substitute mass loadings and mass emissions for the concentrations.*

Response 34
We have not made changes in response to this request because 40 CFR Part 133.01(j) defines percent removal in terms of concentration.

BACWA Comment 35
BACWA indicates that the analytical method for mercury in Table C has conflicting information. BACWA points out that minimum levels listed for mercury in Table C are different from those included in the footnote.

Response 35
We have revised Table C to correct this discrepancy.

II. Central Contra Costa Sanitary District

District Comment 1
The Central Contra Costa Sanitary District (District) recommends that the reference to Resolution No. 74-10 be replaced with the actual standards to be followed in Attachment G. A further improvement would be to integrate this reference to an Emergency Contingency Plan with the requirements for the Spill Prevention and Contingency Plan (SPCP) in section I.C.2. since there is duplication and overlap between these two sections. At a minimum, allow dischargers to combine the two sections using one document.

Response 1
See Response 2 to BACWA comments.

District Comment 2
The District recommends modifying text in the SPCP to eliminate specific reference to *Oil and Other Hazardous Waste* from the title. Additionally, the District recommends the following changes: "The Discharger shall maintain an SPCP to minimize the effects of any ~~oil or other hazardous waste~~ events resulting in discharge of untreated or partially treated wastewater."

Response 2
See Response 3 to BACWA comments.

District Comment 3
The District indicates that this section appears to make Publicly Owned Treatment Works responsible for acts of terrorism. The District recommends either deleting this section or modifying the text to establish proper responsibility were such discharges to occur. Specifically, the District suggests the following language: "The discharge of any radiological, chemical, or biological warfare agent waste by Discharger's employees is prohibited. Discharger shall implement programs to minimize the impact of discharges of warfare agents to its system when it becomes aware of such discharges."

Response 3
It is not our intent to make municipal treatment plants responsible for acts of terrorism. Therefore, we have eliminated this requirement from the Standard Provisions.

District Comment 4
The District is concerned that Section I.I.3 makes publicly owned treatment works subject to NPDES violations for sewer back-ups on private property. The District recommends modifying the text to allow wastewater agencies to mitigate these events as follows: "…except in cases where excluding the public is inappropriate or on private property not under the control of the wastewater agency in which case warning signs shall be posted and notification of affected property owners and occupants is conducted until the exposure is mitigated.

Response 4
See Response 6 to BACWA comments.

District Comment 5
The District indicates that "level of quantification" is not current terminology. Specifically, the District recommends modifying the text as follows: "…option of substituting another method for those listed in Table C, but only if that method has a Minimum Level (ML) ~~level of quantification~~ below the applicable water quality objective ~~or below the lowest ML listed in Table C~~. For effluent monitoring, this method shall also be U.S. EPA-approved for water/wastewater (such as the ~~8000 or~~ 1600 series."

Response 5
See Response 7 to BACWA comments.

District Comment 6
The District is concerned about influent samples being collected at random and the limitations on plant recirculation. The District recommends modifying the text as follows: "The Discharger shall collect samples of influent ~~on varying days at random~~ and shall not include any plant recirculation or other sidestream wastes, unless otherwise stipulated by the MRP or the Executive Officer. ~~Any deviation from this must be approved by the Executive Officer~~

Response 6
See Response 8 to BACWA comments.

District Comment 7
The District believes it should be allowed to sample for peak flows during normal business hours. It recommends modifying the text as follows: "The Discharger shall collect grab samples of effluent during periods of day-time maximum peak effluent flow…."

Response 7
See Response 9 to BACWA comments.

District Comment 8
The District is concerned about collecting effluent samples during bioassay tests. The District recommends modifying the text as follows: "Effluent sampling for conventional pollutants shall occur on at least one day of any multiple-day bioassay test the MRP requires.

Response 8
See Response 10 to BACWA comments.

District Comment 9
The District indicates that bypass monitoring requirements should reference specific constituents. It recommends modifying the text as follows: "When any type of bypass occurs, the Discharger shall collect samples on a daily basis for all constituents at all affected discharge points ~~that have~~ for the specified effluent limits at that discharge point for the duration of the bypass."

Response 9
See Response 11 to BACWA comments.

District Comment 10
The District is concerned about receiving water sampling requirements. It recommends modifying the text as follows: "Receiving water samples shall be collected on days coincident with effluent sampling for conventional pollutants."

Response 10
See Response 15 to BACWA comments.

District Comment 11
The District indicates that the requirements on land use impoundments need to distinguish between whether or not they are in use. The District recommends modifying the text as follows: "The Discharger shall conduct the following for each impoundment when in use:"

Response 11
See Response 17 to BACWA comments.

District Comment 12
The District indicates that dioxin-TEQ should reference the minimum level instead of the quantifiable and reporting limit. It recommends modifying the text as follows: "The Discharger shall report for each dioxin and furan congener the analytical results of effluent monitoring, including the Minimum Level (ML) ~~quantifiable limit (reporting limit)~~, and…"

Response 12
See Response 27 to BACWA comments.

District Comment 13
The District points out that the current electronic reporting system does not provide graphical summaries of data. It recommends modifying the text as follows: "~~Both t~~Tabular ~~and graphical~~ summaries of the monitoring data for the previous year."

Response 13
See Response 28 to BACWA comments.

District Comment 14
The District indicates that approved analyses for contract labs should be kept on site. It recommends modifying the text as follows: "List of analyses performed for the Discharger by a separate certified laboratory ~~(~~and copies of reports signed by the laboratory director of that laboratory~~)~~ shall be retained on-site."

Response 14
See Response 29 to BACWA comments.

District Comment 15
The District indicates that the current electronic reporting system (ERS) does not allow it to submit all the information required by Section V.C.1a-f. It recommends modifying the text to clarify which reporting requirements are modified by filing electronic SMR. In addition, the District recommends modifying the text as follows: "Dischargers that use ERS shall submit a hard copy of the original transmittal letter, an ERS printout of the

data sheet, and a violation report~~, and~~ (a receipt of the electronic transmittal shall be retained by the Discharger).

Response 15
We have made changes in response to this request. We recognize that ERS does not allow dischargers to provide all the information required by Section V.C.1.a-f. We modified this section to exchange (e) Annual self-monitoring report requirements with (f) Flow data; and to change the language as follows: "...the Discharger shall submit an electronic SMR to the Regional Water Board in accordance with the provisions of Section V.C.1.a~~-ge~~, except for requirements under Section V.C.1.c.1 where ERS does not have fields for dischargers to input certain information (e.g., sample time)." Additionally, we modified the Standard Provisions to include the District's suggested text.

District Comment 16
The District points out that a heading labeled 24-hour reporting only includes requirements for 2-hour notifications and 5-day written reports. The District recommends modifying the text of the section title as follows: "~~Twenty-Four Hour Reporting~~ Required Reporting and Notifications."

Response 16
We are not making changes in response to this request. We are keeping the title Twenty-Four Hour Reporting to be consistent with the Federal Standard Provisions title (Attachment D). Attachment G is organized using the same section titles as Attachment D so readers can readily see how the Regional Standard Provisions relate to the Federal Standard Provisions.

District Comment 17
The District indicates that reports to the Office of Emergency Services (OES) should be in accordance with applicable reporting quantities for hazardous materials. The District recommends modifying the text in one of two ways: "The Discharger shall also report such spills to the State Office of Emergency Services [telephone (800) 852-7550] only when the spills are in accordance with applicable reporting quantities for hazardous materials." or modify text in V.E.1.a. to read: "Within 24 hours of becoming aware of a spill of oil or other hazardous material that requires reporting to OES in accordance with section V.E.1.b., the Discharger shall report by telephone to the Regional Water Board (510) 622-2369."

Response 17
See Response 31 to BACWA comments.

District Comment 18
The District points out that there is a 24-hour reporting requirement for oil and other hazardous materials, but a 2-hour reporting requirement for unauthorized discharges of wastewater treated to varying levels. The District recommends modifying text to resolve

this apparent disparity in reporting, or leave as is to avail Dischargers of the more relaxed reporting for oil and other hazardous materials spills.

Response 18
We have not made any changes in response to this comment. The purpose of the 2-hour notification requirement for unauthorized discharges from treatment plants is to fulfill a commitment made to CalEPA by chairs of the Regional Water Board and State Water Board in February 2008. If municipal wastewater treatment plants experience discharges of untreated or partially treated wastewater, we believe that it is appropriate for the discharges to provide timely notification to appropriate agencies.

District Comment 19
The District points out that calculation instructions do not address how to incorporate data reported as Non-Detect (ND) or Detected but Not Quantified (DNQ). The District recommends modifying the text to instruct dischargers to follow State Implementation Plan (SIP) instructions on how to assign values of ND and DNQ for purposes of calculating geometric mean and mass emission rate.

Response 19
We have not made changes in response to this request because the NPDES Permit template includes a section on compliance determination that instructs dischargers on how to assign values when data are ND or DNQ.

III. San Francisco Baykeeper

Baykeeper Introductory Comment

Baykeeper does not understand why the Water Board believes it is appropriate to issue this permit. While not explicitly stated, the draft permit suggests that the facility owners have repeatedly discharged water from the detention ponds to San Tomas Aquino Creek without a permit.

Although such discharges are prohibited by the Clean Water Act, Baykeeper found no evidence that the Water Board has brought an enforcement action against the facility's owners for these discharges. Baykeeper asserts that now the Water Board seeks to further insulate the facility owner from liability by issuing, post-hoc, a discharge permit that places no restrictions on volume or frequency of discharges. Baykeeper submits that a better approach – and one that does not reward previous noncompliance – is for the Water Board to order Cedar Fair to increase its ponds' storage capacity and cease discharges by a specific date.

If the Water Board chooses to permit discharges from this facility, Baykeeper believes it should limit the frequency of allowed discharges and ensure that the permit fully complies with all federal and state laws. Baykeeper was particularly struck by the tentative order's scant attention to the Basin Plan's prohibition on undiluted discharges and anti-degradation requirements.

Response to Introductory Comment

We stand by our decision to propose an NPDES permit for this discharge. We acknowledge that, until now, discharges from this facility have periodically occurred without an NPDES permit. Cedar Fair purchased the amusement park in June 2006. Prior to that time, Regional Water Board staff waived Waste Discharge Requirements for the discharge pursuant to California Water Code §13269. In 2007, Regional Water Board staff notified Cedar Fair that the waiver was invalid and it must apply for an NPDES permit. Cedar Fair did so.

The Regional Water Board could consider enforcement for previously unpermitted discharges, but that would be a matter separate from this permit action. In considering whether to pursue such enforcement, some of the factors we would consider include the previously issued waiver, the Discharger's action once the waiver was revoked, the relative threat of this discharge, and other priorities.

Regarding the Basin Plan's prohibition, see response 2, below.

Regarding antidegradation, see response 3, below.

Baykeeper Comment 1

Baykeeper finds one of the most frustrating aspects of the proposed order to be that it fails to impose limits on the volume and frequency of discharge. The tentative order authorizes discharges from the pump station "during or after storm events to prevent flooding." Neither the tentative order nor the fact sheet, however, indicates how often the facility has had to discharge in the past of how much comingled stormwater and wastewater have historically been discharged. Without information about past discharges or limits on future ones, this permit grants a blanket authorization for the facility to discharge whenever it rains.

Response 1

We revised the tentative order to add a discharge prohibition (section III.C) to limit the discharge flow rate to 5,000 gallons per minute (GPM). This is the capacity of the Discharger's pumps as described in its permit application. In any case, the tentative order does not grant a blanket authorization to discharge whenever it rains; it authorizes discharges only when rains threaten to cause flooding. The tentative order and its fact sheet do not discuss historical discharge flows because such records are unavailable. Since most of the water discharged is storm water, the permit does not include specific restrictions on volume or frequency because both are weather dependent and not totally predictable. This is consistent with our other storm water permits. Increased precipitation and runoff may increase flows, but it also dilutes the retention pond contents and increases receiving water flows.

Baykeeper Comment 2

Baykeeper points out that the tentative order is somewhat contradictory. It states that the Basin Plan's 10:1 prohibition "does not apply" to the discharge, yet the discharge "qualifies for an exception to the 10:1 prohibition." Baykeeper disagrees with both assertions: the Basin Plan prohibition does not apply and an exception is not warranted.

The Basin Plan generally prohibits all discharges that have characteristics of concern to beneficial uses, and that do not receive and initial dilution of at least 10:1. The purpose of this blanket restriction on undiluted discharges is to provide a margin of safety for protecting beneficial uses. Discharges from this facility contain chlorine, which is of concern to the creek's numerous fish-related designated beneficial uses, including cold freshwater habitat (COLD), fish migration (MIGR), preservation of rare and endangered species (RARE), and fish spawning (SPWN). In the absence of evidence that the discharge achieves an immediate tenfold dilution upon entering San Tomas Aquino Creek, the Basin Plan prohibition clearly applies to the permitted discharge.

Exceptions to the Basin Plan's prohibition may only be had if "[a]n inordinate burden would be placed on the discharger relative to beneficial uses protected and an equivalent level of environmental protection can be achieved by alternate means, such as an alternative discharge site, a higher level of treatment, and/or improved treatment reliability." The draft permit concludes that "an equivalent level of environmental protection is provided by the removal of chlorine," but the chlorine will not be removed in its entirety. The permit actually authorizes discharges that contain chlorine concentrations up to 0.08 mg/L, but offers no evidence that this limit is sufficient to protect beneficial uses. In fact, toxicity to salmonids has been observed at even lower concentrations.

Response 2

We revised Section IV.A of the Fact Sheet to clarify our conclusion regarding Basin Plan Prohibition 1. We maintain that the prohibition is not intended for this type of discharge. As explained in Basin Plan Table 4-1, the purpose of the Basin Plan's 10:1 dilution requirement is to protect against the effects of continuous discharges, to buffer the effects of plant upsets or malfunctions, to minimize public contact with undiluted discharges, and to reduce possible visual impacts. This discharge is not continuous, is not subject to upset like a treatment plant could be, could not result in public contact with undiluted wastewater, and would cause no adverse visual impact.

However, the discharge would likely comply with the provision anyway because the flow rate of the discharge is small compared to the flow rate of San Tomas Aquino Creek during a discharge event. The pumps at the pond limit the maximum discharge flow to 5,000 GPM. The average monthly flow in San Tomas Aquino Creek in January 2007

(when the last discharge occurred) was over 25,000 GPM[1]. The maximum flow of the creek during the storm that caused the discharge was about 177,000 GPM. Therefore, the discharge is relatively small compared to the flow of the creek.

Even if the discharge were unable to comply with the provision, it would qualify for an exemption pursuant to Basin Plan section 4.2 because the non-storm-related portion of the discharge is reclaimed water and because providing more dilution would place an inordinate burden on the Discharger relative to the beneficial uses protected. Removing chlorine prior to the discharge provides an equivalent level of environmental protection. Imposing unnecessary and overly restrictive requirements in this case would discourage the use of reclaimed water.

On the issue of chlorine, contrary to the commenter's assertion, the permit does not authorize chlorine concentrations up to 0.08 mg/L; it sets an effluent limit of 0.0 mg/L. Field tests appropriate for episodic discharges can only reliably quantify concentrations above 0.08 mg/L. Consistent with guidance in USEPA's *Technical Support Document for Water Quality-based Toxics Control*, the Basin Plan and the SIP, we use this limit of quantification to evaluate non-compliance. This quantification level is consistent with Regional Water Board permits for drinking water treatment plant discharges which also experience episodic discharges.

Baykeeper Comment 3

Baykeeper says this permit will authorize an unspecified number of gallons of storm water runoff and chlorinated wastewater to flow into a relatively small creek, yet it provides only the most cursory antidegradation analysis. The permit asserts that the authorized discharge will not degrade water quality for several reasons, each of which is unpersuasive. First, the permit notes that the flow of the discharge is small and the effluent highly diluted. By this reasoning, antidegradation policies would be useless in preventing degradation by numerous small discharges. Surely, the federal and state policies designated to protect our waters for future generations are intended to prevent the "death by a thousand cuts" scenario.

Second, the permit asserts that there is no reasonable potential for most contaminants, yet the discharge will contain suspended sediment and could contain nutrients, pesticides, organic carbon, and other pollutants that could impact the creek's beneficial uses, but for which a reasonable potential analysis was not undertaken.

Finally, the permit claims that all chlorine will be removed prior to discharge. As discussed in the comment above, however, the permit does not require removal of all chlorine. It merely requires that chlorine concentrations stay below the 0.08 mg/L detection limit of the required analytical method.

[1] Santa Clara Valley Water District Stream Gauge SF24 located in San Tomas Aquino Creek approximately 500m upstream from Williams Road.

Response 3

We revised Fact Sheet section III.C.6 to better explain our antidegradation analysis. We maintain that this discharge will not degrade San Tomas Aquino Creek. Our conclusion is based on the following: (1) the discharge flow is extremely small compared to the receiving water flow, (2) there is no reasonable potential for most contaminants, (3) the effluent will be highly diluted, and (4) chlorine will be removed prior to discharge.

(1) Small Discharge Flow. As described in Response 2 above, the discharge is relatively small compared to the flow of the creek. Also, discharges are brief and infrequent. All discharges in 2007 occurred over a four-hour period.

(2) No Reasonable Potential. We performed a reasonable potential analysis for all pollutants based on the limited information available. No pollutant triggered reasonable potential. All priority pollutants had concentrations below their detection limits. Thus, we have no evidence that the discharge could reasonably be expected to contain harmful concentrations of nutrients, pesticides, or organic carbon. However, the tentative order contains proposed technology-based effluent limits for carbonaceous biochemical oxygen demand, total suspended solids, pH, and chlorine.

(3) Highly Dilute Effluent. The discharge would not be full-strength reclaimed water. Precipitation would serve to dilute any pollutants in the pond water, including any residual chlorine from the reclaimed water used on site.

(4) Chlorine Removal. The tentative order requires chlorine removal and sets an effluent limit of 0.0 mg/L. See response 2, above.

The concern that our approach to antidegradation could lead to "death by a thousand cuts" is unfounded. The discharge is episodic, and its effects are unlikely to be cumulative. Multiple discharges of the pollutants of concern (e.g., suspended sediment or chlorine) would not pose adverse impacts because adverse effects are only likely if concentrations exceed protective levels. Concentrations from separate discharges are not additive.