

AGENDA ITEM NO.	1K
COUNCIL MEETING	1/28/10
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

January 28, 2010

FROM: RENE A. RAMIREZ, Director
Department of Public Utilities 

BY: STEPHEN A. HOGG, Assistant Director
Department of Public Utilities, Wastewater Management 

SUBJECT: APPROVE AN AGRICULTURAL LEASE AGREEMENT WITH JAMES COOK IN THE AMOUNT OF \$76,822.92 FOR LEASE OF 125 ACRES OF CITY-OWNED LAND AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (COUNCIL DISTRICT 3)

RECOMMENDATION

Staff recommends the approval of the Lease Agreement with James Cook, an individual, at the lease rate of \$15,625 per year for 125 acres of City-owned land at the Fresno-Clovis Regional Wastewater Reclamation Facility (RWRf), and that the Council authorize the Director of Public Utilities or his designee to execute the Lease Agreement and subsequent extensions on behalf of the City.

EXECUTIVE SUMMARY

The Wastewater Management Division (WMD) has completed an advertising and competitive proposal process for leasing 125 acres of land at the RWRf for portions of APN 327-021-05T, APN 327-021-04T and APN 327-021-45T. James Cook was the only respondent. The agreement provides for a five-year lease term (February 1, 2010 through December 31, 2014) with an option for two additional one-year extensions. Approval of the agreement will result in lease revenue to the Wastewater fund of between \$76,822.92 and \$108,072.92 depending whether the optional two one-year extension terms are exercised.

BACKGROUND

The WMD provided local wineries with a specific parcel at RWRf for winery waste disposal until December 31, 2003, when the current Waste Discharge Requirements (WDR) Order No. 5-01-254 issued by Central Valley California Regional Water Quality Control Board went into effect prohibiting acceptance of winery waste starting on the above-mentioned date.

The WDR has specific requirements for the winery waste disposal site including, but not limited to, monitoring and reporting provisions and regularly planting and harvesting crops to reduce nutrient (specially nitrogen) content in the soils affected by years of winery waste discharge.

Although food crops for direct human consumption will not be grown on these parcels, they are suitable for silage corn, alfalfa, forage, and similar crops. Extracted well water from reclamation wells is provided to the leased tracts as a means of recycling water from the RWRf and to increase the marketability of the land.

Presented to City Council
Date 1/28/10
Disposition Rec. approved

REPORT TO THE CITY COUNCIL

Lease Agreement – James Cook

January 28, 2010

Page 2

The parcels of the land are located at the southwest corner of Jensen and Hayes Avenues. The properties were advertised for lease in the classified section of the local newspaper, and information forms were sent to area farmers and to the parties responding to the advertisement. Mr. James Cook was the only proposer responding to the advertisement. Attachment "A" contains lease details.

The payment will be \$15,625 per year, and will be \$108,072.92 for six years and eleven month if the extensions are exercised.

James Cook signed a new lease contract at the above-mentioned lease rate payable in semiannual installments with a term ending on December 31, 2014 with an option to extend the lease agreement for two additional one-year terms. The lease agreement has been reviewed by the City Attorney's Office and has been approved as to form. The Categorical Exemption Environmental Assessment No. EA-09-059 dated November 10, 2009, under California Environmental Quality Act (CEQA) has been issued under Section 15301/Class 1 of the CEQA Guidelines.

FISCAL IMPACT

Anticipated gross lease revenue is \$15,625 per year, with a total of \$76,822.92 for the basic term of this Lease Agreement; a total of \$108,072.92 if the two one-year extension periods are exercised into Wastewater operating fund.

Attachments:

Lease Agreement

Environmental Assessment

CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. EA-09-059

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Department of Public Utilities-Wastewater Management
City of Fresno
5607 West Jensen Avenue
Fresno, California 93706

PROJECT LOCATION: 5607 West Jensen Avenue (APN: 327-021-05T por.; 04T por.; and
45T por.) Located on the south side of West Jensen Avenue between
Hayes and Bryan Avenues.

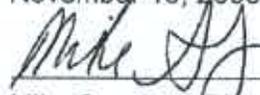
PROJECT DESCRIPTION: The Department of Public Utilities – Wastewater Management Division
proposes to enter into a lease agreement with Stepen England for 125
acres of agricultural property as described above for the agricultural;
cultivation of crops and use of recycled water. The proposed use is
consistent with the 2025 General Plan policies and Waste Discharge
Requirements issued by the Regional Water Quality Control Board
regarding the operation, maintenance, and monitoring requirements for
the Fresno-Clovis Regional Wastewater Reclamation Facility.

This project is exempt under Section 15301/Class 1 of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: Under Section 15301(a)/Class 1 consists of the operations, and
leasing of existing public and private structures and facilities,
mechanical equipment, or topographical features, involving negligible
or no expansion of use beyond that existing at the time of the lead
agency's determination. The key consideration is whether the project
involves negligible or no expansion of an existing use. The proposed
use is for the growth and cultivation of agricultural crops consistent
with Waste Discharge Requirements issued to the Wastewater
Reclamation facility. The proposed lease agreement complies with
Section 15301(a)/Class 1 exemption criteria from the provisions of
CEQA criteria as noted above.

The project is consistent with the 2025 Fresno General Plan and
Edison Community Plan, planned land use and zone district
designation. The project meets all conditions of exemption under the
CEQA, Class 1 Categorical Exemption. No adverse environmental
impacts will occur as a result of the proposed project.

Date: November 10, 2009

Submitted By: 

Mike Sanchez, Planning Manager
City of Fresno, Planning & Development Department
(559) 621-8040

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

*Recording Requested by City Clerk
Return to City Clerk,
260 1/2 Fresno St. Fresno, CA 93721*

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Lease and Agreement is recorded at the request and for the benefit of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

CITY OF FRESNO

By: [_____]
Name: [_____]
Title: [_____]

CITY OF FRESNO, a municipal corporation

LEASE AGREEMENT

**FOR AGRICULTURAL PROPERTY AT THE
REGIONAL WASTEWATER RECLAMATION FACILITY**

Between

CITY OF FRESNO, CALIFORNIA

And

JAMES COOK

5607 West Jensen Avenue, Fresno, CA

APN:

327-021-05T (Portion of)

327-021-04t (Portion of)

327-021-45T (Portion of)

INDEX

ARTICLE I	Description of Premises Demised	4
ARTICLE II	General Provisions Concerning the Manner of Use	4
ARTICLE III	Mortgage on Crops and Title to Improvements.....	6
ARTICLE IV	Term.....	6
ARTICLE V	Termination of Lease.....	6
ARTICLE VI	Rent and Taxes	7
ARTICLE VII	Maintenance	8
ARTICLE VIII	Surrender.....	9
ARTICLE IX	Indemnity and Insurance	9
ARTICLE X	Observation of Governmental Regulations	11
ARTICLE XI	Inspection by the Lessor.....	12
ARTICLE XII	Right to Assign and Sublet.....	12
ARTICLE XIII	Right to Encumber.....	12
ARTICLE XIV	Holding Over.....	13
ARTICLE XV	Default.....	13
ARTICLE XVI	National Emergency and Condemnation/Eminent Domain.....	17
ARTICLE XVII	Miscellaneous.....	19
SIGNATURE PAGE		24
EXHIBIT A	Plat of Lease Premises	26
EXHIBIT B	Stillage Site Soils Monitoring.....	27

THIS LEASE AGREEMENT (hereinafter "Lease"), made and entered into effective as of the February 1, 2010 ("Effective Date") by and between the CITY OF FRESNO, CALIFORNIA, a municipal corporation, hereinafter called "Lessor" and James Cook, hereinafter referred to as "Lessee."

WITNESSETH

WHEREAS, Lessor owns and operates a municipal wastewater facility which received and processed winery stillage until December 31, 2003, pursuant to a regulatory permit granted by the California Regional Water Quality Control Board ("CRWQCB"); and

WHEREAS, the Lessor has ownership of Winery Stillage Beds located at 5607 West Jensen Avenue, Fresno, CA 93706; and

WHEREAS, part of such property contains 125 acres, consisting of four sections in close proximity to each other, as more specifically described in Exhibit "A", attached hereto and incorporated herein (collectively hereinafter the "Leased Premises") acquired by the Lessor for the disposal of winery stillage processed by the Fresno-Clovis Regional Wastewater Reclamation Facility ("RWRF"); and

WHEREAS, the CRWQCB requires the Lessor to remove excess nutrients left by application of winery stillage that occurred until December 2003 by planting and harvesting crops; and

WHEREAS, the Lessor desires to lease to Lessee and Lessee desires to lease from Lessor the Leased Premises solely for Lessee's use in growing hay, forage and the like upon the terms and conditions herein; and

WHEREAS, Lessee desires to avail itself of such agricultural use from the Lessor and the parties desire to enter into this Lease.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE RECITALS, WHICH RECITALS ARE CONTRACTUAL IN NATURE, THE MUTUAL PROMISES HEREIN CONTAINED, AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE I
DESCRIPTION OF LEASED PREMISES

A. The Lessor, in consideration of the compensation and the covenants and agreements set forth herein to be kept and performed by Lessee, does hereby lease to Lessee, in "as is" condition and upon the conditions hereinafter set forth all of which Lessee accepts, and Lessee does hereby hire and take from Lessor, the approximate one hundred twenty five [125] acres, as shown on Exhibit "A" constituting the Leased Premises, together with attendant privileges, rights, uses and interests.

B. Lessee warrants to Lessor that prior to Lessee's execution hereof, Lessee, by means independent of Lessor or any employee, agent or representative of Lessor, determined, to Lessee's full and complete satisfaction, the acceptability of the Leased Premises to Lessee for such uses as are authorized herein, and that Lessee accepts said Leased Premises in an "as is" condition

ARTICLE II
GENERAL PROVISIONS CONCERNING THE MANNER OF USE

A. The Leased Premises shall be used exclusively for cultivating and harvesting Sudan Grass, Sorghum or Sudan-Sorghum hybrid, Silage corn, forage, hay, and/or the like. Lessee shall not change, modify, add, or remove any improvements. All costs, except for water, in the preparation of said land for crops and all expenses in the production and harvesting thereof, and all tools and labor necessary thereof for the production and harvesting of the crops thereon, shall be incurred at the sole cost and expense of Lessee.

B. The Leased Premises are loaded with nitrogen and phosphorous compound as a result of winery stillage application. Lessee expressly agrees and warrants that it shall not apply any fertilizer or soil amendment regardless of whether organic or inorganic, foliar, or land application. Upon Lessor's reasonable request Lessee shall provide any information/materials necessary for Lessor's continuing compliance with the reporting requirements of CRWQCB Order No. [5-01-245] and any subsequent order(s) issued by the CRWQCB pertaining to the Leased Premises, including without limitation soil and vadose zone samples.¹ This provision shall survive expiration or termination of this Lease.

(1) A copy of CRWQCB Order No. 5-01-245 Waste Discharge Requirements for the City of Fresno and Clovis Wastewater Treatment Plant is available from Lessor. A portion of CRWQCB Order No.

C. Lessee shall have the right to use well water from Houghton Canal discharge line for irrigation of the Leased Premises at no cost. Lessee shall return all tail water back to the Leased Premises each time during irrigation.

D. Lessee shall farm the Leased Premises according to the best practices in the area and use its best endeavors and skills to operate a clean and efficient business.

E. Lessee shall abide by all legal and regulatory requirements including the requirements of RWRF, requirements of the CRWQCB, and requirements of the California Code of Regulation (CCR) Title 22, as such may be amended from time to time. Without waiver of rights/remedies available to Lessor, Lessee shall reimburse the Lessor for any fines or penalties imposed by any regulatory agencies, and any costs associated with said action, resulting from Lessee's violation of any such legal and regulatory requirements.

F. Lessee shall at all time acts in a good farmer like manner and in accordance with the best practices in the area and shall use its best efforts and skills in this regard. Without limiting the foregoing and unless otherwise expressly provided in this Lease, Lessee shall keep down and control the growth of noxious weeds and grasses on the Leased Premises including non-farmable areas, fence lines, and road rights of way, if any, provided that Lessee shall cooperate to keep down and control the growth of noxious weeds and grasses on non-farmable portions of the Leasehold. Lessee acknowledges that weeds become problematic if not checked. The Lessor, after 15 day notice, will abate those weeds on the Leased Premises at Lessee's expense, including an administration fee.

G. Except to the extent required by good farming practices as consented to in advance by Lessor, Tenant shall not construct improvements upon the Leased Premises or alter, improve, remove trees from or add to the Leased Premises or any existing structure on such Leased Premises.

H. It is anticipated that the Lessee may store bailed crops on the vicinity of Leased Premises for a short time (maximum of two months) and stack them in an orderly manner. Prolonged storage will not be allowed and Lessor will remove such stored items on the Leased Premises at Lessee's expense, including an administration fee.

5-01-245 relating to Stillage Site Soils Monitoring requirements is included in Exhibit "B", attached hereto and incorporated by reference herein.

ARTICLE III
MORTGAGE OF CROPS AND TITLE TO IMPROVEMENTS

A. As further consideration for, and in order to secure rights and benefits granted to Lessee hereunder, Lessee agrees to execute agricultural lien and/or financing statement documents upon the reasonable request of Lessor.

B. It is anticipated that Lessee may finance some or all of the growing of crops on the Leased Premises by crop loan. Lessor agrees to subordinate any security interest or lien it may hold with respect to any crops grown on the Leased Premises to third party crop financing.

ARTICLE IV
TERM

A. The initial term of this Lease will be for five (5) years running from the Effective Date through December 31, 2014.

B. Thereafter, and provided Lessee is not then in default hereunder, this Lease shall renew for two (2) renewal terms of one (1) year each upon Lessee's written notice of renewal served on Lessor not later than 90 days prior to expiration of the then current initial or renewal term, subject to Lessor's discretion and/or earlier termination as provided in this Lease.

ARTICLE V
TERMINATION OF LEASE

A. This Lease may be terminated by Lessor at any time by written 30 days notice, should Lessor determine that (i) any breach of this Lease has occurred as pursuant to Article XV herein or (ii) the public's interest mandates the use of all or part of the Leased Premises by RWRF.

B. Upon any termination of this Lease, Lessor shall (i) at Lessor's option, either pay Lessee the reasonable fair market value of growing crops planted and cultivated by Lessee, or allow Lessee to hold over (in the manner provided for in this Lease) in order to complete the next occurring harvest of said crops at Lessee's sole cost and expense; and (ii) refund to Lessee any unearned rental fees.

ARTICLE VI
RENT AND TAXES

A. Commencing on the Effective Date of this Lease and then continuing thereafter during the term of this Lease, as additional consideration to the public purposes and uses underlying this Lease Lessee shall pay to Lessor an annual rental fee for the Leased Premises according to the following schedule, subject to non-renewal/earlier termination as provided in this Lease:

APN:

327-021-05T (Portion of)

327-021-04t (Portion of)

327-021-45T (Portion of)

125 acres @ \$125.00/Acre Total payment of the year 2010	\$14,322.92
Total payment of the year 2011	\$15,625.00
Total payment of the year 2012	\$15,625.00
Total payment of the year 2013	\$15,625.00
Total payment of the year 2014	\$15,625.00
Total payment of the year 2015 (if extended)	\$15,625.00
Total payment of the year 2016 (if extended)	\$15,625.00

B. Total annual rental fee in each year hereunder shall be due and payable in advance in two equal installments due and payable on each January 15 and July 15 hereunder. The annual rental fees due hereunder for any period less than a full calendar year shall be prorated.

C. All fees/charges due to be paid to Lessor by Lessee hereunder shall be paid to Lessor (make check payable to City of Fresno) at the address shown below or at such other address to which Lessor, by service of written notice upon Lessee, may direct the payment thereof from time to time during the term hereof:

City of Fresno - Regional Wastewater Reclamation Facility
Attn: Management Analyst
5607 West Jensen Avenue
Fresno, CA 93706

D. Should any installment of rental fees accruing to Lessor under the provisions of this Lease not be received by Lessor within ten (10) calendar days after such shall be due, a late payment charge equal to one and one half percent (1.5%) of the overdue amount shall be added thereto and

constituting a part thereof shall be assessed by Lessor as rent each and every day until the entire delinquent amount is received by Lessor.

E. Lessee agrees to pay, before delinquency, as and when due, any and all lawful taxes, assessments or charges which, during the life hereof, may be levied by the State, County, City, and/or other tax-levying body on any part or all of the personal property of Lessee and/or upon the possessory interest, if any, of Lessee in the Leased Premises under this Lease. (See the following "NOTE.")

NOTE. Any interest in real property which exists as a result of possession, exclusive use, or a right to possession or exclusive use of any real property (land and/or improvements located therein or thereon) which is owned by the City of Fresno (City) is a taxable possessory interest unless the possessor of interest in such property is exempt from taxation. With regard to any possessory interest to be acquired by Lessee under this Lease, Lessee, by its signature hereunto affixed, warrants, stipulates, confirms, acknowledges and agrees that, prior to its executing this Lease, Lessee either took a copy of this Lease to the office of the Fresno County tax assessors or by some other appropriate means independent of City or any employee, agent, or representative of City determined, to Lessee's full and complete satisfaction, how much Lessee will be taxed, if at all.

ARTICLE VII MAINTENANCE

A. Lessee shall, at all times, keep the Leased Premises and all fixtures, equipment and personal property in a clean and orderly condition and appearance. Lessee shall take such care of the Leased Premises and all parts thereof at all times during the term of this Lease.

B. Lessee shall undertake at its sole cost and expense such routine maintenance and repairs, in a reasonably and timely manner consistent with the circumstances, as shall be required in order to maintain any Lessor owned equipment including pumps, pipelines, stand pipes and ditches on the Leased Premises (the "Premises Improvements") in a good operating condition. Lessee shall be responsible for any damage to the Premises Improvements resulting from Lessee's negligence or willful misconduct.

C. Lessee shall make proper arrangement for the disposal of any and all solid or liquid waste which may result from or be incidental to Lessee's use of the Leased Premises.

D. In its pursuit of this Lease and unless otherwise expressly provided in this Lease, Lessee shall keep the Leased Premises and each and every part thereof in a neat, clean and orderly condition, and shall prevent the accumulation of, and shall maintain said Premises free from any refuse or waste materials which might be or constitute a potential health, environmental, or fire hazard or public or private nuisance. Lessee in its pursuit hereof shall not cause or knowingly permit to occur any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions in, on, under or about the Leased Premises, or arising from Lessee's use(s) or occupancy(ies) thereof, including, but not limited to, soil and ground water conditions.

ARTICLE VIII SURRENDER

A. At the expiration of the life of this Lease or any prior termination thereof, Lessee agrees to quietly and peacefully surrender possession of said Leased Premises and all improvements thereon to the Lessor in a neat and clean condition and free from any and all liens or encumbrances.

ARTICLE IX INDEMNITY AND INSURANCE

A. The Lessee shall indemnify, hold harmless and defend the Lessor and each of its officers, officials, employees, volunteers and agents from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the Lessor, the Lessee or any other person, and from any and all claims, demands and actions in law or equity (including attorneys fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Lease. The Lessee's obligations under the preceding sentence shall apply regardless of whether the Lessor or any of its officers, officials, employees, volunteers or agents are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the active negligence or by the willful misconduct of the Lessor or any of its officers, officials, employees, agents or volunteers.

B. If the Lessee should subcontract all or any portion of the work to be performed under this Lease, the Lessee shall require each subcontractor to indemnify, hold harmless and defend the

Lessor and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

C. The foregoing paragraphs of this article shall survive termination or expiration of this Lease.

D. Throughout the life of this Lease, the Lessee shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-/VII" in Bests Insurance Rating Guide; or (ii) authorized by the Lessor's Risk Manager. The following policies of insurance are required:

1) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury and \$2,000,000 aggregate for products and completed operations.

2) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for "any auto" with limits of liability of not less than \$1,000,000 per accident for bodily and property damage.

3) WORKERS' COMPENSATION insurance as required under the California Labor Code, with a ten (10) day written Notice of Cancellation and waiver of subrogation cause in favor of City of Fresno.

4) EMPLOYERS' LIABILITY insurance with minimum limits of \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy limit.

E. Defense costs shall be provided as an additional benefit and not included within the above limits of liability. Lessee shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Lessee shall also be responsible for payment of any self-insured retentions.

F. The above described policies of insurance shall be endorsed to provide an unrestricted thirty (30) day written notice in favor of the Lessor, of policy cancellation, change or reduction of coverage. Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, the Lessee shall file with Lessor a certified copy of the new or renewal policy and certificates for such policy. In the event any policies are due to expire during the term of this Lease, Lessee shall provide a new certificate evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy(ies).

G. The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name the Lessor, its officers, officials, agents, employees and volunteers as an additional insured. Such policy (ies) of insurance shall be endorsed so the Lessee's insurance shall be primary and no contribution shall be required of the Lessor. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to LESSOR, its officers, officials, agents, employees and volunteers. **The Lessee shall furnish the Lessor with the certificate(s) and applicable endorsements for all required insurance prior to the Lessor's execution of the Lease.** The Lessee shall furnish the Lessor with copies of the actual policies upon request of the Lessor's Risk Manager, and this requirement shall survive termination or expiration of this Lease.

H. If at any time during the life of the Lease or any extension, the Lessee fails to maintain the required insurance in full force and effect all activities under this Lease shall be discontinued immediately, until notice is received by Lessor that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to Lessor. Any failure to maintain the required insurance shall be sufficient cause for Lessor to terminate this Lease.

ARTICLE X OBSERVATION OF GOVERNMENTAL REGULATIONS

A. Lessee agrees, during the life of this Lease, to comply with and conform to all rules, regulations and ordinances of the City of Fresno and County of Fresno and all laws of the State of California and the United States, and all orders of any governmental agency which shall be applicable to the facilities or to the said Leased Premises or the business thereon being conducted by Lessee. Nothing in this Lease shall be construed as a limitation on the Lessor's police power.

B. Lessee acknowledges that Lessee, not the Lessor, is responsible for determining applicability of and complying with all local, state and federal laws including, but not limited to, provisions of the California Labor Code, Public Contract Code and Government Code. The Lessor makes no express or implied representation as to the applicability or inapplicability of any such laws to this Lease or the parties' respective rights or obligations hereunder. Lessee further acknowledges that the Lessor shall not be liable or responsible in law or equity for any failure by Lessee to comply with any such laws, regardless of whether the Lessor knew, could have known or should have known of the need for such compliance or whether the Lessor failed to notify Lessee of the need for such compliance.

ARTICLE XI INSPECTION BY THE LESSOR

A. The Lessor or any of its authorized officers and employees shall, at all reasonable times have the right to enter upon the Leased Premises, either in person or by nominee, for any lawful purpose(s), including: (i) for the purpose of inspecting said Leased Premises to ascertain that the premises and the covenants of this Lease are being kept, observed and performed; and (ii) to perform soil monitoring, sampling, and testing, as specified herein.

ARTICLE XII RIGHT TO ASSIGN AND SUB-LET

A. Lessee shall not without first receiving the written consent and approval of the Lessor, make any assignment or sub-lease in whole or in part of this Lease, it being understood and agreed that consent to one or more assignment or sub-lease shall not constitute a waiver of the Lessor's rights under this article for further or other assignments or sub-leases.

ARTICLE XIII RIGHT TO ENCUMBER

A. Except as to crops grown on the Leased Premises, Lessee shall have no right to pledge, mortgage or hypothecate this Lease or any of the Lessee's interest under this Lease without first receiving the written consent and approval of the Lessor thereto. If, at any time during the life of this Lease in any judicial action or proceeding in any Court against Lessee or any assigns, a receiver

or other officer or agent is appointed to take charge of said premises or the business conducted thereon, and shall remain in possession thereof for a period of thirty (30) days, or if this Lease or the interest or estate created thereby vests in any other person or persons by operation of law or otherwise, except by consent as aforesaid of the Lessor, or if Lessee shall be adjudicated bankrupt or Lessee voluntarily petitions for bankruptcy or corporate reorganization under the laws of bankruptcy or for an arrangement of its debts, Lessor shall have the option to terminate this Lease immediately and enter said premises and remove all persons therefrom.

ARTICLE XIV HOLDING OVER

A. Should Lessee hold over the Leased Premises herein specified with or without consent, expressed or implied, of Lessor, such holding over shall be construed to be a tenancy from month to month only, subject to all the terms, covenants, conditions, restrictions, and reservations of this Lease, and Lessee agrees to pay and shall pay to Lessor monthly rental fees and charges thereafter for the Leased Premises, at the rate in effect at the time of commencement of the hold over tenancy, in advance on the first of each month.

ARTICLE XV DEFAULT

A. If Lessee defaults in the performance of any condition or covenant in this Lease (except the payment of rent), the Lessor at its option, may terminate this Lease and all rights of Lessee in the Leased Premises, but only if Lessee fails to rectify said default within thirty (30) days after written notice thereof is served upon Lessee by the Lessor. In the event, however, that the default complained of is of such nature that the same cannot be rectified in such thirty (30) day period as aforesaid, then such default shall be deemed to be rectified if Lessee shall have commenced the compliance of the provisions hereof breached by it and in the performance of which it is claimed Lessee is in default within such thirty (30) day period and shall with all diligence prosecute work or perform the particular provisions until the same shall have been fully rectified or performed.

B. However, if said default is for the failure to pay rent or for failure to pay any other sum due or owing by Lessee to the Lessor under this Lease, Lessor at its option, may terminate this

Lease and all right of Lessee in the Leased Premises, but only if said default is not rectified within ten (10) days after service of written notice thereof on Lessee by the Lessor.

C. Notwithstanding Article VIII of this Lease, should Lessee abandon the Leased Premises or the crops growing thereon before said crops have been harvested, the Lessor shall have the right, at its option, to enter said premises and care for the said crops and harvest the same, all rights of Lessee in the Leased Premises and crops growing and standing thereon shall in such event be terminated and at an end; provided, however, that in such event said crops shall be subject to a crop mortgage in favor of any mortgagee, the mortgagee, and shall have the rights of Lessee as contained in this article.

D. Lessor's Remedies in the event of default include:

1. Abandonment: If Lessee abandons the Leased Premises, this Lease shall continue in effect. Lessor shall not be deemed to terminate this Lease as a result of such material default and breach other than by written notice of termination served upon Lessee by Lessor, and Lessor shall have all of the remedies available to Lessor under Section 1951.4 of the Civil Code of the State of California so long as Lessor does not terminate Lessee's right to possession of the Leased Premises, and Lessor may enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due under the Lease. After abandonment of the Leased Premises by Lessee, Lessor may, at any time thereafter, give notice of termination.

2. Termination: Upon the occurrence of any default and breach of this Lease by Lessee, Lessor may then immediately, or at any time thereafter, terminate this Lease by service of a minimum of ten (10) days advance written notice to such effect upon Lessee, in which event this Lease shall terminate at 11:59:59 p.m., on the termination date specified within such notice.

(1) Such notice shall, as a minimum, set forth the following:

(a) The default and breach which resulted in such termination by Lessor; and

(b) A demand for possession, which, in the event only ten (10) days advance notice shall be given by Lessor, shall be effective at 12:00:01 a.m., on the eleventh (11th) calendar day following the date on which the notice in which such demand is contained shall be sufficiently served upon Lessee by Lessor in the manner provided in this Lease; or, if more than the minimum

number of days advance notice shall be given, at 12:00:01 a.m., on the next day following the date specified within such notice as being the date of termination hereof.

(2) Such notice may contain any other notice which Lessor may, at its option, desire or be required to give (e.g., "Demand for Payment" of any and all monies due and owing).

3. Possession: Following termination of this Lease by Lessor, without prejudice to other remedies Lessor may have by reason of Lessee's default and breach and/or by reason of such termination, Lessor may:

(1) Peaceably re-enter the Leased Premises upon voluntary surrender thereof by Lessee; or

(2) Remove Lessee and/or any other persons and/or entities occupying the Leased Premises therefrom, and remove all personal property therefrom and store all such property not belonging to Lessor in a public warehouse or elsewhere at the cost of and for the account of Lessee, using such legal proceedings as may be available to Lessor under the laws or judicial decisions of the State of California; or

(3) Repossess the Leased Premises or relet the Leased Premises or any part thereof for such term (which may be for a term extending beyond the term of this Lease) at such rental and upon such other terms and conditions as shall be determined solely by Lessor, with the right to make reasonable alterations and repairs to the Leased Premises.

4. Recovery: Following termination of this Lease by Lessor, Lessor shall have all the rights and remedies available to Lessor under Section 1951.2 of the Civil Code of the State of California. The amount of damages Lessor may recover following such termination of this Lease shall include:

(1) The worth at the time of award of the unpaid rent which had been earned at the time of termination of this Lease;

(2) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of this Lease until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided;

(3) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period Lessee proves could be reasonably avoided; and

(4) Any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform Lessee's obligations under this Lease or which in the ordinary course of things would be likely to result there from.

5. Additional Remedies: Following the occurrence of any default and breach of this Lease by Lessee, in addition to the foregoing remedies, Lessor may maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Leased Premises and, so long as this Lease is not terminated by Lessor or by a decree of a court of competent jurisdiction, Lessor shall be entitled to enforce all of Lessor's rights and remedies hereunder, including the right to recover the rent as it becomes due under this Lease, and, during any such period, Lessor shall have the right to remedy any default of Lessee, to maintain or improve the Leased Premises without terminating this Lease, to incur expenses on behalf of Lessee in seeking a new sub-tenant, to cause a receiver to be appointed to administer the Leased Premises and any new or existing sub-leases and to add to the rent payable hereunder all of Lessor's reasonable costs in so doing, with interest at the maximum reasonable rate then permitted by law from the date of such expenditure until the same is repaid.

6. Other: In the event Lessee causes or threatens to cause a breach of any of the covenants, terms or conditions contained in this Lease, Lessor shall be entitled to invoke any remedy allowed at law, in equity, by statute or otherwise as though re-entry, summary proceedings and other remedies were not provided for in this Lease.

7. Cumulative Remedies: Each right and remedy of Lessor provided for herein or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude Lessor from exercising any other rights or from pursuing any other remedies provided for in this Lease or now or hereafter available to Lessor under the laws or judicial decisions of the State of California.

8. Indemnification: Nothing contained within this article affects the right of Lessor to indemnification by Lessee, as herein elsewhere provided, for liability arising from personal injuries or property damage prior to the termination of this Lease.

ARTICLE XVI

NATIONAL EMERGENCY AND CONDEMNATION/EMINENT DOMAIN

A. TOTAL TAKING/CONDEMNATION OF LEASED PREMISES

1. In the event that the Government of the United States takes over the operation of the Leased Premises or any part thereof, by requisition or other unilateral action as the result of a national emergency or otherwise, this Lease shall terminate as of the effective date of any such taking; or, if all of the Leased Premises shall be taken by public authority pursuant to condemnation action(s) under the laws of eminent domain, this Lease shall terminate as of the date of title vesting in such proceeding.

2. Unless otherwise expressly provided in this Lease, upon termination of this Lease as a result of either of the events described above, the parties hereto shall be relieved of any and all obligations hereunder, one to the other, which obligations are not in default as of the date of such termination and Lessor shall promptly return, on a pro rata basis, any then unearned rent theretofore paid by Lessee hereunder.

3. Lessor shall not be liable to Lessee for any injury to Lessee's business or loss of income or any other injury or loss suffered by Lessee as a result of any such taking and/or termination.

B. PARTIAL TAKING/CONDEMNATION OF LEASED PREMISES

1. In the event that only a part of the Leased Premises shall be taken as a result of any of those actions described above, if such partial taking shall not otherwise preclude Lessee's continued beneficial occupancy and use of those portion(s) of the Leased Premises not so taken, as reasonably determined by Lessee, this Lease shall continue in full force and effect and those certain parcel(s) of land so taken shall be automatically deleted from the Premises leased by Lessor to Lessee hereunder, as of the date of such taking and/or title vesting, and the rent then being paid to Lessor by Lessee shall then be adjusted by taking the total rental then being paid by Lessee pursuant to the provisions hereof on the date immediately preceding the date of such taking and/or title vesting, and subtracting that certain portion of rent then being paid for the portion(s) of the Leased Premises deleted from this Lease.

C. AWARDS

1. In the event that all or part of the Leased Premises shall be taken as a result of any of those actions described above, the rights of the parties hereto with respect to such award(s) as shall be paid for such taking shall be as follows:

2. Subject to paragraph 3 below, Lessor shall be entitled to the entire amount of any and all compensation awarded by reason of the taking of the Leased Premises and any and all Lessor-owned improvements then located therein or thereon, and Lessee waives any right or claim to any part of said amount from Lessor or the condemning authority.

3. Lessee shall have the right to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of:

a. The taking of or injury to any Lessee-owned improvements then located on the Leased Premises, including the value of the then existing leasehold interest and to the extent of Lessee's interest therein, based on the value of the then remaining unexpired portion of the term of this Lease, as said value shall be determined in the proceedings for the taking of such operations and awarding such compensation; and

b. Any and all cost or loss (including loss of business) which may be incurred by Lessee as a result of Lessee's having to remove Lessee's improvements and personal property (including, but not limited to, improvements, trade fixtures and equipment) to a new location.

D. NOTICE AND EXECUTION

1. Upon service of process upon Lessor in connection with either any taking over of Leased Premises or portion thereof by the United States Government or any condemnation or potential condemnation, Lessor shall immediately give Lessee notice thereof in writing. Lessee shall immediately execute and deliver to Lessor any and all instruments which may be required to fully effectuate any and all of the provisions of this Article if, as and when any such instruments shall be required of Lessee.

ARTICLE XVII
MISCELLANEOUS

A. GOVERNING LAW AND VENUE

This Lease shall be construed and enforced in accordance with the laws of The State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Lease and any rights and duties hereunder shall be Fresno County, California.

B. The Lessor agrees that upon performance of the covenants, conditions and agreements on the part of Lessee to be performed, Lessee shall have and enjoy the use of the Leased Premises and all of the rights and privileges granted herein.

C. WAIVER

No waiver by the Lessor or the Lessee of any breach of any provision of this Lease shall be deemed for any purpose to be a waiver of any breach of any other provision hereof or of a continuing or subsequent breach of the same provision.

D. SEVERABILITY

The provisions of this Lease are severable. In the event any covenant, condition or provision herein contained is held to be invalid by final judgment of any Court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any of the other covenants, conditions or provisions herein contained.

E. NOTICES

Any notice required or intended to be given to either party under the terms of this Lease shall be in writing and shall be deemed to be duly given if delivered personally or deposited into the United States mail, by registered or certified mail, return receipt requested with postage prepaid, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Lease or at such other address as the parties may from time to time designate by written notice. Personal service, as aforesaid, shall be deemed served and effective upon delivery thereof. Service by mail, as aforesaid, shall be deemed to be sufficiently served and effective as of 12:00:01 A.M., on the fourth (4th) calendar day following the date of deposit in the United States mail of such registered or certified mail, properly addressed and postage prepaid.

F. It is the intention of the parties hereto to act reasonably in fulfilling their respective obligations and exercising their authority under this Lease.

G. NON-DISCRIMINATION

Lessee shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, color, creed, religion, sex, sexual orientation, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability. During the entire term and performance of this Lease, Lessee agrees as follows:

1. Lessee will comply with all laws and regulations, as applicable. No person in the United States shall, on the grounds of race, color, creed, religion, sex, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability be excluded from participation in, be denied the benefits of, or be subject to discrimination under any activity made possible by or resulting from this Lease.

2. Lessee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, national origin, ancestry, ethnicity, age, marital status, and status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability. Lessee shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, creed, religion, sex, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

3. Lessee will, in all solicitations or advertisements for employees placed by or on behalf of Lessee, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability.

4. Lessee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of Lessee's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

I. INDEPENDENT CONTRACTOR

1. Lessee is and throughout this Lease shall be an independent contractor and not an employee, partner or agent of the Lessor. Neither party shall have any right to control, supervise or direct the manner or method or choice by which the other party or its contractors shall perform its or their work or function. However, each party shall retain the right to verify that the other is performing its respective obligations in accordance with the terms hereof.

2. Neither Lessee, nor any of its officers, associates, agents or employees shall be deemed an employee of the Lessor for any purpose. Lessee shall not be entitled to nor shall it receive any benefit normally provided to employees of the Lessor such as, but not limited to, vacation payment, retirement, health care or sick pay. The Lessor shall not be responsible for withholding income or other taxes from the payments made to Lessee. Lessee shall be solely responsible for filing all returns and paying any income, social security or other tax levied upon or determined with respect to the payments made to Lessee pursuant to this Lease.

J. PARTNERSHIP/JOINT VENTURE

This Lease does not evidence a partnership or joint venture between Lessee and Lessor. Except to the extent expressly provided for in this Lease, (i) the Lessor does not grant, convey, or delegate to Lessee any tangible or intangible property interest or express or implied agency, license, right or authority; (ii) Lessee shall have no authority to bind the Lessor absent Lessor's express written consent; (iii) either Party shall be free from obligations or liabilities under contracts entered by the other; and (iv) each Party shall bear its own costs/expenses in pursuit hereof.

K. ATTORNEY'S FEES

If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Lease, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses in addition to any other relief to which such party may be entitled.

L. EXHIBITS

Each exhibit and attachment referenced in this Lease is, by the reference, incorporated into and made a part of this Lease.

M. PRECEDENCE OF DOCUMENTS

In the event of any conflict between the body of this Lease and any exhibit or attachment hereto, the terms and conditions of the body of this Lease shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Lease, shall be null and void.

N. CUMULATIVE REMEDIES

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

O. NON-SOLICITATION

Lessee represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, to solicit or procure this Lease or any rights/benefits hereunder.

P. COMPLIANCE WITH LAW

Lessee agrees that, at all times hereunder, Lessee shall comply with and conform to all current and future federal, state and local laws, regulations, ordinances and rules applicable to this Lease, and to all orders of any governmental agency which shall be applicable to the Leased Premises, winery stillage property, or Lessee's activities thereon. Nothing herein shall be construed to be a limitation upon Lessor's police power.

Q. EXTENT OF AGREEMENT

Each party acknowledges that they have read and fully understand the contents of this Lease. This Lease and any documents, instruments and materials referenced and incorporated herein represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Lease may be modified only by written instrument duly authorized and executed by both Lessor and Lessee.

R. COUNTERPARTS

This Lease may be executed in any number of counterparts and any party may execute any counterpart, each of which when executed and delivered will be deemed to be an original and all of which counterparts taken together will be deemed to be but one and the same instrument. The execution of this Lease by any party hereto will not become effective until counterparts hereof have been executed by all parties hereto.

S. BINDING

Once this Lease is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

T. PARAGRAPH HEADINGS

Paragraph headings contained herein are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Lease.

U. INTERPRETATION

The parties acknowledge that this Lease in its final form is the result of the combined efforts of the parties and that, should any provision of this Lease be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Lease in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

V. NO THIRD PARTY BENEFICIARIES

The rights, interests, duties and obligations defined within this Lease are intended for the specific parties hereto as identified in the preamble of this Lease. Notwithstanding anything stated to the contrary in this Lease, it is not intended that any rights or interests in this Lease benefit or flow to the interest of any third parties.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

CITY OF FRESNO,
a municipal corporation

LESSEE

By: *[Signature]*
Stephen A. Hogg
Assistant Director - Wastewater
Department of Public Utilities
5607 West Jensen Avenue
Fresno, CA 93706

By: *[Signature]*
James Cook

ATTEST:
REBECCA E. KLISCH
City Clerk

By: *[Signature]*
Deputy *2/1/10*



APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: *[Signature]* *1/14/10*
Deputy *Melikian*

Addresses:

LESSOR:
City of Fresno
Attention: Rosa Lau-Staggs
5607 West Jensen Avenue
Fresno, CA 93706
Phone: (559) 621-5100
FAX: (559) 498-1700

LESSEE:
James Cook
4042 Academy Avenue
Sanger, CA 93657

Attachments:

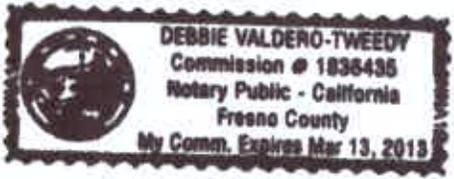
1. EXHIBIT A PLATS AND DESCRIPTIONS OF LEASED PREMISES
2. EXHIBIT B STILLAGE SITE SOILS MONITORING

STATE OF CALIFORNIA
COUNTY OF FRESNO } SS

On JANUARY 8, 2010, before me, the undersigned Notary Public, personally appeared JAMES LOK, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person ~~or~~ whose name ~~is~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity~~(ies)~~, and that by his/~~her~~/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

Debbie Valdero-Tweedy
Signature of Notary Public



Attachment:

EXHIBIT A PLATS AND DESCRIPTIONS OF LEASED PREMISES



- 1. Portions of 327-021-05T 45 acres
- 2. Portions of 327-021-04T 45 acres
- 3. Portions of 327-021-45T 35 acres

EXHIBIT B

Part of Requirement of California Regional Water Quality Control Board Related to STILLAGE SITE SOILS MONITORING (Portion of CRWQCB Order No. 5-01-245)

The Discharger shall establish representative soil surface and soil profile monitoring locations within and outside the Stillage Site. There shall be at least one monitoring location per 20 acres. The samples shall be collected and analyzed for at least the following constituents:

<u>Constituent</u>	<u>Units</u>	<u>Sample</u> ¹	<u>Frequency</u>
Soil pH	pH Units	Grab	Semiannually ²
Total Alkalinity (as CaCO ₃)	mg/kg	Grab	Semiannually ²
Cation Exchange Capacity	meq/100 grams	Grab	Semiannually ²
Total Phosphorus (P)	mg/kg	Grab	Semiannually ²
Nitrate Nitrogen (as NO ₃ -N)	mg/kg	Grab	Semiannually ²
Total Kjeldahl Nitrogen (TKN)	mg/kg	Grab	Semiannually ²
<u>Total Nitrogen</u>	mg/kg	Calculated	Semiannually ²

¹ Samples shall be collected at 0.5, 1, 2, 3-foot depths.

² April and October

STILLAGE SITE VADOSE ZONE MONITORING

The Discharger shall establish representative vadose monitoring locations in the Stillage Site in accordance with the approved work plan required by Provision H.5. The samples shall be collected and analyzed for at least the following constituents:

<u>Method</u>	<u>Constituent</u>	<u>Minimum Sample (mL)</u>	<u>Frequency</u>
EPA 351.3 or 4500N-org	pH	5	Twice/year ¹
	EC	10	Twice/year ¹
	TKN	20	Twice/year ¹
EPA 300.0	Nitrate	20	Twice/year ¹
	Phosphorus		Twice/year ¹
	Sulfate		Twice/year ¹
	Chloride		Twice/year ¹
EPA 200.7	Calcium	5	Twice/year ¹
	Iron		Twice/year ¹
	Magnesium		Twice/year ¹
	Manganese		Twice/year ¹
	Potassium		Twice/year ¹
	Total Alkalinity	20	Twice/year ¹
EPA 310.1			
<u>EPA 415.1</u>	<u>TOC</u>	<u>150</u>	<u>Twice/year¹</u>

¹ In accordance with the vadose zone monitoring program described in the Discharger's approved work plan for monitoring its stillage disposal operation (Provision H.5)