

# **APPENDIX A**

## Tentative Order

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**TENTATIVE ORDER NO. R2-2010-XXXX**

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS FOR THE  
DISCHARGERS CITED HEREIN**

**WHEREAS** the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter “Regional Water Board”), finds that:

1. The following dischargers have been issued National Pollutant Discharge Elimination System (NPDES) permits through the orders listed below:

<b>Discharger</b>	<b>NPDES Permit Number</b>	<b>Order Number</b>
Morton International, Inc. Morton Salt Division	CA0005185	R2-2005-0010
Doug Hayes, d.b.a. The California Abalone Company	CA0036277	R2-2004-0078

Morton International, Inc., Morton Salt Division

2. Morton International, Inc., Morton Salt Division (hereinafter “Morton International”), owns and operates a salt manufacturing facility located at 7380 Morton Avenue, Newark, Alameda County. The facility processes crude salt harvested from San Francisco Bay into food grade and non-food grade products.
3. On April 20, 2005, the Regional Water Board reissued NPDES Permit No. CA0005185 for Morton International through Order No. R2-2005-0010. The order permitted process wastewater and industrial storm water discharges to a drainage channel that leads to the Alameda County Flood Control Channel and ultimately to South San Francisco Bay.
4. Morton International submitted an application for NPDES permit reissuance on December 21, 2009. At that time, it stated its intent to cease discharge, but submitted the application in case construction of a rerouting system were to be delayed.

5. Morton International stated in its “Annual Report—NPDES Compliance Schedule Program” (February 24, 2010) that it planned to cease discharge by April 30, 2010. It intended to reroute its process wastewater to the Union Sanitary District’s Alvarado Wastewater Treatment Plant. It also indicated that, prior to expiration of its NPDES permit on June 30, 2010, it would submit a Notice of Intent to the State Water Resources Control Board to comply with the Industrial Activities Storm Water General Permit (NPDES General Permit No. CAS000001, Water Quality Order No. 97-03-DWQ) for storm water discharges associated with its industrial activity.
6. Because Morton International ceased discharging process wastewater on April 30, 2010, and because it will submit a Notice of Intent for coverage under the Industrial Activities Storm Water General Permit, NPDES Permit No. CA0005185 (Order No. R2-2005-0010) can be rescinded.

Doug Hayes, d.b.a. The California Abalone Company

7. Doug Hayes, d.b.a. The California Abalone Company (hereinafter “California Abalone”) owns and operates a small, water-based farm growing red abalone (*Haliotis rufescens*) in Pillar Point Harbor on Half Moon Bay. It raises the abalone in cages suspended beneath rafts on the water. The operation is a “pass-through” aquaculture system where water, driven by currents and tides, passes naturally through the submerged cages. California Abalone neither collects nor discharges water through any manmade conveyance.
8. On April 20, 2005, the Regional Water Board reissued NPDES Permit No. CA0036277 for California Abalone through Order No. R2-2004-0078. The order permitted the discharge of waste by-products associated with abalone growth and abalone food (kelp) decomposition into Pillar Point Harbor.
9. Order No. R2-2004-0078 expired November 30, 2009. As directed by Regional Water Board staff, California Abalone did not submit an application for NPDES permit reissuance, and the permit was not administratively extended.
10. The Regional Water Board had issued the permit based on an application that proposed a much larger operation, which never materialized. An NPDES permit is unnecessary unless production increases substantially. California Abalone currently produces only about 50 pounds of animals annually and feeds its animals only about 4,000 pounds of kelp per month. It is not a concentrated aquatic animal production facility subject to regulation under 40 CFR 122.24.
11. Because the permit expired and was not administratively extended, and because an NPDES permit is unnecessary, NPDES Permit No. CA0036277 (Order No. R2-2004-0078) can be rescinded.

Environmental Review and Public Notice

12. Pursuant to Water Code § 13389, rescissions of waste discharge requirements are exempt from the provisions of the California Environmental Quality Act.
13. The Regional Water Board notified the dischargers identified above, and other interested agencies and persons, of its intent to rescind these waste discharge requirements, and provided an opportunity to submit written comments and participate in a public hearing.
14. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the rescission of the waste discharge requirements for the above dischargers.

**IT IS HEREBY ORDERED**, pursuant to the Clean Water Act and Division 7 of the California Water Code, and the regulations, plans, and policies adopted thereunder, that:

1. Morton International NPDES Permit No. CA0005185 (Order No. R2-2005-0010) is rescinded effective June 9, 2010, except for enforcement purposes.
2. Morton International shall file a Notice of Intent for coverage under Industrial Activities Storm Water General Permit CAS000001 no later than July 1, 2010.
3. California Abalone NPDES Permit No. CA0036277 (Order No. R2-2004-0078) is rescinded effective June 9, 2010, except for enforcement purposes.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Region, on June 9, 2010.

---

Bruce H. Wolfe  
Executive Officer