

STATE WATER RESOURCES CONTROL BOARD

ASBS STAKE HOLDER MEETING

JANUARY 13, 2005

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MR. GREGORIO: ...State Water Resources Control Board, Division of Water Quality, and a lot of you probably know my name. I've been – ah – probably the primary contact on ASBS issues. Ah – before we get started with the – ah – formal part of the agenda, I wanted to just go over a little – little bit of housekeeping with you. Um – hopefully, everybody's got their parking passes. Ah – we took care of that when everybody registered, but if for some reason somebody fell through the cracks, I wanted to make sure that nobody got a ticket. So, if you didn't get a parking pass, please check with the – ah – registration desk. Um – we took money for food and – um – the \$6.50, if you wanted a box lunch – um – so if you were – if somehow you fell through that crack and you needed to – um – you know, get a box lunch, go ahead and take care of that – ah – pretty soon, because I think they need to order those. Um – and I'll probably have some announcement on that before the – before the break – um – just to see how that's all working out. There are more people here than what originally signed up, and for that reason, I don't know if we had enough handouts. Ah – they might have been a little stingy with the handouts up in the front when you signed in – um – and – and if we have extras – um – and you didn't get one – um – then go ahead and pick them up – um – later on. But – um – I – I just don't – I don't have a head count right now, so I just wanted to make sure that you understood that. Um – if you need – ah – snacks or – ah – anything like that, there is a snack bar somewhere near here. Do I have somebody from Scripps? And – where is it?

FEMALE: It's right across the (inaudible).

MR. GREGORIO: Okay. So it's – it's right across this green area out here – ah – towards the ocean from here, so – um – and during the break, if you wanna go and get something, that's where it is. Um – restrooms. Where are restrooms here?

FEMALE: Outside.

MR. GREGORIO: On the outside, either side of the auditorium. Men's?

FEMALE: Women's.

MR. GREGORIO: Women's, okay. Um – we had a couple last-minute changes to the agenda, so hopefully you got that when you registered. Um – if you didn't – ah – there's probably extra copies of the agenda up there. And – ah – the way our sessions are set up, they're really – um – you know, they're sort front-loaded, informational – um – items in the morning and early afternoon. Ah – if there's time – ah – I think – ah – you know, you can ask questions, but if there's not much time and we need to move through the agenda, just be aware that the – um – later part of the afternoon, we're really reserving that for question-and-answer sessions and probably that's when we'll have – ah – you know, be able to field most of the questions at that time. So – ah – just ask for your patience along those lines.

And – um – this really isn't a part of the agenda, but I want – I wanted to go ahead and do this right now, since there are a lot of people here. A lot of you don't know each other, and – and – one of the main reasons that I wanted to have this meeting was just to get some networking going, and so forth. So – um – maybe what I can do is – ah – kinda go around the room and – ah – just have everybody introduce themselves. Simply give your name and the organization you represent. And, can I start with you, Stan?

MR. MARTINSON: Yeah. I'm Stan Martinson. I'm with the State Water Board. (Inaudible).

MR. PHILLIPS: I'm John Phillips with the – ah – San Diego Regional Board and I am here in San Diego.

MR. GREGORIO: Uh – so to warn all the consultants, I know a lot of the consultants – ah – are working for various municipalities, and I should have asked them to – um – ah – explain which municipalities that they were representing. I didn't do that, so it's my fault, and – ah – but the good thing is, that you guys can all explain that to each other when you – when you all talk, and the other thing is, that we're keeping a record, obviously, of all of your e-mail addresses, and we'll put out a list of attendees and I'll try to – um – include that in the list of attendees for – for the consultants, if that's okay with them. Um – Okay, well – um – I

guess we should move along. Um – our first speaker is Tom Collins – ah – representing the Scripps Institution of Oceanography.

[Applause]

MR. COLLINS: I'm not sure I deserve that, but I appreciate it. Um – I'd like to start out by welcoming you all to the Scripps Institution of Oceanography. We're pleased to be able to host this very important workshop. I know many of you are here because you received a letter a while back, don't know when it was – ah – informing you that – ah – you were adjacent to an area of biological significance or your activities were impacting on one, and that the ocean plan calls for – ah – no discharge of any kind into an area of biological – special biological significance. You know, at Scripps, we've always been proud that we're number one in just about everything that we do. Um – in fact, we were even – ah – identified as the number one oceanographic institution in the country by the National Academy of Sciences. In this case, there's no difference. Ah – we received our letter about two years ago. And I have to be honest with you. When we first got the letter, we were befuddled, at best and a little bit resistant. But as we drilled out and found out what was really going on and why this law was made – ah – it became eminently clear that what we're talking about here is really the – a core principle of our institution, and that is to use our knowledge to protect and understand the environment so that it better – can be better protected. So in discussing this with our director, Charlie Kennel (phonetic) – ah – he basically gave us the direction or established the principle that this institution would take the high road in dealing with this matter, that we would seek to go beyond compliance, and to attempt to organize our scientists and others within the institution to bring to bear the knowledge, instrumentation, expertise, and technologies that we have, to not only achieve compliance with the law, but also to assist in partnership with the State Board, Regional Board, environmental groups and others to improve the situation. And this has been the approach that we've used throughout.

In fact, as we began to discuss these matters with various interest groups – ah – we found that there were gaps, and that there are issues that need to be studied, and we're committed to focus our energies in helping to understand those problems and hopefully make them better.

In fact, we're fortunate in a number of our scientists have already stepped up – ah – to the plate and indicated a willingness to participate.

It's interesting to note that Scripps actually created the marine reserves that's adjacent to our – our campus. That was back in 1929, the state granted exclusive use to that area to the institution, and by 1931 – I have a photograph of the sign that says Scripps Marine Reserves, Stay Away. Um – and so, we actually have a vested interest in this process as well, because this is an area where our scientists do considerable research.

We proceeded with this process, which – which was clearly an arduous and difficult process. Um – but in collaboration with State Board staff and others – ah – we managed to achieve an exception to the ocean plan to enable us to discharge. Our – our impacts involve seawater, which is used in our aquaria, to the tune of almost a million gallons a day, as well as signi – as runoff – ah – from – urban runoff from not only the institution, but from adjacent areas, both city land and areas that belong to the general campus of UCSD. It's clear that – that in dealing with that issue, which most of you here are concerned about – I assume you don't have huge seawater problems, most of you – um – it's clear that that's – that's really a – um – much broader problem than we could do by ourselves. And so we, again, are interested and anxious to work with our neighbors and our local – ah – municipalities and so on, to – to try to address this problem of runoff. The – we've been successful in having these conversations, and we're also anxious to work with all of you in helping to provide the knowledge that we have to assist you in compliance and to achieving your goals.

It's clear that – that there – there are certain requirements that are more or less difficult to comply with. I think that we can help to identify what those are. Uh – we are pleased to find that – find that there are funds available in the state through Proposition 50. Ah – we know that the – we fully support the Coastal Commission CCA project, and we're anxious to cooperate and participate with them as well.

In the end, what we're seeking to do here is to do something that's very important, both for us and the future of our – for our children and their children, and that is to – to protect and even try to fix the problems that

exist in coastal ocean. Um – some of our scientists have done studies that have gone back nearly a hundred years and looked at what the evolution of the biology has been in these regions, and clearly concluded that there has been significant impact. And that impact continues. We feel that – that – by applying our knowledge to monitoring, for example, one requirement of the ocean plan is that we not impact on natural conditions. Of course, it's not clear what natural conditions are, but in collaboration with Dominic, a committee is being formed of scientists. One of our scientists is a major participant in that, and so this is sort of an example of how we can lend our knowledge to helping to define some of these parameters. In addition, we have another scientist who's anxious to work with the understanding and developing better monitoring techniques in the ocean so that we can have greater assurance that in fact we are in – we are achieving the spirit – the spirit of what this law has asked us to do.

Again, I'm pleased that you all are here. Uh – I'm anxious to – very anxious to work with you, and I hope that you enjoy your day. I'm sure it's gonna be very informative. Since I've sort of been with it – been through it, I have a whole bunch of other meetings to go to, so I'm not gonna be here very much, but I will be in and out. And I'll just leave you with the thought, and that is: I do have a lot of meetings and I love meetings, because it beats working. Thank you.

[Laughter] [Applause]

MR. GREGORIO: Okay. Next up, we have – uh – one of the members of the State Water Resources Control Board, Nancy Sutley (phonetic).

[Applause]

MS. SUTLEY: I'm not gonna stand behind the podium. The podium was made for giants, which I'm not one. Um – thank you – ah – Dominic. Thank you Tom. And thank you all for being here. I'm Nancy Sutley, a member of the State Water Resources Control Board. I'm very pleased to see the turnout here today – um – and wanted to thank Scripps for hosting us today and for – to our staff – ah – who put in a lot of work to try to get everybody here and get the agenda set. Um – I look forward to a very productive day.

I wanted to try to give you an overview of – ah – of the State Water Board and Regional Board's – ah – priority on ocean and marine protection. It's a very important issue for us – ah – one we spent a lot of time on in the last few years. And there's clearly – um – a renewed focus on the ocean and on marine waters. Uh – we've had two national commissions looking at the state of our oceans, the Appeal Oceans Commission and the National Oceans Commissions – ah – both released in – ah – 2003, 2004, which both – ah – coming from somewhat different perspectives, really called out – um – marine water quality as a high priority issue for protection of the oceans. And clearly in California – ah – with out coastline, with the bulk of our population living within just a few miles of the coast, there's almost nothing – um – as important to the work of the State and Regional Boards as the protection of our coastal resources and the protection of our marine waters. And so with that, I'm very glad that we're here, and I wanted to give you just a little bit of an overview of – of some of the programs at the State and the Regional Boards and also talk a little bit about it at the state level, what's going on with respect to ocean protection and marine protection.

Um – in addition to these national reports on the state of our oceans, the California Environmental Protection Agency and the California Resources Agency, at the direction of the governor, issued an Ocean Action Plan last fall. And among its – um – its recommendations or its – ah – its steps was to ask that the State and Regional Boards prioritize the protection of the areas of special biological significance. The ocean has also received attention from the legislature in the last few years – ah – with respect to creating the State Water Quality Protection Areas about strengthening the – and prioritizing the need to protect the special areas along the coast. And just this past year, in 2004 – ah – the legislature enacted and the governor signed the – ah – California Ocean Protection Act – hope I got the name right – creating the California Ocean Council. So there's no question that the ocean and the marine waters are a high priority for the state of California and a high priority for the State Board and for the Regional Boards.

Now, we have – um – programs that are mostly regulatory in nature and we have programs that are less regulatory in nature, but nevertheless –

ah – they are important in our efforts to try to protect our coastal – um – marine waters.

Um – we have been working for years now, along with a number of other federal – other state agencies and the federal government on our coastal non-point source protection plan – ah – with our friends at the Coastal Commission – glad to see you here today – um – in having the federal government approve California’s non-point source – uh – coastal non-point source plan, and – and – ah – designate money from EPA for that, which was – which was good. Um – the Clean Beaches Initiative, which provides – ah – funding, grant funding for construction of – ah – facilities to improve recreational beach water quality. This was part of the series of bonds that were enacted in the last five years, which set aside literally billions of dollars for water quality protection, and a significant amount of that directed specifically at coastal waters.

The – um regulatory programs under our Total Maximum Daily Load program, a very – um – silly acronym for something that’s very important, and it’s really looking at what are the sources – what are the impairments to our waters, what are the sources of those impairments, and how do we address those. And – um – these will be done by 2012. There’s a lot of them. There’s literally – ah – hundreds of them – um – if not thousands of them, and many of them will focus on eliminating sources of contamination into our marine waters. We – um – have been working for a long time with the resources agency and watershed management on our – um – managing our coastal and our inland watersheds that affect – um – marine water quality and looking at programs to try to improve that.

Um – and then lastly, and I – the reason that you’re all here – um – is – is the – ah – discharge prohibition – ah – for the areas of special biological significance, and as Tom was introducing how Scripps got involved with this, I – I thought of that – um – cliché of “now that we have your attention” – um – this is a priority for our board. Ah – this has been an area I think that’s been – um – neglected by the regulatory agencies for far too long. Ah – we need to do – um – our part in making sure that we are protecting these areas of special biological significance, areas that were set aside because they are – they represent unique – um – and – ah – special areas that if their – if their productive

purposes are lost in marine – for their marine purposes, they’ll be lost forever. And so this is a very – ah – important priority for me and I think for the rest of the board. And it’s clear that – ah – this is an issue we need to pay some attention to – um – and – and the ocean plan is not equivocal about this. The ocean plan prohibits point source discharges into ASB, including storm water, and we have to get to work to try to – ah – go through – ah – the process of making sure those waters are protected. So I appreciate you all being here, you all spending the day here – ah – trying to learn – ah – about this – um – this issue, and – um – I look forward to a productive day. Thank you very much.

[Applause]

MR. GREGORIO: The next speaker is Celeste Cantú, the Executive Director of the State Water Board.

MS. CANTÚ: Good morning. I think I will use the podium, only if I can figure out how to turn this light on. Unless we can bring the house lights up, because I have a very beautifully crafted speech here that our staff worked on, and I can’t possibly read it in this low light. Maybe...there is a light here...Oh! House lights! Oh! That’s a help! That’s good. Master dimmer...oh, there’s something down here.

MR. GREGORIO: Not that I know it, Celeste, but...

MS. CANTÚ: This big old dial there.

MR. GREGORIO: That’s probably volume. Must be somebody here.

MS. CANTÚ: Okay. Well, actually, with the house light improvement, we might be able to go on.

MR. GREGORIO: I’m trying to see what’s on the switch.

MS. CANTÚ: Yeah. We need a desk manual for turning on the light – ah – on the podium.

MALE: The light is not connected.

MS. CANTÚ: Oh, the light is not connected.

MALE: Let me see if I can connect it.

MS. CANTÚ: Okay. I'll start over here. Thank you all for being here. I think this is a really significant moment, and I (unclear). Um – seldom am I at places where we have with me a board member, the chair of a regional board, new board members from that regional board, the EO of the local regional board, division chiefs, and a whole lot of staff people who are all in one place to talk about something we have a tremendous commitment – I think it's safe to come back here now – a tremendous commitment for, and that's protecting these areas of significant biological – um – places on the California coast. This is kind of the year of the ocean. I once thought of the ocean – and I grew up by the ocean – as this huge, robust – ah – body of water, you know, that generated all this life, and it was salty and that with sun – um – and wave action cured all that was bad and toxic, and had this self-healing capability. Well, I now know differently. Um – the ocean, although it is really huge and it is the giver of life – um – is actually very fragile, and we have to take care to do what we can to protect it. And the law is very clear, and so we've started focusing on that, and we've kind of gone through a transition from where we originally looked at point source. Um – and point source was the end of the pipe, at the end of the distillery, at the end of – um – a sewer pipe, and looked at what that impact would be. Now we're looking at everything that runs off, it turns out, is washing through the water sheds and carrying with it tremendous amount of toxics. And a lot of that occurs naturally and a lot of that is our doing. Some of it is our animals, our dogs, and so we've learned that we need to be better housekeepers on a daily basis. So that's kind of the human response. Um – from an organizational response, we have to look at systems, at what we – ah – can address, and one of those systems is systematically protecting these ASBS's, and that's why you're all here.

We're particularly thankful to Scripps. They are number one. They were the first ones to get our letter a couple of years ago. They've continued that number one status by taking the lead and saying, okay, yes, this is daunting, but we've learned some lessons, we wanna have the opportunity to share those lesson with everybody else, so it might be somewhat less daunting for all of you. And while – ah – you may

not be able to embrace the somewhat less daunting possibility at this moment, hopefully at the end of the day you'll feel a little bit – ah – more robust about being able to – ah – declare that it might be less daunting than you think it is right now.

It was Scripps's idea to create this venue. Ah – we're very fortunate to have them – um – as our partners today – um – to allow us to – ah – bring everybody together and bring data together and materials, and share with you what we know and what Scripps knows. But the most important thing is what comes out of this meeting, because when you go out of here with your new-found networks, if you don't already have everybody memorized – um – you'll have a wealth of information. And what we ask you to do and what we suspect will be the easiest way for all of this to get through this, to protect our oceans, is that you continue strong working relationships with your neighbors, of course with our staff, with your regional boards – um – but I think most of – the most exciting information and solution is going to come from sharing the creativity that you all bring in talking to each other. So we expect some synergistically wonderful things to come out of this meeting today. Now that I have my light, I should look down here and see what it is I'm not telling you.

Some little tidbits of facts that are kind of interesting. The state and regional water boards regulate water quality in approximately three million acres near coastal areas. That's quite a lot, so that's a lot of – ah – discharges and a lot of – ah – water shed area that we cover.

Um – the California Ocean Plan, we've talked about this a little bit, but I think it bears repeating. It addresses discharges that are both point and non-point, and this whole non-point arena is new to a lot of people. We've been talking about storm water for several years now, and cities really have gotten a hand on that, for the most part. Um – when we're talking about non-point, we're talking about everybody else at this point, and that's – that is a new area for many people. There are some exceptions, and I think that's where you're all gonna bring your notebooks to see, well, how can I get an exception. Um – exceptions are defined as just that. We want them to be only exceptions, not a rule. In 2001 we added a new provision to the Ocean Plan, and it allows for a temporary discharge. And temporary means days, weeks, maybe

months, but not longer than that, to do construction work, and those are for special circumstances. But the exception, according to the Ocean Plan, as only the State Board may, in compliance with CEQA, subsequent to public hearings and with the concurrence of the USEPA, grant exceptions. So it's, you know, not easy. It's quite difficult, and Scripps is – is going through that process. We thought maybe we would have been through it by now. We're not quite through it, but we're very close – um – and it's a laborious process, and this is where you're going to learn a lot today.

The exception cannot compromise protection of the ocean waters for beneficial uses. The public interest will be served. Um – there's been very few exceptions, but exceptions issued prior to 1991 include treated sewage discharge from Shelter Cove to Kings Range ASBS; treated sewage discharge from Carmel into the Carmel Bay ASBS; treated sewage discharge from the Navy into the San Clemente Island ASBS; and desalinization brine discharge from the Navy to the San Nicholas Islands ASBS. So we don't have a long tradition of this at all, and we don't wanna start one.

We did a discharge survey – actually Scripps did it – Southern California Coastal Water Research Project. They completed it in 2003 for the State Board, and they identified 1,654 discharges into 34 ASBS's, and they were all discharging, of course, without exception. And that's where we define our work. It's the 1,654 that we'll be looking towards curing those problems.

Ah – Scripps, like we said before, is taking the lead – um – with their exception. They will be able to control 93 discharges from their campus and surrounding areas – um – and protect, therefore, the natural water quality of the San Diego Marine Life Refuge. That's their goal and that's our goal, and – um – we're very excited to see the progress that's made towards accomplishing that. Similar to Scripps, USC has seawater and storm water discharges into the ASBS at Santa Catalina Island. The L.A. Regional Board has been working with USC to apply for an exception prior to their permit re-issuance.

I think everybody who's here is here because you originally got a letter from the State Board – um – saying that you have – ah – a discharge,

and this is something that we will be working with you to bring into compliance – um – and that sets this venue for today. We look at this as the first of a stake – of many stakeholder meetings. We encourage you to continue on a regional basis working with your neighbors, if not necessarily in a statewide process like this one is. We're happy to see everybody here. Um – we don't think everybody who got one of those letters is here because the numbers don't go that high, so there may be subsequent – um – outreach efforts – ah – to get people in. But as our board member, Nancy Sutley, says, now that we have your attention we can move forward. Thank you very much and have a good day today.

[Applause]

MR. GREGORIO: Thanks, Celeste. I might have a little bit of a technical issue. Let's see if I can resolve this. (Pause) Okay. (Pause) It doesn't have a mouse. There we go. All right. Um – Celeste mentioned – ah – ah – the discharge survey that was – ah – that was done by Southern California Coastal Water Research Project, and that's – ah – one of the primary things I wanted to talk about – ah – in the morning session. Uh – back in the year 2000, the – the board and I think it was around the time when the board was considering also – the Ocean Plan, but also the Crystal Cove – um – discharges. Ah – there was a cease and desist order – for those of you who don't know, there was a cease and desist order – ah – issued by – ah – our Region 8, the Santa Ana Regional Board, and – um – ah – that was appealed – ah – to the State Board at – at around this time, when we were – um – dealing with the Ocean Plan amendments. And – um – it really came to the board's attention that we really didn't know that much about – uh – what discharges did exist into ASBS's. There had always been an assumption that – um – that – that because the prohibition existed, that there were no discharges. I think there were some underlying understanding that there were probably some non-point source and storm water issues, but there was no idea about how to quantify that. And so the board directed the staff to have a survey completed, and – ah – staff – ah – contracted with Southern California Coastal Water Research Project – uh – and – ah – for Northern California – ah – SCWERP (phonetic) – um – subcontractor with Moss Landing Marine Labs, and it turned out that I was the contract manager, so I was – ah – pretty actively involved in

the process – um – and – uh – that was the number, 1,654 that – that Celeste referred to. And you can see that it says up there, 1,658, but that's because four of those discharges did have exceptions, and so the 1,654 were discharges without exceptions, and the breakdown on the discharges is as follows: Um – there were 31 wastewater, that's sort of a broad term, really the traditional point sources which could have been marine labs. Um – there were – um – discharges of – um – human waste that we found – um – treated and untreated. Um – we found – um – ah – one discharge – ah – that was – um – fish processing waste, although at a very small scale – ah – from recreational fishermen. Um – and marine laboratories were a big component. There were many – um – several, I'll say – marine laboratories [recording malfunction] – um – return water from a seawater system. So it's basically seawater in, seawater out. That sounds fairly benign, but – ah – whenever there is any addition of any waste – um – any pollutant – um – any chemical, any buildup of organic matter or waste material from fish even – ah – that would be at – um – you know, unnatural levels, we have to consider that a pollutant, and so we have to consider marine laboratories in the mix. And – ah – turns out that a lot of the marine laboratories also have storm water discharges, and some of them even get commingled – ah – before they get discharged, which is one of the problems that we're finding as we start to – um – to – look at this more closely.

So those were the – ah – those are the point source listed there as wastewater. And then there were storm drains, and you can see that was a large number, the largest number – ah – single – um – you know, grouping of discharges, and – ah – we had 391 large and 1,012 small, and – ah – you might ask what does that mean. Um – I think the important thing to consider is that – um – that the survey – the results of the survey are not a regulatory document, they're a technical document. And what we try to do – ah – and in fact – um – Shelly, who's back there – raise your hand again, Shelly – she was the – ah – principal investigator for this survey, and – ah – you know, during the break, if you have any real detailed questions – ah – you could ask Shelly or myself. But – uh – basically, what we tried to do is – ah – to just get some handle on is this a discharge that is likely – um – the responsibility of a municipality or a large organization, or is it a

discharge that is the responsibility of a private homeowner or maybe a small business. Um – and so we – that was what we intended to do by this breakdown. We know it's not 100 percent accurate, because the surveyors were limited to a very – ah – small swath of the beach, about a hundred meters. Ah – if they couldn't get down to the beach, they stayed on the coastal bluff and still about a hundred meters from – ah – their access points. Uh – that's because ASBS's are very large. People don't realize this, but it's one-third of the coastline of the state of California, are ASBS's. Um – and it's a pretty big task – um – and I really thank – ah – SCWERP and Moss Landing for performing this task. It wasn't an easy thing to do, and they did it – ah – you know, within the budget, and it wasn't a very big budget, either, I have to admit. So – ah – we really owe them on this. They did a great job. Um – anyway – so that breakdown is not necessarily a regulatory breakdown. We haven't made any decisions about this breakdown. This is just some idea of what we thought during the survey of what would be individuals versus municipalities, basically.

Um – and then you see this other category, 224 non-point source discharges, and – um – that's a real mixed bag. Ah – basically, that was everything that didn't fall into the category of a storm water, pipe type of discharge – ah – or a point source, a traditional point source type of discharge. Um – that included things like agricultural runoff. Uh – it included – um – individual homes or runoff from parking lots that was not in a conveyance designed to carry water. So it could have been running down stairs or walkways – um – ramps – um – so it – it's a – like I said, it's a pretty mixed bag.

There are a lot of – ah – different types of – um – of discharges that are in this category, and I'm not gonna go through all of them, but – ah – one thing you do see there is it says 66 potentially contaminated seeps. Let me explain that. Um – there were – um – almost 200, not quite 200, I think it was around 170 or 180 seeps or springs that were – uh – discovered during this process. And for those that were in very rural, uninhabited areas, we figured there was very little likelihood that – um – that those would carry pollutants. And so we – we sort of made a breakdown. Those that were in – um – areas that had development, near homes, especially areas where there might have been septic tanks

or sewer lines underground – um – we – um – thought of those as potentially – ah – contaminated, and so that 66 number isn't the total number of seeps. Ah – it's not to say that the seeps aren't there naturally, but what we try to do is divide those out that might have had – um – inputs from anthropogenic sources.

Um – and again, this document, this survey – ah – it was done on a fairly low budget. We did not do water quality analysis as part of it. It was simply to go out – and I say simply, that's not really – it wasn't a simple job, but it was really to go out and – and – identify locations. That's really what it was. And it was all done with GPS and it resulted in a GIS – ah – product. And – uh – the one – um – thing that you – um – you don't see – um – in – in those numbers that I just presented are the naturally occurring water bodies. This would be a seep. This is – ah – one of the surveyors – ah – at that time. Ah – this was up in the Trinidad area, up in the North Coast. Ah – so these are examples of seeps, and these seeps are just flowing out of the hillside. What you don't see in this photo is that there's houses right above this, and they're all on septic tanks. Now, that doesn't mean that all of this flow is coming out of the septic tanks, but it could mean that – ah – there's potential contamination from the leach lines on those septic tanks that are flowing into these groundwater outflows.

And – ah – the thing I guess I was gonna explain is that the numbers that you saw do not include naturally occurring streams. And this is Buck Gully in Orange County, in the Newport Coast ASBS – um – and the sign there reads – uh – that it's contaminated, don't play in the water – uh – and this drains into an ASBS. Um – but we did not include these kinds of situations in that number, 1,654. We didn't include these. And there were approximately 600 naturally occurring streams, whether perennial or ephemeral, or even coastal bluff gullies, small gullies that were in coastal bluffs. We included all of those in what we called outlets. So if when you take a look at the survey results and you see the number of outlets, it's approximately 600. Um – you know, those are these kinds of situations. It doesn't mean that they're all contaminated. Some of them are very clean. Some of them are contaminated. We know from our 303 D list. Uh – but – um – we didn't include those as a discharge because they're a naturally

occurring body of water, and these bodies of water, many of them, especially the perennial streams – um – are regulated under the Basin Plans. And the Ocean Plan and the Basin Plan are – um – intended to be harmonious with one another. So – um – but I wanted to point that out because that's one of the questions that I get: what about a naturally occurring stream, you can't expect us to stop flows from a naturally occurring stream. And the answer is no, we don't expect that. Um – but we wanna make sure that – ah – that it's addressed somehow. So when you hear the word discharge in terms of the survey, those are actually manmade discharge points.

Um – this is an example of a layout from – um – the – um – the GIS output from the survey. Um – the layouts, it's sort of an Arcview (phonetic) term, that's the software that we use – um – it's for a map, basically, and the discharge survey report has a map of all the ASBS's – ah – in the – in the – um – in the back of it, and showing all the discharge points. And you can see here that there's – um – three kinds of – um – um – points shown, that there's discharges, outlets, and springs and seeps. And – and that is true of all of the – ah – all of the layouts, and again, those are in the hardcopy of the – um – the survey report, which I think – uh – they handed out up at the registration.

Now, this is sort of a – a non – um – how do I wanna say it – it's not interactive in this format, in a layout format. But if you want, and I have an FTP site for you – uh – I can – uh – uh – send it to you all by e-mail and – and many of you already had it, 'cause you've asked me for it in the past, but – um – I can also put it up – ah – for you on the flipchart. Um – and we have an FTP site that contains all of the GIS information. Uh – it's actually a three-CD set. Uh – we started out sending it out in CD's. We're sending out so many of them that we decided just to go totally electronic and have it available on the FTP site. So if you have Arcview software, this is interactive – ah – so you would click, you would take your mouse and click on one of these discharge sites and it would show you a photo. We have a photo of almost every one of the discharge points. And – um – and it would also – if you – uh – took another tool and you clicked on that site, it would give you all the information that we have on that discharge site, the latitude, the longitude, the – um – you know, the – the size of it, the

nature of it. Ah – no water quality data, but you know, basically the physical information about that discharge site. Ah – some – um – rough assumptions are in there about the – ah – area that's served, the type of watershed area that is served. Again, remember the surveyors were limited to a very small – um – um – stretch of – like a hundred meters of the beach when they did this, so they couldn't really tell what was upstream. And that's really what staff's job is now. We're going back and trying to update the survey and – um – you know, kinda fill in the gaps and make minor corrections. And as the exceptions are applied for – uh – that process will continue, I think, with getting more detailed information from the folks that are involved.

Um – this is – ah – just some examples. I want to show you a couple photos of – ah – one of the things that we saw. Ah – this again is Trinidad and – and – um – and you know, people – um – you know, washing out their boats. I didn't – I didn't wanna show this photo for – um – any – you know, I'm not pointing out any particular group, and I'm sorry if that – it comes off that way when – when I go through the photos. Uh – but the real point here is this is not the only place where we have marina operations. And marina operations are one potential source of contaminants or pollutants, so we have to take that into consideration. This would be a non-point source situation, which by the way, even non-point sources under the Ocean Plan are prohibited – ah – into ASBS's.

Un – another non-point source, this is Año Nuevo – um – um – along the – uh – Central Coast, south of – uh – San Francisco – uh – north of Santa Cruz, I believe. And – um – and there are – this is the one ASBS that has a lot of – uh – agricultural activity. Some of that agricultural activity even takes place on state land there, and – uh – and you can see the – ah – runoff pathways there – um – sort of in the – um – the – this just went down (unclear). Um – this is one of those examples of – um – you know, sort of a private home, and you see both – uh – sort of the non-point source stairway and – uh – the pipe right next to it, that it's obviously draining, a relatively small area, maybe a single lot – um – runoff from that lot. Um – and – and if you look at the discharge survey, what you'd find is maybe two points right next to each other, one for the stairway, one for the pipe. So in some ways we know that

that – that number, 1,654, might be, you know, in some ways magnified, maybe illustrating that there were more discharges than we thought. But since the survey was done, we've gone out and found other discharges, because at certain times of the year, pipes are uncovered that weren't – um – visible – uh – because of – um – you know, winter versus summer wave activity. So in some cases we might have – might have overestimated, and other cases we underestimated, so we're – again, we're still trying to refine that.

Um – mystery drains. Um – this was from the Magoos Lagoon to Latigo Point ASBS. This is the largest number of discharges of any ASBS, but it's also a very large ASBS. Um – and these are – um – um – examples. In fact – um – we actually did go back and do some analysis of these two flowing drains that you see here. Um – we think this is a washing machine, actually. Uh – and we don't know what this is. We're – we're not sure. Um – we didn't do exhaustive analysis. We have actually very limited funds for any of that, but did spend a little bit of many and – and – tried to get some information. And for the one in the upper left, we actually turned in that data to the regional board, the L.A. Regional Board and asked them to – ah – you know, pursue – ah – you know, enforcement on that, because it's – um – you know, it's obviously not a good situation. If it's a washing machine, we don't know what else is coming down out of that. It was – obviously, it was intended to be a storm drain, but there's some sort of illegal connection in it, so a dry weather flow.

And in the upper right corner, this is a very common type. We see a lot of these flex lines coming off of private residences. It's very common, not just in the Malibu area, but elsewhere in a lot of the ASBS's that have – ah – quite a bit of development.

Um – this is a local discharge here. This is the City of San Diego's storm water drain at Avenida de la Playas, so those of you who stayed at the Hotel – uh – La Jolla – uh – you're in the watershed for this drain, basically. Um – and I think those are two 72-inch pipes. They're pretty big pipes. I didn't go down to the beach today, but I know – uh – it's probably still running from – from the – ah – from the recent storms.

Um – and then here’s a case – this is again back up at Trinidad, and you’ll see two discharges side by side. One discharge is the Humboldt State University marine laboratory. That would be on your left side as you view it, and then the right side would be the City of Trinidad storm drain.

[End of Tape 1 – Side 1]

MR. GREGORIO: ...Sort of a close-up from the survey of – ah – I think that’s the discharge from the aquarium – ah – if I’m not mistaken. Maybe I’m wrong about that, but I think that’s the discharge. And you can see the discharges running along the beach there. Those are the – more or less the traditional point source discharges – ah – but of course, during – um – during a rain event, there would be more. Um – as was mentioned earlier, there about 92 or 93 total discharges. Some of them are extremely minute, like weep holes in the – ah – seawall – ah – that’s there in the – ah – left-hand side – ah – so those might just drip when there’s a lot of groundwater available. And then there are others that are more traditional, like pipes that carry storm water.

Um – one of the things that I did wanna mention is that since the survey was conducted – um – there have been some improvements made, and some of this, I believe was done under – uh – with our clean beaches money, ‘cause a lot of the ASBS’s, especially in developed areas, are also recreational beaches. And so this is – ah – City of Laguna Beach, and – um – they – ah – used some of our State Board clean beaches money and put in a CDS unit. Ah – Craig – ah – where’s Craig at? Craig’s right here, Craig Justice, and he works for the City of Laguna Beach, and so if you have any questions about, you know, how that’s working out for them, you know, it’s – Craig would be the one to talk to you about that. Um – but a CDS unit basically removes solids, and I think that’s a diverter also, right?

MALE: (Inaudible).

MR. GREGORIO: So dry weather flows. Okay. And then when it rains, it – it at least knocks out the solids before they’re discharged, right?

MALE: (Inaudible).

MR. GREGORIO: And basically what you see is the watershed upstream of that in – in the rest of the photo. It's pretty urbanized.

Ah – this is the City of – um – Pacific Grove, and – um – this is – um – um – Steve. Steve are you here? You're here, aren't you? Steve Leicher (phonetic). Um – what's the name of that – is that Greenwood Park?

MALE: (Inaudible).

MR. GREGORIO: Okay. Um – and this is – ah – the same sort of situation. It's not the same technology, but the idea is that it diverts dry weather flows and – um – and basically, you don't see it here, but – but off to the side would be a – a small gully that's draining in urban area, and – ah – and it diverts those dry weather flows through this sort of a – um – it's sort of a high tech telemetry device. Ah – there's some – some interactivity there with – ah – being able to open and close it, and you see the inside of the panel on the other side of the photo. And – and Steve's in the back. If you have any questions about how this works – and I think there's a well involved, right Steve? And the dry weather flow goes into that well. But wet weather is still bypassed into the ocean.

MALE: That's correct.

MR. GREGORIO: And then – um – this is sort of an interesting one. This is in the – um – City of Malibu area. Um – and this is – ah – Paradise Cove. I don't know if you've – some of you may have been there. Ah – it's kind of a little small resort, restaurant type area. And – um – and this is Ramirez Creek. It runs through Paradise Cove – ah – and drains into the ASBS. And what – um – I think this is the Santa Monica Bay keeper working with actually the – the Paradise Cove – I might be wrong about the details of this, but I think they were working with the Paradise Cove people. And they – what they did was they installed – um – this treatment system to try to knock out bacteria and some of the other pollutants. Um – I don't really know how well it's working out for them, but this is actually not a discharge, it's an outlet in the survey, but that doesn't mean that just because it's an outlet that we need to ignore these. Um – um – but – but the outlet would be – ah – regulated under the Basin Plan, not the Ocean Plan. That – that's the difference.

And then – ah – one last thing I wanted to mention – um – that there were – there are spills occasionally, sewage spills into ASBS's. Uh – this is – ah – the James Fitzgerald Marine Reserve. Um – ah – again, this is – um – just south. It's near Half Moon Bay, south of San Francisco. Um – and – ah – this is a case where – um – um – it's not only an ASBS, but it's also a national marine sanctuary. And my information that NOAA, National Oceanographic and Atmospheric Administration, is pursuing and enforcing action against – um – the discharger – um – of the – ah – sewage spill. Uh – by the way, sewage spills and ASBS discharges are both – both priorities under the State Board's enforcement policy as well.

So – ah – with that – um – that's sort of an explanation of our – um – of our – um discharge survey. And the other thing that I wanna do – ah – explain – I'm gonna go ahead and shut this off so it doesn't distract me – let's see if I can do this. Okay. Uh – I get a question – um – often from people who are responding to the letters or considering responding to the letters, or trying to set up meetings with us. Um – the question is if we get an exception, if we're successful in getting an exception – ah – what would the requirements be. And so now we have this discharge survey and – um – um – we have this discharge survey and we have these – um – discharges somewhat identified. We sent the letters out, we need to, you know, still refine – um – our information, and – uh – we'll do that through the exception process, but if a discharger is successful in getting an exception – um – the first thing that everybody needs to understand, that it's a board decision. It's a – it's a State Water Board decision whether to grant the exception or not. It's not a staff decision. Ah – the information goes to the staff. Ah – a CEQA document has to be produced. In the case of Scripps, we did the CEQA document. It was the first one and we wanted to make sure that we developed a good model for following CEQA documents. Um – if you're a public agency – um – you would most likely – ah – have that responsibility. If you're not a public agency, you can't do a CEQA document, and so we'll have to work with you on that. It could be that staff might have to do that, but we might need some help. In fact, I'm sure we would need help on that. So – um – the CEQA document is produced and – ah – and then the – the staff gives a staff report to the board and – and the board then decides whether to grant the exception

and whether the conditions in the exception are adequate. Um – even up until like the last hearing for Scripps, we – we’re making some minor modifications. It’s a public process. The environmental community gets to get up and speak and express their views, the dischargers get to get up and speak and express their views, and then the board makes the decisions. And – um – based on what we – uh – what we came out of with the Scripps process is that I can give you what I think would be sort of real big generalities about what an exception would require. Um – and I think that this might help – um – at least kinda set some framework around what we’re talking about.

Um – for point sources, let’s say, for example, a marine laboratory.

Ah – um – clean water comes in, and we would expect clean water to go out. Ah – we would not expect additives to be included – um – in any significant levels – ah – to cause the discharge to not meet the Ocean Plan standards. Um – so we wouldn’t want additives or high levels of wastes of other types in there. Ah – and sometimes, if there’s a commingling of storm water and the point source return seawater flows, that can be enough to cause a problem, so commingling with storm water is something to consider.

Um – another thing that we’re very concerned about, and this is an area that we’re working with Department of Fish and Game on – ah – and hopefully will be working on it with them – ah – more in the future, and I know that this is gonna be – something that’s gonna be addressed here at – at Scripps for this particular discharge situation is exotic species. If you have a marine laboratory, there is the potential to introduce exotic species. I’m not saying that’s happening, I’m saying there’s a potential, and we wanna make sure that that doesn’t happen. Ah – we have had situations where exotic species have – um – been – um – released, not from marine laboratories necessarily, but from other – um – vectors, and – um – calerpa (phonetic) would be an example in the San Diego Regional Board area. Ah – calerpa is an algae and it’s just real invasive. It doesn’t belong here. It’s really a tropical algae. Um – and we don’t wanna see situations like that happen again. Another thing with exotic species, it may not be something big, it could be small, it could be a microorganism, a pathogen that could cause organisms to get sick – ah – that are naturally occurring organisms. So we – um – you

know, those are some of the things that we look at in a typical marine laboratory situation or a – or – ah – possibly an aquarium situation.

Um – and then with regard to storm water – um – ah – what are – um – ideal situation would be, would be no dry weather flows. Now, we know that there are cases. Like if there's a fire and, you know, the fire department shows up. There's gonna be a dry weather flow because they're using water to put out the fire. Um – so I think we're practical about this, but generally, we would have to – we would like to have no or very limited dry weather flows. There might be some other examples – ah – that would possibly be acceptable, and I don't wanna go through all the potential details here, but realize that dry weather flows are something we'd like to eliminate.

Um – wet weather flows should be clean. And the main thing I think we're gonna look at there, and this alluded to earlier, is this issue of natural water quality. We don't want – then again, I'm speaking from the staff level, the board makes these decisions, but this is the kind of thing that we would consider in putting together when we – or when we put together the staff report. Um – natural water quality has to be maintained in an ASBS, and – um – and if a storm water discharge takes place that contains clean rainwater, you know, we're not expecting to stop the hydrologic cycle, you know? We know that it's gonna rain, and if the city or other municipality or entity, laboratory, whatever, was – was not there, it would rain and there would be runoff, but it would be natural. So the – the task that we – we're really gonna have, and I think this is gonna end up being a very important component of this ASBS, you know, program, is that – ah – we're gonna have to determine what is natural water quality during a storm event. Because the Ocean Plan gives general – a general – um – set of water quality objectives – ah – but it's really sort of the average conditions of the ocean. It doesn't really take into account – ah – storm events, so if you went out to – ah – you know, the La Conchita area, which is not an ASBS, but if you went out there after that big mudslide – ah – you know, was that natural? I don't know, but – ah – it was probably, and – ah – and what was the – um – the input from that natural mudslide, if it were natural, into the ocean. Um – those are the kinds of things we have to consider. Um – and so this whole idea of

natural water quality is something that we wanna maintain in an ASBS. What is natural water quality. And in the case of Scripps, what we are going to do is set up a – a committee of scientists that can – um – take a look at the monitoring data – um – and – ah – and not make decisions, not regulatory decisions, but advise the regional board – um – and – and – and let them know – uh – if that's – um – you know, something that is a – a result of the discharger's activity, it's anthropogenic, or it's not. That's really what we're looking at. Is it an anthropogenic – um – unnatural, change the water quality, or is a natural water quality event. It's a very complicated thing, and you know, I – I kinda gave it short shrift here, but it's very important.

And then – um – finally – um – monitoring. Monitoring is gonna be really important, because one of the things that I found – ah – when I started looking at this is that there's a lot of monitoring data on the coast of California, but it's not really aimed at some of these areas.

Ah – it's aimed at areas where there's very large sewage outfalls. Uh – and in the past historically, you know, we have not gathered a lot of data on water quality and marine life in many of these areas. Now, since, I've found – ah – that the Minerals Management Service of the federal government – um – has been encouraging an inner tidal survey along the coast, and many of those inner tidal sites are in ASBS's, so that's a potential source of information, if it's a rocky inner tidal location. Ah – but then, you know, that's rocky inner tidal. What about sub-tidal? What's going on beneath the waves, basically. Um – so we need to get more monitoring information, and it's very likely that monitoring would be a – ah – important, a very important component of any exception. Uh – we need to be able to say that beneficial uses are protected, and without that monitoring data, we can't make that statement. And so I think it's very important to – ah – to consider – um – you know, possible ways that if you're located in an area where there are other dischargers, then some of you might have certain strengths and weaknesses. If there's a – let's say a marine laboratory that is doing – um – you know, benthic (phonetic) monitoring in the area or has access to that information and you might be a storm water discharger, start to work together because – ah – you might be able to – ah – benefit from each other's – ah – different expertise. So – um – so

that's – ah – that's sort of a – um – an issue that I wanted to address this morning, just to kinda give you some idea of what would happen in a case of—um – you know, requesting an exception.

Um – think we're just about ready for – um – a break, so – um – why don't we go ahead and take a break, and – uh – I lost my agenda. Let's see where it is. Ah – so we should be back at – 10 – 10:45. Give you about a 20-minute break.

[Break]

MR. GREGORIO: So we're gonna get started. I feel like a broken record. (Laugh). *Sit down!*

MALE: Come on, Dominic (inaudible).

MR. GREGORIO: Ring that bell again. It felt really good to ring the bell. If any of you guys go out there and wanna blow off some steam, just go out and ring the bell. Felt really good. Okay. So – ah – we're gonna get started with our next speaker – ah – Sarah Newkirk, representing The Ocean Conservancy. So Sarah, come on up.

MS. NEWKIRK: Can I slip this down?

MR. GREGORIO: Yeah. Go ahead.

MS. NEWKIRK: So, I'm not a giant either. Um – if I stand here, can you see me? Okay.

MALE: Sarah?

[Laughter]

MS. NEWKIRK: Perhaps I will stand here. I like to tell people that I'm six feet tall, but that's actually not true. Um – first I'd like to thank Dominic and the State Board staff for putting this meeting together. Um – I'd also like to thank Scripps for hosting it. The last time I was on this campus was when I was applying, unsuccessfully, to go to graduate school here. So for all of you who have ever been aggrieved by my advocacy, you know who to blame. If Scripps had accepted me, there might be one less lawyer to deal with at the Ocean Conservancy.

So we are absolutely delighted to witness the increasing profile of ASBS's in discussions of water quality regulation in California, as evidenced by the impressive attendance at this meeting. I appreciate the fact that you've all come here to learn how – what your options are for best complying with the ASBS discharge prohibition and to learn how we can best protect these biologically unique and sensitive areas. Um – as – ah – Nancy Sutley mentioned earlier, there's been a lot of attention this year – ah – to oceans issues, culminating in the recent release of the report of the United States Commission on Ocean Policy. And if you look at the list of recommendations of the commission related to water quality, it reads kind of like a list of the benefits of the ASBS designation. They say to focus on non-point sources of pollution; do ecosystem-based management; engage in land use planning that promotes smart growth; and get rid of existing point sources of pollution. In ASBS's, we'd be able to say “check” to each one of those recommendations if we'd been effectively enforcing the discharge prohibition. And now the Commission is recommending that the country do this in all of our ocean waters, meaning that California would once again be ahead of the game. Unfortunately, we've actually been shamefully ignoring our discharge prohibition, which has existed in the current form for more than 20 years. It'll cost us, because it's so much harder to get rid of existing dischargers than it is to not start discharging in the first place. But it would be ludicrous to respond to a major national report on the crisis in ocean water quality by now reducing the level of protection that we provide to our most unique and sensitive areas.

Which brings me to the question that's probably on all of your minds today: How do we get rid of the existing discharges into ASBS's? As you've heard repeatedly – ah – the SCWERP report – um – showed that there were 1,658 discharge points into ASBS's across the state. Sixteen hundred and fifty-four of them are illegal and four of them actually have Ocean Plan exceptions. So if the state were the Padres, they'd be batting .002 – not .200, but .002, and that's not really a good place to start, and addressing this will be a big job. But we've got lots of support in this effort right now, probably motivated somewhat by the Ocean Plan or the Ocean Commission reports and the state – statewide attention to ocean issues, including the governor's Ocean Action Plan.

So let's not pretend that the discharge prohibition isn't there. The Ocean Plan amendments that were proposed last year would have dealt with the problem of illegal discharges into ASBS's, but they would have done so by taking the illegal out of the equation, not the discharges.

The environmental community vigorously opposed these amendments because they would have illegally de-designated a beneficial use; they would have illegally modified a water quality standard; and they would have violated state and federal anti-degradation requirements. The State Board wisely and specifically declined to adopt these amendments. But the environmental community also opposed the threshold assumption that led to the amendments, that the Marine Managed Areas Improvement Act actually got rid of the ASBS discharge prohibition by reclassifying these areas as State Water Quality Protection Areas. So we asked the legislature to clarify that they did not in fact mean to do this in the MMAIA, and the legislature agreed and passed SB 512 last session. SB 512 recognizes the continued existence of ASBS's as a subset of SWQPA's, and a subset that would require the special protection provided in the Ocean Plan. So accepting that the discharge prohibition is going to continue to be with us, we should also recognize that the discharge prohibition is broad in scope, encompassing all discharges – point, non-point, and storm water – and that it is – ah – fully enforceable.

Many of you are undoubtedly familiar with the – ah – Crystal Cove case, in which the State Board upheld a cease and desist order issued by the Santa Ana Regional Board – um – related to several dischargers discharge into the Irving Coast ASBS. We like the outcome of this case because it verified not only that the ASBS discharge prohibition applied to storm water, but also that it had real teeth. Um – contrary to popular misconceptions, environmental groups don't necessarily like to sue, but we are comforted to know that the option is out there.

So recently, Scripps decided to deal with their discharge into ASBS, and they decided to do it by applying for an Ocean Plan exception, which they are entitled to do. We recognize the need for an Ocean Plan exception under certain limited circumstances. But let me be clear at the outset. We do not believe that the exceptions should ever be the

norm, and we also don't believe that exceptions should be perpetually renewed. If an exception is proposed, for it to be acceptable, it must be – it must meet strict legal requirements and it must, by definition, be carefully crafted to eliminate the need for itself in a short and defined period of time.

With this recognition in mind, we developed some criteria that we've encouraged the State Board to apply when considering these exceptions, and Dominic actually made specific reference to some of these criteria in his talk. First, all exceptions must be conditional and crafted to ensure that the permitted discharges are consistent with natural water quality, not Ocean Plan water quality – ah – objectives. Consequently, the discharges must be consistent with Table C, background seawater conditions or with some other scientifically based determination of what is natural water quality, as Scripps has proposed to do.

Second, all exceptions must be accompanied by a rigorous monitoring and reporting program. Such a program must include – ah – monitoring requirements adequate to verify that the exception is protecting natural water quality and – ah – that applicable permit requirements are being met. Monitoring should include, at a minimum, biological monitoring, water quality monitoring, and sediment quality monitoring. And if monitoring results indicate that the conditions of the exception are not being met, the exception should be revoked.

All exceptions – this is third – all exceptions must be contingent upon compliance with applicable permits, including NPDES permits – um – waste discharge requirements and waivers. If monitoring results indicate that these conditions are not being met, the exception should be revoked.

Fourth, no exception should ever be granted to permit a new discharge into an ASBS. This is a no-brainer, people. We already have 1,654 illegal discharges into ASBS's that exist. We have a big enough problem on our hands as it is.

And then lastly, that no exception should be granted in the absence of a public hearing, and no exception should be – and all exceptions must be

in the public interest.

We didn't develop these criteria out of whole cloth. They're developed specifically from the Ocean Plan's exception provision, which provides that no exception can compromise the protection of beneficial uses. The ASBS designation is in itself a stated beneficial use in the Ocean Plan, which means that natural water quality for very sensitive organisms must be maintained. The state cannot change this – this – ah – designated use without a complicated legal proceeding – um – and that's why we insist that both as a legal matter and a common sense matter, any exception must have the achievement of natural water quality as its – in a short and specified timeframe as its primary motivating objective.

So the exception that was developed for the Scripps Institution of Oceanography meets with these criteria. Before I say anything else about the Scripps exception, I wanna highlight the fact that this was a model of collaborative governance. State Board staff and Scripps worked together to develop the conditions of this exception, bouncing ideas off the environmental community the whole time. Everyone involved shared a – a unified vision of ultimate compliance with the Ocean Plan discharge prohibition and eventually an eventual elimination for – of the need for the exception. So the terms of the exception itself, all discharges must be controlled to protect natural water quality.

Um – dry weather runoff – ah – dry weather non-point discharges will be eliminated by January 1, 2007, and the use of copper in aquaria and laboratory wastewater will be essentially eliminated. Scripps developed an advanced storm water management program – ah – that will manage wet weather flows and adopt best management practices on an accelerated time schedule. Finally, Scripps will carry out one of the most comprehensive and rigorous monitoring programs of any discharger of its size in the state. So the next step in the implementation of these conditions is the NPDES permit.

Permitting will be important in the ASBS process – ah – in two regards, both as a triggering event and as an implementation scheme. First, we don't believe that the regional boards have the authority to approve or

renew NPDES permits for dischargers that haven't dealt with the ASBS discharge prohibition. Consequently, dischargers who need such permits will be forced to either comply or acquire an Ocean Plan exception that meets the above conditions. This is true for storm water as well. In fact, the phase two statewide general permit – um – explicitly incorporates discharge prohibitions in the Basin Plan and the Ocean Plan, including the ASBS discharge prohibition.

Second, the terms of either the prohibition or any exception must be incorporated into the NPDES permit itself, so the permit will serve as an implementation mechanism and an enforcement mechanism.

So – but not to forget that the goal of this effort is to actually see real improvement in the water quality of ASBS's. So the Ocean Conservancy invites you to communicate with us about your specific needs and concerns regarding compliance with the ASBS – um – discharge prohibition and/or Ocean Plan exception requirements. We know that the success of this program is premised on your being able to actually implement this provision, and we wanna help you wherever we can.

In this vein, we have, over the past year, actively promoted financial support – ah – for – to help regulated entities clean up their discharges into ASBS. Specifically, we've advocated strongly that a high priority be given to ASBS – ah – in the context of three programs. First, funding under the Integrated Regional Water Management Program, that's Prop 50, Chapter 8. We pressed hard for the implementing legislation that earmarked some of these funds specifically for – ah – ASBS's, projects that would clean up ASBS's, and the grant guidelines produced this fall – and Shalah will talk about this later – uh – fully reflects this priority.

Ah – second, logistical support through the statewide Critical Coastal Areas Program, which Jack Gregg will talk about in a moment. Ah – we worked with the CCA committee about – um – to target ASBS's as a high priority. All ASBS's, as you know, are adjacent to CCA's, and so now these are high priority areas for the development of CCA action plans and future funding.

And lastly – ah – funding through the Marine Managed Areas Program, established under AB 2529. This is a new program. AB2529 was passed by the legislature last session – um – and we sponsored – we sponsored this legislation. Um – the – the program will provide funding for projects that improve water quality in Marine Managed Areas with specific priority given to ASBS's. Um – we'll now be working with legislatures this session – legislators this session to make sure that adequate Prop 50 funding is allocated to this program through the regular budget process.

So we're not just complaining about discharges into ASBS's; we're actually doing everything that we can to help ensure that this important effort to improve water quality in ASBS's is moving forward, including making sure that the funding and logistical support that the dischargers need is available.

In sum, we love the ASBS discharge prohibition, and we want you to love it too. Um – in some limited cases, we understand the need for a temporary exception, with the understanding that such an exception would be specifically designed to promote ultimate compliance. Really, the areas protected by the 30-year-old ASBS designations and the sensitive organisms they contain are natural treasures for California, a state that highly values its unique and special – ah – ocean and coastal environment. We hope that we can work with you toward the shared goal of protecting these areas for current and future generations. Thank you.

[Applause]

MR. GREGORIO: Thank you, Sarah. Um – I guess our next speaker is John Lorman – um – who's representing Scripps Institution of Oceanography. (Inaudible).

MR. LORMAN: Dominic, I think I'm gonna be okay here. Do I need a –

MR. GREGORIO: (Inaudible).

MR. LORMAN: Guess?

MR. GREGORIO: Guest.

MR. LORMAN: Guest.

MR. GREGORIO: (Inaudible).

[Laughter]

MR. LORMAN: Okay. Great.

MR. GREGORIO: (Inaudible).

MR. LORMAN: There we go. All right. Good morning, everybody. Thank you very much for coming over today to Scripps, and I too want to thank the – ah – State Board and the State Board staff and all the work that Dominic has done – um – the cooperation that – ah – Scripps has – ah – provided to put this – help put this program together, and particularly Susanne Lawrence. Um – and also – I – I want to – um – quickly say there are many, many things that could be addressed in my presentation, but I'm going to focus – ah – on the – ah – aspect that I was asked to do, which – um – if I know how to advance these things, I think – let's see – should go – tab? Um – I'm sorry?

FEMALE: (Inaudible).

MR. LORMAN: View, okay. Got it. And slide show. There we go. Now, how do I go to the next one, jut click? Okay. Um – I'm gonna go right into my presentation and add some things as I go forward.

Um – Scripps started discharging at its current location in 1910, and I – we just heard Sarah say that no new discharges. Well, currently in the case of Scripps, it's been around for a long time. It was in 1969 that Scripps first obtained its – um – waste discharge requirements from the Regional Board, and in 1972, when the Ocean Plan was adopted by the State Board, the initial Ocean Plan required that waste shall be discharged a sufficient distance from Areas of Special Biological Significance to ensure the maintenance of natural water quality. As time went on, that – that discharge of sufficient distance became a prohibition, and an absolute prohibition.

In 1974, Scripps's – ah – initial five-year waste discharge requirement permit was renewed, and the first combined NPDES and WDR permit

was issued. And in that permit, the Regional Board found that Scripps's discharge would not alter the natural water quality conditions of the ASBS. And over the period of about the next 25 years, there were five – four additional permits – ah – that were issued – um – each with the same finding regarding the ASBS.

And in 2002, Scripps was asked to submit an application by John Robertis (phonetic) from the Regional Board. Here he sent a letter over and – and said would you please – um – look into doing this. Scripps – um – then started its cooperative work with the State Board principally who had the lead and the staff and the person of Dominic Gregorio. And Scripps was asked to produce some habitat and species survey data, which it instituted and then did produce.

In late 2003, the Scripps application was deemed complete by the State Board, and then there were some issues surrounding the CEQA document, and that took – took – a – a little bit of time to iron themselves out, and I think Sheila Vassey, if she's here, may be addressing that later – ah – so I won't – won't spend any time on that.

Ah – in July of last year, the State Board conducted a workshop, and then a hearing – ah – in July granted the – Scripps the exception to the prohibition against discharges into the – um – ASBS.

Just quickly to summarize what – ah – Celeste Cantú earlier mentioned, in Section 3L of the Ocean Plan, the State Board has the power to grant an exception where there is compliance with CEQA, a holding of a public hearing, the concurrence of the U.S. EPA, and determinations made by the State Board that the exception will not compromise protection of the ocean water for beneficial uses and the public interest will be served. The beneficial uses that Sarah mentioned – um – are in the Ocean Plan for ASBS's are the preservation and the enhancement of ASBS's. And the public interest that was served in the case of Scripps was a case that – um – was fairly easy to make in regards to the nature of the work that Scripps performs.

When I was asked to speak, I particularly was asked to address the challenges that the discharger, Scripps, faced in the context of the application process. In today's talk I'm just going to focus on the

exception, not its NPDES permit, which is currently in draft form with a hearing set for February 9th with the Regional Board. Um – but when the exception process – um – first started, and as Tom mentioned earlier – um – there was a little astonishment and then Scripps has – ah – really gotten behind things – ah – and I’ll talk about that a little further as I go forward into the specifics of the exception.

A first question was, can Scripps stop all discharges. Well, the Scripps discharges, you saw some of the photos earlier, include its aquaria and its marine labs, and the scientists depend on those and the flow through seawater is critical to the work that they do. Um – so – we – we just couldn’t turn off the spigot and stop the discharges.

Can Scripps take its discharge and reroute it outside the ASBS? Well, as all of us would – would know or would imagine, that’s an extended process with all kinds of technical issues – um – permitting issues, and so on. So it certainly couldn’t happen in a period of less than years. Uh – but that is something that Scripps is looking at.

Can Scripps divert the discharge to the sewer? Um – partnerships were formed early on, as Sarah mentioned, by Scripps. Ah – among those were talking to the City – ah – about the possibility of what could we divert to the sewer – uh – of our discharges.

Can Scripps construct the closed water system to service the aquarium and research labs? Scripps immediately retained consultants and has been looking at that possibility for some or all of the aquaria discharge.

Um – conditions about what is the baseline. We had meetings with the environmental community – ah – and Marco Gonzalez – um – sat with us and – um – we talked about, you know, what is the baseline, and – and certainly there are those who feel it’s whatever it was before Scripps started discharging. It’s probably whatever it was before the city started to develop – ah – around this ASBS. Um – and so that question is still one that lingers and is one of the challenges we face.

How will natural be defined? Once it was determined that we were going to be required to maintain, preserve, enhance the natural conditions – um – we have to – we have to figure out what that is. In

coordination with the advisory committee – um – that is yet to be formed, that determination will be made. They will be supplemented in the development of that answer by the data that Scripps will be developing.

Will Scripps implement storm water best management practices, including structural within one year of the permit issuance? When the early drafts of the – um – of the – ah – exception came out, they were asking us to do it within one year of the permit issuance, and in the exception, as you'll see in a minute, we have to do a revised storm water plan. So it was difficult to get the plan in place after the permit issues and then comply with – ah – the requirement within one year to have those management practices in place.

Um – can Scripps stop the dry weather flow immediately? Um – there were members of the environmental community who wanted to see that stopped immediately – ah – and in discussions with the State Board, we – we are being given some time to accomplish that.

Will Scripps eliminate the use of copper – ah – either by an alternative or by treatment, and when will that happen? And if Scripps continues to discharge into the ASBS, will it meet the conditions of the exception? Uh – the exception has 19 conditions, and these are to be included in the renewal of the NPDES permit, and the draft permit has them and has them plus some other things. Um – Scripps developed partnerships with the regulatory and the environmental community, as well as with the local discharger – ah – in its development of the exception conditions, and it worked very closely, and I recommend that anyone who will be pursuing an exception – ah – does the same thing. It is critical to the accomplishment of the – um – the granting of the exception. The State Board was very, very clear in its – ah – position about not wanting discharges, not wanting discharges to continue, and it is not a given when you go up there that you will get this exception or a variance. You're going to have to do some tradeoffs in order to get there, and you're gonna have to do some cooperative working to get there. Nevertheless, notwithstanding doing cooperative things, there – there are issues that require discussion between – oops. I gotta go backwards. How do I go backwards? Previous. Yeah. Let's see. Do one more of those. Um – make sure I got it.

Okay. Ah – there are issues that require discussions between – ah – Scripps, the agency, and other interested parties. And I’m going to highlight just some of the conditions here because of the time limitation to touch upon them that – um – we had discussions about. There were others, but these are just – these are some of them. In the exception – ah – Condition 3 had the 19 conditions as lettered subsets to it, so when I refer to Condition 3A, that would be our – our first condition. It required that Scripps not alter the natural water quality. And what receiving water quality criteria are to be applied to Scripps prior to natural being defined is an issue which we face, because the committee – the advisory committee hasn’t been established and the data hasn’t been developed even if it had, and so it’s gonna take some time.

So in the interim, what conditions will Scripps have to meet in terms of both its effluent and its receiving water? On the effluent side, we’re gonna have Ocean Plan Table B, as anybody would. On the receiving water side, we have the Table B as water quality criteria – um – and there will be discussions ongoing about that. The timing on – ah – how long we will have those interim measures, if I – I can call it that, until natural is defined, is – um – something we’re working out with the Regional Board, and you will have the same issue. And I think it’ll be driven, not as a standard that any one discharger necessarily as the same time limit for another, but based on the facts that – that you’re facing – ah – in your particular case.

Condition 3B required that copper be eliminated as soon as practicable, and there of course is – there was a strong feeling on some of the State Board members’ part that they wanted copper out and they wanted it out now. Um – and so as a practical matter, Scripps has – uh – been given some time to achieve that. Scripps has already started – ah – even while the exception was in draft form – ah – getting with technical consultants to look at alternatives to copper and treatment of copper and so on and so forth, and where it doesn’t have to use it, so source reduction as well.

Condition 3F required that Scripps eliminate the discharge of all non-storm water urban runoff – ah – by two years from this month – ah – to be – and that’s to be applied to all 89 urban runoff discharge points into the ASBS. So while we have right now four discharge pipes that – ah –

do not include storm water for the remaining 89 of the 93 total discharge points into this ASBS, Scripps has – ah – been in the process of going through an RFP – ah – interviewing storm water consultants – um – meeting with – with – ah – ah – through interviews with those folks and – um – and last week we had an in-house meeting with – um scientists and some consultants in regards to how Scripps is going to deal with the ASBS issues, not just storm water. I'll talk a little bit further about that as I go on.

Condition 3J required that the – the Storm Water Management Plan must ensure an improvement in the receiving waters, including the reduction of storm water or pollutants to those waters. And due to the – our scientists here tell us that this near-shore water body is – is extremely dynamic, and that alterations of that water quality – ah – are not to be – may not always be due to Scripps or our discharge. And so how are we to ensure or assure improvement in that water quality on an annual basis, especially if all influences aren't coming from Scripps. So one of the things we're doing is we met with the City, looking at – ah – rainfall that may be runoff from places off campus. Um – we have some uncertainty about what impacts might be coming down the shore from Los Penasquillos (phonetic) Lagoon and discharges out of there. We have a discharge that's to the south of us. So we have to work that out. I think basically the way the Regional Board's gonna look at it, and – and John Phillips may address this somewhat – is you know, it's up to Scripps. And so you'll probably find a similar approach there. We have to work that out when we get more data and see – see what the story is, but it's an issue that is – ah – part of our challenge.

Uh – Condition 3K. I'm gonna run through some of our –

[End of Tape 1, Side 2]

MR. LORMAN: ...ah – a chemistry analysis. We're gonna have a huge additional load right there. In addition, we have to do a survey of benthic marine life. Condition 3L requires a bile accumulation study to determine the concentrations of metals up and down the coast and offshore in the ASBS. Condition 3Q requires that we determine the initial dilution and the fate of the discharge during storm and non-storm water. And so the development – um – the approval of the plans that we're going to be

proposing for these monitoring, the funding for these studies are all significant challenges that Scripps faces, and in cooperation, working closely as we have with Dominic and with John – John Phillips – um – and Paul Richter over at the Regional Board, we’re – we’re trying to work our way through these things – um – and they are challenges. I could spend more time on them, but I don’t have it here.

Condition 3M requires Scripps to conduct monthly effluent sampling and analysis for copper at outfall 1. But remember, they want us to eliminate copper, either through taking it out of the system in terms of using it, or treating it. Um – so there was a request we made at the State Board to reduce the monitoring obligation for copper if we do in fact treat it to zero or if we do in fact treat it to a level that – that – um – or stop using it, rather.

Condition 14N – ah – is effluent sampling, Condition 15O is receiving water and sediment sampling, and we are required once during dry weather and once during wet weather to run sample analyses for all Ocean Plan Table B constituents and for indicator bacteria, as provided in the Ocean Plan. Um – and Scripps has offered a monitoring program, which it believes may add value to the data developed, especially for the bacteria sampling.

We – I told you I would – ah – spend a minute on that meeting we had in-house last week. I think Scripps had like 25 of its people with some outside consultants present, and there was a very well-run program – ah – where science – ah – the science of these issues that we’re faced with were discussed. The engineering issues had been discussed. And Scripps has set up a – a seawater committee, it set up a storm water committee, and it set up a monitoring committee to develop monitoring program – programs that’ll be most useful and powerful. And it – it found last week in its discussion – ah – that data management is also a committee that it needs to set up, because the coordination of all this developed data to make it useful and to make it visual, so it is helpful in terms of its translation to all of us and people that we’re gonna have to go sell the program to – ah – in terms of cities and the city manager and the city councils and the mayors and so on, that that data management and the visualization of it is very important. So Scripps essentially, and I may be ahead of myself, but I think it’s gonna have a fourth

committee, which is gonna be how do we take all this data and make it useful and how do we coordinate it in a way that speaks to, you know, where's the source, what is the fix for it. The kind of metrics that John Robertis often talks about in terms of his storm water management plan, and that's where Scripps is going with all of this data. And so I know that – ah – Scripps has offered to – um – talk to anyone that would like to about some of its programs and – and it may be helpful to do that.

Um – the exception is – ah – subject to review every three years. We had some debate about this as we got down to the final days in July of the hearing, and the last revisions – um – the State Board members initially, and if you'll note the initial four exceptions that – ah – Celeste mentioned – um – the wastewater treatment and the brine discharge, all of those were issued in the '80's, I believe. Correct, Dominic? They've never been renewed. At least not to date. Um – and so they were issued in the '80's and they were issued forever, I guess, as long as there's a permit and a discharge, unless something untoward happened. Well, the Scripps – um – exception, we thought would be a one-time event, but come to find out, it's not a one-time event. It is going to be subject to review every three years in the triennial review process for the Ocean Plan and it will sunset every five years. So we have to go back to the State Board and you will, too – ah – if you get this exception for a renewal. And what Sarah said a few minutes ago is I think the more time that goes on, there's gonna be more resistance to that renewal or that renewal is gonna become more constricted in terms of what the – ah – exception will allow and what the conditions will require. And so I – I fear – not fear, but I feel that as time goes on we're gonna find that. So when you set out on your course to, you know, what are our challenges, really looking at how do we – what do we do about this is gonna be important.

Rainwater, storm water, very difficult task. And as – as Dominic mentioned, there's gonna be some recognition – ah – in that area, but there's gonna be a lot of discussion, and as a lawyer, I think I could spend 20 minutes debating the issues about, you know, what are – what does natural mean and what – what are the issues about – what's the impact on storm water on that. And so there are a lot of issues. No one's looking for lawsuits in this. This was never intended by Scripps

to be anything but we wanna comply, we're gonna comply, Charlie Kennel, the executive director, told us to comply. Let's get together with the members of the community on the regulatory side, on the environmental side, on the side of the city, and – and work with them, and there have been all kinds of meetings. Also Fish and Game, with the exotic species. Um – meetings with – with the Fish and Game have occurred and Bill Pasnoskis (phonetic) and additional meetings will be taking place with Scripps in that regard to address the exotic species. Um – so that – that's all I have on the – um – the challenges, although there really in many ways are more of them.

In conclusion, obtaining an exception requires cooperation, as I just mentioned. Implementing the condition of the exception results in substantial time and labor and cost. It is not going to be inexpensive – ah – to get to where we need to get, and therefore, finding the money is an important part of the challenges that you're gonna face – um – in doing that. And I – I think the offer from Sarah to cooperate and help and the work they did with the legislation is – is very important to this process.

Um – and finally, we're gonna have deadlines, and I think John Phillips is gonna talk about some of those. And those deadlines are gonna be the ultimate challenge, to get there on the time schedule you're given. It's gonna be very hard 'cause there are so, so many components to – um – achieving this – this drastic change from where we were before. Um – and that's it. Thank you.

[Applause]

[Mr. Gregorio is speaking away from the microphone]

MR. GREGORIO: Ah – before I introduce – ah – our next speaker – ah – I just wanted to explain what was going on with lunch. Um – we're gonna be a little bit over time on our agenda, but – ah – the lunch will probably be here right around the time when – when we're done with – ah – with our speakers, so I – I don't think it'll delay things much. Um – and – ah – there was one other thing that I wanted to mention. Ah – in – ah – John's presentation he mentioned the fact that the – um – the Scripps exception – ah – would be reviewed every three years and – and then

sunset at five years. Um – the three years is really – um – basically tied with the triennial review – ah – of the Ocean Plan, and we are – you know, there’s been some talk of the ASBS amendments and how those – ah – basically got set aside, but there are some very, very timely ASBS amendments to the Ocean Plan that incorporate – um – the Public Resources Code and the – um – kind of getting the – um – the names of the ASBS’s in line with the Department of Fish and Game and the state parks – um – you know, convention to the names of these areas. And – and that’s all related to the Public Resources Code requirements. But in that – ah – we’ll probably also gonna make a statement for exceptions – um – and it’s just something that we can do this anyway, so it’s nothing really new, but we’re just gonna make it clear in the Ocean Plan with the – our staff’s suggestion is to do this – um – that – um – all exceptions be reviewed – uh – you know, during the triennial review – uh – which is, you know, every three years, and which – with going to new exceptions anyway. But – um – that’s why I mention that, but that’s – you’ll see that in a draft (unclear) that will be coming out soon and it’s gonna be tied to the – um – the draft (unclear) for the reasonable potential. Um – and again, that’s a public process, so keep your eye out for that, and if you’re not on the Ocean Plan (unclear), make sure that you’re on that so when these things come out that you get (inaudible). Um – anyway, our next speaker (unclear) is Jack Gregg from the Coastal Commission.

MR. GREGG:

All right. Well, thank you. I – um – I will try to stand here, because I’ve always wanted to stand – um – where the giants of oceanography have stood so many years before us, and – ah – I’ve been – ah – coming to Scripps with – ah – ever since – ah – the early 1960’s, when my grandmother used to bring me. Um – it’s great to be here today. Um – I’m gonna talk about something on a – on a little lighter note than the last – ah – talk. Um – I’ll be talking a little about the state’s non-point source program and – ah – an aspect of that, which is the Critical Coastal Areas Program.

And – um – I work for the California Coastal Commission. Our – our – um – work is dealing with – ah – development in the coastal zone primarily, but in this case – um – we have also been – ah – required by federal – ah – regulation to create a coastal non-point source program

and – um – ah – so part of our work goes to dealing with – um – non-point source – ah – issues in the state.

Um – of course, you all – ah – the folks here know that non-point source is one of the – is the leading cause of water quality impairments in the state, in the nation. Um – the state – ah – put together a statewide non-point source plan based on requirements in the Clean Water Act and the Coastal Zone Act – ah – Coastal Zone Reauthorization amendments – um – and the state’s program looked to address both of these – ah – different requirements and bring them into one program. And the goal of the state’s non-point source plan is to – um – implement 61 management measures in – ah – dealing with different land use categories in the state, from agriculture to – um – silver culture, marinas – ah – urban and – ah – wetlands and hydro modified areas, and the goal is to implement all of these management measures – um – where appropriate by – ah – 2013.

Um – the plan was approved by the federal agencies – uh – by NOAA and – ah – U.S. EPA in – in 2000. Um – it’s – this plan was – ah – approved based on California’s ability to bring – ah – resources to bear and authority to bear to deal with non-point source – ah – pollution problems – um – and that – ah – was in part we were able to get it approved much earlier than many states because we had the Porter Colon Water Quality Act and because of the California Coastal Act, which were – really bring us strong tools to work with on non-point source pollution. But we also require – um – ah – the authorities of a number of other state agencies. The other – ah – the State Board, the nine Regional Boards, and additional – um – 18 state agencies that we looked to for their authority – ah – Fish and Game, State Lands Commission – ah – Department of Parks and Recreation, Department of Conservation, and I won’t name them all. Um – one of the problems with the non-point source program for the state is that – um – the size of the problem dwarfs any funding that we have available. Um – we certainly – ah – take all the funding we can get and – and – use it as best we can, but the problem is much bigger than that. Um – and as I said, we’re implementing – ah – this statewide plan through the efforts of existing staff and programs. We don’t have an additional large cache of money to – to bring to bear – um – although we do get – ah –

funding from – both from NOAA and from the U.S. EPA through the 319 – ah – non-point source program.

Um – the state has been doing – in spite of the lack of money, we're doing quite a bit of work with coordination. Um – we did get these 28 agencies together to – ah – develop a work plan – um – both in 2000 and 2003, statewide work plans for non-point source. Ah – we – ah -- have developed through that program, land use specific subcommittees, as I mentioned – um – that get together to – um – help develop tools and recommendations for the state – um – on how to develop policies to address – ah – non-point source issues.

And – um – we have a lot of coordination with other water quality programs in the state. Um – we're trying to – ah – keep working with the TMBL program as part of the implementation of – ah – dealing with – ah – (unclear) waters in the state. We work with storm water and try to ensure – um – at least the Coastal Commission, we're trying to ensure that storm water program requirements are addressed – um – by every development along the coast – um – as they come into us for permits. But as well, the – um – the non-point source program is continually looking to the storm water – to the storm water program for how we can coordinate. Um – we work with the watershed programs and the – um – clean beach programs to – as those are – um – also a part of implementing the state's non-point source plan.

Um – Critical Coastal Areas is one of the requirements that – um – came out of the – um – ah – Coastal Zone Act – ah – 6217 Section – um – requirement for a coastal non-point source program. Um – it said that – um – states should look at – ah – areas of their coast where coastal water quality is either threatened or impacted and – uh – find – uh – and where – ah – new and expanding land uses are – um – causing those water quality threats or impairments and address those areas. Make sure that all of the management measures of the state's non-point source program are being appropriately applied – um – and where necessary – ah – create – ah – new management measures to specifically address those issues.

Um – the – um – in California, the way – the implementation of this is we – um – since we started off with basically no money to do it and

we're basically having the state agencies coordinate and figure out what are the areas of the coast that we really need to deal with first and what are we gonna do there – um – our – our take on this was that we would develop a non-regulatory planning tool to identify these areas so that we can bring – uh – through coordination of state and local agencies and stakeholders – um – ah – direct resource to do the appropriate – um – take the appropriate actions to implement management measures and – and deal with the non-point source – ah – issues. Um – the goal of the program is to ensure that – um – that – um – all effective management measures are implemented to protect – ah – or restore coastal water quality from polluted runoff.

Um – in 2002 – ah – the – working with 15 agencies, a select – ah – group of the – um – the 28 state agencies that work on non-point source in general, we – um – the ones that have more coastal – ah – interest worked together with us to – um – arm wrestle quite a bit, figure out what – um – areas of the state we're gonna call Critical Coastal Areas. Um – in some states, the smaller states, they just name the whole coast and say the whole coast is critical. In California, we really felt that the Coastal Act in some way does identify our whole coast as critical and needing of special protection, but we wanted to still identify specific parts of the coast that we could – um – focus our attention on. Um – we had hoped to focus on about 10 areas, but – um – through the arm wrestling, we ended up with 101 areas along the coast. Um – 67 of these we identified – um – due to the evidence for poor water quality – um – that there were 303D-listed waters discharging to the coastal area in areas of known resource values, and – and – we used marine managed areas, among other things, to identify areas of known resource value.

Um – we also wanted to identify areas where the water quality was known to be good and in – ah – in need of protection for the long term, and we used as a surrogate for – um – instead of being able to go out and actually sample and – and make independent judgment of what areas of the coast we should protect, we – um – decided to use the ASBS's as a surrogate for parts of the coast where the water quality – um – is especially – ah – valued, and at least when the ASBS's were created, it was known to – um – be of good water quality.

Um – this is just an example of our map along the coast. Um – I think the – the colors don't turn up well enough to show – um – that some of these – ah – some of the ASBS's are at the end of the blue streams, which are generally 303d-listed waters. Um – there are also – there's some light blue in there, identifying the ASBS's that I don't think we can see, and – ah – both of those are the two different kinds of ASBS's that we identify.

Um – this program's been going on since 2000, but as I said, it initially – um – started off primarily state agencies coordinating and trying to come up with a list and come up with a plan to deal with the – ah – the CCA's on the list. Um – excuse me.

We did – um – come up with a – a strategy document – um – this list of 101 CCA's, and an action plan, and the action plan – um – ah – let's see – ah – the overall – the general plan for the CCA's was to create partnerships with local stakeholders and leverage state agency staff – um – to create action plans. And the actions plans – um – are – um – ah – what we would consider an additional management measure for the state's non-point source plan. Um – and they can be – ah – they go beyond the watershed plan. They have these different aspects to them. Um – they would include a watershed plan that's not just – um – focused on any specific resource, any single resource, but focus in general on – um – polluted runoff. Um – the action plan would include some kind of evaluation of where management measures have been implemented and where they need to be implemented. It'd include – um – ah – evaluating land use planning, upstream from the – the Critical Coastal Area and – ah – how that impacts water quality. Um – often we would recommend an impervious service evaluation looking at how impervious services are increasing – um – are changing in the watershed, and – um – we hope that these actions plans will include – ah – decision maker education about – ah – actions that can be taken in land use planning to deal with the water quality issues.

Um – the changing landscape has now come to the point where their – um – the state has approved a number of bonds, so there is money available. Um – some of it is – ah – been – ah – addressed towards dealing with ASBS's and coastal water quality issues, and we're trying to take advantage of that as much as we can. Um – we – um – in order

to take advantage of that, we – um – developed some Critical Coastal Area ranking criteria that would help us decide among those 101 CCA's which ones should we get working on first, which ones have the most – ah – water quality problems, which ones are subject to – um – changing land use or expanding land uses – um – that would make them more critical to get working on. Um – we've commented on grant guidelines to the State Board – um – ah – especially for the IRWM grants to try to make sure that they – um – would include Critical Coastal Areas, and – um – we're promoting – ah – and happy to talk to anybody who wants to talk about putting in a proposal on the IRWM grant or – ah – later grant programs – ah – about how – ah – they could use that money to address -- ah – their Critical Coastal Area and – ah – hopefully, we're looking for people who are – um – wanna look at multiple – ah – Critical Coastal Areas and try to learn – ah – learn from the – comparing – contrasting different CCA's and – ah – develop tools that can be used coast-wide in California.

Um – so the program at this point is still – has two approaches. One of them is – um – trying to promote – ah – grant – ah – people to submit grant proposals and also – um – we are identifying pilot projects, four pilot projects up and down the coast – ah – that will – even in – ah – if there are not grant funding available – um – what we can bring to the table is state agency expertise and interest in – um – helping to – ah – develop the action plan and working with local stakeholders to – ah – figure out what needs to be done in their CCA and – ah -- how to – how to – um – implement appropriate water quality controls.

Um – just – ah – briefly – ah – the ranking criteria to – ah – determine whether a CCA should – you know, whether we think it should be moved forward, you really need to see is non-point source as the problem – um – or expanded or new (unclear) land use as part of the problem. Um – and I think I went through these, so we're looking at what are the water quality conditions, resource value – um – threats to beneficial uses, and – and – what kind of local support or – um – the likelihood of success are there for the – um – in each of the CCA's.

Um – the ASBS's that – um – we've gone through a process with – um – a statewide committee trying to – um – boil down the 101 CCA's to a shorter list – um – and we've got four regional committees up and

down the coast who've been working on these lists. Um – what I'm showing you here on this page and the next one are the – the ASBS's that are remaining on the shortlist – um – the ones that we think are the highest priority to move forward on at this point, and – um – we – ah – are hoping that these will – um – that we'll get some good proposals on these for – for people who wanna – um – ah – develop their CCA action plan.

Um – I think I talked about the important part of this. Um – you know, the important part of getting – becoming a CCA is that you will be identified on the statewide list. You will have the interest of state agencies who'd like to work with you to – um – ah – develop an action plan and move it forward and help you – um – get grant funds to work on your Critical Coast Area. Um – I suppose for those of you who just have an interest in getting – um – ah – dealing with the discharge prohibition, this may not be the most direct way to get there, but for the long term – um – I think you do wanna take a look at polluted runoff and the overall impact of that and how to – how to reduce those effects. So – um – we would hope you'd be interested in talking to us about how to do that.

Um – Glenn Robinson from Region 8 actually just brought today – um – some new fliers on the Critical Coastal Area program and the public workshops that we're intending to have in – ah – late February or during March – um – to gather more information on the – um – the CCA's that are on our shortlist and – ah – make some decisions on which ones are gonna become our pilot projects and which ones – um – and help people to start seeing how they could put forward proposals to – um – ah – ah – to get grant funds to work on those. And – um – there's also a signup sheet out in front. Um – if you're in a CCA and you're – you're interested in – ah – finding out more about a program and being notified of our meetings, please go ahead and sign the – ah – sign up and we'll make sure you get informed of that. And thank you very much.

[Applause]

[Mr. Gregorio is speaking away from the microphone]

MR. GREGORIO: Thanks, Jack. Um – before I introduce our next speaker (inaudible), we ran out of handouts for the (inaudible). Um – Sheila brought (inaudible), and John has some also (inaudible). (Inaudible) let you know that those are available. Um – okay, our next speaker – um – is John Phillips from the San Diego Regional Board, who will talk about the point source regulatory perspective on – ah – on ASBS's.

[Recording quality deteriorates]

MR. PHILLIPS: It's a very fancy name for a very short talk. What I'm gonna focus on is what the San Diego Regional Board did to incorporate the exceptions and that conditions that were adopted by the State Board into the Scripps NPDES permit. I'm sure that many of you are familiar with NPDES permits and their requirements. Ah – we were not directly involved in the establishment of the conditions. Those were done at the State Board level, and we had some contact with Dominic. Once those were done and once that was adopted, we had a list of 19 conditions included in this resolution adopted by the State Board in July. We took those 19 conditions and broke them out into the different parts of the NPDES permits, which includes prohibitions, effluent limitations, monitoring requirements, reporting requirements, special studies, and – ah – we got 42 different specific requirements that Scripps would have to meet. Some of these requirements had very specific implementation deadlines, very specific goals in mind. We could incorporate those directly into the permit in a specific area. Some of these conditions were a little more general. You shall eliminate the use of copper as soon as practicable. That's a tough one to (inaudible) next week or next year. We had to – ah – work the dischargers in getting language into the permit. Ah – we had to put in the specific monitoring requirements, the specific reporting requirements, the specific deadlines, such as the – Scripps shall eliminate all non-storm water discharges by 1/1/07 into the NPDES permit. We have required the monitoring required by the exception and in some cases is not above and beyond (inaudible) better idea as to the existing water quality of their discharge and of the ocean outside (inaudible).

We have a draft permit out for review. It's available on our website. This is our second generation. We initially brought a draft review before the board in November and we had a – extensive discussions

about the requirements and questions were raised (inaudible). As to further clarification from the State Board, we now have a permit that's out for public review to be (inaudible) in February, that we believes meets the simple requirements of the exception and incorporates all the concerns of the discharger into this permit. So it is available. The documentation includes the – ah – the resolution and the CEQA documentation and the 19 conditions. It's available. I'll be available later on in the panel if you have any specific questions. But the general process of taking these conditions is to break them up into specific parts of your NPDES permit. If you don't have one, you likely will have one. It's not the only method that the Regional Boards have. (Inaudible) specific for Scripps. Um – breaking those down into your prohibitions, give it the use of an additive, give it the use of a metal, give it a discharge. We're going to do effluent limitations, Table A effluent limitations, Table B effluent limitations based on the Ocean Plan criteria. (Inaudible). They have to do a study on the benthic community. (Inaudible). There's a lot of – uh – requirements in this exception. And we essentially just break those down, put them into this permit. We work to negotiate and work with the dischargers to make sure that both sides have a full understanding of what the exception meant, additions required, and what is in the permit (inaudible). (Inaudible) before the board, public hearing, you get to discuss it with the board members, they get to consider it, and – ah – at some point you will have the NPDES permit (inaudible) State Board conditions (inaudible). That's all I have to say. Very straightforward and simple (inaudible).

[Applause]

MR. GREGORIO: (Inaudible).

MALE: It's a pleasure to be (inaudible) today. Ah – I think what – what I'm going to say, you've already heard (inaudible). Going back about 30 years ago, the Clean Water Act – um – was established (inaudible).

Ah – the initial focus of the NPDES permit and program was on, you know, things like (unclear), power plants – um – (inaudible), and I think that's why the exceptions are being granted today (inaudible). In 1987, the Clean Water Act was amended to – ah – specifically address

the permitting plans (inaudible). Since that time – um – the State Board (inaudible). And the rainfall that would flow over a (inaudible). We would not require (inaudible). But once rainfall hits an urban environment, it will become (inaudible). Lawn care – ah – vehicular – ah – traffic, (inaudible). Those can also (inaudible).

Ah – non-storm water discharge is the same thing. The irrigation runoff will pick up pesticides – um – (inaudible), washing your car, or (inaudible) in the storm sewer systems, which will also have – um – impacts on the receiving waters.

And then there's also the misperception – ah – continuing misperception that discharges to a storm sewer system are treated somewhat like – they do receive treatment like discharges (inaudible). That stuff goes into the storm sewer systems. The next time it rains (inaudible). I think generally, storm water requirements require the utilization of best management practices (inaudible) approach through your storm water plans that are designed to reduce (inaudible). Like I said, I think all of the large coastal areas (inaudible) and a lot of those areas have discharges into – ah – Areas of Special Biological Significance. There's also phase 2 dischargers specifically in – um – probably the biggest one's in the Monterey Bay area where they have (inaudible) into an ASBS. Their permit coverage is being, I guess, delayed due to that discharge. Cal Trans, which operates under a statewide NPDES permit on Highway 1 has discharges into an ASBS. And we have a number of – uh – discharges that are covered by the statewide (inaudible).

As mentioned earlier – um – probably the only examples of where storm water discharges have been addressed (inaudible) Crystal Cove, which was done in 2000, 2001 and Scripps (inaudible). Um – I think both of those (inaudible) would be granted under the Ocean Plan, specifically with the (inaudible) accelerated (inaudible) approach for implementation of best management practices for those non – or for those storm-water-only discharges. Potential numeric limits for discharges (inaudible) combined wastewater and storm water discharge, as well as probable or potential elimination of (inaudible) for non-storm water discharges. I think this is gonna be a huge challenge for all of us (inaudible) the number of permits we have (inaudible). I guess one of

the things that we have heard (inaudible) that we need to follow up on as a group is the need to enter into (inaudible) dialog (inaudible) regulated community, the regulatory agencies, as well as the public interest groups (inaudible).

[Applause]

MR. GREGORIO: (Inaudible)

[End of Tape 2, Side 1]

MS. VASSEY: ...Office of Chief Counsel with the State Water Resources Control Board. Um – I'm going to talk to you about exceptions, what are they, why would you like to get one, and what is the process for getting them. As you well know, the Ocean Plan prohibits discharges of wastewater into ASBS. Um – ah – the Public Resources Code as well provides that the discharge of waste into ASBS is prohibited unless it – ah – unless it is limited by special conditions. So if you are discharging wastewater into an ASBS, basically you have two choices. You can cease discharging or you can get an exception.

An exception is a special permission, a form of special permission that's issued by the State Water Resources Control Board – um – and it allows you to discharge into an ASBS despite the discharge prohibition. It is not a discharge permit, however, so if you are currently discharging into an ASBS, you need a discharge permit or waste discharge requirements, or – um – if you have non-point source discharger waiver to authorize the discharge.

Um – the State Board's authority to grant exceptions comes from the Ocean Plan. The Ocean Plan states that the State Board can grant an exception to any requirement in the plan. There are three basic conditions that have to be met, however. The State Board has to provide public notice and hold a public hearing before acting on an exception request; the Board has to comply with the California Environmental Quality Act; and the Board has to make two very important findings, that the exception – granting the exception furthers the public interest and that it will not compromise protection of beneficial uses of ocean waters.

So what must a discharger do to get an exception? The discharger must prepare an application and submit it to the Regional Board and State Board, and I would like to – um – note that we do not have application forms for this. Um – the application has to include information that the State Board will need to comply with its CEQA responsibilities, and also information that will enable the Board to make its findings.

Um – I would like to briefly go over the type of information that we would be looking for. Um – the first step in the process, however, would be to contact the Regional Board and ask them to assist you in this process. The Regional Board, of course, is the entity that will issue any necessary permits for the discharge, so they have to be involved in the process. Um – then you will prepare an application package that would include – um – this is the type of information that we would be looking for. I will note that some of the information you may not have, so your application could include a reasonable time schedule to develop that information. But first, you would of course include the discharger name, address, phone number, contact person. You would need to include the location of the discharge and the type of discharge that it is. Ah – that is, storm water, sewer effluent, industrial process water, that sort of thing. Um – if the discharge is permitted – ah – you should include the permit number and any order numbers – um – that have – um – that are appropriate. Um – you want to include the specific Ocean Plan provision for which you’re requesting an exception. As you know, the ASBS prohibition is found in Sections 3(e)(1) and 3(h)(2) of the Ocean Plan, so you should reference those. You need to include documentation that – ah – would enable the State Board to find that granting the exception is in the public interest. For example, for the Scripps exception – um – documentation was included that demonstrated that the Scripps facility served a very important, very valuable educational and research function, and so that it – that it was important to enable Scripps to continue discharging at that location. Um – and other possible bases for finding that it’s in the public interest could be, for example, I suppose if it’s a – ah – facility that serves some important defense purpose. Um – another factor might be if the discharges in a particularly fragile area to small discharge and moving it to another location would cause more environmental damage. Ah – those could be factors that the State Board could consider.

Um – we also need documentation that the discharge will not compromise the protection of the ocean water’s beneficial uses. As other speakers have noted, one of the beneficial uses of the ocean is the preservation and enhancement of ASBS. And ASBS’s are defined as those areas designated by the State Board requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable. So one of the things that we would – we would hope or we’d be looking for would be documentation of the impact of the discharge on receiving water quality, and any documentation that the discharge doesn’t alter natural water quality would be extremely – ah – helpful.

Also, we would be looking for documentation – ah – certainly any chemical analyses. As you know, the Ocean Plan has – ah – water quality objectives for a number of constituents including priority toxic pollutants, and so we would be looking for any data – um – effluent quality data, receiving water quality data on those pollutants.

Um – in addition, we need CEQA information. Um – I should point out that if your – um – discharge is permitted under an NPDES permit, the Water Code has a CEQA exemption for NPDES permits. However, if the State Board acts on an exception request – um – that is not covered by that CEQA exemption. The exception request is a – is a discretionary action by the State Board that excepts a particular discharger from complying with an Ocean Plan provision, and so it doesn’t fall under the – the – um – under our NPDES permit exception.

Um – a number of issues have come up with regard to CEQA compliance. Um – the first issue would be who is the lead agency. Um – if the application for an exception is a private party, the State Board will very likely be the lead agency. If the applicant is a local or state agency, it’s possible that that agency might be the lead agency. Um – not necessarily, but it could be.

Ah – the second issue that came up with Scripps is that the State Board has two ways of complying with CEQA. One is we have a certified regulatory program that covers our planning activities, and – um – our office, the legal office has taken the position that we can use that process for CEQA exceptions – ah – for these A – excuse me, for the

ASBS exceptions. The Division of Water Quality staff prefer to use the more traditional approach, so with respect to the Scripps exception – um – the State Board staff prepared a mitigated neg dec.

Um – the third issue that came up with respect to CEQA was what is the baseline. Um – CEQA – CEQA requires that we look at a project's effects on the existing – um – environmental setting, and the CEQA Guidelines – um – define that as the physical environmental conditions in the vicinity of the project as they exist at the time of the application. So arguably – um – the baseline conditions can be the environment as they exist at the time that one seeks an exception. That position is disputed by the – um – or was disputed by the environmental community – um – as a practicum, and so what – what we ended up doing, as I said, was a mitigated neg dec. We assumed that – uh – allowing the discharge to continue could have the potential for significant adverse impacts, and those impacts were – would be mitigated by the conditions that were included in the exception.

Personally, I think that it doesn't make a great deal of difference, in that the State Board has to make those two important findings, as I said. And in order to make the findings that the discharge is in the public interest and that – um – beneficial uses will be protected, I think that the State Board has to, you know, put some fairly restrictive conditions in the exception in any event. But anyway, those were some of the issues that came up when we were doing the Scripps exception.

Um – let's see here. So for purposes – in order to do the CEQA document if the State Board is the lead agency, we would look for data on the existing environmental conditions, including a description of the marine life near the discharge. And also at a reference location away from the discharge, we would want to see an analysis of the potential environmental impacts of the discharge if it's allowed to continue, and this analysis should include any – um – information on discharge volume and quality, the results of chemical analyses, toxicity testing, bacterial testing. Um – we would want a description of the – any treatment processes that are used to – um – treat the effluent, best management practices or other pollution controls that are used, and – ah – an analysis of any alternatives to the discharges, as John Lorman had discussed, could you – um – relocate the outfall – um – re-circulate the

effluent, what are the other alternatives to – ah – direct discharge to the ASBS. Um – also if the facility does have a permit – ah – you should include the facility’s compliance history, have there been spills, upset events that resulted in inadequately treated – um – effluent being discharged into the ASBS.

And finally, the Regional Board, if the facility does have a permit, may ask you to provide a revised permit application. The Regional Board does have those – um – the application forms if that is the case. So the next steps are that in – um – once that application is submitted, the Regional Board will work with the discharger and the State Board to make sure that we have all the necessary information. And once that application – um – is complete, the State Board staff, Dominic, primarily, will prepare the necessary documents, and that would include an environmental document, as well as a draft resolution that has a proposed action on the exception request, and if staff is proposing to grant the request, a list of conditions that the – um – discharger would have to meet.

Um – let’s see. Once that is done, the State Board has to provide public notice, a 45-day public notice and make those documents available so that the public can comment on them – um – and then the matter will go to a formally scheduled public hearing. After the hearing, staff will respond to the comments and they will make any necessary revisions in the documents, and then take them to a publicly noticed board meeting at a later date. Once the State Board – um – acts to approve an exception, it’s sent to EPA for concurrence, and then after that – um – as John Phillips had indicated, the Regional Board will work – will normally work on revising the permit to incorporate all of the exception conditions.

Um – finally, as John Lorman also indicated, the exception doesn’t last forever. Um – the State Board’s exception language in the Ocean Plan is based on the US. EPA water quality standards regs – uh – language. The EPA’s regulations allow the State Board – the state permitting agencies basically to adopt variance provisions, and – um – variance provisions, the EPA has said, are like standards actions, and so they should be reviewed triennially. So even though the State Board did grant the earlier exceptions on ASBS, theoretically speaking, they were

supposed to have been reviewed, they were not, but they were supposed to have been reviewed. Uh – now the staff is more aware of this and so the – um – exceptions, if they're granted, will be reviewed probably somewhere from – on a three- to five-year basis. Um – and that concludes my remarks.

[Applause]

[Mr. Gregorio is speaking away from the microphone]

MR. GREGORIO: Thanks, Sheila. Sheila's gonna be back up when we have the panel, so if you have any questions for her (inaudible). Um – a couple of things I just wanted to (inaudible) to remind you. I told you earlier I'd put down the (unclear) site where the GIS information is available. Um – there are three files that are the GIS products from SWERP that are on that are on that, and they're listed as Central, Northern, and Southern. They're broken up by section (inaudible). There's also three other files you can find there. It's all the letters that we sent. Not the letters that we sent to Scripps or the USB, because those were Regional Board letters, but – ah – all the recent State Board letters are on that website, and they're actually listed by (inaudible) agency (inaudible). So that's what on that (unclear) site. Um – and just a reminder – um – before you leave today – um – and maybe during the break, during the next break – ah – if you could – ah – go out to the (unclear) and we have a participant list. But I don't have e-mail addresses for all of you, so if you did not receive an e-mail message, just double check if you could and make sure that we have your e-mail address, because I'll send out more information, including some of the (inaudible).

Um – before I introduce Shahla – ah – from our Division of Financial Assistance, I wanted just to make a quick statement about other funding sources. Um – the California Coastal Conservancy has – um – a funding program. I would say that it is not as rigorous in one sense as the State Board's funding program, because it doesn't work on the – on the – ah – the level of having rounds of funding. In other words – ah – and Shahla's gonna get into this – but we have rounds of funding that, you know, specific – ah – requirements for the applicant. They're not as specific in their programs. Ah – we – we've gotten different – um – bits of information about how much money they have available – um –

but I think in the millions of dollars – um – and it's mostly aimed at restoration projects, however. But that doesn't mean they would totally rule out – um – you know, a water quality project. So I wanted to let you know that they do exist (inaudible) funding program. You can look them up on the web, the California Coastal Conservancy. It's different from the Coastal Commission, but it is also under the (inaudible), just like the (inaudible). And – ah – I just wanted to make sure that you knew that they were out there and that they are a potential source of funds, and they will be coordinating more and more with the State Regional Board as time goes on and – ah – trying to make maximum or more efficient uses (inaudible). So with that, I'm gonna (inaudible) Shahla. And – uh – (unclear) – uh – what I was gonna say is for Shahla's presentation, we're gonna – you can ask her questions at the end of her presentation – uh – because we're starting to get into that phase of the – uh – of the program, so – uh – Shahla.

MS. FARAHAHNAK: Okay. Can you see me? You know, when I came in here this morning, I thought I was the only one that was cold. I looked around, I saw many other people who were cold, but what convinced me that it is cold in here, when I looked at the clock and noticed that it was frozen in time.

[Laughter]

MS. FARAHAHNAK: So with that – ah – as Dominic mentioned, I am Shahla Farahnak with State Water Resources Control Board, with our Division of Financial Assistance. I'm a supervising engineer with the program and I manage a few of our grant programs. Nancy Sutley, our board member, started with a cliché this morning, saying that, you know, discussing of – ah – now that I have your attention. I'm gonna mention another cliché, that – um – my name is Shahla, I'm here to help you, and I have all the answers.

[Laughter]

MS. FARAHAHNAK: And quickly, we can say the first one, probably – partly true and the second one, false. Yes, myself, our board – our division and our board – ah – is here to help you to help funding sources for some of the projects you need to do, but also we have our Regional Boards and county and local agencies that are more – readily available to you, and

they'll be out there to help you to determine what funding sources may help you with some of the issues and problems you need to address.

And the second part is false, and the reason I don't have all the answers, kind of Dominic mentioned some it. Part of it is that all these funding programs come to us with many strings attached at the legislation level. They have different reasons for different funding programs, and some of them are very specific, and – but always, there's some discretion and some policy priorities that go into those, as the agencies are managing those funds.

The other reason is that if you – we just take, for example, Prop 40 and Prop 50 bond issues, there's about – ah – looking at the back of the envelope calculations, there's about \$6 billion of funding available through those programs. But State Board, just the quick math, I think we only have – ah – maybe roughly 10 percent of that that we are the custodian for. It's about \$.65 billion, as I was adding the different funding sources we have. So you need to look out there and look at other funding sources that may be available.

One thing I wanted to mention is that don't take notes of my presentation. All the information in here is on our website. I'll give you that at the end, how to get there with all fact sheets. I also will be happy if you give me business cards so Dominic, one of us can e-mail you the presentation. Just listen carefully, because there will be a quiz at the end, so...

What I'm gonna – what I have picked to just mention and bring your attention are some of the programs that within them there may be areas that would be more directly related to what you're working on, and one of them is the 2005 Consolidated Grant Program. That's – ah – the next one is Clean Beaches and then the last one is our Integrated Regional Water Management Grant Program that includes integrated coastal watershed, which I know is of most interest to you. And I've picked these – and just basically, if you look at the movie theme, the first one is the one that is gonna be playing in a theater near you soon. The second one, Clean Beaches is sort of like (unclear). When I – as I go through it, you'll see that we have had various phases of it. One is done, one is happening, and one is gonna happen in the future. And

Integrated Regional Water Management Grant Program is actually the one that we're doing jointly with DWR, and that program in itself brings new philosophy and new approach of using the funding for different projects, and I'll discuss that when we get to that point.

The Consolidated Watershed Program is gonna have various grant sources in it. On purpose, I've kind of – ah – sorted this presentation in a way that the last – the first and the last are the two funding programs that may be mostly related to what you'll be dealing with as those who have to address the ASBS issues. Our consolidated program is gonna have five different programs, or at least we anticipate combining five different programs into one solicitation process, and that's the Coastal Non-point Source, Non-point Source Pollution Control Program, Irving Storm Water, and then Integrated Watershed Management Program, and that's different from our Integrated Regional. I think so many authors trying to make our life difficult by making these names so similar. And the other funding source that generally we combine with different grants we run is the Federal 319(h) Grant Program. So we anticipate that the next year is the one that we would be actively working in getting the federal money into this. We anticipate the draft guidelines to be coming out in summer of 2005. That's one of the programs that I'll be managing, and if I take this opportunity to put a plug in, how soon we get started on that depends how soon I backfill my two senior positions. So if anybody is interested.

I have a lot of information about these programs. I've tried to summarize them, and I'm gonna just emphasize a few of them. Coastal Non-point Source Program is designed for – obviously for coastal waters, estuaries, bays, and near waters. We have about 33.1 million in that program. That comes from Prop 50. And there's the different type of projects that can qualify for it, and some of the ones you may wanna look at is the ones that deal with septic and sewer collection systems and the water quality at public beaches and the storm water and runoff pollution reduction and prevention, which are some of the issues that I was noticing that maybe Dominic was mentioning in his slides. And there is also monitoring and data analysis money involved with that program.

Our Non-point Source part of that grant program has 19 million, and

that comes from Prop 40 funding, and it's for statewide non-point source pollution control – pollution issues. And that is the funding source that we try to allocate the funding for projects that are consistent with the local watershed management plans and the Regional Water Quality Control Board plans. And they have watershed and best management measures and practices.

Irving Storm Water Grant Program has about \$14 million from Prop 40, and as the name says, it's for storm water runoff pollution reduction and prevention program. And again, the type of projects that would be eligible for funding are the ones that implement BMP's required by storm water permits and also projects that divert dry weather flows to publicly owned treatment works. So that may have some application here, too.

Integrated Watershed Management Grant Program, basically the suite of projects that could qualify is actually very similar to our Integrated Regional Water Management Grant Program. And that has about 47.5 million that comes from Prop 40, and it deals with water quality and restoring habitats and fisheries. And there's a whole suite of projects that could qualify for that funding source, and I just wanna look at a few of them, which is the Storm Water Capture and Treatment and the Sediment Issues, and the Watershed Management Planning and Implementation.

Federal 319(h) is targeted toward eliminating and preventing pollutions from polluted runoff and mainly focuses on TMDL and the load reductions. That's a funding source that comes from the feds. It's allocated every year, and the past few years we've had about \$5 to \$6 billion from that funding source. And the type of projects again, are monitoring, public education, technology transfer, and technical assistance type of programs. And I wanna make sure there's a lot of emphasis on the TMDL implementation for that program. Pretty much makes it non-competitive if you're not looking at TMDL implementation.

Our Clean Beaches Program is one of the programs that I mentioned that it's actually coming to different phases, and the main purpose of that, I should have – almost kinda undermined bacteria in there, is it's

really targeted toward beach – dealing with the problem of beach posting and closures and contamination that’s associated with bacteria. There was Prop 13, Prop 40, and then coming, Prop 50 money for the – dedicated to that problem, and what we’re looking at from Prop 40 is about \$44 million, and half of that, which is (unclear) \$22.2 million is what our staff is working on. And this is an ongoing program. This doesn’t have to do with the consolidated grant. And then we have – now that we have governor’s budget released, there’s \$30 million appropriated from Prop 50 for ’05-’06.

Clean Beaches Initiative Funding Program, again has its own strings attached. The one I wanna get your attention to is that as required by the law, there’s a clean beaches task force, and that’s the group that looks at specifying, you know, which project’s gonna be getting funded, that they have technical people, and they get input from many different folks. And I apologize for that typo. The last one is supposed to be capital costs only. So that’s the type of projects that program funds.

With that, I’m gonna get into our Integrated Regional Water Management Grant Program. And actually, that grant program makes it challenging for all of us because it’s like a new approach. First of all, it makes us, State Board and DWR implementing agencies, work together and coordinate things. But the language of law has specified different requirements for them in some areas versus us. And there’s areas where like they cannot waive the local – we cannot waive any of the local match, but they can, so that in itself has a challenge to try to make the program as one unit program. But also challenges those who apply for the fund, because it requires integrated regional approach, which means looking at a suite of projects and also looking at individual groups and agencies getting together and coming forward with a package that’s solution-oriented. That program between us and DWR, we have \$380 million that’s available for grants, and based on stakeholder meetings we have had, we’re gonna do it in two funding cycles. The first cycle has planning money for \$12 million and then the implementation money is \$148 million, and then the remaining is for the second cycle.

Just quickly, the – some of the limitations of that program, there’s a

maximum of all of 500,000 and there's a requirement for 25 percent local match. And the implementation grants require a 10 percent local match and 50 million maximum award. As I mentioned, the local match could be waived or reduced, and that would be done by – if there's qualification for disadvantaged communities.

The law requires the State Board to fund at least one or more integrated coastal watershed management plans. And while we were preparing the guidelines with the input from our water quality staff and some of the other organizations like Coastal Commission and Ocean Conservancy, what we came up with was that we would set aside \$2 millions of the funds that's available to us to dedicate it to the Integrated Coastal Watershed Management Plans. And basically what would happen is those who come forward with the plans, they can compete for this funding amongst themselves, but also they can compete with the Integrated Regional Water Management Plan, and that allows us to better distribute the funding. The key thing in there, obviously is that the planning area must influence water quality in an ASBS. And that does not mean that other planning cannot be incorporated within that to make it more effective, but that's a main criteria to qualify for it. And there's also requirement in the law for the applicants to consider funding implementation money that – for projects from State Coastal Conservancy, Clean Beaches Initiative, and Prop 40 Integrated Watershed Management Program. And the main reason is that when you're putting your plans together, you wanna look ahead and think of what type of funding may be available for the implementation of the projects that you are proposing.

And there was a discussion on the Critical Coastal Areas Program by Jack, and we have a requirement that there must be consistency with the Watershed Action Plan outline that's posted on the website. And all the applicable requirements of Integrated Regional Water Management Plans also apply to these plans, and as I mentioned, that enables them to actually be competitive for both of the funding sources that's available.

Just to give you an idea of a timeline, we are expecting to issue the draft planning PSP stance. We had to use the terminology as part of coordination, the terminology that DWR uses, which is Proposal Solicitation Package, so that's what the PSP stands for. So the draft

planning and step 1 PSP, implementation PSP are expected to be out January 24th. We'll be taking public comments on that for two weeks, and then it would be posted. We will be releasing it during March, we expect.

A couple points I wanted to mention, as things that you – obviously you've memorized everything I've said, so that's good, but – ah – I want you to walk away with a few pointers that I wanted to mention. One is that there is money out there. There's different agencies that have money, and as I mentioned, there's strings attached to many of them, but some of them there is some discretionary interpretation on agency policy. So you do need to get involved at the beginning. You need to be part of the process, you know, in cases, even at the legislative level. The other thing I wanted to mention is that you need to work together. As we're looking at the future, it seems like the future funding sources are targeted trying to solve their problem, bring people together, and identify everything that needs to be done in an area.

State Board's process for funding is a very open process, is stakeholder involved. We put together guidelines. And that's really the stage you wanna get involved, and that's why I wanted you to know our timeline for our consolidated grant. When we're putting the guidelines together on how we're gonna offer the package, how we're gonna evaluate the proposals, and how we're gonna score them, that's the time you wanna be involved, you wanna provide us input to make sure that when we go out and issue the Proposal Solicitation Packages you're able to fund some of the projects that are important to the state as well as to your area. So with that, it's time for the quiz I have, and the quiz actually doesn't have anything to do with the presentation, but it's something that the engineer in me is bothering me. It's bugging me, I need an answer, and this is the quiz. When I got a rental car, I don't know if it was the red sweater I was wearing or it was that they were out of cars. They gave me a nice brand new Mustang, a red one, as a rental. One of those new models. And I have looked everywhere. I don't know how to open the trunk from inside the car.

[Laughter]

MS. FARAHAHNAK: I looked in the glove box, I looked in here, I looked under the hood, I looked at the door, so if anybody knows where it is, because as soon as I get back to Sacramento, that's one thing I'm gonna research on. Probably I'm gonna find that it's the most obvious place, but I missed it, so if anybody knows where that is, I can have that in my mind and it won't bug me.

I have put – put up our website address for you, and if you go to our website, basically there's a dollar sign right in the middle, and if you click on that, it will take you to our – to our Division of Financial Assistance web page. And that web page is organized by different funding programs, and that's where you can find fact sheets about any of these programs that I discussed, and for each of them, we have the contact people that you can also contact. Also feel free to call me if you have any questions. I didn't put my phone number in there, but I'll give it to you quickly, and that's (916) 341-5737. And with that, we have time for questions. Any question? Any answers for my question?

[Laughter]

[Participants are speaking away from the microphone]

Q: Shahla? I have a question. In looking through the guidelines, through the IRW (inaudible), there is discussions about formation of a Regional Watershed Group, and if that was one of the qualifying requirements. I'm wondering how that (inaudible) coastal program.

MS. FARAHAHNAK: Okay. The question is that there is a criteria in the guidelines, just in case you didn't hear it, talking about the Regional Watershed Group involvement and how that relates to Integrated Coastal Watershed Management Plan. Basically, if you read through the guidelines everywhere, you know, we haven't really isolated Integrated Coastal Watershed Management Plans from Integrated Regional Plans. They are required to comply with the same requirements that the integrated plans do. The scoring criteria is pretty much the same, except some areas we have added the specific criteria applicable to Coastal Watershed Management Plan, and then there are some areas that may not be applicable to these plans. But the expectation is that for all of these programs that the wording integrated means something, the

wording watershed means something, and we expect the groups to work together and come up with a plan that addresses the issues and the problems in the area. One thing I forgot to mention, but I think it was on my slide that for our Proposal Solicitation Package, on February 9th, there is a workshop to solicit comments, but also after the PSP release in March, then we would have public comments to kind of help you, walk you through the requirements and help you decide how to be competitive. But meanwhile, we'll be more than happy if you have sort of a sketch of what you've been putting together, trying to determine how it can be competitive. We'll be more than happy to meet with you and kind of work together to help you go through that process, both us and EWR. So I'm sure if I answered it correctly, you know, what you had expected, but definitely it would be an important criteria for all of them. Question.

Q: Ah – if you're talking (inaudible) the timeframe for the Integrated Regional Water Management Program grants, what timeframes are you thinking about for the Prop 40 non-point source grants and some of the other grant programs you mentioned?

MS. FARAHAJAK: Okay, the grant –

MALE: (Inaudible). Have you checked the console in the car (inaudible), your release button in the console (inaudible).

MS. FARAHAJAK: I did. That's the first place I looked. Because one time, actually, we had – there was a car we rented where you could only open the gas tank from inside, and it was inside the console, so I looked in there, too. So thanks. But to answer your first part of the question, the funding programs within Prop 40 that I mentioned, except the Clean Beaches, we're looking at another round of consolidated grants, which we had fun working together in the first round of it, and we are expecting – you know, our timeline is anticipating that we'll have the draft guidelines issued in probably late summer, early fall, and if you look at, you know, the guideline and Proposal Solicitation Package, you're probably looking at a year to get projects selected. Probably much less than that, because the funding – the money needs to be encumbered. We need to have selected the projects by December of '06. So that may give you an idea of what timeframe you'd be looking at. Any other questions?

Okay. Thank you.

[Applause]

MR. GREGORIO: Thanks, Shahla. Okay, I think we're about ready for our last break. Um – the snack bar is still open. I think they're open 'til 3:00, so you got time if you wanna go get a Coke or –

[End of Tape 2, Side 2]

MR. GREGORIO: ...earlier. Um – Stan Martinson, Division Chief of Division of Water Quality, State Water Board and Suzanne Lawrence from Scripps Institution. What we wanted to do with this session was to be able to answer questions from the audience, and I'll try to moderate it – um – and participate when I need to, but – um – the main thing we wanted to get out of this session was we were originally gonna have a breakout session, as I mentioned earlier. But we thought maybe with the size of the room and having gone through all this collectively throughout the morning and the afternoon, that maybe we could just do it all as one big breakout session and – and you guys can ask questions. And so what we have here represented on the panel are the regulators and the regulatees, basically, and so – um – that have been through the process or are going through the process, and so – uh – especially for process-oriented questions, this is a really great opportunity. So with that, unless anybody has anything special to say, I'll go ahead and open it up to questions.

Q: (Inaudible).

MR. GREGORIO: Repeat...?

MALE: The question.

MR. GREGORIO: Oh, I will. Yes.

MALE: Maybe ask who asked.

MR. GREGORIO: Oh, yeah. And please, when you – when you ask the questions, tell us again who you are and who you represent, and if you're a consultant, if you represent – ah – one of the – you know, the agencies that might be

here but you're representing them. Yes.

MR. KRIEGER: I'm Ted Krieger. I'm a consultant working with Cal Trans, and I had a question for Scripps. What is the cost of your exceptions and the process (inaudible), and what would be the ongoing process?

MR. GREGORIO: Okay, I'll repeat the question. It's for Scripps, and – ah – how much is it gonna cost? That's...

A: How much is it gonna cost.

MR. KRIEGER: No, how much did it cost –

A: We've all aged tremendously (inaudible). It cost a lot. Um – in terms of a budget to get the exception.

Q: (Inaudible).

A: Oh, well. I think we purposely have not kept track of the cost of the exception. But from here on out, to come up with the storm water management plan and then a seawater. We have a complicated situation. We've got storm water, seawater fixes, and – uh – and extensive – um – monitoring component that was all part of our exception. And those 19 conditions are written down, but there's a lot of unwritten expectations that you heard about from the environmental community that we will be looking at – um – extensive new ways to monitor the ocean. And so those are hard to put a price tag on. Um – but we are looking at significant engineering costs. I'm looking at Kimberly, whether I should actually say numbers that we throw around here. What would you say?

KIMBERLY: We've estimated it's gonna be \$10 million.

A: Okay, I didn't know we were saying that in public. Okay.

[Laughter]

MALE: It's confidential. Don't spread that around

A: We're estimating – we're estimating about \$10 million, and that – that

includes some significant – um – engineering solutions, that we don't even know what they're gonna be yet.

Q: Does that include the (inaudible)?

A: Yes. Yes.

Q: Could you estimate what it cost in the – um – in the process of getting an exception?

A: Can we do that?

Q: What's your (inaudible)?

A: We're a university.

Q: Can you estimate time, maybe? Staff time?

A: Kimberly.

KIMBERLY: I would guess it's probably somewhere, I don't know, between 2 and 300,000.

A: Somewhere between 2 and 300,000, given the staff time in hours? This actually – because we were the first ones, this process, we took a lot of time – um – looking at this purely from a physical and technical capability, so there was a group of people who – who worked on this prior to us looking at how we would step back a little bit more and look at this in an environmental policy standpoint. So the first couple of years, my – um – you know, being government relations, I wasn't even looking at this. It wasn't on our radar screen. We were looking at it more from a facilities management and regulatory was a different group of people, and – um – then, you know, the irony of Dr. Kennel coming fresh off the Ocean Commission and we'd just published our latest explorations about the perils of urban runoff in exotic places and what that was doing to our corals, and at the same time we were, you know, shipping that out to potential donors, we have this challenge in our own back yard. So we reoriented ourselves. It doesn't say that from where some of you are today, about we can't do this how are we gonna figure out how not to do this. People coming in and saying, you know, how

do we change the Ocean Plan, how do we get – how do we not go through this process. We had – we spent a significant amount of time, energy, and – and man hours looking at this – um – from a – from a – this is overwhelming, impossible, what are other options. And when we reoriented, new people came on board, others cycled out, and we began to look at this from kind of a non-resistant standpoint and retooled. And I don't – that's a not very specific answer.

MR. GREGORIO: Actually, John wanted to add something to that. Or actually another question.

MR. LORMAN: Well, it's not exactly the cost question, but it is a question that has been raised with me several times today by – when I've been walking around, and it's – um – have you thought of fighting it, did you think of resistance, and whatever that might mean, and – um – you know, because of the cost and didn't you at Scripps make a bad example for us to have to follow.

[Laughter]

MR. LORMAN: Um – I mean, you know, these are some of the questions that I've been hearing as I've walked around, and that may come up as some of the other questions come up, but I think what Suzanne was saying is, you know, Scripps looked at it in many facets and made some informed decisions, both because of who Scripps is and what it does, and yes, that's probably different than some other discharger might – might, you know – a position they might be in. Um – but Scripps also – you know, being outside of Scripps and having the privilege to work with them, I've been more than impressed with the way in which they made very good progress and excellent choices about getting to where they needed to be for a host of reasons, including compliance and ocean protection, and the partnerships they formed. And they have gotten a long way towards being where probably they would have ended up if they fought it, in many respects. And are there some added bonuses that'll come in, and maybe there are some monitoring questions and some things Dominic will get to. I won't get into it. Maybe – um – but they'll probably benefit in the long run from it. And it is expensive, and I think Kimberly's estimate of 10 million – um – that's an accurate estimate, depending on what the choices are. If Scripps looked at, as it

is looking at, rerouting the discharge outside the ASBS so that it doesn't impact the ASBS, we haven't got the bid on that, but they've interviewed an undersea drilling contractor who's, you know, gonna give them a proposal. And one of the reasons we're doing that is we were required as one of the conditions to look at that alternative, and you may be, too, I don't know. But I bet that proposal could easily be 10 million – um – just that aspect of it. Any event, there's a lot more to the cost issue, but ultimately, I do think Scripps made some really good choices not to spend money fighting where it probably was a loser. And I know some people in here have some theories as to what might be a winner, but – um – 'cause I heard some of them, but I won't get into that now.

[Laughter]

MR. GREGORIO: Yeah. In the back.

Q: To the state, can you imagine theoretically that any one of the 1,600 discharges might not have a negative impact on ASBS water quality, and is there a route for such a discharger (inaudible) without going straight to you.

MR. GREGORIO: And you're with...

Q: Trinidad Rancheria.

MR. GREGORIO: Okay, Trinidad Rancheria. And the question, I'll repeat it again. Is it possible that one of the 1,600-plus discharges or some of them may not have any water quality impacts. Am I capturing that question correctly? Stan? You wanna try that?

MR. MARTINSON: Well, I think – Stan Martinson – you know, the situation is, as Dominic I think presented it earlier, is that rainwater, water that makes its way from the sky, over the land, into the ocean is expected. That's not a particular problem. The problem is when that rainwater, you know, is exposed to pollutants of whatever kind, and with that rainwater, those pollutants are transported into the ocean environment. That's the situation, so that there could be some of those situations where that water, a simple test of that water shows that there's nothing in it.

There's nothing that says that that kind of water, you know, can't make its way. The problem is, is pollutants exposed to the ASBS's is a problem, so those are the kinds of things that monitoring and some kind of advanced planning on these situations would define.

Q: I'll get a little more specific, to create a hypothetical case. Let's say that the pollutant moves through the ground on the way to the ocean and there's a possibility of it dissipating on the way. Is there an opportunity to prove that case before you go into the entire (inaudible). In our case, we're talking from – one of the issues at our location is chlorine used to wash boats and I think the case could be made that chlorine has the potential to dissipate before it reaches the ocean. Is there an opportunity to investigate that to try to prove the case, or are we presumed guilty?

MR. MARTINSON: Well, I – yeah, certainly there's an opportunity to present that. I mean, that's part of – that's what I would expect as part of the planning process. So you would make that case and – I mean, you'd have to – you'd have to sort of include reliability and, you know, all of the other possibilities in that kind of an analysis. You know, any kind of, you know, exposure of chlorine to any – it oxidizes whatever it comes in contact with in a variable rate, so it may – it may happen, it may not happen. I mean, that – that, you know, is not really a very satisfying result. You know, it's not very controlled and that's what we're talking about, is some kind of assurance that these pollutants don't make their way into an environment where they impact the – you know, the significance of this area that we're trying to protect.

MR. LORMAN: I wanna ask Sheila a question. I wanna follow up on your question. Sheila, is – and this may not be all of your question, but part of it. Is the Ocean Plan prohibition an absolute prohibition regard – if it's from a point source or a non-point source that otherwise is covered, regardless of whether the water quality is clean or not clean, so to speak?

MS. VASSEY: It's an absolute prohibition against the discharge of waste. It has to be wastewater, so you have to have some waste pollutants in the discharge. So if it's rainfall that goes over the ground and discharges into an ASBS and it is not – if that rainfall does not pick up pollutants, then

you would not be regulated. I had a question for you, though. You said that the – um – the wastewater seeps in – it goes into the ground and then – and then does it resurface?

Q: Well, the quantities that are involved are (inaudible) in the process of washing a boat. Um – scrubbing and hosing it down and then the water runs towards the ocean, but before it gets to Trinidad Bay, it enters into sandy soil and disappears and who knows what (inaudible).

MS. VASSEY: Okay. Thank you.

MR. GREGORIO: You have a question right here?

Q: Yeah. (Inaudible). It's for Sheila. Had an excellent description of the process. Probably if it's available we'd like to have copies of her comments or from those comments come up with a guide to application because there is no application.

MR. GREGORIO: I'll just repeat it really quickly. It's for Sheila, and it has to do with the – sort of the presentation she made, so I'll go ahead and turn it over.

MS. VASSEY: Um – Stan and I had already decided to put my presentation on the website. I need to clean it up a little bit, but within a week or so we'll have it on the website.

Q: That'll be on (inaudible) website.

MS. VASSEY: Right.

MR. GREGORIO: And not the FTP site. The website is different. But we handed out – actually I've got a loud voice. Ms. Vassey, can you pass that back? Yeah. Our website, we have a three- or four-page, you know, handout that has all of our websites that would be relative to this, and so it would be on the websites on that handout rather than this. This is an FTP site. It's more for data.

Q: A question to come back to Suzanne again is you did end up giving us numbers for two of the three areas, but no numbers for potential loss (inaudible) continue monitoring, and I'm wondering, have you made some estimates of that in the last few years?

MS. LAWRENCE: Um –

MR. GREGORIO: Do you want to repeat that question (inaudible).

MS. LAWRENCE: Oh, okay. The question was again, to the cost of compliance and the monitoring. We are still designing the program for compliance and actually working with people here at Scripps to come up with – um – an overarching monitoring program that will incorporate and work in conjunction with the compliance monitoring. And that is some of our less than formal agreement with the environmental community, as Sarah mentioned. But when we went into this partnership, we bounced every piece of this off of all the partners, and there's an expectation that through our permit and the implementation of it, we will – um – we will go beyond compliance and come up with some question-driven – a question-driven program that looks at does the current monitoring process really get to some of the questions that the environmental community is concerned about. And it isn't just the environmental community that's concerned about that. This is becoming a national and statewide priority, as they mentioned Pugh Commission and California's Ocean Plan both recognize and meet the need to move towards ecosystems-based management. One of those things that everyone agrees on and nobody agrees on at the same time. And Scripps is poised to not only join the choir saying that needs to happen, but (unclear) and join the fray in helping to define what does that mean and what might that mean over time. So we understand our commitment to the ASBS's to come up with the compliance that the State Board is asking for now and move towards this idea of understanding the impacts of our 10-plus million-investment into the habitat and we wanna begin to phrase those questions and design a program that'll actually begin to answer that or provide some feedback in some kind of way. And it's gonna be a long process, and we certainly can't do it alone, but we are committed towards moving to that discussion and we have people here at Scripps who are interested in applying themselves to that issue.

MR. GREGORIO: Question in the back?

Q: Yeah. Dick (inaudible), and I'm outside counsel for the County of Los Angeles. Certain entities were noticed (inaudible). We know there are

additional municipalities and certainly a number of private discharges out there. What process is gonna be followed by the State Board and Regional Boards to notice the additional public and private discharges (inaudible).

MR. GREGORIO: Should I try to answer that one? Obviously, with 1,600-plus discharges we weren't gonna send out 1,600-plus letters. I think we'd be into the next century if we were gonna try to resolve all of that in this round. So what we did was we prioritized, we sort of made a list of what are the high and medium priority dischargers, and the dischargers that you're describing, the private entities, may be a single home, that sort of thing. Um – or possibly dischargers that were up – pretty far up a stream and not right on the ocean. We decided that those could be handled in some other way, at least initially, and so we made that cut based on just, you know, pure practicality and also based on responsibility. For example, if there was a permit and we aimed most of our letters – I would say the majority of our letters were aimed at entities that either had permits or should be covered under a permit – a storm water permit or some other point-source type of NPDES permit – based on state and federal law. So we identified those entities that were discharges into ASBS's that fell into those categories, and those became our high and medium priority entities that we sent letters to. How we're gonna deal with the other types of dischargers, let's say for example the individual homes? There are various ways that I think we can do that. One way is possibly through the Critical Coastal Area Program; another way is working with the counties, maybe on ordinances; maybe waivers at the Regional Board level – and when I say waiver, that doesn't mean it's okay. I don't wanna be misinterpreted, because waivers are conditional and you know, if there's any other questions on that, Sheila could answer that, but – I'll stay away from that. I'm a biologist, not a lawyer, so...um – but anyway... So hopefully I answered your question, but that's our first cut at trying to deal with this, because from a standpoint of staffing, basically I'm the ASBS department, and so 29 letters was mind-boggling for me, even, so.

Q: Can I follow up on that real quick?

MR. GREGORIO: Sure.

Q: What (inaudible) protection will (inaudible).

MR. GREGORIO: I'm gonna pass that down to Stan and Sheila, maybe to try to answer that one.

[Laughter]

MR. MARTINSON: Well, it's a – I think the answer is that we have to start somewhere. We have to – in each of these processes and to the extent that those other discharges are identified, that those discharges are brought into the process. For example, what Dominic was talking about, we kind of prioritize this according to who was on the hook for a permit, especially an NPDES or storm water permit because without an exception, then there's lots of vulnerability for the discharges based on that. These others – the other discharges may be non-point source individual homes that are in the same vicinity. In the planning process, those things need to be identified. When those are identified, then we can bring those into the process, but we need to start, you know, with the particular discharge and we've chosen the NPDES storm water, wastewater discharges first. And so as we work our way through that, we'll be identifying those, you know, through the CEQA process and through other processes to make sure that those conflicts are identified and then those people who are discharging those entities are brought into the planning process. So that's as much as I can say about it.

MALE: One other comment on that is, is as a permit writer and somebody who has to implement the program, nothing identifies neighbors faster than finding one responsible party, because he knows who his neighbors are and if you come down to one or two responsible parties, they will immediately identify everyone else who they can help share the cost with. It's just the way that it works, because we don't know everything that's out there, but as soon as we identify the City of San Diego or some other discharger and start this process for an exception, they will identify everyone else that they could find to participate, because that's just the way that it works. It's a way we try to keep everything even and fair. We depend on those we can identify to help us identify the rest.

MR. GREGORIO: Any more questions?

Q: Yes. Craig Horning from (unclear). Several of these things that I've heard touch on the main question I have. And to just – I'll put it kind of simply as I can. In the development of the exception in the current process, there are bound to be scientific disagreements or disputes about how to collect data, what data to collect, and what it all means. Now, this committee that you're gonna set up (inaudible) to decide natural water quality, obviously is part of that. But what mechanism exists for one of us if we're applying for an exception if there is a dispute about how many samples need to be collected and what type and where, and what methodology (inaudible) are required, what the detection limit needs to be, and how many duplicates need to be created. And all these difficulties arise in the process. What procedures are for resolving them?

MALE: Do you want to do that for Scripps?

MR. GREGORIO: Yeah, I can do that. And I'll let Scripps weigh in on this as well. Um – it's a public process. The exception process and the following permits that the Regional Boards issue or in the case of some, it might be a State Board permit as well. Just depends on the situation. That's all a public process. And that's what the CEQA documentation is all about. We produce or possibly like Sheila said, maybe the discharger might produce a CEQA document, an initial study, a mitigated negative declaration, and all of those issues are basically covered in one way or another in that documentation, in that process, and that's brought before the board and the board hears all that along with the staff report. And the process of doing that, there was a lot of – in the case of – with the Scripps permit, there was a lot of negotiation, I would say. I wouldn't call it negotiation, necessarily, but there was a lot of collaboration and meeting and discussing about, you know, those kinds of issues. Now, we didn't nail them all down perfectly at the exception level, and what we were hoping for and which is happening now, is that we got down to more specifics after the exception was issued and at the Regional Board level where the Regional Board in this case, the Regional Board issues the permit, and the Regional Board is working with Scripps on that now. But I do wanna – before I turn it over to the other speakers, I do wanna say one thing, and that is that ultimately we have a limit as to what we can do. We are limited as a regulatory agency implementing

the Clean Water Act and the Porter Colon Water Pollution Control Act at state. We're limited as to what we can do. We can't do anything we want and we can't waive requirements just because, you know, we think that well, you have a good point. If it's required by law, it's required by law. And basically it gets down to the Ocean Plan in most cases, which is in a sense, it's the implementing regulation for those laws and so, you know, that's basically – that's the limit as far as we can discuss and work things out. And so, we do have limits and I wanted to point that out. I'll turn it over (unclear).

MR. MARTINSON: I think what we found is in the exception process there was a skeleton in many parts, and that it wasn't – and maybe with a little meat on it, but it really was when we hit the Regional Board's office that they started to backfill and put in the specificity. And literally in our case, and John can speak to this, but I think we developed it through discussions. There are still discussions going on. If you look at our draft permit online, you'll see that – on bacteria, for example – um – the Ocean Plan has a standard. I think it's five times a month. Is that right, Kimberly? Yeah. Five samples a month. And yet, one of our science members came up with a – what we thought or she thought and the team thought was a better proposal on bacteria. And we presented it to the Regional Board as what I think we thought might have been an alternative. It now looks like it may be additive.

[Laughter]

MR. MARTINSON: And so – um – we have to talk to John. This isn't the place to do it, beyond what I said, but the – exactly what we're gonna be doing, we don't yet have that sorted out. It's gonna be really – I don't think the State Board's gonna have time to do it. I totally agree with Dominic, as, you know, someone who went through it with Scripps, that it's really gonna come down to you working with the Regional Board. Maybe what we do will set the standard. Not we, but the process will set the standard. Scripps is very much willing and partnering to come up with a more powerful tool to make value added from the data developed, rather than maybe something that is EPA historically the case or Ocean Plan historically the case. So it's an evolving process at this point, I would say.

Q1: (Inaudible), then I would say let's wait until you're done.

Q2: Well, we may be done next month.

Q1: No, but I mean – that's – that's maybe a little facetious, but the last thing I want to advise my management what we should do is go do some sampling that we know is going to be not usable, or if it turns out not to be usable, it's gonna cost us a lot of money, and may end up in a worse situation than when we started.

MR. MARTISON: Suzanne, you (inaudible).

MS. LAWRENCE: Wow – to – about the sampling?

MR. MARTINSON: What you're saying is that there might be disputes and you're also saying that, you know, until they're resolved –

Q: Right.

MR. MARTINSON: -- you don't want to spend money.

Q: Yeah.

MR. MARTINSON: Unfortunately, the Ocean Plan and those who, you know, set it up – well, good science and if members are here who can address it. Um – it requires, for example, on bacteria what it requires, and I'm sure the scientists who established that and the regulators had good reason, scientific reason. It may be that as science evolves there are more powerful tools that are more valuable. At least some think that. Until that discussion is resolved, we won't know, but our resolution may be soon on that front, and it may not be – maybe a resolution to do both, which may not be a great resolution at this point. Maybe when the advisory committee gets to the point of saying, you know, we don't need that other data, we need this data. This is the data that tells us something. Then it'll start to fall out, and you'll get more definition and less dispute about what's valuable.

MALE: Before we move on, under the NPDES program, there are specific guidelines and requirements. If you're doing monitoring, (1) you have to monitor with methods approved pursuant to 40 CFR 136. The Ocean

Plan has water quality objectives that you can determine what limits are. It has equations that you can use. It has background levels you have to use. It has minimum levels you have to meet. In general, the Regional Boards would look at your data as valid unless there are things that are jumping out that make it invalid. We often require QAQC. We won't dictate how many duplicates you have to have. We'll require you to have your lab do a QAQC review and submit that information. Most of the monitoring data, if it's collected pursuant to the federal and state requirements, is valid data. It is not gonna be a waste of time because it gives you information, and – and that's – our baseline is right there. So if you were to go out and monitor for ph and you took it back to the lab and had them do it 24 hours later, that's not gonna make it. Ph requires within 15 minutes. So as long as you can demonstrate and certify that your monitoring was conducted for 40 CFR 136, it met the Ocean Plan requirements, that's valid data and that can be used and will be used to determine what your exception conditions should be.

Q: (Inaudible). And that I think is a much greater position, because we're to demonstrate that we're not impacted (inaudible), but biological monitoring is not nearly as solid a science.

MALE: Well, you notice they took that out of the Regional Board's staff hands and put that into a committed of scientists to determine natural water quality and to review the data and to make a determination and to advise the board. So even at this point we have recognized that it's not a black and white. The data says this, it must mean this. It takes an evaluation by professionals, and until that point, until that determination is made, it admittedly is a little bit of guesswork at this point because we're obligated to go to the committee and say here's all the data, please tell us what it means and what the next step is.

Q: I wonder if I can address that point. I'm Jerry (inaudible). We have about a 70-year time record on the final composition in the inner tidal zone near the marine station. And when the Stanford Greenlight – the Hopkins Greenlight (inaudible) was established in 1931, second to Scripps (inaudible). It was a very thorough analysis done (inaudible) and the same analysis (inaudible) was repeated later on (inaudible). It's ongoing. During that time, a lot of species (inaudible) disappeared.

Some have decreased in abundance, a lot of them have increased in abundance, the sea otters are returning to the area, the seal population is probably up 200 percent, the pelicans have come back. Now, this is right in the area where we return our (unclear) seawater. What would a reasonable person be able to deduce about the effects of that seawater return in that area. (Inaudible). I mean – and I'm sure the bacterial counts are way up because the seals are very happy. So depending on what spectacles you're wearing, you can say high (inaudible) count. Well, that's because we've got an abundant population of marine mammals and the pelicans are back and they're healthy, and look, the sea otters are out there, they're back. I mean, teasing out a signal for it, I think we probably returned – and I'm not even gonna use the word discharge and waste, because I don't think those words are descriptive. We're returning to the ocean one-past seawater maybe 50,000 gallons a day, but correlating with this discharge at the same site that the surveys were done, which was very near this return site, all of these things have happened. So one question is, what's – what do we take as baseline, the 1931 populations, the 1993 populations, the current populations – what do we take as the seawater temperature? It's gone up 2.2 Celsius over this time period in August.

A: And we have all those same questions.

Q: (Inaudible).

A: So welcome to the review committee that Dominic's trying to form up, so if you haven't contacted Dominic, give him a call and – now, there's more questions in the back.

MR. GREGORIO: Okay. I was gonna – before we move on, and I'm not trying to stifle the questions, I just wanted to add one thing. Um – this whole issue of natural water quality, as I mentioned earlier, is extremely important, and it's probably gonna shed light on more than just ASBS issues, I think. This is my personal belief. Because when you really start looking at the kinds of things that George has referred to, it's true. It's very difficult to tease out that kind of signal. And maybe in the case of certain dischargers, there is no impact. There's no effect on natural water quality and the beneficial use. That's possible that we're gonna find that out. But we need to be able to find that out, and that's why –

because of the complexity of biological monitoring, we're gonna have to look at the weight of evidence. We're gonna have to take the toxicity data and the chemistry data and compare that to the biological information, the benthic analysis, and so forth. We're gonna have to do that, and maybe one really good way to do that is through a regional monitoring type of approach where you have additional information that you're bringing in from more than one place. And – and so, you know, it's complex, it's gonna be – I think – um – something we're gonna have to spend a lot of time thinking about. That's why for the Scripps exception, we – we – like John said, we – we kind of developed the idea of this – ah – technical committee, the scientific committee that could – that could try to help the Regional Board in answering that question, so I just wanted to throw my two cents into that. Keith.

Q: (Inaudible) question around the storm water (inaudible). A ban on storm water discharges to ASBS (inaudible) obvious locations, such as the rerouting of the discharges to further down the coast (inaudible) of endangered species (inaudible) all kinds of effects relative to relocation of discharges. In January 1978 (inaudible) studies were (inaudible). There's none of these (unclear) were analyzed, and one can infer that either State Board never intended to (inaudible), or these issues were not analyzed. Which is it?

MS. VASSEY: Um – I wasn't here in 1978. I think it's probably likely that the issues were not analyzed. I think it was probably likely they weren't specifically analyzed. However – and at that time, as you know, the state – many people considered storm water to be a non-point source discharge. However, the board did amend the bay – the – excuse me, the Ocean Plan. I believe it was in 1982 – correct me if I'm wrong –

MALE: It was the '80's.

MS. VASSEY: It was in the early '80's, to prohibit all discharges, and they did – um – specifically make non-point source discharges subject to that prohibition. Um – so I presume that they meant at that point to include storm water as well. You know – without going back over the history, I can't tell you for sure, but –

Q: (Inaudible).

MS. VASSEY: Pardon?

Q: Non-point source storm water (inaudible).

MS. VASSEY: Nevertheless, storm water was considered a non-point source type of discharge at that point. This was before the Clean Water Act was amended to make it clear that storm water was a point source discharge. So all I can say is that's what the State Board did. I don't know what they had in mind, but they, you know, made the discharge prohibition applicable to both. Point source and –

Q: (Inaudible) Clean Water Act that storm water was included (inaudible).

MS. VASSEY: The Ocean Plan now – I mean, as of the early '80's covered all discharges, non-point and point source, under the prohibition. So it doesn't matter what the Clean Water Act did subsequently. That – you know, that occurred in the early '80's.

Q: (Inaudible) storm water discharges had not been considered (inaudible).

MS. VASSEY: That's probably correct.

MR. GREGORIO: I'll just go ahead and add one thing. Um – I think one of the things that Keith referred to was the more recent scoping document. Did you refer to that, Keith?

Q: No, I was talking about (inaudible).

MR. GREGORIO: Oh, okay.

Q: (Inaudible) where – um – application and certain sections of the plan for non-point source (inaudible).

MR. GREGORIO: For non-point sources. Okay. No, I misunderstand your – misunderstood your questions, so I'll – Mardy.

Q: Um – yeah. Hi. Mardy McCord, Stanford University. I certainly applaud the collaborative process in (inaudible). What sort of guidance can you provide us with – or specific guidance with respect to the initial monitoring or – and data submittal to represent seasonal variability, and

say maybe even annual variability in the initial submission for the (inaudible)?

MR. GREGORIO: I'll go ahead and take a stab at that. Um – I don't – I don't think initially – and – and I'm sort of referring to this as pre-exception monitoring. I'll just come up with that term and we'll use it and hopefully you'll like my new term. Pre-exception monitoring. Um – I don't think we want to have you, you know, spend exorbitant amounts of money performing lots and lots of monitoring before the exception. I think what we need to have is some real basic information, some of which you'll have to generate. Since you're associated with Hopkins, obviously they've got a lot of inter-tidal data already, so it's not like you'll have to go out and hire a consultant to get that data. The raw data, it exists. That's the kind of information we're looking for biologically, but – uh – you probably don't have – to my knowledge you don't have – ah – again, this is just using Hopkins as an example, and not – you know, just – just for discussion purposes. You probably don't have much chemistry information or toxicity information. And especially oriented towards your storm water runoff. And that's the kind of information, and I think that the storm water – the complexities associated with storm water are going to be probably more – I don't wanna say – well, problematic in a certain sense, in that we're gonna have to really work on identifying, you know, what a typical storm water runoff situation is like at your facilities in general. And – and so that's just my first take on that, so...I'll pass it.

FEMALE: Oh, sure. When you're done. I just want to take this as an opportunity to acknowledge – um – two people in the audience who have been – um – completely on the front end of this conversation – um – and have worked extremely hard. Larry O'Burdy (phonetic) and Kim O'Connell here have – um – kind of addressed – ah – that – um – place where Dominic is speaking from, what he assumes we have and what – and what we actually have, and what's useful, and his idea of not expecting us to produce that much data and what are folks at EHNS were expected to do. I'm not – I'm not complaining, but I'm saying this – this explains that we are actually making this process up together as we go along, and it has been an incredible dedication – um – from both Larry and Kimberly to work specifically with the State Water Board on

these – on these beginning issues of even setting the framework of how we begin this. And they committed themselves, again, not to resistance, but to asking some extremely specific iterative questions in creating a dialogue back with staff – um – that has been – um – just a fierce commitment on their part to – um – get to the fact that – that – um – and many times we are having a dialogue about this. We are not working off a cookbook. We are creating – um – we are creating a framework, both together with the State Water Board and the people who are committed. So back to your issue, you have to almost not look at what are the funding and the resources, but it's – it's a – it's a human resource commitment at this point – ah – dedicating yourselves to being on the frontline of this conversation.

Q: Um – just as a follow-up to that, then would the expectation be to come up with (inaudible) or information that you would plan to submit and not go through that monitoring yet, but talk with you about that, and then again, feedback, and then go ahead and start collecting the data.

MR. GREGORIO: Actually, that's correct. That's more or less what we did with – with Scripps. We gave them a list. And actually, I think it was the Regional Board that sent the letters – uh – on that. Um – and – and we had a – we basically worked out a sampling protocol with – with Scripps.

[End of Tape 3, Side 1]

MR. GREGORIO: ...address it. Um – it took Scripps from start to end on the exception – not the permit, just the exception – about two years. But – but we were really kind of going from scratch at the beginning, and we didn't really get started – correct me, Kim and Larry if I'm wrong about this – we really didn't get too heavily involved in actually collecting the data up until about maybe 13, 14 months before the exception actually – um – you know, was heard by the State Board. And so, it doesn't have to be two years, but it probably isn't gonna be six months, either, so...

Q: Right. Well, actually what my point is, is we would want to have (unclear) as much as possible in the initial finding so that there aren't a lot of data lost. And so in that case, we need to (inaudible), but maybe not everything, but certainly the storm water (inaudible).

MR. GREGORIO: Um – USC, out at Catalina Island – um – has come across that, and we gave them a little bit more time because of the lack of rain. During the first year they had no rain, so how could they monitor storm water run off. Uh – but this last year they got plenty of rain, and so – ah – we’re gonna move forward with their – with their – um – request.

MR. LORMAN: I wanna take that question from the pre-exception monitoring to the post-exception monitoring, and when you’re going for your permit renewal, what are your water quality standards or objectives gonna be that you’re gonna have to meet. Um – in the case of Scripps, we don’t know what those are yet. You may not know what they’ll be for you. Maybe on a regional basis you will at some day, but not – not up front. So we had the issue with the Regional Board in the permit process in regards to the monitoring. What are we comparing our results against. And you know, Larry O’Burdy, to his credit, you know, identified and said, you know, what are we supposed to achieve prior to knowing what natural is, and – and – how long do we have to get to that level of what it is we’re supposed to achieve, because we have to put in place changes, engineering changes, plans, programs, implement them, so on and so forth. So there – there’s a very important question at the permitting level, when you get your new permit. And all of a sudden we have seven criteria we had to measure for. Now we have all of Table B and whatever else we’re gonna have in addition to biological. Um – but what do we compare it against. And so what we’ve been working with, with the Regional Board, much like what happens with California Toxics Rule when the SIP came out and there was the opportunity – State Board, go get some data from the dischargers. You know, take that data and develop reasonable potential analysis – um – as to what their, you know, the water quality-based effluent limits should be and – and you know, set up standards. Well, that program, I think, and Stan maybe can address this, the Ocean Plan is now looking at – um – developing water quality-based effluent standards, which it doesn’t currently have – um – which I guess is in a proposed revision, and I don’t know where that stands.

Um – there are many elements that will come up as you go for your permit that have to do with both what is your monitoring obligation and what do you compare those monitoring results against to see if you’re

in compliance prior to natural being defined. Stan, do you wanna address what's gonna happen on a WQEB?

MR. MARTINSON: Yes, sir. We – actually we – we had the bacterial standards in the Ocean Plan that just – we just finished. The board addressed those, and those are done – ah – and the reasonable potential tool, as well as maybe some – ah – modification of the language that matches up the management areas in the ASBS to make them compatible – the law compatible and the requirements that were in – oh, was it 2800 – yeah, 2800, are coming up. But the – we're gonna have a reasonable potential tool that's already developed that's being peer reviewed right now. And reasonable potential is does the effluent from a discharger have reasonable potential to violate effluent – or water quality limits. That's what it is. So this tool is a – essentially a statistical – uh – statistically based – ah – program that all the Regional Boards that have coastal discharges and permits will use to make a consistent approach, and so I think it will – and that's coming up in March.

Q: (Inaudible).

MR. GREGORIO: Okay – um – well, I'm gonna go –

Q: (Inaudible).

MR. GREGORIO: Go ahead, Keith. All right. He seeded your time. (Unclear).

Q: Does the Ocean Plan (inaudible) applied as a point of discharge for the (inaudible).

MR. GREGORIO: Let me try to answer that. m – and you're – you're specifically talking about storm water, is that correct? Because there's point source people in here and storm water. I'm gonna try to answer it both ways just for everybody's benefit. Um – Table B, numerical effluent limits based on Table B – um – which for those of you who don't know, and maybe you haven't had a chance to look at the Ocean Plan, but there are Tables A, B, and C in there. I should just explain that for everybody's benefit. Table A has to do with – um – some real basic conventional pollutants aimed mostly at sewage dischargers, but can be applied to other dischargers if there aren't federal rules – um – associated with

those other dischargers. Table B is a set of many pollutants based on human health criteria and marine aquatic life criteria, and – um – those include the priority pollutants. And then – ah – Table C is a set of – ah – background concentrations. It's a very tiny list. It only has maybe I think five metals, and – and then it says zero for everything else. Okay? And so Table B and Table C are used in the equation to develop the numerical effluent limits, including dilution, minimum initial dilution, which is what Keith is asking about. So that's – that's how that all fits together. Now, for a point source, that would definitely apply to end of pipe. So you – you collect your sample in the pipe, you run the result through that equation, and that determines if you're meeting the effluent limit. And the DM, which is the part of that equation that, you know, relates to initial dilution – um – that can be determined through a model or through some empirical field result or dye study, that sort of thing. Okay.

For storm water, and I'm gonna let Sheila and possibly Bruce try to address this as well, but – um – we've decided that for purely storm water discharges, that we're gonna – um – that effluent limitations are applicable, but we're going with narrative effluent limitations based on – um – the iterative approach and BMP's. And so we've separated out sort of the – what's a point source discharge, how it – how it relates to the Ocean Plan, and – and we would definitely take into account for storm water the results of the effluent monitoring, but it wouldn't be necessarily a hard and fast effluent limit going through that – that process.

Storm water has a little bit of a problem, in that it's fresh water, floats on the surface for the most part – in many cases, not probably all, but in many cases, from what I've been told by the modelers – and because it floats on the surface, it does not mix very well. And so it's hard to give storm water discharges – um – any kind of significant initial dilution. Um – and – and so that's one of the problems with storm water that you don't have with other forms of wastewater. The other problem associated with it – uh – is that it's usually discharged at the surface. It's not a submarine discharge where you'd have a lot of buoyant lift associated with it, which the Ocean Plan is really designed to handle those submarine types of discharges from sewage plants. Even though

that's fresh water, it has this big buoyant lift, and it causes a lot of initial dilution. So hopefully I answered that. I'm gonna pass it down and let Sheila and Bruce attempt that.

MS. VASSEY: I – I really don't have anything to add to what Dominic has said.

MALE: This is like the hot potato, but I got it back.

MR. GREGORIO: Yes.

Q: (Inaudible). I was wondering when our application is due.

MR. GREGORIO: Ah. Excellent question. I'll try to answer that. Um – we got requests in – ah – from most of the people that – um – that we sent letters to. Um – and we got other requests for meetings, for those that we did not get requests for exceptions. So nearly all responded. Um – we have to prioritize how we're gonna approach this from a workload standpoint. As far as asking for other information from you, we're gonna send a letter back to you – individually. We sent the first letter, you responded, we'll send another letter. The information that was in Sheila's presentation that we're gonna post on the website, that's the kind of information we're gonna need from you. Uh – I think we're gonna encourage you to kind of accelerate the process and start gathering that information, but the actual movement of your project through – in – in presenting that to the State Board is gonna have to be prioritized by most likely – um – you know, when's your permit due. If you're a – and if you're a storm water co-permittee, we're gonna probably base that on – um – you know, when the – when the permit is up and needs to be renewed, because we can't issue a – as other people have said today – we can't issue – um – a permit allowing a discharge into an ASBS. That would be in violation of a Water Quality Control Plan.

Q: Can I follow up on that?

MR. GREGORIO: Yes.

Q: Well, two things. You know, the letter (inaudible) from the state based on initial (inaudible).

MR. GREGORIO: I think – I don't know. I don't wanna – yeah. I mean, it's a – it's a pretty heavy workload right now, but –

Q: (Inaudible).

MR. GREGORIO: You know, month, maybe. Something like that. I think we gave you guys a couple months to respond, basically, and so we'll probably respond back to you guys in about that same general timeframe.

Q: Can I have one more follow-up if I can?

MR. GREGORIO: Sure.

Q: Um – it sounds – this is – it's a little different from what I expected. It almost sounds like a two-step process now, where you get the exception, then you have to drop it in the NPDES permit. So it's different than what I originally expected. Is it possible to make it a one-step process where we can – ah – we can – the Regional Boards and the State Board can work together so as part of our NPDES permit would be just one fell swoop versus having to go through this two-step process?

MR. GREGORIO: Wanna answer? And before I turn it over to Sheila, I'm just gonna make – make one statement, and it's not to answer your question, but just to make like a little correction. For storm water dischargers – uh – especially co-permittees or – well, storm water dischargers in general – it's gonna be the Storm Water Management Plan, which is where this is gonna – you know, the rubber is gonna hit the road, not – not the actual permit. The permit might have mention of it, but really the major changes are in the – in – you know, an accelerated Storm Water Management Plan. So, I'm gonna –

Q: Well, bear in mind that our city (inaudible) NPDES permits (inaudible) storm water.

MS. VASSEY: And – um – that permit was issued by the Regional Board?

Q: Correct.

MS. VASSEY: Um – theoretically speaking, the State Board could act on both the

exception and reissue the permit, but it's highly unlikely that they would do that. Um – they are required to act on the exception request, that's their responsibility, but I just – I don't think they're gonna wanna take on – take the permit over from the Regional Board. I'm – or – or I don't think they will want to reissue it. That's certainly something you could ask the State Board to do.

Q: Well, I don't think I'm asking that. I'm thinking of more of a coordinated effort where you don't go with certain conditions on the exceptions. (Inaudible) NPDES permit, we end up with a whole different set of things.

MS. VASSEY: Well, that – that should not happen because the State Board, when it acts on the exception will say they will grant the – if they grant – they will say they are granting the exception subject to the following conditions, which have to be incorporated into the permit. And unless they are, you don't get your –

Q: Well, that's great, but what I'm hearing is there was 19 originally. Now there's –

A: No, no. What you heard was –

Q: Maybe – I'm sorry.

A: -- the – the resolution contained 19 conditions.

Q: Okay.

A: Some of them were 3 or 400 words long. Well, we took those conditions and broke them out into the different types of requirements. One condition may have had monitoring and reporting and action requirements. So that's three or four or five different requirements. We did not change the conditions, per se. We incorporated the conditions as they were stated into the permit in two ways. One, we incorporated the resolution itself as a whole document as an attachment, so that that whole thing is there. And then, if the condition was you shall monitor this outfall twice per year for all Table B constituents, you put a requirement in. You shall monitor this outfall twice a year for all Table B constituents. You shall – um – eliminate your storm –

your non-storm water discharges by January 1, 2007. We took that and put that verbatim into the requirements. We're not going to change what the conditions are. We can't do that. We have to incorporate the resolution and its requirements into the permit. Now, we may go a little bit beyond, which in Scripps's case, we didn't (unclear) monitoring data up front for Table B constituents for any of the outfalls, and they've never had to monitor for the 82 or 87 Table B constituents and any of their outfalls the last number of years. So as part of the permit, we said well, we need a certain amount of data up front so we could all determine where your discharges are and get the data to us so that we know where we're going to go at the end of it's timeframe beginning with the clients, so (inaudible) I think it's eight monitoring events in the first year for Table B constituents, about twice a quarter to figure out what the quality of their discharges are. We can't (inaudible), but we can require a few more (inaudible).

MR. LORMAN: I just wanna add to what John just raised. Until we develop that data, along the lines of what I was talking about in the CRT how usually you ask for the data before the permit's renewal – renewed, here because we got the exception, then the permit discussions followed so fast, the renewal followed so fast on the granting of the exception, that we didn't have time to develop the data to determine, you know, what is the reasonable potential for Scripps to exceed water quality-based effluent limits because we don't know what natural is. So we have – and when the permit reissues next month – ah – if it does, we will have our existing permit limits in place until we get to a point where we can develop based on that data, based on what John just talked about, what is reasonable potential analysis. And then at some point we'll be out where natural will be imposed on it when that's defined. So there really are, you know, three steps to the process counting where we are today, where we will be in the interim basis and where we'll be in the final analysis. Um – and if David didn't have his hand up for so long, I wanted to ask a question that was asked of me earlier, so I'll defer. Suzanne, did you wanna answer that – you're okay? All right. David.

Q: Um – the question that I have (inaudible) is how, when you have, for example, a long stretch of coastline – um – how do you identify for purposes of (inaudible) will be identified for us the specific discharge

point (inaudible). How will that process work?

MR. GREGORIO: Um – one way that we’re approaching that – and you represent the County of L.A., right? One of the things we’ve done with your county storm water, folks, is we’ve shared with them a GIS shape file that included the data from, you know, the SCWERP project, which is available on the FTP site, plus – ah – like I said, we’ve been updating that and we have sort of a draft new shape file, which is a set of discharge points, think of it like that – um – that incorporates the Santa Monica Bay keeper’s – um – results from their survey that they did fairly recently. And I went out and ground-truthed it, and so we incorporated both files and we found a few more discharges than we originally thought we knew about. And then I sent that to your L.A. County storm water GIS people and they’ve identified discharges that are definitely maintained by the County crews. Now, that’s a starting point. That’s not to say that there aren’t other discharges that we need to consider, but I think that’s a starting point for discussions in going into the exception process.

Q: But as a municipality, you’re looking – you’re looking at discharges that are the “responsibility of the County” (unclear) discharge. You’re not looking for the County or the City to be addressing the private party (inaudible).

MR. GREGORIO: I’ll give my take on that and then I’ll pass it down the line to make sure I’m not, you know, overstepping myself. Um – I think we would like to, because this is a collaborative process. Try to address those discharges, but maybe not in a direct, you know, responsibility type of way, but instead to approach it through a permit coverage type of approach. In other words, you have a permit, it covers a certain area, and – and – what can we do – ah – to work on these other discharges. Now, maybe that means that you won’t be – I’m just throwing out possibilities. Maybe that means you might not be responsible for monitoring 200 of the private residents in the county, for example – ah – but you might have, you know, the L.A. County Board of Supervisors could – and this is just a possibility, don’t – nobody get worked up now – but they could issue an ordinance to tell people do not discharge pesticides and other things when you’re discharging to these areas, when you – when you have runoff – ah – during rain events. And do

not have any non-storm water discharges. Don't be washing your car and have that flow into the ASBS. Now, just throwing out a possibility – I'll probably get fired tomorrow – but I'm gonna pass it down and see if anybody else has some other takes on that. Suzanne wants this. Anybody have any –

MS. LAWRENCE: Bruce?

MALE: Well –

MS. LAWRENCE: Okay, good.

MALE: If you wanna look at Scripps, they have five outfalls that were identified as needing immediate attention. Those were the ones related to aquaria discharges and storm water. There are 80-plus additional pipes or weep holes identified in the ASBS discharges that were not set aside for monitoring and for numerical effluent limitations. What I as a permit writer and a program implementer have in the back of my mind is as they develop their Storm Water Management Plan, they will address all of these other small sources through that plan in some manner. It may be education. It may be some visual monitoring over the life of the permit to see if there are soap sudsy discharges coming out like we saw in one of the photographs. It won't be Scripps going out and monitoring, necessarily. It won't be them going out and knocking on doors and saying hey, you got a pipe coming out here, it's an ASBS, don't put anything out there. But in some manner, through the Storm Water Management Plan that covers all of the UCSD SIO discharges along this coast, they should be developing some sort of a program to address those discharges that are their responsibility. They may come to us at some point and say well, there's a whole neighborhood up here that's City of San Diego and we've gotta get City of San Diego involved with this because out of those 83 pipes, 40 of them belong to the City, and then we'll have to get into negotiations with the City and see what we can do with getting their involvement on educating some of their private homeowners – ah – under what we call the typical MS 4 program. But until we actually get to that point, we're not gonna have concrete answers because we haven't gotten any closer on those 80-plus discharges other than identifying that they exist. No one's taken an opportunity to go upstream and say well, this is a private

home, this comes from campus housing, this one comes from – ah – the roadways. But all of that I would expect are gonna be addressed in some manner through the updated Storm Water Management Plan, and as City of San Diego comes into this ASBS discussion and they have their letter and they start to work on their exception, they'll be having to take steps to identify all of the – uh – discharges pertaining to MS 4, and at some point we have to go up and talk to perhaps private homeowners at some point that have a piece of property and a pipe out the back that doesn't go through an actual MS 4, but they need to be dealt with on a private homeowner basis. And that's just a – a vision thing. It's – it's just thoughts and ideas, not actual implementable things at this point.

MALE: (Inaudible) a naturally occurring outlet which Dominic talked about before. For example, a canyon, a crevice, something like, where there is runoff, and this question came up outside, and Sheila and I had some discussion as well as Dominic and I later, where there's a naturally occurring outlet, and I think Scripps may have one of those. I wanna hear from Dominic what – what the treatment of that would be as opposed to a pipe or a weep hole, or you know, something that, you know, is a flex pipe, an obvious – obvious source. How will you treat that, 'cause in your discussion you included some and you didn't include some 600, and what do you use as judgment to make the call on what's in and what's out?

MR. GREGORIO: That's a very difficult judgment to make. Um – we basically used our what we call best professional judgment. I know that's not always a very popular term. If – if – this is more – this is my answer as a staff person, how I would respond to the – how I would answer that question through the process of, you know, through the CEQA process and the staff reporting to the board.

If a discharge is unnatural in the sense that it is anthropogenic in nature, if – um – if there's a small gully located on a coastal bluff that would not be flowing during the summer and its gushing out water – um – that's a problem. Ah – and it's an even bigger problem if it contains pollutants, and we have found some of those cases. Um – if it's a ephemeral stream that has a long course and moves way up away from the – you know, if you – if you follow it upstream and it moves way far

away from the actual coastline – uh – you’re talking now this is something that might be a mile, two miles, whatever – it’s not just a simple gully, it’s an actual stream. Um – it’s likely that a discharge into that stream that then flowed into the ASBS would not be considered a discharge directly into the ASBS, but should be considered by the Regional Board in its planning process. It’s Basin Plan, basically.

So – um – that’s – I’m trying to simplify my answer to the extent that I can, but that’s – that’s my best way of doing it. If you have something that is anthropogenic that is directly on the coast or – or nearly directly on the coast – um – that would be a discharge in my opinion. Just mine. Just as a staff person.

And – and also, we’re gonna try to wrap this up, so I’m gonna – um – go for two more questions, and – and what we’ll do – what we’ll do is we’re gonna have more of these, and plus I’ll put my e-mail – uh – address up here and we’ll try to get an ongoing dialogue going. Um – we’re gonna have more of these stakeholder meetings, so – uh – we’ll try to wrap it up. Two or three more and that’s it. Yes. Question in the back.

Q: (Inaudible) from L.A. County. Um – we have an MS 4 permit (inaudible). Ah – we also have a bacteria (inaudible). Ah – in that process we are developing implementation plans for wet weather controls. The Regional Board has endorsed (inaudible). And some of the area does include the ASBS areas. The question is how does this prohibition interface with implementation plans that I’m in the process of developing for wet weather controls. I have a dry weather strategy (inaudible). The question is do I stop my implementation plan and get more knowledge very quickly because now I’m gonna have to integrate some additional measures (inaudible).

MR. GREGORIO: Bruce, do you wanna – you wanna try that one? It relates –

Q: I’d like to add, you know, it’s part chemistry-related in contrast (inaudible). So my strategy for bacteria obviously (inaudible)

MR. FUJIMOTO: I guess my first reaction to it would be that the – um – the adapter process that you’re – you’re entering into for the wet weather flows

would be very similar to the accelerated iterative approach that – um – Dominic had mentioned earlier for the wet weather flows. And so again, my first reaction would be there – there should be a lot of compatibility between what you’re doing for the TMDL and for what you would ultimately have to do for – um – to address an exception that would be – that may be granted by, you know, State Board and ultimately put into a permit.

MALE: The other thought on that real quick is that they’re not mutually exclusive. It may simply be that you can use the programs that you’re implementing now to demonstrate compliance with or come into compliance with the conditions – ah – included in the exception. And certainly I would assume – ah – you know, after the fact with Scripps that as you enter into the exception and CEQA process and then negotiations with the State Board that all of that will be brought out and all of that will be discussed at that level so that the programs you are currently implementing are fully accounted for in some manner in the documentation.

Q: Brad Shaw, County of Orange. Is there a – here’s a question for the State Board staff. Is there a process through which the current listing of ASBS’s in the Ocean Plan be amended, added to, subtracted to? Is that done through the triennial review or some other process?

MR. GREGORIO: I – I don’t think we’ll be adding to the list. Um – it’s – there is a process in the Ocean Plan that’s in the appendix for nominating an ASBS, but I – I just don’t see that happening. I think we have enough issues with the existing ASBS’s – um – so I don’t think that will happen. But – um – I don’t think we’re gonna be subtracting from the list either. I think just because we have – we’ve identified problems and everybody in this room would like to improve quality. You know, a way to try to solve that is not to, you know, eliminate an area from being an ASBS, so I think the list will stay pretty similar. Now the names will likely change because we’re doing it in conformance, you know – we’re trying to be in conformance with the other marine managed areas. ASBS’s are state water quality protection areas under the Public Resources Code, and therefore, they’re a marine managed area and we’d like to get out terminology straight between the other marine managed areas and ASBS’s, but that won’t be a change in area

or a change in – um – you know, number of ASBS's. Okay.

Q: You mentioned that you're going to amend the industrial permits to have a provision on this upcoming industrial permit, and also the various storm water dischargers that in this room, their current permits. Are you going to do something on the construction permit to prohibit construction that discharges into an ASBS. And also, internally, are you telling the Regional Boards that for people who are trying to get a 401 certification or a waiver that happens to be in an ASBS to deny that application?

MR. GREGORIO: I'll try to answer the –

Q: (inaudible) construction permits.

MR. GREGORIO: Okay. I'm – I'm gonna hold off on the construction and linear and hand that over to Bruce. Um – but I'll give you my take on the water quality certifications that just happened with state parks. Uh – this Regional Board, San Diego Regional Board issued a certification and it included a requirement that state parks obtain an exception. And it had other requirements in it, and – ah – Jeremy, you're still here, Jeremy from the Regional Board. Jeremy – okay.

Q: (Inaudible) new discharge. You said no new discharges.

MR. GREGORIO: No, that's not gonna be a new discharge. That's changing an existing situation. And they also – and by the way, they also used the component of the Ocean Plan that allows the Regional Board to – um – to certify or approve a temporary discharge. And the temporary discharge was construction. That was the temporary discharge.

Q: But – but okay. If I'm building a house –

MR. GREGORIO: Mm hmm.

Q: -- and putting my house on piles, and those piles go into the ASBS area, are you going to deny that application on the basis of (inaudible).

MR. GREGORIO: I – I don't think we're interested in having new discharges, if – if that's what you mean. We're not planning to have – that house, after it's

built, would it have any discharges?

Q: It's new development – or redevelopment.

MR. GREGORIO: If it had a new discharge, I don't – we would not allow that. I have had – I'll just answer this really quickly. If – we have received requests for new discharges so far. What I – and I'll tell them – I'll tell you guys what I tell them. I can't tell you that a new discharge would be allowed or not allowed. That's a board decision. Staff can't make those decisions. But I would be very reticent to write a staff report suggesting that the board issue a – you know, an allowance for a new discharge, an exception for a new discharge. But I'm gonna – I'm gonna turn this over to Bruce because of the questions about the linear and the construction permit. I don't – I don't know the intricacies of that, so I'm gonna let Bruce try that.

MR. FUJIMOTO: I guess the easy answer is that the – um – all of the general permits for – um industrial, for construction, for linear, there is language in there that there is supposed to be compliance with the water quality standards that discharges can't be in conflict with – uh – basin plans or statewide water quality control plans. And so the presumption would be that we – we should not be issuing – um – construction permits – potentially we shouldn't be issuing construction permits that are gonna have an impact on ASBS's. Now whether or not we can identify those when they come through the door, that's another question.

Q: Well then, that's what I'm saying, is that you should amend those permits to make it obvious. Apparently I have that prohibition in my storm water permit, but I never know about this prohibition until, you know, X months ago. However, you're gonna have all these people that do construction all that time that are not aware of this at all or what that means. Just thinking that as long as they file their NOI, well, they're good to go because they're gonna get a WTID back. However, you really need to deny them that work because of the discharge.

MR. FUJIMOTO: Um – a thought on that is – it's just a staff thought – is if there is a municipality who is near an ASBS and they are going through this process of trying to get an exception for their discharges, the municipality, in my opinion, should be expected to tell their planning

and their approval departments that if you've got somebody who needs a discretionary permit for building in an ASBS to build a house, that's where it should first be addressed. Perhaps the City or the County should not be issuing building permits if it violates the requirements of the Ocean Plan as far as discharges into ASBS. It shouldn't even get, in my opinion, to a construction storm water permit if the local city is doing their job to prevent the discharges into an ASBS.

Q: So you're putting the burden on us. Okay.

MR. FUJIMOTO: The burden's already – the burden's already on you.

Q: But these are (inaudible) who have already gone through (inaudible) to help align this building or whatever they wanna do, and then they come to the City or the County or whomever and then say here's my – my building. I'd like to get a building permit. They may have already been doing the NOI, you know, in conjunction with (inaudible). Why don't we just make it obvious and do that.

MR. GREGORIO: I'm gonna – I'm gonna try to answer this really quick and wrap it up for right now. Um – I think –

Q: (Inaudible) prohibit discharges.

MR. GREGORIO: And I think what – let me – let me go ahead and try to – I know what you're driving at and I'll try – I think this will answer it, basically. I think we are – as – as permits get reissued, we will make it more clear. I think that there's a commitment by staff to do that. And so for future permits, whenever those permits get reissued, I think the answer is yes, we will state clearly that this does not allow a discharger to violate a State Water Quality Management Plan and I think even more clearly than that, we'll state – ah – you can't have any discharges into an ASBS. Just to make sure that everybody understands that, because I understand the, you know, the lapse of information, you know, and so...

Q: (Inaudible). I have people come in and wanna extend a driveway to Highway 1, and if their drainage is coming into our drainage, I'm gonna deny it because, you know, the lack of development in that

permit (inaudible).

MR. GREGORIO: And that's what we would expect. All right. Well, we've kind of – uh – run our course here. Um – I did wanna just kinda – just to kinda finalize everything – um – there's some information that you should know about. Uh – look on the Central Coast Regional Water Quality Control Board website. Um – they just issued tentative cease and desist orders for Monterrey area dischargers and – into ASBS's, so take a look at that. Uh – just wanted to make sure that – we didn't really mention that much already, but I just wanted to remind everybody, it should be on the Regional Board website. And then – ah – we'll – we'll have more of these meetings and we'll be in contact with you, and just make sure that we have your contact information. Thank you for coming.

[End of ASBS Stakeholder Meeting]