

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

**TENTATIVE ORDER
UPDATED SITE CLEANUP REQUIREMENTS AND
RECISSION OF ORDER Nos. 95-235, 97-124 and 97-125 FOR:**

**CITY OF RICHMOND AND
UNITED STATES DEPARTMENT OF DEFENSE, DEPARTMENT OF THE NAVY**

For the:

**FORMER POINT MOLATE NAVAL FUEL DEPOT, LOCATED AT 1009 WESTERN
DRIVE, RICHMOND, CONTRA COSTA COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter Regional Water Board) finds that:

1) Site Location: The Point Molate Naval Fuel Depot (Point Molate NFD herein the facility or site), is a former Department of Defense (DoD) Navy fuel storage facility, located on the eastern shore of San Francisco Bay. The site is about one-mile north of the Richmond-San Rafael Bridge in the City of Richmond (Figure 1), in Contra Costa County. The site consists of approximately 413 acres with topography varying from flat lying, filled tidal marsh along the bay front to steep hills rising to an elevation of more than 500 feet. Approximately 100 acres of the site are submerged and extend into the bay. The facility is bordered on the north by property owned by the City of Richmond (City) while property on the south and east boundaries is owned by the Chevron Corporation. San Francisco Bay borders the western boundary.

2) Purpose of the Order:

This Order applies to the final cleanup of the entire 413-acre Point Molate NFD facility. Although many cleanup tasks required pursuant to Board Order Nos. 95-235, 97-124 and 97-125 have been completed, final cleanup of the site is needed. Residual contamination from former Navy operations necessitates further cleanup to ensure protection of human health, water quality, and the environment consistent with the intended reuse and redevelopment plans approved by the City.

3) Site History:

- a) The Navy established Point Molate NFD in the early 1940s. Over 40 million gallons of fuel and oil were stored in 20 underground tanks, each having a capacity of approximately two-million gallons. Each tank has a diameter of about 100 feet and a depth of 20 feet, and is basically a concrete vault built into the hillside and covered by native soil. The facility configuration is largely similar to what it has historically been since being completed in 1943.
- b) Several fuel types were stored in the tanks over the years including Navy Special Fuel Oil (NSFO), a black viscous bunker fuel, diesel fuel, F-76 (marine diesel), JP-5 (jet turbine fuel), and aviation and motor vehicle gasolines. The facility also operated a sanitary sewer system

and a ballast water fuel reclamation/treatment system. The reclamation/treatment system included three former treatment ponds that are discussed in greater detail in Finding 11b. The ponds were built on the site of a larger single pond that was used for the disposal of oily waste water from various facility activities.

- c) Point Molate NFD has been inactive since September 30, 1995. Since then, it has undergone closure under the congressionally authorized Base Realignment and Closure (BRAC) Act.
 - d) Approximately 373 acres of the 413 acre site were transferred to the City in September 2003. By letter dated September 1, 2009, the Governor determined that the remaining 40 acres (Early Transfer Property) were suitable for transfer to the City in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 120(h)(3)(C) and deferred the covenant required by CERCLA section 120(h)(3)(A)(ii)(1) allowing for the early transfer to occur. All land at the Point Molate NFD is now owned by the City.
- 4) Early Transfer Cooperative Agreement:** The Navy and the City have entered into an Early Transfer Cooperative Agreement (ETCA), for the environmental cleanup of the Early Transfer Property, which provides funding to the City to address most cleanup activities required by this Order (demolition of underground storage tanks (USTs) are excluded).
- 5) Named Dischargers:** The parties responsible for complying with the requirements of this Order are the City and the United States Department of the Navy (Navy) as described below. Collectively they are referred to as the Discharger.
- a) The City is named as a Discharger because it is the current owner of the Point Molate NFD property on which there is an ongoing discharge of pollutants, it has knowledge of the discharge or the activities that caused the discharge, and it has the legal ability to control the discharge. The Navy is named as Discharger because of substantial evidence that it discharged waste to soil and waters of the state at the Point Molate NFD site during its ownership and operation.
 - b) In the event that the City and/or its successors-in-interest fail to implement and comply with this Order, the Navy remains liable for compliance with this Order. In addition, the Navy has retained separate liability at the property should certain pollutants related to unexploded ordinance and radioactive constituents be discovered. The Regional Water Board retains all of its enforcement authorities should either or both parties fail to comply with the requirements of this Order.
 - c) The Regional Water Board agrees that in the event of failure by the City to comply with this Order, the Navy may at its discretion, propose and implement a different cleanup plan than that proposed by the City. Such a plan would be subject to the same public and regulatory agency review and approval, as the City's plan submitted pursuant to this Order. Such a plan must be consistent with the proposed commercial and industrial re-use of the property and ensure no discharges of waste into waters of the State.
 - d) This Regional Water Board will give the Navy written notice of the City's failure to comply and provide the Navy 60 days without penalty to negotiate revised due dates for Task

submittals. The revised due dates and the submittal of a revised cleanup plan may be incorporated into this Order as an administrative action by the Executive Officer.

- 6) **CERCLA:** The Early Transfer Property is subject CERCLA due to the existence hazardous substances but of low concentrations and limited extent. This Order sets forth the framework and schedule for investigating and completing all necessary response actions. The agreements between the Navy and the City require compliance with the provisions of this and future Regional Water Board Orders to achieve completion of all necessary cleanup actions at the Point Molate NFD to ensure protection of human health, water quality, and the environment.
- 7) **Sites of Historic Significance:** A 100 acre portion of the site that includes the historic Winehaven Buildings and a residential complex has been nominated to the National Register of Historic Places. Any tasks that will directly or indirectly affect this historic district will require compliance with Section 106 of the National Historic Preservation Act of 1966, as amended in 1980, in accordance with the regulations for the protection of historic properties (36 CFR Part 800).
- 8) **Site Geology:** Point Molate NFD is situated on the western side of the Point San Pablo peninsula, projecting into San Francisco Bay. The peninsula is composed of fractured, fine to medium grained sandstones and siltstones of the Jurassic-Cretaceous age (~150 million year old) Franciscan formation. The site is 5 miles west of the Hayward Fault zone and just east of the projected San Pedro-San Pablo Fault. Bay mud overlays the Franciscan Formation along the shoreline. During the past 50 years, the bay inter-tidal mud flats have been artificially filled to create the low-lying flat areas of the facility.
- 9) **Hydrogeology:** Point Molate NFD is located in the East Bay Plain groundwater basin as designated by the State Department of Water Resources. The site is predominantly bedrock overlain by a thin mantle of colluvium (loose deposits of slope debris). Groundwater primarily flows via this mantle and discharges to the Bay. A relatively minor amount of groundwater is transmitted by the bedrock. It is therefore reasonable that pollutant transport, to the extent it has occurred, was in this colluvium mantle. The groundwater at this site is not considered a potential source of drinking water, primarily due to the lack of production volume.
- 10) **Offshore Environmental Amenities:** Special areas of significance exist on-site in the offshore areas. The special areas delineated in the Point Molate Environmental Impact Report are the tidal marsh habitat and the eel-grass bed habitat. No remediation work is expected in the off-shore area. However, special provisions stated herein require monitoring of those offshore areas and to prevent impacts from the remedial operations.
- 11) **Areas of Known Contamination:** There are four areas of concern (see Figure 2) that may present a continued source of pollution at Point Molate NFD. All of the following areas are subject to the requirements of this Order.
 - a) **Site-1 Landfill** – Waste from the operation of the Point Molate NFD was disposed of in a steep ravine area known as Site-1. The thickness of the waste may extend as much as 50 feet below the present ground surface. Volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs), pesticides, jet fuel, diesel, motor oil, and drums have all been documented to be in the landfill waste. Pursuant to a 2005 Record of Decision, the waste was capped with a soil cover, and groundwater monitoring is conducted to confirm waste

containment. This Order requires the continuance of long-term monitoring and maintenance for the Site-1 landfill in accordance with the June 2005 Record of Decision for the landfill.

- b) **Site-3 Treatment Pond Area** – At the time the Navy began operations at the facility in 1942, Site-3 was a single pond formed by diking off a small embayment just west of the historic Winehaven Building. The pond was approximately ten to eleven acres in surface area, and was used to capture oily waste from facility operations. In 1973, the pond was reconfigured to three smaller ponds with its use continuing for treatment of oily waste water from the facility. In 1991, petroleum product as well as oil sheen were observed along the shoreline of San Francisco Bay adjacent to these ponds. The petroleum discharge was subsequently determined to be coming from the waste oil and sludge deposited within the ponds.

In 1995, the Navy installed a subsurface groundwater extraction trench approximately 1,000 feet long and 20 feet deep along the shoreline to capture oil-contaminated groundwater coming from the Site-3 ponds as an emergency and interim remedy. The result of that remedy was that the oily discharge to the Bay was stopped. In 2003, the ponds were removed from service and backfilled after removal of contaminated material to a depth of ten feet below ground surface (bgs). High concentrations of petroleum contaminated material remained below ten feet bgs. The groundwater extraction treatment system has continued to be operated to date. However, since the contamination at the site continues, a potential threat exists if the extraction trench fails or becomes inoperable.

Although the groundwater extraction treatment system has effectively contained the oily water discharge, a more permanent remedy is needed to address the oily waste source, particularly if groundwater extraction is to be discontinued as proposed by the Navy in its 2005 draft feasibility study (FS). This Order requires the development of saturated zone soil cleanup criteria (Task No. 1) and a final feasibility Study and remedial action plan (FS/RAP) describing the remedy for Site-3 (Task No. 3.a).

- c) **Site-4 - IR Site-4** consists of Drum Lot 1 and Drum Lot 2 (Figure 2). This Order requires an **Interim Remedial Action Plan (Task No. 4.a)** to assess what technologies best restore impacted groundwater to beneficial uses. This Order also requires a **Human Health Risk Assessment** and if Interim Actions are not successful in achieving acceptable risk reductions, a **Feasibility Study and Remedial Action Plan** is required for a final remedial action, and a **Remedial Action Completion Report**, (Task No.4).
- i) **Drum Lot 1** – This area is directly south of Site-3. Contamination is generally petroleum related. Groundwater continues to be impacted from historic discharges at this site although at concentrations that are below the approved cleanup goals for industrial use. Site-4 also includes Drum Lot 2.
- ii) **Drum Lot 2** – Drum Lot 2 is located at the southern portion of the facility (Figure 2). Drums of liquid product were historically stored there. Groundwater monitoring as well as soil and soil-gas data indicate that trichloroethylene (TCE) is present in soils and groundwater. TCE in groundwater beneath Drum Lot 2 was recently measured at 400 ug/L (MW29-01, October 2007). This Order requires a final FS/RAP describing the remedy for Site-4, including Drum Lots 1 and 2.
- d) **UST Area** – Large petroleum underground storage tanks (USTs) at the Point Molate NFD are generally located on the hillsides. Soil and groundwater contamination detected adjacent to

the USTs and former valve boxes are the result of historic spillage and leakage. Free-phase product has been observed at some UST locations, however those observations are generally limited in extent. As of July 2011, the Regional Water Board had approved closure for nine out of twenty USTs (USTs 1, 7, 9, 10, 11, 14, 16, 17, and 20). The UST structures remain. The ETCA contains provisions and funding for the City to complete the regulatory closure of all the remaining USTs. Monitoring and maintenance of the remaining tanks will continue into the future. This Order requires a plan to manage the remaining USTs, and to achieve final environmental closure of those tanks (Task No. 5).

12) Risk Assessments:

- a) **Ecological Risk Assessment:** The Navy submitted a Final Offshore Ecological Risk Assessment Report, dated November 24, 1999, which evaluates soil and sediment chemical data along the shoreline down-gradient of Site-3. Results from this report are incorporated into the Fuel Product Action Levels (FPALs) discussed in Finding 13 below.
- b) **Human Health Risk Assessment:** The Navy submitted a Human Health and Environmental Risk Assessment Report, for Site-4 dated March 2003. Results from this report are incorporated into the FPALs discussed in Finding 13 below. However, the Discharger shall submit a revised Human Health Risk Assessment for Site-4.

13) Cleanup Levels: The Navy submitted a Fuel Product Action Level report, dated August 31, 2001, (the FPAL report), which specifies soil and groundwater pollutant concentrations considered safe based on commercial and industrial land uses. The FPAL report incorporates findings from Ecological Risk Assessment and Human Health Risk Assessment studies for this site. The FPAL report establishes fuel cleanup levels based upon depth below ground surface and distance away from the Bay for different land use scenarios. However, the FPAL report does not address cleanup levels at or below the groundwater table, specifically at Site-3. This Order requires a proposal for the establishment of the cleanup of residual contamination below the groundwater table under different land use scenarios and that are protective of human health and the environment, (see Task No. 1).

14) Recordation of Deed Restrictions: A land use control document (LUC) has been developed and recorded for the entire Point Molate NFD site. The LUC in this situation is known as a covenant to restrict use, or CRUP, which was recorded in Contra Costa County on March 29, 2010. The CRUP protects the public during the completion of site remediation activities and provides for the necessary access to complete those activities. In some cases, the CRUP may need to be amended as appropriate, depending on the scope of each proposed cleanup action for areas of the site that do not meet unrestricted use standards. This Order requires the Discharger to propose amendments to the CRUP for Regional Water Board review and approval after an acceptable remedy has been successfully completed pursuant to this Order, (see Task No. 8).

15) Basis for Cleanup Standard:

- a) State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge and requires attainment of background levels of water quality, or the highest level of water quality which is reasonable if background levels of water quality cannot be restored. Cleanup levels other than background

must be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with Resolution No. 68-16.

- b) State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304," applies to this discharge. This Order and its requirements are consistent with the provisions of State Board Resolution No. 92-49, as amended.
- c) **Beneficial Uses:** Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board, Office of Administrative Law and the U.S. EPA, where required. The Basin Plan designates the following potential beneficial uses of groundwater underlying and adjacent to the site (San Francisco Bay):
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| a. Commercial and sport fishing; | g. Preservation of rare and endangered species; |
| b. Estuarine habitat; | h. Water contact recreation; |
| c. Industrial service supply; | i. Non-contact water recreation; |
| d. Fish migration; | j. Shellfish harvesting; |
| e. Navigation; | k. Fish spawning; and |
| f. Industrial process supply; | l. Wildlife habitat. |

- 16) Reuse or Disposal of Extracted Groundwater:** Resolution No. 88-160, adopted by the Regional Water Board, allows discharges of extracted and treated groundwater from site cleanups to surface waters only if it has been demonstrated that neither reclamation nor discharge to the sanitary sewer is technically and economically feasible".
- 17) Basis for 13304 Order:** California Water Code Section 13304 authorizes the Regional Water Board to issue orders requiring a discharger to cleanup and abate waste where the discharger has caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of pollution or nuisance.
- 18) Cost Recovery:** Pursuant to California Water Code Section 13304, the Discharger is hereby notified that the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.
- 19) Board Order No. R2-2008-0095:** The Board previously adopted a final cleanup order (Order No. R2-2008-0095) for the entire site on November 12, 2008; however, that order was vacated and remanded by the State Water Resources Control Board on September 15, 2009, due to an erroneous finding under the California Environmental Quality Act ("CEQA"). Specifically, the State Water Board held that the Regional Water Board should not have used a categorical exemption from CEQA when adopting Order No. R2-2008-95, since the Point Molate NFD is on

what is commonly referred to as the “Cortese List,” which is a list of sites involving the discharge of hazardous materials. CEQA prohibits the use of categorical exemptions for projects that take place on sites included on the Cortese List.

The State Water Board remanded the matter to the Regional Water Board to comply with CEQA. Since the remand, the City of Richmond prepared and certified an environmental impact report for redevelopment of Point Molate NFD, including cleanup needed for redevelopment. The Regional Water Board, as a responsible agency, is therefore relying on that EIR for the purposes of adopting this Order. See Finding 21 below.

20) CEQA: The City of Richmond, as the lead agency under CEQA, has prepared and certified an Environmental Impact Report (EIR) on March 8, 2011, for the redevelopment of the Point Molate NFD, including cleanup required for redevelopment. That EIR evaluated the environmental impacts associated with cleanup and redevelopment of the Point Molate NFD site under various alternative development scenarios. The EIR concluded that there would be significant unavoidable impacts related to cultural resources, socioeconomic conditions, traffic, and/or aesthetics under each alternative, including the no project alternative. The Regional Water Board has considered the EIR and finds that the significant unavoidable impacts are within the jurisdiction of other public agencies who can and should require changes, alterations or mitigation measures. Such impacts are outweighed by the benefits of cleanup of the site. Furthermore, with respect to environmental impacts within the Regional Water Board’s jurisdiction, the Board finds that the impacts of those parts of the Point Molate NFD redevelopment project it approves, have been mitigated to less than significant levels.

21) Notification: The Regional Water Board has notified the Discharger and all interested agencies and persons of its intent under California Water Code Section 13304 to prescribe site cleanup requirements for the Point Molate NFD and has provided them with the opportunity to submit their written comments.

22) Public Hearing: The Regional Water Board in a public meeting heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED, pursuant to Section 13304 of the California Water Code, that the Discharger (or its agents, successors, or assigns) shall cleanup and abate the effects described in the above findings as follows:

A: PROHIBITIONS

1. The discharge of wastes, non-hazardous or hazardous materials, in a manner which will degrade, or threaten to degrade, water quality or adversely affect, or threaten to adversely affect, the beneficial uses of the waters of the State is prohibited.
2. Further significant migration of wastes or hazardous substances through subsurface transport to waters of the State is prohibited.
3. Activities associated with the subsurface investigation and cleanup which will cause significant adverse migration of wastes or hazardous substances are prohibited.

4. The tidal marsh habitat and wetland habitats on-site shall be completely avoided. A setback of 50 feet shall be established around the tidal marsh and any wetland area as a means of preventing any impacts to it from the remediation.
5. The offshore eel-grass habitat on-site shall be completely avoided during any remedial work.

B: TASKS & COMPLIANCE DATES

1: SATURATED ZONE SOIL CLEANUP CRITERIA

COMPLIANCE DATE: November 15, 2011

The Discharger shall propose soil cleanup criteria, acceptable to the Executive Officer, for contaminated soils below the groundwater table, or in the “saturated” zone. The Cleanup Goals developed to date by the Navy for the Point Molate NFD describe criteria for pollutants below the ground surface but situated above groundwater. The cleanup criteria for this task shall include petroleum hydrocarbons as well as other chemicals of concern and shall include any reasonably expected decomposition byproducts.

2: SOIL and GROUND WATER MANAGEMENT PLAN

COMPLIANCE DATE: December 15, 2011

The Discharger shall propose a Soil and Groundwater Management Plan for the facility, acceptable to the Executive Officer, identifying how soils and affected groundwater will be managed for any phase of cleanup activities at the facility, including initial cleanup as well as cleanups related to discoveries during any future development of the Point Molate NFD.

The plan must propose how soil and groundwater will be sampled and analyzed during all phases of remediation and development, and how test results will be used to protect site workers and future occupants and visitors from residual pollutants. The Plan shall describe the protocol to be followed for all sampling, field measurements, analytical techniques, and the sequence and methods of any proposed remediation.

The Plan shall be consistent with and incorporate all applicable mitigation measures set forth in the certified EIR. The Plan shall address equipment and the schedule of activities, proposed measures to limit fugitive emissions from site remediation and trucking activities, general soil removal and backfilling specifications, dewatering and discharge activities during the remedy process, and the proposed groundwater treatment activities to protect surrounding groundwater and surface water resources.

3: IR SITE 3

a. FEASIBILITY STUDY and REMEDIAL ACTION PLAN (FS/RAP)

COMPLIANCE DATE: February 3, 2012

The Discharger shall propose a final FS/RAP, acceptable to the Executive Officer, to cleanup the IR Site 3. The final IR Site 3 FS/RAP shall address all land-use dependant cleanup goals for the site and shall include a time schedule for sub-actions to attain the final cleanup.

b. REMEDIAL ACTION COMPLETION REPORT**COMPLIANCE DATE: February 3, 2014**

Upon implementation of the Final FS/RAP, the Discharger shall prepare a Remedial Action Completion Report for the IR Site 3, acceptable to the Executive Officer. The Remedial Action Report shall include Land Use Controls as needed. The Report shall identify the location of all remedial actions and describe volume of soil excavated, describe the specifics of the disposal of that material, present all test data generated during the remediation process and how the remediation activities met or did not meet the remediation goals.

4: IR SITE 4**a. INTERIM REMEDIAL ACTION WORK PLAN****COMPLIANCE DATE: April 3, 2012**

The Discharger shall prepare an interim remedial action work plan, acceptable to the Executive Officer, to determine the optimal technology for the remediation of IR Site 4 (described in Finding 11.c.i and Finding 11.c.ii.).

b. INTERIM REMEDIAL ACTION COMPLETION REPORT**COMPLIANCE DATE: November 2, 2012**

The Discharger shall conduct the interim action in a manner acceptable to the Executive Officer and provide a completion report by the compliance date. This shall be followed by eight (8) consecutive quarterly rounds of groundwater monitoring to assess the interim remedy chosen according to the accepted work plan described in Task 4.a above for IR Site 4.

c. HUMAN HEALTH RISK ASSESSMENT**COMPLIANCE DATE: November 4, 2013**

Based on the results of the interim action and existing site data, the Discharger shall prepare a human health risk assessment for IR Site 4 that makes recommendations on whether additional remedial measures are necessary to mitigate risks at the Site beyond Land Use Controls. If additional remedial measures are required to meet the then expected future land use at IR Site 4, a Feasibility Study and Remedial Action Plan will be developed (IR Site 4 FS/RAP), which shall include a time schedule for sub-actions to attain the final cleanup and shall be submitted to the Executive Officer for approval.

Upon approval and implementation of the Final IR Site 4 FS/RAP, the Discharger shall prepare a Remedial Action Completion Report for the IR Site 4 site, acceptable to the Executive Officer. The Remedial Action Completion Report shall include Land Use Controls as needed. The Report shall identify the location of all remedial actions, present all test data generated during the remediation process and discuss how the remediation activities met or did not meet the remediation goals. If additional remediation is not required beyond amending the Land Use Controls, the existing land use controls shall be amended per Task 8 below.

d. FEASIBILITY STUDY and REMEDIAL ACTION PLAN (FS/RAP)**COMPLIANCE DATE: February 3, 2014**

If Interim Actions implemented per Task 4.b above are not successful in achieving the acceptable risk reductions per Task 4.c above, the Discharger shall propose a final FS/RAP, acceptable to the Executive Officer, to cleanup the IR Site 4. The final IR Site 4 FS/RAP shall

address all land-use dependant cleanup goals for the site and shall include a time schedule for sub-actions to attain the final cleanup.

e. REMEDIAL ACTION COMPLETION REPORT

COMPLIANCE DATE: February 3, 2015

Upon implementation of the Final FS/RAP described in Task 4.d, the Discharger shall prepare a Remedial Action Completion Report for the IR Site 4, acceptable to the Executive Officer. The Remedial Action Report shall include Land Use Controls as needed. The Report shall identify the location of all remedial actions and describe volume of soil excavated, describe the specifics of the disposal of that material, present all test data generated during the remediation process and how the remediation activities met or did not meet the remediation goals.

5: UST MANAGEMENT PLAN

COMPLIANCE DATE: March 4, 2013

The Discharger shall propose a management plan and schedule, acceptable to the Executive Officer, to close the remaining USTs at the Point Molate NFD. Environmental case closure has been approved for nine UST cases. Eleven USTs remain open at the time of this Order because of elevated concentrations of hydrocarbons associated with the USTs. The intent of the UST Management Plan is to document the extent of contamination remaining at the eleven USTs and determine if active remediation is needed or to determine if monitored natural attenuation is adequate to achieve cleanup goals in a reasonable time frame.

6: UST REMOVAL PLAN

COMPLIANCE DATE: 90 days prior to UST Demolition

If any UST will be demolished during the course of redevelopment, the Discharger shall prepare a UST Removal Plan, acceptable to the Executive Officer, describing the tank demolition. The plan shall be consistent with the UST Management Plan and the Soil and Ground Water Management Plan required by this Order and shall incorporate all the relevant mitigation measures set forth in the certified EIR and the Land Use Controls (LUCs) recorded for this site.

7: UST STATUS REPORT

COMPLIANCE DATE: June 3, 2013

Quarterly UST status reports shall outline the progress of UST closure activities undertaken pursuant to the Plan developed for Task No. 5. Status reports shall include the results of monitoring and closure activities undertaken during the prior quarter, and include any proposed activities for the upcoming quarter.

8: AMENDED LAND USE CONTROLS

COMPLIANCE DATE: Due at the time Environmental Closure is requested by the Discharger

The Discharger shall submit amended Land Use Controls, acceptable to the Executive Officer, for any area of Point Molate NFD that does not meet “unrestricted use standards” after an acceptable cleanup has been implemented. In areas with existing land use controls, the discharger may submit amended Land Use Controls to reflect the completed cleanup or may propose eliminating land use restrictions, as appropriate, after cleanup activities are completed.

9: REMEDIATION STATUS REPORTS**COMPLIANCE DATE: Monthly beginning 30 days after the start of the remediation activities and ceasing 30 days after completion of all field activities related to this Order**

The Discharger shall submit a report to the Regional Water Board, 30 days prior to the start of any on-site remediation activities, and then on a monthly basis beginning 30 days after the start of the remediation activities, outlining the on-site remediation activities accomplished during the past month and those planned for the following month. The first monthly report at the beginning of each quarter shall include monitoring and test results and any conclusions or proposed changes to the remediation process based on those results. If any changes to the remediation are proposed during any monthly report, applicable supporting monitoring or test data will be submitted at that time. The status report shall also verify that the Prohibitions in Section A, stipulated above, have been adhered to. Should any of those Prohibitions be trespassed, the report shall propose a recommendation acceptable to the Executive Officer to correct the trespass.

10: DISCOVERIES DURING FACILITY REDEVELOPMENT**COMPLIANCE DATE: 60 days from initial discovery**

After the initial remedies have been implemented as ordered by the above Tasks, and facility redevelopment begins, discoveries of otherwise previously unknown pollution that exceeds the site's Cleanup Goals shall be reported to the Executive Officer within 48 hours of its discovery. A cleanup shall be promptly implemented according to the **Soil and Groundwater Management Plan**. The initial reporting shall be followed up by a Cleanup/Investigations Report submitted to this Regional Water Board and acceptable to the Executive, documenting cleanup actions and residual contaminant concentrations achieved, describing the situation and its status, and any further actions needing resolution.

11: SITE-1 ROD

This Order requires the continuance of long-term monitoring and maintenance for the Site-1 landfill in accordance with the June 2005 Record of Decision (ROD) for the landfill and any amendments to that ROD.

12: CONSTRUCTION STORM WATER GENERAL PERMIT**COMPLIANCE DATE: Prior to commencement of any field work**

The Discharger shall comply with the State's Construction General Permit (CGP) Order No. 2009-0009-DWQ, prior to commencement of any cleanup activity that will include disturbing greater than 1 acre of land. Proof of coverage by the CGP may consist of a Notice of Intent (NOI) after being assigned a WDID number for that NOI. As required by that CGP, a SWPPP must be maintained at the site and shall be submitted to this Board in digital format (preferably pdf).

C. GENERAL PROVISIONS

1. **No Nuisance:** The storage, handling, treatment, or disposal of polluted soil or groundwater must not create a nuisance as defined in California Water Code Section 13050(m).

2. **Good Operation and Maintenance (O&M):** The Discharger must maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.
3. **Cost Recovery:** The Discharger is liable, pursuant to California Water Code Section 13304, to the Regional Water Board for all reasonable costs actually incurred by the Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. If the Site addressed by this Order is enrolled in a State Water Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Discharger over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.
4. **Access to Site and Site Records:** In accordance with California Water Code Section 13267(c), the Discharger shall permit the Regional Water Board or its authorized representative:
 - a. Entry upon premises in which any pollution source exists, or may potentially exist, or in which any required records are kept, which are relevant to this Order.
 - b. Access to copy any records required by this Order.
 - c. Inspection of any monitoring or remediation facilities installed in response to this Order.
 - d. Sampling of any groundwater or soil which is accessible, or may become accessible, as part of any investigation or remedial action program undertaken by the Discharger.
5. **Contractor / Consultant Qualifications:** All technical documents that make or present geologic or engineering interpretations must be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.
6. **Lab Qualifications:** All samples shall be analyzed by State-certified laboratories or laboratories accepted by the Regional Water Board using approved U.S. EPA methods for the type of analysis to be performed. All laboratories shall maintain quality assurance/quality control (QA/QC) records for Regional Water Board review. This provision does not apply to analyses that can only reasonably be performed on-site (e.g., temperature).
7. **Document Distribution: Document Distribution:** Copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the following agencies:
 - a. City of Richmond - Public Library
 - b. County of Contra Costa Department of Environmental Health

The Executive Officer may modify this distribution as needed.

8. **Reporting of Changed Owner or Operator:** The Discharger shall file a technical report on any changes in site occupancy or ownership associated with the property described in this Order.
9. **Compliance Delays:** If the Discharger is delayed, interrupted or prevented from meeting one or more of the completion dates specified in this Order, the Discharger shall promptly notify the Executive Officer. If, for any reason, the Discharger is unable to perform any activity or submit any document within the time required under this Order, the Discharger may make a written request for a specified extension of time. The extension request shall include a justification for the delay, and shall be submitted in advance of the date on which the activity is to be performed or the document is due.
10. **Electronic Reporting Format:** All reports submitted pursuant to this Order must be submitted as both hard copies and electronic files in PDF format. The Regional Water Board has implemented a document database that is intended to reduce the need for storing printed reports and to streamline the public review process. All electronic files, whether in PDF or spreadsheet format must be submitted via email (only if the file size is under 1MB), or on a CD. Email notification should be provided to Regional Water Board staff whenever a file is uploaded to Geotracker (see below).
11. **Geotracker:** The State Water Board adopted regulations requiring electronic report and data submittal to the State's Geotracker database (Title 23, Division 3, Chapter 30, Articles 1 and 2, Sections 3890-3895 of the CCR). The Discharger is responsible for submitting the following via Geotracker:
 - a. All chemical analytical results for soil, water, and vapor samples;
 - b. The latitude and longitude of any permanent sampling point for which data is reported, accurate to within 1 meter and referenced to a minimum two reference points from the California Spatial Reference System, if available;
 - c. The surveyed elevation relative to a geodetic datum of any permanent sampling point;
 - d. The elevation of groundwater in any permanent monitoring well relative to the surveyed elevations;
 - e. A site map or maps showing the location of all sampling points;
 - f. The depth of the screened interval and the length of screened interval for any permanent monitoring well;
 - g. PDF copies of boring logs; and
 - h. PDF copies of all reports, work plan and other documents (the document, in its entirety [signature pages, text, figures, tables, etc.] must be saved to a single PDF file) including the signed transmittal letter and professional certification by a California Licensed Civil Engineer or a Registered Geologist.
12. **Reporting of Hazardous Substance Release:** If, on or after the effective date of this Order, any hazardous substance is discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of

the State, the Discharger shall report such discharge to the Board by calling (510) 622-2369 during regular office hours (Monday through Friday, 8:00 to 5:00).

- a. A written report must be filed with the Regional Water Board within five working days. The report must describe: the nature of the hazardous substance, estimated quantity involved, duration of incident, cause of release, estimated size of affected area, nature of effect, corrective actions taken or planned, schedule of corrective actions planned, and persons/agencies notified.
- b. This reporting is in addition to reporting to the State Office of Emergency Services, required pursuant to the State Health and Safety Code.

- 13. **Periodic SCR Review:** The Regional Water Board will review this Order periodically and may revise it when necessary. The Discharger may individually or jointly request revisions, and upon review, the Executive Officer may recommend that the Regional Water Board revise these requirements.
- 14. **Responsible Discharger:** Within 60 days after being notified by the Executive Officer that any one named discharger has failed to comply with this Order, the remaining discharger(s) shall be responsible to comply with this Order. The subsequent responsibility for compliance is described in Finding 5 of this Order.
- 15. **Rescission of Existing Orders:** This Order supersedes and rescinds Order Nos. 95-235, 97-124 and 97-125 except for enforcement purposes.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on **XXX XX, 2011**.

Bruce H. Wolfe
Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER WATER CODE SECTIONS 13268 OR 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY

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- Attachments:
- Figure 1: Location/Facility Map
 - Figure 2: Areas of Concern/Facility Map



