



PRESS RELEASE

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ENVIRONMENTAL DEFENSE CENTER TAKES LEGAL ACTION TO ADDRESS WATER POLLUTION FROM OIL AND GAS FIELD IN COASTAL VENTURA COUNTY

LAWSUIT TO BE FILED AGAINST VINTAGE PRODUCTION/OCCIDENTAL FOR ALLEGED VIOLATIONS OF CLEAN WATER ACT AT RINCON GRUBB OIL FIELD

VENTURA, CA—The Environmental Defense Center (“EDC”) today notified Vintage Production California LLC, a subsidiary of oil giant Occidental Petroleum Corporation (“Vintage/Oxy”), of its intent to sue the company for alleged violations of the Clean Water Act (“CWA”) at its Rincon Grubb oil field, where it conducts oil exploration and development activities. The Rincon Grubb oil field comprises a 4,236 acre area located in coastal watersheds of northern Ventura County, draining to heavily used public beaches from Seacliff to Solimar. EDC’s notice letter alleges that since enrolling Rincon Grubb under the state’s CWA Industrial Storm Water General Permit five years ago following an oil spill at the field, Vintage/Oxy has consistently reported levels of total suspended solids and other pollutants orders of magnitude above water quality benchmarks and guidelines, failed to implement mandated treatment controls at their drilling pads, access roads and other pollution sources, developed an inadequate sampling and monitoring program, and failed to develop an adequate storm water pollution prevention plan, among other violations.

“Storm water runoff from the Rincon Grubb field drains to heavily used public beaches in northern Ventura County,” stated David Landecker, Executive Director of EDC. “We hope that our notice will prompt the Vintage/Occidental Petroleum Company to address the extremely high levels of pollutants that the company itself has reported during the past five years.”

Storm water is among the top sources of water contamination in southern California, as significant quantities of pollution enter our waterways during rain events. Oil and gas fields such as Rincon Grubb have the potential to cause serious water quality impacts from storm water

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runoff. Oil field operations, including construction, well drilling, well completion and stimulation (including hydraulic fracturing, or “fracking”), production, and equipment maintenance, commonly discharge a wide range of conventional and hazardous pollutants, including total suspended solids, oil and grease, pH, benzene, lead, arsenic, chlorides, and ethanol xylenes. The adverse impacts of these pollutants on water quality can pose risks to fish and other aquatic organisms, wildlife, and human health. Discharges from the Rincon Grubb field are of particular concern because they are released into coastal watersheds that drain at or near heavily utilized Ventura County beaches including Hobson’s, Pitas Point, Mondos, and Solimar.

Under the General Permit, industrial facilities are prohibited from discharging pollutants, including total suspended solids, oil and grease, and toxic chemicals, in excess of water quality standards and without applying the best available and best conventional pollution treatment technologies to their sources. Since enrolling under the General Permit in 2007, Vintage/Oxy has consistently reported pollution levels well above applicable guidelines and benchmarks, yet has failed to take corrective action to remedy the pollution.

Under the CWA, citizens are required to send a notice letter identifying them of the specific alleged violations, and must provide the violator with at least 60 days to cure the violations. In its notice letter, EDC has offered to meet with Vintage/Oxy in order to discuss resolving the matter prior to filing litigation.

The Environmental Defense Center is being represented by its in-house Staff Attorneys and Mike Lozeau of Lozeau Drury LLP in this action.

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The [Environmental Defense Center](#) protects and enhances the local environment through education, advocacy, and legal action and works primarily within Santa Barbara, Ventura and San Luis Obispo counties. Since 1977, EDC has empowered community based organizations to advance environmental protection. Program areas include protecting coast and ocean resources, open spaces and wildlife, and human and environmental health.

[Lozeau Drury LLP](#) is an environmental law firm representing non-profit environmental and recreational groups, labor organizations, neighborhood associations, and Indian tribes in their efforts to create and protect livable neighborhoods and cities, clean up air and water pollution, protect endangered species, protect open spaces, reduce exposures to toxic pollutants, and create clean, safe jobs.



Enforcing the Clean Water Act at the Rincon Grubb Oil Field

Citizen Enforcement Action Initiated Against Vintage Production/Occidental Petroleum for Alleged Storm Water Violations at Ventura County Oil Field

OVERVIEW

The Environmental Defense Center (EDC) is a non-profit, public interest law firm that protects and enhances coastal and ocean resources, open space and wildlife, and human and environmental health through education, advocacy, and legal action primarily within Ventura, Santa Barbara, and San Luis Obispo counties. EDC has sent a Notice of Violation and Intent to File Suit to Vintage Production, a subsidiary of Occidental Petroleum (Vintage/Oxy), for violations of the Clean Water Act (CWA) at its Rincon Grubb oil field in coastal Ventura County. With nearly \$7 billion in profits in 2011, Occidental Petroleum is California's largest oil and gas producer.

EDC's notice letter alleges that since enrolling Rincon Grubb under the state's CWA Industrial Storm Water General Permit five years ago following an oil spill at the field, Vintage/Oxy has consistently reported levels of total suspended solids and other pollutants greatly exceeding water quality benchmarks and guidelines, failed to implement mandated

treatment controls at their drilling pads, access roads and other pollution sources, developed an inadequate sampling and monitoring program, and failed to develop an adequate storm water pollution prevention plan, among other violations.



Rincon Grubb Oil Field. Photo courtesy of Santa Barbara Channelkeeper/Lighthawk.

Enforcing the Clean Water Act at the Rincon Grubb Oil Field

ABOUT THE RINCON GRUBB OIL FIELD

Location

The Rincon Grubb oil field comprises a 4,236-acre area located in coastal watersheds of northern Ventura County, draining to beaches (approximately) from Seacliff to Solimar. The field is located between the cities of Ventura and Carpinteria, and is situated within steep coastal hills. In the spring of 2011, Vintage/Oxy disclosed that it had “fracked” an oil well in the Rincon Grubb field, the first (and to this day, only) fracking operation in Ventura County that has been disclosed to the public. Recent oil spills have occurred at Rincon Grubb, including in March 2011, when a landslide ruptured a pipeline, releasing approximately 210 gallons of oil on the beach between Hobson and Faria County Parks.

Operation

Oil fields such as Rincon Grubb can discharge storm water runoff polluted by toxic pollutants, hazardous substances, sediment, turbidity, and oil and grease.

Storm water is collected and discharged from the Rincon Grubb oil field through a diverse range of point sources dispersed throughout the field, such as well pad sites, road and well pad construction, road drainage infrastructure, erosion gullies and channels associated



with roads and pads, storage and processing units, in-stream detention basins, and transportation facilities. Pollution from these sources is discharged into one of the seven primary creeks (Los Sauces, Madriano, Javon, Padre Juan, Ice Box, Amphitheater, and Diablo) within the facility's boundaries, before flowing into the Pacific Ocean.

Javon Creek draining from Rincon Grubb facility into the Pacific Ocean.

Photo courtesy of EDC.

STORM WATER CITIZEN ENFORCEMENT ACTION

Storm water is among the top sources of water contamination, as significant quantities of pollution enter our waterways during rain events. To combat this problem, industrial facilities like the Rincon Grubb oil field are required by the state to enroll in an applicable

Enforcing the Clean Water Act at the Rincon Grubb Oil Field

permit, here the Industrial Storm Water General Permit, which requires the facility to, among other things, monitor, sample and report storm water discharge. Discharges in violation of the permit are a violation of the CWA. Importantly, the CWA grants citizens the right to file a civil enforcement suit against a corporation to enforce permit conditions.

NOTICE OF VIOLATION AND INTENT TO FILE SUIT

On February 23, 2012, EDC sent Vintage/Oxy a Notice of Violations and Intent to File Suit (Notice of Intent Letter). The Notice of Intent Letter sets forth Vintage/Oxy's alleged violations of the CWA, including violations of effluent limitations, monitoring and reporting violations, and violations of requirements relating to its Storm Water Pollution Prevention Plan, or SWPPP. During the past five years, Oxy/Vintage has reported extremely high levels of pollutants from its sampling results, particularly of Total Suspended Solids (TSS), Total Dissolved Solids (TDS), and specific conductance (an indirect measure of the presence of dissolved solids such as

chloride, nitrate, sulfate, phosphate, sodium, magnesium, calcium, and iron). Oxy/Vintage's measurements of these pollutants have consistently detected extremely elevated levels, with many readings orders of magnitude above EPA's "benchmark" level of 100 mg/l TSS value, and one TSS



Rincon Grubb Oil Field. Photo courtesy of Santa Barbara Channelkeeper/Lighthawk.

reading was reported at 396,000 (nearly 40,000 times higher than the benchmark level). Under the CWA, the first legally required step in the citizen suit enforcement process is filing the Notice of Intent Letter. Once the Notice of Intent Letter is filed, Vintage/Oxy has 60 days to comply with the CWA, or face a civil lawsuit by EDC.

EDC CONTACT INFO

For information about the EDC, or to support our efforts, please visit

www.EnvironmentalDefenseCenter.org



February 23, 2012

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Sent Via Certified Mail, Return Receipt Requested

Re: NOTICE OF INTENT TO SUE PURSUANT TO THE CLEAN WATER ACT

Dear Sirs:

We write on behalf of the Environmental Defense Center (EDC) in regard to violations of the Clean Water Act (CWA) that EDC believes are occurring at the Rincon Grubb oil field, a 4,236 acre facility in coastal Ventura County owned and operated by Vintage Production California LLC (a wholly-owned subsidiary of Occidental Petroleum Corporation) (Vintage/Oxy), with administrative offices located at 3055 W. Pacific Coast Highway in Ventura, California. EDC is a non-profit public benefit corporation dedicated to environmental protection in Ventura, Santa Barbara, and San Luis Obispo Counties. This letter is being sent to you as the responsible owners, officers, operators, or managers of the Rincon Grubb oil field.

This letter addresses Vintage/Oxy's unlawful discharge of pollutants from the Rincon Grubb oil field into creeks within Los Sauces, Madriano, Javon, Padre Juan, Ice Box, Amphitheater, and Devil Canyons, which in turn flow into the Pacific Ocean. The Rincon Grubb oil field is discharging storm water pursuant to National Pollutant Discharge Elimination System Permit No. CA S000001, State Water Resources Control Board Order No. 92-12 DWQ, as amended by Order 97-03-DWQ, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* (Industrial General Permit). The WDID identification number for the Rincon Grubb oil field listed on documents submitted by Vintage/Oxy to the State Water Resources Control Board (State Board) and Los Angeles Regional Water Quality Control Board (L.A. Regional

Board) is 456I020994. As detailed in this Notice, Vintage/Oxy is engaged in ongoing violations of the substantive and procedural requirements of the Industrial General Permit, and thus is in violation of the CWA.

Section 505(b) of the CWA requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under section 505(a) of the Act, 33 U.S.C. §1365(a). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the state in which the violations occur.

In accordance with the CWA citizen suit provisions, and implementing regulations at 40 C.F.R. §§ 135.3, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Rincon Grubb oil field. Consequently, Vintage/Oxy is hereby placed on formal notice by EDC that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, EDC intends to file suit in federal court against Vintage/Oxy under section 505(a) of the CWA for violations of the CWA and Industrial General Permit. These violations are discussed in detail below.

I. Background

The objective of the CWA is to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). To accomplish this objective, the CWA makes unlawful “the discharge of any pollutant by any person” from a “point source” into any waters of the United States unless in compliance with a permit issued under the National Pollutant Discharge Elimination System (NPDES) by the U.S. Environmental Protection Agency (EPA) or an authorized state agency. 33 U.S.C. §§ 1311(a), 1342. The CWA defines point source broadly to include “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” *Id.* § 1362(14).

The EPA has delegated authority to the State of California to issue NPDES permits, subject to EPA objection. 33 U.S.C. § 1342(b), (d). The State Board and L.A. Regional Board are responsible for the issuance of such permits within Ventura County. Under NPDES permits, permittees are authorized to discharge limited amounts of pollutants. *Id.* §§ 1311(a), 1342(b)-(c). Any violation of a prohibition, limitation, or any other term or condition contained in a NPDES permit represents a violation of the CWA. 40 C.F.R. § 122.41(a).

On July 9, 2007, Vintage/Oxy filed its Notice of Intent to Comply with the Terms of the Industrial General Permit (NOI) for discharges of storm water associated with the Rincon Grubb oil field. The Rincon Grubb oil field comprises a 4,236 acre area located in coastal watersheds of northern Ventura County, draining to beaches (approximately) from Seacliff to Solimar. The field is located between the cities of Ventura and Carpinteria, and is situated within steep coastal hills that drain straight into the ocean. In the spring of 2011, Vintage/Oxy

disclosed that it had “fracked” an oil well in the Rincon Grubb oil field, the first (and to this day, only) fracking operation in Ventura County that has been disclosed to the public. Recent oil spills have occurred at Rincon Grubb, including in March 2011, when a landslide ruptured a pipeline, releasing approximately 210 gallons of oil into Javon Canyon, and subsequently onto the beach between Hobson and Faria County Parks.

In its NOI, Vintage/Oxy certified that as an oil and gas facility, the Rincon Grubb oil and gas field falls under standard industrial classification (SIC) code 1311 (crude petroleum & natural gas).¹ Based on Vintage/Oxy’s NOI and July 2009 Stormwater Pollution Prevention Plan (SWPPP), review of aerial photography, and EDC’s information and belief, storm water is collected and discharged from the 4,236 acre oil field through a diverse range of point sources dispersed throughout the field, including but not limited to hundreds of well pad sites, road and well pad construction, road drainage infrastructure, erosion gullies and channels associated with roads and pads, storage and processing units, in-stream detention basins, and transportation facilities. Storm water from the various point sources within the Rincon Grubb oil field is eventually discharged to creeks within Los Sauces, Madriano, Javon, Padre Juan, Ice Box, Amphitheater, and Devil Canyons, all of which then discharge into the Pacific Ocean.

The L.A. Regional Board has identified beneficial uses and established water quality standards for coastal watersheds within Los Angeles and Ventura Counties, including the drainages within the Rincon Grubb oil field, in the *Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan). These beneficial uses include, among others, warm and cold freshwater habitat, wildlife habitat, migration of aquatic organisms, spawning habitat, and wetlands habitat. The Regional Board has designated specific beneficial uses for Madriano Canyon, Javon Canyon and Padre Juan Canyon, including municipal water supply as a potential beneficial use, agriculture, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, migration of aquatic organisms and spawning, and reproduction and/or early development as intermittent beneficial uses and wildlife habitat as an existing beneficial use. Basin Plan at Table 2-1. All of these creeks flow directly to heavily utilized Ventura County beaches, including beaches at Hobsons, Seacliff, Pitas Point, Mondos, and Solimar. Visible pollution, including visible sheens and cloudy or muddy water from industrial activities within the Rincon Grubb oil field, impairs people’s use of the Pacific Ocean, as well as the creeks draining into the ocean. This pollution is especially apparent during rain events.

The Basin Plan establishes water quality standards for the creeks draining the Rincon Grubb oil field. These narrative standards require that “[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or

¹ The SIC Manual defines SIC code 1311 as including “Establishments primarily engaged in operating oil and gas field properties. Such activities may include exploration for crude petroleum and natural gas; drilling, completing, and equipping wells; operation of separators, emulsion breakers, desilting equipment, and field gathering lines for crude petroleum; and all other activities in the preparation of oil and gas up to the point of shipment from the producing property.” Available at: http://www.osha.gov/pls/imis/sic_manual_display?id=2&tab=division.

adversely affect beneficial uses,” Basin Plan at 3-9; mandate that “[w]aters shall not contain oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses,” *id.* at 3-11; state that “[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses,” *id.* at 3-16; require that “[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life,” *id.* at 3-16; direct that “[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses,” while establishing quantified limits on any increases beyond natural turbidity levels,” *id.* at 3-17; and establish numeric mean annual dissolved oxygen requirements, *id.* at 3-11.

Although the Basin Plan does not establish site-specific objectives for Madriano Canyon, Javon Canyon, Padre Juan Canyon and the other coastal creeks into which Vintage/Oxy discharges storm water and pollutants, the Basin Plan does set forth levels of the “mineral or nutrient quality necessary to protect different categories of beneficial uses [that] will be used as a guideline for establishing effluent limits” for discharges to those creeks. Basin Plan at 3-14. Thus, for creeks identified for the municipal water supply beneficial use, the Basin Plan sets a total dissolved solids (TDS) guideline necessary to protect those beneficial uses, with effluent limits of 500 mg/L for municipal beneficial uses and 450 – 2000 mg/L for agricultural beneficial uses. *Id.*

In addition to the water quality standards established by the Basin Plan, the EPA has published “benchmark” levels as numeric thresholds for helping to determine whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT). These benchmarks represent pollutant concentrations at which a storm water discharge could potentially impair, or contribute to impairing, water quality, or affect human health from ingestion of water or fish. The following benchmarks have been established for pollutants discharged by Vintage/Oxy at the Rincon Grubb oil field: pH—6.0-9.0 units; total suspended solids (TSS)—100 mg/L; and oil and grease (O & G)—15 mg/L. In addition, the State Board has proposed adding a benchmark level to the Industrial General Permit of 200 µmho/cm for specific conductance.

II. Alleged Violations of the NPDES Permit

The citizen suit provision of the CWA, Section 505, provides that “any citizen” may commence a suit “against any person,” including the U.S. government or agency, “who is alleged to be in violation of (A) an effluent standard or limitation under this chapter or (B) an order issued by the [EPA or State] with respect to such standard or limitation.” 33 U.S.C. § 1365(a)(1). The CWA in turn defines “effluent standard or limitation” to include “a permit or condition” issued under section 402. *Id.* § 1365(f)(6). A polluter who fails to comply with permit conditions is thus liable under the CWA’s citizen suit provision. *See Natural Res. Def. Council v. S.W. Marine, Inc.*, 236 F. 3d 985 (9th Cir. 2000)(storm water permit enforcement action where company was liable for discharges of “significant contributions of pollutants”); *Baykeeper v. Kramer Metals, Inc.*, 619 F. Supp. 2d 914, 918 (C.D. Cal. 2009) (“to establish a

violation of the [Clean Water] Act, [plaintiff] need only prove that [defendant] violated the terms and conditions of its NPDES permit” which include effluent limitations, receiving water limitations and the implementation of a SWPPP).

As stated by the EPA, “oil, gas and mining facilities are among those industrial sites that are likely to discharge storm water runoff that is contaminated by process wastes, toxic pollutants, hazardous substances, or oil and grease.” EPA further states that “such contamination can include disturbed soils and process wastes containing heavy metals or suspended or dissolved solids, salts, surfactants, or solvents used or produced in oil and gas operations.” *NPDES Permit Application Requirements for Stormwater Discharges*, 55 Fed. Reg. 47,990 at p. 55-56 (Nov. 16, 1990). EPA notes that because oil and gas operations such as the Rincon Grubb oil field “have the potential for serious water quality impacts, Congress recognized . . . the need to control storm water discharges from oil, gas, and mining operations.” *Id.* Table 1 depicts storm water pollutants and sources typically associated with oil and gas facilities, as identified by EPA.

Table 1

<u>Activity</u>	<u>Pollutant Source</u>	<u>Pollutant</u>
Construction (access roads, drill pads, reserve pits personnel quarters, surface impoundments)	Soil/dirt, leaking equipment, and vehicles	TSS, TDS, oil and grease
Well Drilling	Drilling fluid, lubricants, mud, cuttings, produced water	TSS, TDS, oil and grease, COD, chlorides, barium, naphthalene, phenanthrene, benzene, lead, arsenic, fluoride
Well Completion/ Stimulation	Fluids (used to control pressure in well), cement, residual oil, acids, surfactants, solvents, produced water, sand	TSS, TDS, oil and grease, COD, pH, acetone, toluene, ethanol xylenes

Production	Produced water, oil, waste sludge, tank bottoms, acids, oily debris, emulsions	Chlorides, TDS, oil and grease, TSS, pH, benzene, phenanthrene, barium, arsenic, lead, antimony
Equipment Cleaning and Repairing	Cleaning solvents, lubricants, chemical additives	TSS, TDS, oil and grease, pH
Site Closures	Residual muds, oil debris	TSS, TDS, oil and grease

Since its enrollment under the Industrial General Permit in July 2007, Vintage has reported extremely high levels of pollutants from its sampling results, particularly of TSS, TDS, and specific conductance. Vintage's measurements of these pollutants are exceedingly and consistently astronomical, with many readings orders of magnitude above EPA's benchmark level of 100 mg/l TSS value, the Basin Plan's guideline of 450-2000 mg/l TDS value, and the State Board's proposed 200 μ mho/cm limit for specific conductance, including numerous measurements in the tens of thousands, and one TSS reading at 396,000 (nearly 40,000 times higher than the benchmark level). These exceedances violate Effluent Limitation B(3) of the General Permit, and provide an objective measure demonstrating that Vintage/Oxy has failed to develop or implement an adequate SWPPP or achieve BAT and/or BCT requirements of the Industrial General Permit. Specific violations are alleged below.

A. DISCHARGE VIOLATIONS

Section 402(p), 33 U.S.C. § 1342(p), of the CWA prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit such as the Industrial General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. Conventional pollutants are TSS, O&G, pH, BOD, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the Industrial General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that

discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the Industrial General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board’s Basin Plan.

Vintage/Oxy has consistently discharged and continues to discharge storm water with levels of TSS, TDS, specific conductivity, and other pollutants in violation of the Industrial General Permit. Vintage/Oxy’s sampling and analysis results reported to the L.A. Regional Board confirm discharges of specific pollutants and materials other than storm water, in violation of the Industrial General Permit provisions listed above. Self-monitoring reports under the Industrial General Permit are deemed “conclusive evidence of an exceedance of a permit limitation.” *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The discharges of pollutants by Vintage/Oxy at the Rincon Grubb oil field detailed in Table 2 have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the Industrial General Permit.

Table 2

Date	Parameter	Observed Concentration	EPA Benchmark Value/Proposed State Board Action Level	Basin Plan Water Quality Objective/Guideline	Location (as identified by the Facility)
5/17/11	Total Suspended Solids	1,740 mg/L	100 mg/L	[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses (Suspended Mat’l Prohibition)	Javon Canyon
5/17/11	Total Suspended Solids	19,300 mg/L	100 mg/L	Suspended Mat’l Prohibition	Ice Box Canyon
5/17/11	Total Suspended	2,060 mg/L	100 mg/L	Suspended Mat’l Prohibition	Madriano C Lease

	Solids				
5/17/11	Total Suspended Solids	2,340 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
5/17/11	Total Suspended Solids	4,840 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
5/17/11	Total Dissolved Solids	7,030 mg/L		500 mg/L; 450 – 2000 mg/L	Javon Canyon
5/17/11	Total Dissolved Solids	8,630 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
5/17/11	Total Dissolved Solids	4,940 mg/L		500 mg/L; 450 – 2000 mg/L	Madriano C Lease
5/17/11	Total Dissolved Solids	4,190 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
5/17/11	Total Dissolved Solids	5,260 mg/L		500 mg/L; 450 – 2000 mg/L	Diablo
5/17/11	Total Dissolved Solids	1,740 mg/L		500 mg/L; 450 – 2000 mg/L	Amphitheatre
5/17/11	Specific Conductivity	8,700 μ mho/cm	200 μ mho/cm (proposed)		Javon Canyon
5/17/11	Specific Conductivity	11,000 μ mho/cm	200 μ mho/cm		Ice Box Canyon
5/17/11	Specific Conductivity	5,910 μ mho/cm	200 μ mho/cm		Madriano C Lease
5/17/11	Specific Conductivity	6,060 μ mho/cm	200 μ mho/cm		Padre Juan Canyon
5/17/11	Specific Conductivity	7,580 μ mho/cm	200 μ mho/cm		Diablo
5/17/11	Specific Conductivity	2,200 μ mho/cm	200 μ mho/cm		Amphitheatre
12/7/09	Total Suspended Solids	6,300 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon

12/7/09	Total Suspended Solids	65,200 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
12/7/09	Total Suspended Solids	21,000 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
12/7/09	Total Suspended Solids	78,400 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
12/7/09	Total Dissolved Solids	7,340 mg/L		500 mg/L; 450 – 2000 mg/L	Javon Canyon
12/7/09	Total Dissolved Solids	3,870 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
12/7/09	Total Dissolved Solids	600 mg/L		500 mg/L; 450 – 2000 mg/L	Madriano C Lease
12/7/09	Total Dissolved Solids	5,600 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
12/7/09	Total Dissolved Solids	630 mg/L		500 mg/L; 450 – 2000 mg/L	Diablo
12/7/09	Total Dissolved Solids	1,470 mg/L		500 mg/L; 450 – 2000 mg/L	Amphitheatre
12/7/09	Specific Conductivity	10,000 µmho/cm	200 µmho/cm (proposed)		Javon Canyon
12/7/09	Specific Conductivity	5,800 µmho/cm	200 µmho/cm		Ice Box Canyon
12/7/09	Specific Conductivity	740 µmho/cm	200 µmho/cm		Madriano C Lease
12/7/09	Specific Conductivity	9,000 µmho/cm	200 µmho/cm		Padre Juan Canyon
12/7/09	Specific Conductivity	910 µmho/cm	200 µmho/cm		Diablo
12/7/09	Specific Conductivity	2,100 µmho/cm	200 µmho/cm		Amphitheatre

10/14/09	Total Suspended Solids	9,350 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon
10/14/09	Total Suspended Solids	50,800 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
10/14/09	Total Suspended Solids	7,910 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
10/14/09	Total Suspended Solids	13,600 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon
10/14/09	Total Suspended Solids	20,400 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
10/14/09	Total Suspended Solids	160,300 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
10/14/09	Total Dissolved Solids	7,310 mg/L		500 mg/L; 450 – 2000 mg/L	Javon Canyon
10/14/09	Total Dissolved Solids	3,410 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
10/14/09	Total Dissolved Solids	530 mg/L		500 mg/L; 450 – 2000 mg/L	Madriano C Lease
10/14/09	Total Dissolved Solids	2,670 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
10/14/09	Total Dissolved Solids	1,050 mg/L		500 mg/L; 450 – 2000 mg/L	Diablo
10/14/09	Total Dissolved Solids	3,120 mg/L		500 mg/L; 450 – 2000 mg/L	Amphitheatre
10/14/09	Specific Conductivity	9,350 µmho/cm	200 µmho/cm (proposed)		Javon Canyon
10/14/09	Specific Conductivity	4,680 µmho/cm	200 µmho/cm		Ice Box Canyon

10/14/09	Specific Conductivity	730 µmho/cm	200 µmho/cm		Madriano C Lease
10/14/09	Specific Conductivity	4,490 µmho/cm	200 µmho/cm		Padre Juan Canyon
10/14/09	Specific Conductivity	1,380 µmho/cm	200 µmho/cm		Diablo
10/14/09	Specific Conductivity	4,510 µmho/cm	200 µmho/cm		Amphitheatre
12/15/08	Total Suspended Solids	710 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon
12/15/08	Total Suspended Solids	7,900 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
12/15/08	Total Suspended Solids	29,000 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
12/15/08	Total Suspended Solids	1,600 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon
12/15/08	Total Suspended Solids	6,000 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
12/15/08	Total Suspended Solids	750 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
12/15/08	Total Dissolved Solids	4,500 mg/L		500 mg/L; 450 – 2000 mg/L	Javon Canyon
12/15/08	Total Dissolved Solids	5,360 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
12/15/08	Total Dissolved Solids	1,100 mg/L		500 mg/L; 450 – 2000 mg/L	Madriano C Lease
12/15/08	Total Dissolved Solids	3,820 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
12/15/08	Total Dissolved Solids	890 mg/L		500 mg/L; 450 – 2000 mg/L	Diablo
12/15/08	Total	4,310 mg/L		500 mg/L; 450 –	Amphitheatre

	Dissolved Solids			2000 mg/L	
12/15/08	Specific Conductivity	6,100 μ mho/cm	200 μ mho/cm (proposed)		Javon Canyon
12/15/08	Specific Conductivity	8,400 μ mho/cm	200 μ mho/cm		Ice Box Canyon
12/15/08	Specific Conductivity	1,440 μ mho/cm	200 μ mho/cm		Madriano C Lease
12/15/08	Specific Conductivity	6,000 μ mho/cm	200 μ mho/cm		Padre Juan Canyon
12/15/08	Specific Conductivity	1,300 μ mho/cm	200 μ mho/cm		Diablo
12/15/08	Specific Conductivity	6,100 μ mho/cm	200 μ mho/cm		Amphitheatre
11/26/08	Total Suspended Solids	3,030 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon
11/26/08	Total Suspended Solids	52,300 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
11/26/08	Total Suspended Solids	4,060 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
11/26/08	Total Suspended Solids	3,990 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon
11/26/08	Total Suspended Solids	55,600 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
11/26/08	Total Suspended Solids	396,000 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
11/26/08	Total Dissolved Solids	92 mg/L		500 mg/L; 450 – 2000 mg/L	Javon Canyon
11/26/08	Total Dissolved Solids	3,050 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
11/26/08	Total	560 mg/L		500 mg/L; 450 –	Madriano C

	Dissolved Solids			2000 mg/L	Lease
11/26/08	Total Dissolved Solids	570 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
11/26/08	Total Dissolved Solids	1,430 mg/L		500 mg/L; 450 – 2000 mg/L	Diablo
11/26/08	Total Dissolved Solids	7,080 mg/L		500 mg/L; 450 – 2000 mg/L	Amphitheatre
11/26/08	Specific Conductivity	4,350 μ mho/cm	200 μ mho/cm (proposed)		Ice Box Canyon
11/26/08	Specific Conductivity	840 μ mho/cm	200 μ mho/cm		Madriano C Lease
11/26/08	Specific Conductivity	730 μ mho/cm	200 μ mho/cm		Padre Juan Canyon
11/26/08	Specific Conductivity	9,050 μ mho/cm	200 μ mho/cm		Diablo
11/26/08	Specific Conductivity	1,810 μ mho/cm	200 μ mho/cm		Amphitheatre
2/22/07	Total Suspended Solids	1,180 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon
2/22/07	Total Suspended Solids	133,000 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
2/22/07	Total Suspended Solids	11,500 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
2/22/07	Total Suspended Solids	220 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon
2/22/07	Total Suspended Solids	19,000 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
2/22/07	Total Suspended Solids	34,400 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
2/22/07	Total	8,420 mg/L		500 mg/L; 450 –	Javon

	Dissolved Solids			2000 mg/L	Canyon
2/22/07	Total Dissolved Solids	3,440 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
2/22/07	Total Dissolved Solids	1,110 mg/L		500 mg/L; 450 – 2000 mg/L	Madriano C Lease
2/22/07	Total Dissolved Solids	4,410 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
2/22/07	Total Dissolved Solids	690 mg/L		500 mg/L; 450 – 2000 mg/L	Diablo
2/22/07	Total Dissolved Solids	3,670 mg/L		500 mg/L; 450 – 2000 mg/L	Amphitheatre
2/22/07	Specific Conductance	14,300 μ mho/cm	200 μ mho/cm (proposed)		Javon Canyon
2/22/07	Specific Conductance	5,310 μ mho/cm	200 μ mho/cm		Ice Box Canyon
2/22/07	Specific Conductance	1,340 μ mho/cm	200 μ mho/cm		Madriano C Lease
2/22/07	Specific Conductance	6,970 μ mho/cm	200 μ mho/cm		Padre Juan Canyon
2/22/07	Specific Conductance	1,040 μ mho/cm	200 μ mho/cm		Diablo
2/22/07	Specific Conductance	5,230 μ mho/cm	200 μ mho/cm		Amphitheatre
2/19/07	Total Suspended Solids	6,650 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon
2/19/07	Total Suspended Solids	14,900 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
2/19/07	Total Suspended Solids	230 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
2/19/07	Total Suspended Solids	1,130 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon

2/19/07	Total Dissolved Solids	5,980 mg/L		500 mg/L; 450 – 2000 mg/L	Javon Canyon
2/19/07	Total Dissolved Solids	4,700 mg/L		500 mg/L; 450 – 2000 mg/L	Ice Box Canyon
2/19/07	Total Dissolved Solids	2,510 mg/L		500 mg/L; 450 – 2000 mg/L	Madriano C Lease
2/19/07	Total Dissolved Solids	2,700 mg/L		500 mg/L; 450 – 2000 mg/L	Padre Juan Canyon
2/19/07	Specific Conductance	7,540 µmho/cm	200 µmho/cm (proposed)		Javon Canyon
2/19/07	Specific Conductance	8,400 µmho/cm	200 µmho/cm		Ice Box Canyon
2/19/07	Specific Conductance	3,460 µmho/cm	200 µmho/cm		Madriano C Lease
2/19/07	Specific Conductance	4,220 µmho/cm	200 µmho/cm		Padre Juan Canyon
2/11/07	Total Suspended Solids	30,200 mg/L	100 mg/L	Suspended Mat'l Prohibition	Javon Canyon
2/11/07	Total Suspended Solids	2,370 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
2/11/07	Total Suspended Solids	10,100 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon
2/11/07	Total Suspended Solids	2,300 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
2/11/07	Total Suspended Solids	1,110 mg/L	100 mg/L	Suspended Mat'l Prohibition	Amphitheatre
2/11/07	Total Dissolved Solids	Not recorded 2/11/07		500 mg/L; 450 – 2000 mg/L	

2/11/07	Specific Conductance	7,380 μ mho/cm	200 μ mho/cm (proposed)		Javon Canyon
2/11/07	Specific Conductance	4,950 μ mho/cm	200 μ mho/cm		Madriano C Lease
2/11/07	Specific Conductance	3,850 μ mho/cm	200 μ mho/cm		Padre Juan Canyon
2/11/07	Specific Conductance	2,840 μ mho/cm	200 μ mho/cm		Diablo
2/11/07	Specific Conductance	3,960 μ mho/cm	200 μ mho/cm		Amphitheatre
1/27/07	Total Suspended Solids	8,330 mg/L	100 mg/L	Suspended Mat'l Prohibition	Ice Box Canyon
1/27/07	Total Suspended Solids	1,220 mg/L	100 mg/L	Suspended Mat'l Prohibition	Madriano C Lease
1/27/07	Total Suspended Solids	750 mg/L	100 mg/L	Suspended Mat'l Prohibition	Padre Juan Canyon
1/27/07	Total Suspended Solids	250 mg/L	100 mg/L	Suspended Mat'l Prohibition	Diablo
1/27/07	Total Dissolved Solids	Not recorded 1/27/07		500 mg/L; 450 – 2000 mg/L	
1/27/07	Specific Conductance	12,200 μ mho/cm	200 μ mho/cm (proposed)		Ice Box Canyon
1/27/07	Specific Conductance	1,220 μ mho/cm	200 μ mho/cm		Madriano C Lease
1/27/07	Specific Conductance	5,560 μ mho/cm	200 μ mho/cm		Padre Juan Canyon
1/27/07	Specific Conductance	250 μ mho/cm	200 μ mho/cm		Diablo

EDC's investigation, including its review of Vintage/Oxy's analytical results documenting pollutants discharged in excess of EPA's benchmark values, Regional Board Basin Plan objectives and guidelines, and the State Board's proposed benchmark for electrical conductivity, indicates that Vintage/Oxy has not implemented BAT and BCT for its discharges of TSS, TDS, specific conductivity, and other pollutants in violation of Effluent

Limitation B(3) of the Industrial General Permit. Vintage/Oxy was required to have implemented BAT and BCT by no later than October 1, 1992, or the date on which Vintage purchased or otherwise began operations at the Facility. Thus, Vintage/Oxy is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the above numbers indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the Industrial General Permit. EDC alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since February 23, 2007, and that will occur at the Facility subsequent to the date of this Notice of Violations and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which EDC alleges that Vintage/Oxy has discharged storm water containing impermissible levels of TSS, TDS, specific conductivity, and other pollutants in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the Industrial General Permit.

These unlawful discharges from the Rincon Grubb oil field are ongoing. Each discharge of each of these pollutants in storm water constitutes a separate violation of the Industrial General Permit and the CWA. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Vintage/Oxy is subject to penalties for violations of the Industrial General Permit and the Act since February 23, 2007.

B. MONITORING AND REPORTING VIOLATIONS

The Industrial General Permit requires that each permittee develop and implement a monitoring program for enrolled facilities. The State Board identifies the three major objectives of the monitoring program as: 1) demonstrating compliance with the Industrial General Permit; 2) aiding in implementation of the SWPPP; and 3) measuring the effectiveness of BMPs in reducing or preventing pollutants. Industrial General Permit Fact Sheet at X.

As part of this monitoring program, all facility operators must perform two primary categories of monitoring duties:

- 1) *Conduct visual observations of storm water discharges and authorized storm water discharges.* Facility operators are required to conduct visual observation during at least one storm event per month during the wet season, during the first hour of discharge. Facility operators are also required to conduct visual observation at all drainage areas for the presence of unauthorized discharges on at least a quarterly basis
- 2) *Collect and analyze samples of storm water discharges.* Facility operators are required to collect storm water samples during the first

hour of discharge from the first storm event of the wet season, and from at least one other storm event in the wet season.

Section B(3)-(4) of the Industrial General Permit's Monitoring Program and Reporting Requirements.

Each year, operators must submit an annual report (due July 1) containing the results of its sampling, monitoring, and other information pursuant to EPA minimum requirements. Industrial General Permit at 35.

1. Inadequate Sampling Locations

Section 5(a) of the Industrial General Permit's Monitoring Program and Reporting Requirements mandates that facility operators conduct sampling at "all storm water discharge locations." Industrial General Permit at 25. "Facility operators shall visually observe and collect samples of storm water discharges from all discharge areas that represent the quality and quantity of the facility's storm water discharges from the storm event." *Id.* However, section 7 provides some flexibility for facilities with multiple drainage areas to reduce the number of samples but only where the drainage areas are substantially identical. *Id.* at 28. That section provides that "[f]acility operators that determine that the industrial activities and BMPs within two or more drainage areas are substantially identical may either (i) collect samples from a reduced number of substantially identical drainage areas, or (ii) collect samples from each substantially identical drainage area and analyze a combined sample from each substantially identical drainage area. Facility operators must document such a determination in the annual report." *Id.* Vintage/Oxy has failed to comply with its sampling duties under the Industrial General Permit since its enrollment under the permit, and its sampling regime does not provide an accurate representation of either the quality or quantity of the Rincon Grubb oil field's storm water discharges.

The Rincon Grubb oil field is a large industrial facility covering more than 4,000 acres and with numerous discharge locations. Vintage/Oxy, however, has limited its sampling locations to six locations within the creeks flowing through the facility. Vintage/Oxy has failed to sample all of its discharge locations. Nor do the annual reports document any justification for Vintage/Oxy to reduce the number of sample locations pursuant to Section B.7(d) of the Industrial General Permit.

Nor are the six sampling locations representative of the quality and quantity of all of the facility's storm water discharges. In its SWPPP, Vintage/Oxy identifies only three potential sources of pollution within this large area: 1) well heads; 2) storage and processing units; and 3) transportation facilities. SWPPP at 2-3. Even assuming this list to be accurate and complete (which it is not, as shown by Table 1), the SWPPP does not address or explain the correlation between these identified sources of pollution and the six locations where Vintage/Oxy has chosen to conduct its sampling. Based on EDC's information and belief, although Vintage/Oxy's sampling locations may be representative of some of the facility's industrial storm water discharges, the handful of sampling stations does not represent the

quality and quantity of storm water discharges from all of the industrial activities occurring at the Rincon Grubb oil field.

In order to remedy this violation, Vintage/Oxy must expand its sampling protocol to include, at the least, representative measurements from all categories of individual point sources within the Rincon Grubb oil fields. As indicated in the SWPPP, these sources will include individual well site locations, storage and processing areas, and transportation facilities, as well as the numerous additional sources addressed in Table 1 above.

In addition, Vintage/Oxy continues to construct and maintain an extensive road system throughout the Rincon Grubb oil field. According to EDC's information and knowledge, including visual observations from areas outside the field, and the review of aerial photographs, this construction does not appear to have involved any effort to avoid or mitigate resultant soil erosion. Numerous erosion gullies and channels caused by runoff from Vintage/Oxy's roads exist throughout the facility. These roads and gullies discharge substantial quantities of sediment, turbidity, TDS, and other pollutants to the creeks within the facility and subsequently the Pacific Ocean. Numerous landslides with erosion gullies and channels also have resulted from Vintage/Oxy's construction of roads, drilling pads and other features that have undercut adjacent hillsides and caused landslides and subsequent erosion channels. Such landslides and erosion gullies and channels also discharge substantial quantities of sediment, turbidity, TDS, and other pollutants to the creeks within the facility and subsequently the Pacific Ocean.

The SWPPP fails to adequately describe the facility's road system and related discharge locations, and also fails to describe or identify any BAT or BCT measures addressing pollution discharges from point source discharges associated with the facility's roads as well as undercut, landslide areas. Vintage/Oxy has failed to take or analyze any samples of storm water discharged from the facility's roads or landslide areas. Alternatively, assuming the samples taken at the facility are representative of the sediment discharges from the roads and landslide areas, as discussed above, those samples indicate that Vintage/Oxy has failed to implement BAT/BCT for its roads and landslide areas and has discharged pollutants in violation of applicable water quality objectives.

2. Inadequate Sampling Frequency

Section 5(a) of the Industrial General Permit's Monitoring Program and Reporting Requirements mandates that operators collect storm water samples during the first hour of discharge from two storm events each year: 1) the first storm event of the wet season; and 2) at least one other storm event during the rainy season. Section B(5)(a). In the event that an operator fails to collect samples from the first storm event, the operators must still collect samples from two other storm events and "shall explain in the Annual Report why the first storm event was not sampled." *Id.*

As outlined in detail above, Vintage/Oxy has repeatedly recorded extremely high levels of TSS, TDS, and specific conductance at all of its sampling locations and during all reporting periods. Nonetheless, in its most recent annual report (2010-2011), Vintage/Oxy

reports that it only sampled one storm event and failed to collect samples from the first storm event of the season, in violation of the Industrial General Permit. In addition, according to EDC's information and knowledge, Vintage/Oxy did not provide an explanation for this failure nor attempt to conduct sampling of a second storm event, in violation of the Industrial General Permit.

3. Failure to Analyze for Pollutants That May be Present in Significant Quantities

Under the Industrial General Permit, in addition to TSS, pH, specific conductance, and either TOC or O&G, facilities must analyze their storm water samples for “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.” Section B(5)(c)(ii). EPA has identified numerous pollutants that are expected to be discharged in significant amounts from oil and gas facilities, including, but not limited to, total petroleum hydrocarbons (TPH), chemical oxygen demand (COD), chlorides, barium, naphthalene, phenanthrene, benzene, lead, arsenic, fluoride TSS, acetone, toluene, ethanol xylenes, barium, and antimony. *See* Table 1. Based on EDC's information and belief, Vintage/Oxy has failed to monitor for these likely pollutants at the facility in violation of the General Permit, Section B(5)(c)(ii). These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Vintage/Oxy is subject to penalties for violations of the General Permit and the Act since February 23, 2007.

C. *SWPPP VIOLATIONS*

Under the Industrial General Permit, the State Water Board has designated the Storm Water Pollution Prevention Plan (SWPPP) as a cornerstone of compliance with NPDES requirements for storm water discharges from industrial facilities and ensuring that operators meet pollution effluent limitations. Using the SWPPP as an overall blueprint, permittees must “control . . . pollutant discharges using best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) to prevent and reduce pollutants and any more stringent controls necessary to meet water quality standards.” Industrial General Permit Fact Sheet at VIII. The Industrial General Permit prescribes several specific requirements for the information that must be included in the SWPPP, including preparation of a detailed site map; a list of significant materials handled and stored at the site; a description of potential pollutant sources (including material handling and storage areas); an assessment of potential pollutant sources; and development of structural and non-structural best management practices (BMPs). General Permit at 12-19. According to EDC's information and belief, a SWPPP for the Rincon Grubb oil field was first prepared in January 1996 and last revised in July 2009. As detailed below, this SWPPP violates the Industrial General Permit plan requirements in several respects. Vintage/Oxy's failure to prepare an adequate SWPPP is a continuous violation of Section A and Provision E(2) of the Industrial General Permit every day since at least February 23, 2007. Vintage/Oxy will continue to be in violation every day that Vintage/Oxy fails to prepare, implement, review, and update an effective SWPPP. Vintage/Oxy is subject to penalties for violations of the Industrial General Permit and CWA occurring since February 23, 2007.

1. Insufficient Site Map

Section 4 of the Industrial General Permit's SWPPP requirements mandates that the SWPPP shall include a site map (or if necessary to provide the required information, multiple site maps) depicting information including:

- * The outline of all storm water drainage areas within the facility boundaries, as well as additional information concerning drainage areas, surface water, and areas of soil erosion;
- * The location of the storm water collection and conveyance system, points of discharge, and structural control measures;
- * An outline of all impervious areas, including pavement, buildings, and other roofed structures;
- * Locations where materials are directly exposed to precipitation, and where significant spills or leaks have occurred; and
- * Areas of industrial activity.

The Rincon Grubb SWPPP does not contain a site map or multiple site maps meeting these requirements, in violation of the Industrial General Permit.

2. Failure to Include List of Significant Materials

Section 5 of the Industrial General Permit's SWPPP requirements mandates that the SWPPP shall include "a list of all significant materials," including "raw materials, intermediate products, final or finished products, recycled materials, and waste or disposal materials."

The Rincon Grubb SWPPP does not include a list of significant materials meeting these requirements, in violation of the Industrial General Permit.

3. Inadequate Description of Potential Pollutant Sources

Section 6 of the Industrial General Permit's SWPPP requirements mandates that the SWPPP shall include a narrative description of the facility's industrial activities, including potential pollutant sources. Section 6 further specifies that, "at a minimum," this description provide detailed information related to industrial processes; material handling and storage areas; dust and particulate generating activities; significant spills and leaks; non-storm water discharges; and erosion. Reflecting the level of detail in these requirements, Section 6 requires that the SWPPP include a table summary of "all areas of industrial activities, potential pollutant sources, and potential pollutants."

The Rincon Grubb SWPPP does not provide the detailed information required, instead only providing a general statement that potential sources of pollution include well heads, storage and processing units, and transportation facilities, and that potential pollutants include TDS, TSS, and O & G. For example, no information regarding erosion associated with the

facility's poorly maintained access roads is set forth in the SWPPP. The failure to provide the detailed information required is in violation of the Industrial General Permit.

4. Inadequate Assessment of Potential Pollutant Sources

Section 7 of the Industrial General Permit's SWPPP requirements mandates that the SWPPP shall address which areas of the facility are likely sources of pollutants in storm water discharges, and which pollutants are likely to be present in that storm water. The assessment required under section 7 is specifically tied to the description required under section 6.

The Rincon Grubb SWPPP does not provide the required assessment of potential pollutant sources, in violation of the Industrial General Permit.

5. Failure to Identify and Implement BMPs that achieve BAT/BCT

Section 8 of the Industrial General Permit's SWPPP requirements mandates that the SWPPP shall include a narrative description of the storm water BMPs to be implemented at the facility for each potential pollutant and its source. This description must include both non-structural (including good housekeeping, spill response, material handling and storage, employee training, erosion control and site stabilization, and inspections) and structural (including overhead coverage, retention ponds, and treatment) BMPs. In determining whether BMPs are effective, visual observations, inspections, and sampling results are relevant. *Kramer Metals, Inc.*, 619 F. Supp. 2d at 931.

Since enrolling under the Industrial General Permit in 2007, Vintage/Oxy's sampling results, as reported in the annual reports, consistently show TSS, TDS, and specific conductance readings that are well in excess of applicable benchmarks and guidelines. However, the Rincon Grubb SWPPP fails to identify either non-structural or structural BMPs, in violation of the Industrial General Permit.

6. Failure to Conduct Annual Site Compliance Evaluation

Section 9 of the Industrial General Permit's SWPPP requirements mandates that the facility operators conduct one comprehensive site compliance evaluation each year, including: a review of all visual observation records; a visual inspection of all potential pollutant sources; a review and evaluation of all BMPs; and an evaluation that includes target dates for any necessary SWPPP revisions. As stated, "the SWPPP shall be revised, as appropriate, and the revisions implemented within 90 days of the [annual comprehensive site compliance] evaluation."

According to EDC's information and knowledge, Vintage/Oxy has not conducted the required annual site compliance evaluations, and thus the Rincon Grubb SWPPP has not been revised as required, in violation of the Industrial General Permit.

D. Failure to File True and Correct Annual Reports.

Section B(14) of the Industrial General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9) & (10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) & (10) and B(14).

In 2007, 2008, 2009, 2010 and 2011, Vintage/Oxy and its agent, James Lovins, inaccurately certified in the Annual Reports that the Facility was in compliance with the General Permit. Consequently, Vintage/Oxy has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time Vintage/Oxy failed to submit a complete or correct report and every time Vintage/Oxy or its agents falsely purported to comply with the Act. Vintage/Oxy is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since February 23, 2007.

III. Persons Responsible for the Violations

EDC puts Vintage Production California LLC, Occidental Petroleum Corporation, James Lovins and Bill Barrett on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, EDC puts Vintage/Oxy on notice that it intends to include those subsequently identified persons in this action.

IV. Name and Address of Noticing Party

The name, address, and telephone number of EDC are as follows:

David Landecker, Executive Director
Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101
(805) 963-1622

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V. Counsel

EDC has retained legal counsel to represent it in this matter. Please direct all communications to:

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VI. Penalties and Injunctive Relief

As detailed in this Notice of Intent to Sue sent to Vintage/Oxy in accordance with requirements of the CWA, Vintage/Oxy is in violation of multiple requirements of the Industrial General Permit, including exceedances of receiving water limitations and effluent limitations, monitoring and reporting violations, and SWPPP violations. Section 309 of the CWA, 33 U.S.C. § 1319(d), as adjusted by 40 C.F.R. § 19.4, provides for penalties of as much as \$37,500 per day per violation.

EDC believes that this Notice of Violation and Intent to File Suit sufficiently states grounds for filing suit under the CWA. We intend to file a citizen suit under section 505(a) of the CWA against Vintage/Oxy and its agents for the above-referenced violations upon the expiration of the 60-day notice period. During the 60-day notice period, however, we are willing to discuss effective remedies for the violations alleged in this letter. If you wish to pursue such discussions in the absence of litigation, we respectfully request that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period, as we do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Brian Segee



Michael Lozeau

cc: (via certified mail, return receipt requested):

CT Corporation System
Registered Agent for Vintage Production LLC and Occidental Petroleum Corporation
818 West Seventh Street
2nd Floor
Los Angeles, CA 90017

Lisa Jackson, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Ariel Rios Building, Suite 3000
Washington, D.C. 20460

Eric Holder, Attorney General
United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

Jared Blumenfeld, EPA Regional Administrator
US EPA Region 9
Regional Administrator's Office
75 Hawthorne Street
San Francisco, CA, 94105

Matt Rodriguez, Secretary for Environmental Protection
California Environmental Protection Agency
1001 I Street
P.O. Box 2815
Sacramento, CA 95812-2815

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

ATTACHMENT A

Rain Dates: Rincon Grubb Oil Field
(as measured at Sea Cliff County Fire Station)
(Vintage/Oxy sample dates in bold)

February 19, 2007

February 22, 2007
February 23, 2007
February 27, 2007
March 21, 2007
April 20, 2007
April 21, 2007
April 23, 2007

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September 19, 2007  
September 22, 2007  
September 24, 2007  
October 13, 2007  
November 12, 2007  
November 30, 2007  
December 7, 2007  
December 18, 2007  
December 19, 2007  
December 20, 2007  
December 21, 2007  
January 4, 2008  
January 5, 2008  
January 6, 2008  
January 7, 2008  
January 22, 2008  
January 23, 2008  
January 24, 2008  
January 25, 2008  
January 26, 2008  
January 27, 2008  
January 28, 2008  
February 3, 2008  
February 4, 2008  
February 20, 2008  
February 22, 2008  
February 23, 2008  
February 24, 2008  
March 1, 2008  
April 3, 2008  
May 23, 2008

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October 5, 2008
October 31, 2008
November 1, 2008
November 2, 2008
November 4, 2008
November 26, 2008
November 27, 2008
December 15, 2008
December 16, 2008
December 17, 2008
December 18, 2008
December 22, 2008
December 25, 2008
December 26, 2008
January 22, 2009
January 23, 2009
January 24, 2009
January 25, 2009
January 26, 2009
February 6, 2009
February 7, 2009
February 8, 2009
February 9, 2009
February 10, 2009
February 14, 2009
February 16, 2009
February 17, 2009
February 18, 2009
February 23, 2009
March 4, 2009
March 5, 2009
March 22, 2009
April 8, 2009
May 11, 2009
May 18, 2009
June 1, 2009
June 6, 2009
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October 13, 2009

### **October 14, 2009**

October 15, 2009  
**December 7, 2009**  
December 12, 2009  
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December 31, 2009  
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March 7, 2010  
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April 28, 2010  
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May 19, 2010  
June 29, 2010  
June 30, 2010  
July 6, 2010  
July 7, 2010  
July 22, 2010

July 24, 2010

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March 2, 2011
March 3, 2011
April 20, 2011
April 21, 2011
April 24, 2011
May 11, 2011
May 15, 2011

May 16, 2011

May 17, 2011

May 18, 2011
June 6, 2011
June 17, 2011
June 18, 2011
June 24, 2011
August 11, 2011
September 25, 2011
September 26, 2011

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October 4, 2011  
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November 12, 2011  
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November 22, 2011  
December 12, 2011  
January 21, 2012  
January 23, 2012  
February 7, 2012