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5 June 2015

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LETTER OF CONCURRENCE, RECORD OF DECISION, BOUNDARY OPERABLE UNIT (OU-6) AEROJET SUPERFUND SITE, RANCHO CORDOVA

The Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) concurs with the proposed remedy selected by the United States Environmental Protection Agency (USEPA) for Aerojet's Boundary Operable Unit of the Aerojet Superfund Site as specified in USEPA's Superfund Record of Decision, Internal Copy dated May 2015. The Central Valley Water Board appreciates the opportunity provided to comment on the Proposed Plan and numerous versions of the draft Record of Decision along with the changes and improvements that USEPA has made to the document. Although the Central Valley Water Board is in agreement with the remedy, we still do not agree with USEPA's selection of ARARs included in the Record of Decision. The Central Valley Water Board acknowledges USEPA's improvements in the section on ARARs, the agreement to add some ARARs which were not found in the earlier drafts and the added agree-to-disagree language.

In the following paragraphs, the Central Valley Water Board is taking this opportunity to officially document and provide rationale for those State ARARs that are not included in the Record of Decision. These statements have been provided previously in e-mails to USEPA during development of the Record of Decision. During the Proposed Plan and Record of Decision process the Central Valley Water Board identified a number of ARARs that we believe are applicable or relevant and appropriate requirements under provisions of state law. The Central Valley Water Board asserts that the below enumerated state law requirements, including but not limited to State Water Resources Control Board Resolution No. 92-49, are applicable or relevant and appropriate requirements for remedial actions that may impact waters of the state pursuant to Water Code section 13050 and are not included in the Record of Decision. "Waters of the state" means any surface or ground water, including saline waters, within the boundaries of the state. The source of these state law provisions, standard, and description are not in the table below:

Source	Standard	Description
Porter-Cologne Water Quality Control Act (California Water Code Sections 13000, 13140, 13240, 13260, 13263, 13267, 13300, 13304, 13307)	State Water Resources Control Board Resolution No. 92-49 (As amended April 21, 1994)	Requirements for Investigation and Cleanup and Abatement of discharges of waste
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13304)	Title 27, California Code of Regulations (CCR), Division 2, Subdiv. 1 (Section 20080 et seq.), Title 23, CCR, Division 3, Chapter 15, (Section 2510 et seq.) Title 22, CCR, Division 4.5, (Section 66250 et seq.)	Waste and siting classification, minimum waste management standards for treat, storage, disposal-corrective action requirements responding to unauthorized discharges
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13269	Title 23, CCR, Section, 2520, 2521	Hazardous waste to Class I/II waste management units (WMUs)
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13269).	Title 27, CCR, Section, 20200(c), 20210	Designated waste to Class I/II WMUs
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13269).	Title 27, CCR, Section 20230	Inert waste need not go to classified units
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13269).	Title 27, CCR, Section 20200(c),20220	Nonhazardous solid waste to class WMU
Porter-Cologne Water Quality Control Act (California Water Code Sections 13260, 13263, 13370.5, 13372, 13373, 13374, 13375, 13376, 13377, 13383).	40 CFR Parts 122, 123, 124, National Pollution Discharge Elimination System, implemented by California Storm water Permit for Industrial Activities, State Water Resources Control Board Order #97-03-DWQ.	Storm water regulations for hazardous WMUs, landfills, treatment plants, land application sites
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13304)	Title 27, CCR, Section 20080(g), Title 23, CCR, Section 2510(g)	Requires Monitoring - if water quality threatened - Correct Action Title 23/27
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13304).	Title 27, CCR, Section 20090(d) Title 23, CCR. Section 2511 (d)	Wastes removed must be discharged in accordance with classification

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Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13304).	Title 27, CCR, Section 20090(d) Title 23, CCR. Section 2511 (d)	Wastes contained or left in place must comply with Title 23/27 to the extent feasible (public agencies)
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13304).	Title 27, CCR, Section 20090(d) Title 23, CCR. Section 2510 (d)	Closure of existing WMUs to Title 23/27
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Sections 20385-20435 Title 23, CCR, Section 2550	Groundwater Monitoring Required for unauthorized discharges
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20385, Title 23, CCR, Section 2550.1	Requires Detection Monitoring - evaluation/corrective action monitor
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20390, Title 23, CCR, Section 2550.2	Establish Water Quality Protection Standard
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20395, Title 23, CCR, Section 2550.3	Development of a list of Constituents of Concern
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20400, Title 23, CCR, Section 2550.4	Concentration limits must be established
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20400, Title 23, CCR, Section 2550.5	Establish Point of Compliance in groundwater
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20400, Title 23, CCR, Section 2550.6	Monitor for 3 years following achieving cleanup levels
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20400, Title 23, CCR, Section 2550.7	Requires soil, surface and groundwater monitoring.
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20400, Title 23, CCR, Section 2550.8	Requires detection monitoring

Source	Standard	Description
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27, CCR, Section 20950; 22207 (a); 22212 (a), and 22222. Title 23, CCR, Section 2550.0 (b); 2580; 2580(f).	General Closure Requirements
Porter-Cologne Water Quality Control Act (California Water Code Sections 13140-13147, 13172, 13260, 13263, 13267, 13269).	Title 27 CCR Section 20950 (a)(2)(B)	Clean closure requirements - no need for post closure requirements

With respect to the ARARs noted above, there are a few state law requirements that warrant a brief discussion. The first provision is a "waste management unit" or "Unit" which is defined in California Code of Regulations (CCR), title 27, section 20164 as an area of land, or portion of a waste management facility, at which waste is discharged. The term includes containment features and ancillary features for drainage control and for monitoring.

The second provision is CCR, title 27, section 20080, subdivision (d). This provision states that units which were operating on or before November 27, 1984 are designated as existing Units and that existing Units shall be closed and maintained after closure according to CCR, title 27, section 20950 et seq. Subdivision (g) states that persons responsible for discharges at Units which were closed, abandoned, or inactive on or before November 27, 1984 may be required to develop and implement a detection monitoring program in accordance with Section 20380 et seq. This section further states that if water quality impairment is found, such persons may be required to develop and implement a corrective action program under CCR, title 27, section 20380 et seq.

The third provision, CCR, title 27, section 20090, subdivision (d) says in pertinent part that actions taken by or at the direction of public agencies to cleanup or abate conditions of pollution or nuisance resulting from unintentional or unauthorized releases of waste or pollutants to the environment are exempt from Title 27, Division 2, Subdivision 1, provided that wastes, pollutants, or contaminated materials removed from the immediate place of release shall be discharged according to Section 20200 et seq. and further provided that remedial actions intended to contain such wastes at the place of release shall implement applicable State Water Resources Control Board-promulgated provisions of Division 2 of Title 27 to the extent feasible.

In short, because this remedial action is being taken by or at the direction of a public agency to cleanup or abate conditions of pollution or nuisance resulting from unintentional or unauthorized releases of waste, and given that this remedial action in part is intended to contain such wastes at the place of release, it is the Central Valley Water Board's position that this remedial action should implement applicable SWRCB-promulgated provisions of Division 2 of Title 27 to the extent feasible.

Division 2 of Title 27 includes 27 CCR section 20005 through 27 CCR section 23014 and appendices but compliance with this provision is conditioned on SWRCB-promulgated provisions of Division 2. SWRCB-promulgated provisions of Division 2 also include 27 CCR section 20012 which allows for the use of CIWMB (now CalRecycle) requirements "where necessary to protect water quality." The Central Valley Water Board recognizes the phrase in 27 CCR section 20090(d) "to the extent feasible." This phrase allows for some element of

discretion and the regulations, and depending on the site-specific circumstances, may not necessarily require a detection monitoring program, evaluation, evaluation monitoring program, and corrective action program for each and every area of land where waste was discharged.

The Central Valley Water Board believes that Title 23 applies to discharges of hazardous waste to land for treatment, storage, or disposal and Title 27 applies to discharges of designated waste, namely nonhazardous solid waste that could cause degradation of surface or ground waters to land for treatment, storage, or disposal. In this case, some portion of waste will remain at one or more areas of land, and although not subject to treatment, the waste remaining in place is being disposed of at an area of land.

The Water Board reserves any and all rights to assert any of these state law provisions as ARARs in any future Record of Decision and without prejudice to its position. The staff of the Central Valley Water Board looks forward to working with USEPA and the Department of Toxic Substances Control in implementing the remedy selected in the Record of Decision. During implementation we will work to assure that the ARARs we have identified are complied with.

If you have any questions regarding this matter, please contact me at amacdonald@waterboards.ca.gov or by phone at (916) 464-4625.

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