Response to Comments

City of Avalon
Avalon Wastewater Treatment Facility
(Avalon WWTF)
Tentative Waste Discharge Requirements and NPDES Permit

This table describes all significant comments received from interested persons regarding the tentative permit described above. Each comment has a corresponding response and action taken.

#	Comment	Response	Action Taken
Comments received from Best Best & Krieger LLP on behalf of the City of Avalon on January 17, 2019			
1	**Cover page: Table 3 and Fact Sheet Table F.1 and II.A.3.** The discharge classification for the Treatment Facility has been changed from "minor" to "major" without any explanation as to the reason for this reclassification. As set forth in the current permit and the Report of Waste Discharge, the Treatment Facility has an average flow rate of 0.44 mgd and a maximum flow rate of 0.73 mgd. (See R4-2013- 0182, Fact Sheet, section II.A.1; ROWD, "Facility and Treatment Process Description," at ¶ 1.) Discharges from the Treatment Facility have consistently met effluent limitations and water quality in Avalon Bay has been improving steadily. (See Draft Permit, Fact Sheet, II.D.) The City believes the maximum and average flow rates at the Treatment Facility and the lack of significant impacts to water quality from the Treatment Facility's discharges justify the continued classification of the Treatment Facility as "minor." For these reasons, the City requests the following modifications:	Order No. R4-2013-0182 was initially adopted on December 05, 2013 and classified the Avalon Wastewater Treatment Facility (WWTF) as a minor discharge. However, on January 14, 2014 the Regional Water Board issued a correction letter signed by the Executive Officer indicating that the minor designation was a typographical error (see attached). The Tentative Order carries over the major designation from Order No. R4-2013-0182, as corrected. The NPDES Permit Writer's Manual developed by the United States Environmental Protection Agency defines a major discharge as a facility with a design flow rate of one million gallons per day (mgd) or greater or which serves a population of 10,000 or more or causes significant water quality impacts. The Avalon WWTF has a design capacity of 1.2 mgd and although the average flow rate may be less than half the design flow rate, peak flow greater than the design capacity has been observed multiple times at the facility during peak tourist season. The Avalon WWTF and its collection system have also caused significant water quality impacts in the past. The Regional Water Board issued Cease and Desist Order No. R4-2012-0077 to the City of Avalon on April 05, 2012 due to the City of Avalon's failure to	None necessary.

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	Modification P.1: • Restore "minor" classification of discharge in Cover Page, Table 3 and Fact Sheet Table F.1 • Delete Fact Sheet Section II.A.3.	adequately identify and address collection system problems and violations of the bacteria requirements in the NPDES permit for the Avalon WWTF. Since Avalon Beach is on the 303(d) list for indicator bacteria, bacteria are a significant water quality concern with regard to the Avalon WWTF. Since the Avalon WWTF along with its collection system has a design capacity of 1.2 mgd and has the potential to cause significant water quality impacts in the receiving water, the facility is classified as a major discharge.	
2	**Permit Sections III.I and V.A.3.e.** These sections include a prohibition on the discharge of trash from the Treatment Facility. The Treatment Facility, however, does not discharge trash. The City is also concerned that the Draft Permit's use of "trash" without a definition creates ambiguity as to unauthorized discharges of "trash" and authorized discharges of treated effluent. Therefore, the City requests the following modification: **Modification P.2:** Delete Permit Sections III.I and V.A.3.e.	The prohibition on the discharge of trash from the Avalon WWTF in the Tentative Order is a requirement from section III.I.6. of the California Ocean Plan which states in part: *"The discharge of trash to surface waters of the State or the deposition of Trash where it may be discharged into surface waters of the State is prohibited. Compliance with this prohibition of discharge shall be achieved as follows:* *a. Dischargers with NPDES permits that contain specific requirements for the control of Trash that are consistent with these Trash Provisions shall be determined to be in compliance with this prohibition if the dischargers are in full compliance with such requirements."* The Avalon WWTF is designed to remove trash from municipal wastewater before the effluent is discharged to the ocean and as long as the facility is operating properly, no trash is expected to be discharged. However, the facility does have the potential to discharge trash since trash is a component of the influent to the facility and must be controlled.	Revisions were made to the permit..

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		The Regional Water Board agrees that a definition for trash will clarify this requirement. The Ocean Plan defines trash as: *"all improperly discarded solid material from any production, manufacturing, or processing operation including, but not limited to, products, product packaging, or containers constructed of plastic, steel, aluminum, glass, paper, or other synthetic or natural materials."* This definition was added to Attachment A - Definitions of this Order.	
3	**Permit Section IV.A.1.a, Table 4.** Table 4 sets forth enforceable effluent limitations and non-enforceable performance goals. The effluent limits for Cyanide and Tributyltin have been removed because the effluent did not exhibit reasonable potential to exceed water quality objectives for those parameters. (Draft Permit, Fact Sheet IV.D.1 and Table F-10.) The units for measuring the performance goal for Cyanide, however, have changed from µg/L to mg/L and the performance goal has become more stringent. Similarly the units and limits for Tributyltin have changed and become more stringent. Finally, the units for TCDD Equivalents have changed. Because there is no reasonable potential for Cyanide and Tributyltin to exceed water quality standards, the City requests that the current standards and units be retained for these parameters. **Modification P.3:** Modify effluent limitations for each parameter as follows: Parameter Units Performance Goal Cyanide ~~mg/L~~ µg/L ~~0.00076~~ 20 Tributyltin ~~ng/L~~ µg/L ~~14.5~~ 0.04 TCDD Equivalents ~~pg/L~~ µg/L [no change]	Section III.F.1. of the California Ocean Plan allows for the Regional Water Board to establish more restrictive water quality objectives and effluent limitations than those set forth in the Ocean Plan, as necessary for the protection of the beneficial uses of the ocean waters. This approach is consistent with federal and state antidegradation policies (State Water Resources Control Board Resolution No. 68-16 and 40 CFR § 131.12) in that it requires the discharger to maintain its level of treatment and effluent quality, recognizing normal variation in treatment efficiency and sampling and analytical techniques. The Performance Goals are based on performance and are calculated using the 95th percentile and the maximum effluent concentration of the final effluent monitoring data from 2013 through 2018. Performance Goals are not enforceable effluent limitations and are designed to encourage consistent treatment performance and to maintain treatment efficiency since the Ocean Plan allows for significant dilution. The procedure for determining the Performance Goals is included in section V.A. of the Fact Sheet. The Performance Goal for cyanide in the Tentative Order was based on the Maximum Effluent	Revisions were made to the permit.

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		Concentration (MEC) since there was insufficient detected data to calculate the 95th percentile and because the MEC is less than five times the minimum level in the Ocean Plan. The MEC for cyanide was 0.00076 mg/L, which is below the water quality objective before dilution of 0.001 mg/L. The low concentration of cyanide detected was the result of the lab using a lower Method Detection Limit (MDL) than used previously. All other monitoring data for cyanide was reported as not detected, with an MDL below the water quality objective after considering dilution. Since the single data point used as the performance goal was the result of using a lower method detection limit below the minimum level, the performance goal for cyanide from the Tentative Order has been replaced with the performance goal for cyanide from the previous permit (20 µg/L). The units for cyanide were changed from micrograms to milligrams per liter in the Tentative Order because the discharger reported the data in milligrams per liter in the past. The units required for cyanide were changed back to micrograms per liter in the Revised Tentative Order to be consistent with the previous permit. The Performance Goal for tributyltin should be based on five times the minimum level in the Ocean Plan since there were no detections of the pollutant during the permit cycle. Since there is no minimum level for tributyltin in the Ocean Plan, the performance goal has been changed back to the performance goal in the previous permit (0.04 μg/L). Since this performance goal is below the water quality objective, it ensures the facility's effluent quality will be maintained. Since the method detection limit for tributyltin is reported in μg/L, the units required for reporting tributyltin results were changed back to μg/L in the Revised Tentative Order.	

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		The units for TCDD equivalents were changed from micrograms to picograms per liter to prevent reporting issues in CIWQS that have been observed when reporting numbers with many digits after the decimal. The units for TCDD equivalents were maintained as picograms per liter in the Revised Tentative Order.	
4	**Permit Sections IV.A.1.b and VII.I, MRP X.D, and Fact Sheet VI.D.1 and 2.** The effluent limitations for radioactivity have been modified to running annual average limitations based on drinking water MCLs. The Treatment Facility discharges to the Pacific Ocean and the applicable water quality control plan is the Ocean Plan. The Ocean Plan, however, does not include municipal or domestic supply as a beneficial use for the Pacific Ocean. Further, the Pacific Ocean is an attainment water for radioactivity, and the effluent limitations proposed in the Draft Permit are more stringent than required in the Ocean Plan. (Draft Permit, Fact Sheet, IV.D.1.) Finally, the City suspects, and is in the process of determining whether, the four reported exceedances of beta radiation during the prior permit term were reporting errors or lab errors, but has not been able to confirm the results as of the date of this letter. For these reasons, the City requests the following modifications: **Modification P.4:** • Convert the radioactivity effluent limitation in Table 4 into a performance goal. • Delete the radioactivity source investigation and control study from MRP X.D.	The California Ocean Plan includes a narrative water quality objective that states, "Discharge of radioactive waste shall not degrade marine life." To implement this narrative objective, the previous order (Order No. R4-2013-0182) included final effluent limitations for radioactivity that were based on the drinking water maximum contaminant levels (MCLs) because there are few other radioactivity standards on which to base numeric limitations. During the last permit cycle, the final effluent exceeded the final effluent limitation for beta radioactivity several times. Title 40 of the Code of Federal Regulations (CFR) section 122.44(l)(1) requires that effluent limitations be at least as stringent as the final effluent limitations in the previous permit unless the circumstances on which the previous permit was based have materially or substantially changed. Although the rationale for the final effluent limitations for radioactivity is consistent with the previous permit, the Regional Water Board has determined that it is not appropriate to use the drinking water MCLs for radioactivity to assess compliance with the Ocean Plan narrative objective for this facility since the Ocean Plan does not include municipal and domestic supply as a beneficial use for the receiving water. The final effluent limitations for radioactivity have been replaced with performance goals and monitoring has been reduced to semiannually since the State standards on which they were based are more stringent than necessary to protect aquatic life.	Revisions were made to the permit.

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		CWA section 402(o)(1) prohibits the establishment of less stringent water quality based effluent limitations "except in compliance with section 303(d)(4)." Section 303(d)(4) of the CWA has two parts: paragraph (A) which applies to nonattainment waters and paragraph (B) which applies to attainment waters as follows: i. For waters where standards are not attained, CWA section 303(d)(4)(A) specifies that any effluent limit based on a TMDL or other WLA may be revised only if the cumulative effect of all such revised effluent limits based on such TMDLs or WLAs will assure the attainment of such water quality standards. ii. For attainment waters, CWA section 303(d)(4)(B) specifies that a limitation based on a water quality standard may be relaxed where the action is consistent with the Antidegradation Policy. The receiving water is considered an attainment water for radioactivity because it is not on the 303(d) impaired water bodies list. Removal of the final effluent limitations for radioactivity is consistent with the antidegradation policy because this action is not expected to unreasonably affect present and future beneficial uses and it is not expected to result in water quality less than prescribed in the applicable policies. The permit also continues to require monitoring and establishes performance goals to monitor the radioactivity in the final effluent. The following sections were modified in the Revised Tentative Order to reflect the change:	

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		Table 4 – Final Effluent Limitations and Performance Goals in WDR Section IV.A.1.a. WDR Section VI.C.2.a. MRP Table E-3 Section IV.A.1. MRP Section X.D.1. Fact Sheet Section III.C.5. Fact Sheet Section IV.C.4. Fact Sheet Section IV.C.5 Fact Sheet Section IV.D.1. Fact Sheet Section IV.D.2. Table F-10 Fact sheet Section IV.D.3. Table F-11 Fact sheet Section VIII.B. Since the performance goals for radioactivity are based on the drinking water maximum contaminant levels, they are based on a running annual average to be consistent with the California Code of Regulations. Section VI.C.2. of the Tentative Order includes a radioactivity source identification and control study to determine the source and control strategies for beta radioactivity. The gross beta radioactivity data collected during the previous permit term covered a wide range of values and it is unclear if the inconsistencies in the results are due to sample variability, laboratory error, or issues with the analytical method. The purpose of this study has been revised to focus on the laboratory issues that might be causing the data variability and to determine the appropriate corrective actions that may produce reliable data for gross beta radioactivity.	
5	**Permit Section V.A.4.g and V.A.5.d.** The Draft Permit includes new narrative standards for toxicity and BOD, which may be interpreted as creating separately enforceable requirements from the numeric limits. We believe that compliance with numeric limits in Section IV.A.1 should constitute compliance with these	The narrative limitation included in Section V.A.4.g. of the Tentative Order is for the receiving water whereas the limitations in Table 4 of Section IV.A.1. are for the final effluent. Although these limitations are related, they are not identical. The final effluent limitation ensures that the final effluent is free of toxicity before it is discharged to the receiving water. The narrative receiving water	Revisions were made to the permit.

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	narrative limits. For these reasons, the City requests the following modifications: **Modification P.5:** • Delete Permit Sections V.A.4.g and V.A.5.d; or, alternatively, • Include a statement in Sections V.A.4.g and V.A.5.d that the Discharger is deemed in compliance with this requirement by implementing the requirements of Section IV.A.1.	limitation ensures that the final effluent does not cause the receiving water to become toxic as a result of the discharge. Both these limitations are necessary to protect the receiving water from the pollutants discharged and the potential combined effects of discharging the effluent into the water body. The narrative receiving water limitation for biochemical oxygen demand in Section V.A.5.d. of the Tentative Order was included to protect the receiving water from changes in dissolved oxygen that may occur as a result of the discharge. This has already been accomplished from the narrative effluent limitation in Section V.A.4.a. so an additional receiving water limitation for biochemical oxygen demand is unnecessary. Section V.A.5.d. has been removed in the Revised Tentative Order.	
6	**Permit Section V.A.4.h.** This section addresses the chemical characteristics of pesticides in waste discharged from the Treatment Facility. Pesticides have not been present in the influent or effluent at the facility. The effluent, therefore, does not exhibit a reasonable potential to exceed water quality objectives for pesticides. For these reasons, the City requests the following modification: **Modification P.6:** Delete Section V.A.4.h.	The narrative receiving water limitation in Section V.A.4.h was included in the Order to protect the receiving water from the toxic effect of pesticides that are not individually monitored in the final effluent. Since there is a final effluent limitation and a receiving water limitation for toxicity, a narrative receiving water limitation for pesticides is unnecessary to protect the receiving water from the toxic effects of pesticides in the final effluent. Section V.A.4.h. was removed in the Revised Tentative Order.	Revisions were made to the permit.
7	**Permit Section VII.J, MRP. V and Fact Sheet IV.C.6.** The Draft Permit requires use of a two-concentration whole effluent toxicity ("WET") testing method and analytical approach (the TST). We are concerned that the lack of internal safeguards in the two-concentration TST analytical approach is contrary to the EPA's promulgated methods in 40 C.F.R. Part 136. The methods promulgated	The Order does not require a two-concentration whole effluent toxicity testing method. Section V.A.3. of the Monitoring and Reporting Program specifies that the discharger shall conduct chronic toxicity tests in accordance with species and test methods in *Short-term Methods for Estimating the Chronic Toxicity of Effluents*	None necessary.

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	in 2002 were the subject of a legal challenge on multiple grounds, one of which is the tendency of WET testing to result in an unacceptable number of false indications of toxicity and nontoxicity. (*Edison Elec. Inst. v. EPA* (D.C. Cir. 2004) 391 F.3d 1267, 1271.) The court in *Edison* recognized that "WET tests are not without their flaws[,]" (*id.* at 1274), particularly because the methods do not rely on comparisons with an independent, objective, true value, which means that "their scientific validity must be assessed through other means." (*Id*. at 1270.) Despite the recognized flaws in WET tests, the court upheld the promulgated tests, because the multiple-concentration test design, developed over "years of scientific studies, negotiation, and public notice-and-comment" provided safeguards to protect against an unacceptably high number of false results. The Court described the safeguards as follows: A single WET test involves exposing multiple batches of organisms to the effluent at various concentrations, as well as to a "control" sample of pure water, and then aggregating the effects on each batch. Statistical analysis then is used to ensure that any observed differences between the organisms exposed to a given effluent concentration and those exposed to the control blanks most likely are not attributable to randomness - - that they are statistically significant. See Final Rule, 67 Fed. Reg. at 69,957-58. This safeguard addresses the petitioners' concerns [regarding false positives]. EPA, in short, has offered a reasoned and thorough explanation of its decision on this subject. (*Id*. at 1272-1273.) Until the TST analytical approach has been formally promulgated, it should not be required in the Draft Permit or be used to determine compliance. (40 C.F.R. § 2.44(i)(1)(iv).) For this reason, the City requests the following modifications:	*and Receiving Water to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995), which is the most appropriate test method referenced in 40 CFR Part 136. As the state permitting authority, the Regional Water Board has the discretion to select the statistical approach for analyzing whole effluent toxicity (WET) test data that is most appropriate for use in a permit to determine compliance with the Ocean Plan water quality objective for toxicity. The statistical methods recommended in the manual are not the only possible methods of statistical analysis (see Section 9.4.1.2 EPA/600/R-95/136). The Regional Water Board has selected the Test of Significant Toxicity (TST) statistical approach in the Tentative Order. USEPA's decision to include the WET testing methods as approved test methods under 40 CFR Part 136 was upheld by the United States Court of Appeals for the D.C. Circuit in *Edison Electric Institute v. USEPA*, 391 F.3d 1267 (2004) (*Edison Electric)*. The Court found that "[i]n designing and refining the WET test methods, EPA sought to minimize the effect of organic idiosyncrasy by taking experimental and statistical precautions… WET test methods exhibit a degree of precision compatible with numerous chemical-specific tests already in use." (*Id.* at 1269 & 1271.) The court also found that "EPA's decision was informed by years of scientific studies, negotiation, and public notice-and-comment, and it represents the agency's expert judgement regarding the implementation of the aims of the Clean Water Act." The TST statistical approach used to analyze WET test data has undergone an extensive external peer review process by both the USEPA and the State Water Board. The approach was published in *Environmental Toxicology and Chemistry* (Denton et al. 2011). Data	

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	Modification P.7: • Delete all reference to the two-concentration TST method for conducting WET testing; and • Retain the current WET testing requirements.	from over 2,000 WET tests were used to develop and evaluate the TST approach. The TST was tested for nine different WET test methods with 12 biological endpoints (e.g., reproduction, growth, survival) representing most, if not all, of the different types of WET test designs currently in use. Over one million computer simulations were also used to select error rates meeting EPA's RMDs (Regulatory Management Decisions) for the TST approach. The TST statistical approach has been shown to perform as well or better than the NOEC-LOEC statistical analysis of multi-concentration data. The results of TST statistical analysis were compared to analysis using the NOEC-LOEC approach in a "Test Drive Analysis" conducted in California. The results of the test drive are provided in a report dated December 2011 and published in *Environmental Toxicology and Chemistry* (Diamond et al. 2013). The findings of the peer-reviewed journal article by Diamond et al. (2013) found that the TST statistical analysis improves understanding of the discharge condition by correctly identifying toxic and non-toxic samples more often than when using the NOEC-LOEC statistical approach. The Tentative Order also contains quality assurance measures using TST for conducting statistical analysis of the toxicity results. The TST statistical t-test approach is described in the *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010), Appendix A, Figure A-1, Table A-1 and Appendix B, Table B-1. Also, see *National Pollutant Discharge Elimination System Test of Significant Toxicity Technical Document (*(EPA 833-R-10-004, 2010).	

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		Section IV.C.6. of the Fact Sheet further explains why appropriate interpretation of the measurement result from the TST statistical approach is independent from the concentration-response patterns of the toxicity tests for those samples. Since the TST statistical approach is independent of the test methods and the Regional Water Board has discretion as to which statistical approach should be used to analyze the data collected using the approved methods, the TST statistical approach is appropriate.	
8	**MRP Section I.S and Fact Sheet X.E.3.** The Draft Permit indicates that the City is required to submit the results of the Discharge Monitoring Report – Quality Assurance ("DMR-QA") Study annually to the State Water Board. This requirement appears to be based on the classification of the Treatment Facility as a "major" discharger. (Fact Sheet X.E.3.) As noted above, there is no factual basis for reclassifying the Treatment Facility in the Fact Sheet. Further, the City can only fulfill the DMR-QA requirement for the laboratory run by its contract operator. For this reason, the City requests the following modification: **Modification MRP.1:** • Delete MRP Section I.S and Fact Sheet Section X.E.3; or alternatively • Clarify that the DMR-QA Study requirement only applies to those laboratories run by the City's contract operator.	As discussed in the response to the City of Avalon's Comment #1, the Avalon WWTF is a major discharge. The DMR-QA study evaluates the analytical ability of laboratories that routinely perform or support self-monitoring analyses required by NPDES permits. This is required to ensure the discharger is reporting quality data and maintains the integrity of the NPDES program. Participation in the DMR-QA study is required under Clean Water Act Section 308. The discharger is responsible for having its in-house/contract laboratories analyze wastewater proficiency testing analytes that are both required in the NPDES permit and included in the DMR-QA study. The discharger has two options to satisfy the requirements of the DMR-QA study: 1) the discharger can obtain and analyze a DMR-QA sample; or 2) the discharger can submit the results of the most recent Water Pollution Performance Evaluation Study used for laboratory certification from their in-house/contract laboratories. Since most analyses are conducted by a contract laboratory, the discharger shall ensure the contract laboratory conducts the appropriate analyses on DMR-	None necessary.

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		QA samples. The Discharger is responsible for attaining the graded results for each of the analyses and submitting them to the State Water Board. Alternatively, the discharger may request a copy of the laboratory's most recent Water Pollution Performance Evaluation Study and submit that study to the State Water Board for compliance with this requirement. In addition, the discharger is responsible for analyzing a DMR-QA sample for any analyses performed in-house and reported in compliance with the NPDES permit. Since the discharger submits data in compliance with the NPDES permit from its in-house lab and contact labs, it is not appropriate to limit the DMR-QA study only to the laboratory operated by the discharger's contract operator.	
9	**MRP Table E-1.** Table E-1 contains an error in the latitude and longitude for RSW-005. This error was also included in the ROWD and came to the City's attention when reviewing the Draft Permit. For this reason, the City requests the following modification: **Modification MRP.2:** Change the Latitude and Longitude for RSW-005 as follows: RSW-005 Latitude: 33.3320° Longitude: -118.3072~~140~~°	The Regional Water Board agrees.	Revisions were made to the permit.
10	**MRP V.** See Comment P.7, above.	See response to the City of Avalon's Comment #7.	None necessary.
11	**MRP Section VIII.A.2.** This section lists the receiving water monitoring locations. There is a typo in the name of "RSW-002." **Modification MRP.4:** Correct typo.	The Regional Water Board agrees.	Revisions were made to the permit.

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12	**MRP Sections VIII.C.2 and D.** The MRP requires the City to participate in two regional studies. The need for and value of these studies relative to the costs of such studies are unclear. The City is a small jurisdiction with limited means and must prioritize its resources on known water quality problems. For this reason, the City requests the following modifications: **Modification MRP.5:** Delete MRP Sections VIII.C.2 and VIII.D.	Regional studies are used to investigate water quality issues, to determine the health of the ecosystems within the Southern California Bight, and the extent to which discharges to the Southern California Bight are impacting them. The regional benthic survey is required because the Avalon WWTF contributes to the pollutant load in the Southern California Bight. While regional studies investigate water quality in the region as a whole, discharge-specific monitoring only investigates the impact of a single discharge point on the receiving water body. Both types of monitoring are important in assessing the health of the receiving water. The Tentative Order requires the City of Avalon to participate in the regional benthic survey either by contributing funds to the project or by redirecting existing monitoring efforts toward collection and analysis of samples for the regional monitoring survey. Since the City of Avalon is a small municipality, the requirement to contribute up to $25,000 was removed from Section VIII.C.2 of the Revised Tentative Order; however, the City of Avalon is still required to participate in the Bight regional survey by contributing resources. The resources the City of Avalon contributes may be exchanged for comparable monitoring requirements in the Order if the City of Avalon submits a request and it is approved by the Executive Officer of the Regional Water Board. Section VIII.D. describes the kelp bed monitoring that is currently being conducted by other dischargers throughout the Southern California Bight. Because the Central Region Kelp Survey does not currently include monitoring of kelp beds around Santa Catalina Island, the Tentative Order does not require the City of Avalon to participate in the Central Region Kelp Survey,	Revisions were made to the permit.

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		consistent with previous permits. Since this permit does not require participation in the Central Region Kelp Survey, section VIII.D. was removed from this Order to eliminate confusion. The Regional Water Board will consider adding this requirement in the future.	
13	**MRP Table E-3.** **Modification MRP.6:** The City requests the following revisions to Table E-3: a. Change the sampling frequency for all indicator bacteria to "monthly" to be consistent with the monthly sampling frequency for *Enterococcus*. b. Remove organic nitrogen, total phosphorus, and Chromium VI. c. Restore the semiannual sampling frequency for radioactivity that is present in the current permit. d. To the extent that Table E-3 incorporates limitations that are established in the Ocean Plan, the City requests that these limitations be incorporated into the Draft Permit by reference rather than separately set forth in the permit. e. Restore the units for TCDD Equivalents that are used in the current permit.	a. The purpose of receiving water and effluent indicator bacteria monitoring is to determine compliance with the receiving water objectives for indicator bacteria in the Ocean Plan. The implementation provisions for Bacterial Characteristics in section III.D. of the Ocean Plan requires weekly sampling from each site. In order to determine if the final effluent may have contributed to an exceedance of an indicator bacteria receiving water limitation, weekly final effluent monitoring is required. b. Organic nitrogen and total phosphorus were included in the monitoring requirements to determine compliance with the Chemical Characteristics requirements in section II.D. of the Ocean Plan. Organic nitrogen and total phosphorus monitoring will be used to assess if any objectionable aquatic growth that may be observed in the receiving water is the result of the quality of the final effluent. Chromium VI is a priority pollutant and has a water quality objective in the California Ocean Plan; therefore, it is appropriate to keep the pollutant in the monitoring plan. c. See response to City of Avalon's comment #4. The monitoring frequency for radioactivity was revised to semiannually. d. Table E-3 does not incorporate limitations that are established in the Ocean Plan, Table E-3 implements monitoring requirements that allow the Regional Water Board staff to assess if the	None necessary.

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		discharger is meeting the requirements in the Ocean Plan. It is necessary to specify each monitoring requirement individually because the Ocean Plan does not include a specific monitoring plan for each discharger, although it does specify some monitoring requirements for certain types of dischargers. e. See response to Comment #3.	
14	**MRP Section X.A.7** This Section requires the City to submit a copy of the laboratory certification each time the laboratory obtains a new or renewal certification from ELAP. This provision imposes a requirement on the City that the City cannot entirely control. If the City requests such certificate from a laboratory, for example, but the laboratory fails to provide the certificate to the City, the City may be in violation of its Permit. The City requests the following modification: **Modification MRP.7: Revise MRP Section X.A.7 as follows:** The laboratory conducting analyses shall be certified by ELAP, in accordance with CWC section 13176, or approved by the Regional Water Board Executive Officer, in consultation with the State Water Board's Quality Assurance Program, and USEPA for that parameter and must include quality assurance/quality control (QA/QC) data in their reports. ~~A copy of the laboratory certification shall be provided each time a new/renewal certification is obtained from ELAP and must be submitted with the annual summary report. Each monitoring report must affirm in writing that: "All analyses were conducted at a laboratory certified for such analyses by the State Water Resources Control Board Division of Drinking Water or approved by the Regional Water Board Executive Officer (in consultation with the State Water Board's Quality~~	The City of Avalon is responsible for ensuring that the laboratory conducting the analyses in compliance with the monitoring and reporting requirements of the Order is certified by the State Water Resources Control Board Environmental Laboratory Accreditation Program. If the laboratory is not able to furnish the laboratory certification upon request, the City of Avalon must find a laboratory that is certified and use that laboratory to perform analyses in compliance with this Order. This requirement ensures quality data is reported.	None necessary.

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	~~Assurance Program) and USEPA, and in accordance with current USEPA guideline procedures or as specified in this MRP."~~		
15	**MRP Section X.D.** See Comment P.4, above.	See Response to Comment #4.	None necessary.
16	**MRP Section XI.A.** This Section requires an annual inspection of "the entire ocean outfall." The City has been conducting an annual visual inspection of the entire ocean outfall. There are a few portions of the outfall that are under sand or sediment and cannot be visually inspected without removing the sand or sediment. The City therefore requests the following modification: **Modification MRP.8:** Modify the first sentence of the second paragraph of MRP Section IX.A as follows: The Discharger shall conduct an annual visual inspection of the entire length of the ocean outfall which is not obstructed from view by sand, sediment or similar obstruction ~~shall be externally inspected annually~~ during July or August. Inspections shall include general observations and photographic/video graphic records of the exterior outfall pipes and the adjacent ocean bottom.	If the outfall structure is obstructed by sand or sediment, it may not be possible to see the outfall structure itself. However, the purpose of the outfall and diffuser inspection is to ensure the outfall is in serviceable condition and can continue to operate safely. This includes examining the outfall structure for leaks or possible hazards that may damage the outfall structure. If the outfall structure is not visible due to sand or sediment, the discharger can still inspect the submerged area for leaks or possible hazards such as large debris that may be approaching the outfall.	None necessary.
17	**Fact Sheet II.A.3.** See Comment P.1, above.	See Response to Comment #1.	None necessary.
18	**Fact Sheet II.D.** **Modification FS.2:** The City requests a change to Fact Sheet Section II.D to improve accuracy as shown below: The sanitary sewer overflows occurred, in part, as a result of the discharger's failure to adequately identify and address collection system problems.	The Regional Water Board agrees.	Revisions were made to the permit.

#	Comment	Response	Action Taken
19	**Fact Sheet II.E.** **Modification FS.3:** The City requests a change to Fact Sheet Section II.E to improve accuracy as shown below: There are currently no planned ~~improvements~~ changes to the Avalon WWTF.	The Regional Water Board agrees.	Revisions were made to the permit.
20	**Fact Sheet III.C.5.** Section III.C.5 of the Fact Sheet states that the Draft Permit contains restrictions on pollutants "that are no more stringent than required by the federal CWA and California Ocean Plan." This statement appears to contradict the statement in Fact Sheet Section VI.D.1, which states: "the final effluent limitations are more stringent than required in the Ocean Plan to protect the beneficial uses of the receiving water" **Modification FS.4:** The City requests resolution of the apparent conflict regarding the stringency of limitations.	The referenced sentence in Section III.C.5. of the Fact Sheet was removed for consistency.	Revisions were made to the permit.
21	**Fact Sheet IV.C.6.** See Comment P.7, above.	See Response to Comment #7.	None necessary.
22	**Fact Sheet VI.D.1. and D.2** See Comment P.4, above.	See Response to Comment #4.	None necessary.
23	**Fact Sheet VII.B.2.b and c.** Sections VII.B.2.b and c of the Fact Sheet state that the Draft Permit includes an operations plan for proposed expansion and a treatment plant capacity study. The Draft Permit, however, does not include these requirements. For this reason, the City requests the following modification: **Modification FS.7:** Delete Section VII.B.2.b and c of the Fact Sheet	A treatment plant capacity study is required in section VI.C.2.c on page 16 of the Tentative Order. The study is only required if the 30-day (monthly) average daily dry weather flow equals or exceeds 75 percent of the design capacity of waste treatment and/or disposal facilities. Since this requirement is included in the Order, the rationale in the Fact Sheet is appropriate. There is no operations plan for a proposed plant expansion required in the Tentative Order; therefore, Section VII.B.2.b. has been removed in the Fact Sheet.	Revisions were made to the permit.

#	Comment	Response	Action Taken
Comments received from Heal the Bay			
1	**The California Department of Public Health or local public health officer should always post warning signs or restrict public use when WDRs and NPDES standards are not met.** The California Department of Public Health [CDPH] implemented AB 411 to establish regulations for minimum health protective bacteriological standards for waters adjacent to public beaches and public water-contact areas, monitoring requirements, and actions to be taken when standards are exceeded1. The Draft Permit states in Section V.A.1.d. that "[w]hen a public beach or public water-contact sports area fails to meet these standards, DDW [the Division of Drinking Water] or the local public health officer ***may*** post with warning signs or otherwise restrict use of the public beach or public water-contact sports area until the standards are met." Additionally, "[f]or beaches not covered under AB 411 regulations… [DDW] allows the county health officer more discretion in making posting and closure decisions." Although we understand that enforcement of these requirements does fall under the authority of CDPH and DDW, we believe that the Regional Board must also enforce these requirements in order to protect public health. After all, WDRs are put in place to protect public and environmental health; therefore, the public must be notified when these requirements are not met. We ask the Regional Board to remove "may" from the sentence above and replace with "shall". Given the 303(d) water quality impairment listing for bacteria at Avalon Beach and the vast number of ocean-goers that visit this area, we feel that the CDPH or local public health officer should always post warning signs or restrict public use when these standards are not met. Failing to post warning signs or	It is the responsibility of DDW or the local health department to post signs to restrict public use when WDRs and NPDES discharge limitations are not met. This Order cannot require DDW or the local health department to post signs because they are not designated as permittees. Section VI.C.6. of this Order requires the discharger to report spills and DDW or the local health department will determine when and where it is necessary to post warning signs.	None necessary.

#	Comment	Response	Action Taken
	restrict public use when bacteriological standards are exceeded does not protect public health.		
2	**The Regional Water Board should always be notified immediately of any unauthorized release.** The Regional Water Board should always be notified immediately of any unauthorized release of sewage from POTWs that causes, or probably will cause, a discharge to a water of the state. Considering the time sensitive effects of contamination from human fecal bacteria, this direct communication will help ensure public health protection. In section VI.C.6.a.iii, we ask that the following language be removed from the Permit. *"iii. The Discharger shall notify the Regional Water Board of any unauthorized release of sewage from its POTW that causes, or probably will cause, a discharge to a water of the state as soon as possible, but not later than **two hours** after becoming aware of the release. ~~This initial notification does not need to be made if the Discharger has notified Cal OES and the local health officer or the director of environmental health with jurisdiction over the affected water body~~. The phone number for reporting these releases of sewage to the Regional Water Board is (213) 576-6657. The phone numbers for after hours and weekend reporting of releases of sewage to the Regional Water Board are (213) 305-2284 and (213) 305-2253."*	Since the State and Regional Water Boards do not have duties as first responders, the initial notification in Section VI.C.6. of the Order is included to ensure the proper authorities are immediately notified (within 2 hours of the spill) and the appropriate personnel are dispatched to investigate the spill. Once Cal OES is notified of a spill, Cal OES notifies the Regional Water Board. When a spill occurs, it is imperative to streamline the notification procedure to ensure the spill response is as efficient and effective as possible. This notification procedure has been effective in responding to spills in the past and the Regional Water Board finds that it is appropriate and sufficient. Although the discharger does not need to notify the Regional Water Board within two hours of a spill, Section VI.C.6.c of the Order requires the discharger to submit a statement to the Regional Water Board by email within 24 hours of the spill. The discharger is also required to submit a written report to the Regional Water Board within five days.	None necessary.
3	**Clearly defined monitoring requirements must apply for spills, overflows and bypasses.** Clarification must be added to the Draft Permit to ensure that monitoring begins as soon as possible after a spill, overflow, or bypass is identified. The Draft Permit states that "monitoring shall be conducted daily from the time the spill is known until the results of two consecutive sets of bacteriological monitoring indicate the return to the background level or the County Department of Public	The Regional Water Board generally agrees and finds that the requirement for daily monitoring once a spill is reported is largely equivalent to the commenter's request for monitoring to begin within 24 hours of a *reported* spill. Additional language was added to Section VI.C.6.b. of the Order to provide additional clarity as to what	Revisions were made to the permit.

#	Comment	Response	Action Taken
	Health authorizes cessation of monitoring." We request that the Regional Board require this monitoring to initiate within a specific period to clarify the requirement. At a minimum, we recommend that this monitoring begin within 24 hours of a reported spill, overflow or bypass. We also request clarification of what constitutes a "safety concern." The Draft Permit states that "[i]f a grab sample cannot be obtained due to accessibility or safety concerns, the sample shall be obtained as soon as it becomes safe to do so." Of course, we do want to protect public health and safety, and would not want an employee sampling under unsafe conditions; however, there are solutions to avoid certain safety concerns. For example, while high concentrations of human fecal bacteria does pose risk to human health, the risk can be avoided during sampling events if personal protective equipment is used and proper sampling procedures are followed.	constitutes a safety concern.	
4	**The Avalon Wastewater Treatment Facility should determine feasibility of recycled water reuse.** Due to its remote location, Avalon faces issues of severe drought. While areas on the main land have access to additional sources of water, Avalon must rely on locally sourced water and the ships that deliver water in environmentally harmful plastic bottles. Avalon currently use seawater for toilet flushing, but more must be done to maximize the use of local water. In addition to wastewater, the Avalon Wastewater Treatment Facility also processes dry-weather runoff and first-flush stormwater runoff, addressing pollution issues from surface runoff. All of this secondary-treated water is then discharged to the Pacific Ocean from Discharge Point 001. The State Board recently approved an amendment to the Recycled Water Policy adding a narrative goal to minimize the direct discharge of treated wastewater to ocean	The Regional Water Board agrees that increasing the use of recycled water is important, but the Regional Water Board does not have the authority to require a discharger to recycle wastewater. The State and Regional Water Boards share independent yet overlapping duties in the regulation of recycled water. The Regional Water Board is authorized to issue NPDES permits and waste discharge requirements and prescribe water reclamation requirements for individual water recycling projects and to issue master water recycling permits. See, e.g., California Water Code §§ 13263, 13377, 13523, and 13523.1. In 2009, the State Water Board adopted Resolution 2009-0011, *Adoption of a Policy for Water Quality Control for Recycled Water* (Recycled Water Policy) The Recycled Water Policy was revised on January 22, 2013 and became effective April 25, 2013. The Recycled Water Policy was revised again on December 06, 2018.	Revisions were made to the permit.

#	Comment	Response	Action Taken
	waters, except where necessary to maintain beneficial uses2. The Draft Permit states that "The Regional Board strongly encourages, wherever practicable, water recycling, water conservation, and use of storm water and dry-weather runoff" (Attachment F, Section III.C.10). However, in order to comply with the State Recycled Water Policy, we recommend that the Regional Board require beneficial reuse of the recycled water and elimination of discharge into the Pacific Ocean, as this discharge is not necessary to maintain beneficial uses. Repurposing all of the recycled water from this facility would eliminate the need to discharge secondary-treated wastewater to the Pacific Ocean, and provide an additional water resource for the City of Avalon.	The Recycled Water Policy sets forth the duties with respect to recycled water of the State Water Board, the Regional Water Boards, the California Department of Public Health (now, the Division of Drinking Water (DDW) within the State Water Board for those duties related to drinking water), the California Department of Water Resources, and the California Public Utilities Commission. As summarized in the Policy, the State Water Board's duties for recycled water projects include general oversight, review of regional water board permitting practices, and leading efforts to meet the recycled water use goals set forth in the Policy. The Regional Water Boards' duties for recycled water include protection of surface and groundwater resources and the issuance of permits that implement DDW recommendations, the Recycled Water Policy, and other Basin Plan requirements. The Policy also directs the Regional Water Boards to use their authority to encourage the use of recycled water. The proposed Order is consistent with the applicable law and the Recycled Water Policy. The proposed Order addresses the proper treatment of wastewater, and although it is not a water reclamation permit, it is consistent with the Recycled Water Policy because it sets forth requirements, including effluent limitations and prohibitions to protect surface and groundwater resources, and encourages the use of recycled water that in turn results in a reduction in wastewater. While the Regional Water Board may encourage recycling, it may not order the discharger to recycle a certain quantity of water in an NPDES permit. Unlike many of the upstream wastewater treatment plants on the mainland that produce tertiary-treated wastewater, the Avalon Wastewater Treatment Facility produces secondary-treated wastewater with high	

#	Comment	Response	Action Taken
		salinity due to use of seawater in the distribution system. The potential uses of secondary-treated wastewater with high salinity are more limited than those of tertiary-treated wastewater and it will be necessary to make significant investments in the Avalon WWTF's infrastructure in order to reuse the final effluent to its fullest potential. The City of Avalon currently does not recycle the wastewater from the Avalon WWTF. However, to encourage the use of recycled water and to keep the Regional Water Board informed of any developments regarding recycling Avalon WWTF effluent, additional language was included in Section X.D.3. of the Monitoring and Reporting Program for the Order to require the discharger to submit a summary in the annual report of any actions taken regarding the use or production of recycled water at the Avalon WWTF.	
5	**The Avalon Wastewater Treatment Facility should transition from chlorination to ultraviolet water purification.** The Avalon Wastewater Treatment Facility currently uses chlorination during the final disinfection process. However, the best available science indicates that ultraviolet water purification is a preferred method for this process because it is proven effective while minimizing the potential for by-product formation, which has been observed in the chlorination process3. Additionally, ultraviolet water purification requires less maintenance. We request that the Regional Board work with the Avalon Wastewater Treatment Facility to investigate the feasibility of converting from chlorination to ultraviolet water purification.	The NPDES permit requires the discharger to meet requirements for the protection of the beneficial uses of the receiving water. It is up to the discharger to determine the most cost-effective technology to meet the requirements prescribed. The concentration of disinfection byproducts in the effluent have been reported below the water quality objectives. Since the discharger is meeting the water quality objectives for disinfection byproducts, a reduction in the concentration of disinfection byproducts is not a sufficient basis to require the discharger to conduct a feasibility study on alternative disinfection technologies. The Regional Water Board will consider requiring an alternative disinfection technology feasibility study in the future if the discharger is not able to meet the requirements specified in the Order and if the study is needed to address compliance issues.	None necessary.

January 14, 2014

Mr. Ben Harvey
City Manager
City of Avalon
123 Pebbly Beach Road
Avalon, CA 90704

Dear Mr. Harvey:

CORRECTION OF TYPOGRAPHICAL ERROR FOR ADOPTED WASTE DISCHARGE REQUIREMENTS (WDRs) AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR THE CITY OF AVALON, AVALON WASTEWATER TREATMENT FACILITY (NPDES NO. CA0054372, CI NO. 0066)

On December 11, 2013, we transmitted Order No. R4-2013-0182, which was adopted by the Regional Water Board on December 5, 2013, and serves as the National Pollutant Discharge Elimination System (NPDES) permit for the Avalon Wastewater Treatment Facility (Avalon WWTF). However, the United States Environmental Protection Agency (USEPA) and Regional Water Board staff found a typographical error on the Fact Sheet of Order R4-2013-0182 that designates your facility as Minor instead of Major. Title 40 of the Code of Federal Regulations (40 CFR) part 122.21(j) defines a facility as Major if the facility's design flow is greater than 1.0 million gallons per day (MGD). Since the Avalon WWTF has a design capacity of 1.2 MGD, the facility designation is being administratively corrected to "Major" on page F-3 of Order No. R4-2013-0182. Please see the enclosed corrected page F-3 and replace it with the one you received previously.

If you have any questions, please contact David Hung at (213) 576-6616.

Sincerely,

Samuel Unger

Samuel Unger, P.E.
Executive Officer

Enclosure: Page F-3 of Attachment F

cc: (See Mailing List)

MAILING LIST

Environmental Protection Agency, Region 9, Permits Branch (WTR-5)
U.S. Army Corps of Engineers
NOAA, National Marine Fisheries Service
California Coastal Commission, South Coast Region
Department of Interior, U.S. Fish and Wildlife Service
Frances Mc Chesney, State Water Resources Control Board, Office of Chief Counsel
Department of Fish and Game, Region 5
California State Parks and Recreation
State Coastal Conservancy
California Department of Public Health
Heal the Bay
Environment Now
Environ Strategy, David Clary
Sierra Club
Surfriders Foundation
American Ocean Campaign
Los Angeles Waterkeeper
Los Angeles County Department of Public Works
Los Angeles Regional Water Board
City of Avalon
City of Los Angeles
Los Angeles County Sanitation District
Los Angeles County Department of Public Health
Natural Resources Defense Council
Southern California Coastal Water Research Project

ATTACHMENT F – FACT SHEET

As described in section II.B of this Order, the Regional Water Board incorporates this Fact Sheet as findings of the Regional Water Board supporting the issuance of this Order. This Fact Sheet includes the legal requirements and technical rationale that serve as the basis for the requirements of this Order.

This Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for Dischargers in California. Only those sections or subsections of this Order that are specifically identified as "not applicable" have been determined not to apply to this Discharger. Sections or subsections of this Order not specifically identified as "not applicable" are fully applicable to this Discharger.

I. PERMIT INFORMATION

The following table summarizes administrative information related to the facility.

Table 1. Facility Information

WDID	4B190100001
Discharger	City of Avalon
Name of Facility	Avalon Wastewater Treatment Facility and associated collection system
Facility Address	123 Pebbly Beach Road Avalon, CA 90704 Los Angeles County
Facility Contact, Title and Phone	Ben Harvey, City Manager, 310-510-0220 (City of Avalon) David Clary, Project Manager, 310-510-0731 (Environ Strategy Consultants, Inc.)
Authorized Person to Sign and Submit Reports	SAME
Mailing Address	PO Box 1810, Avalon, CA 90704
Billing Address	SAME
Type of Facility	POTW
Major or Minor Facility	Major
Threat to Water Quality	1
Complexity	A
Pretreatment Program	No
Reclamation Requirements	None
Facility Permitted Flow	1.2 million gallons per day (mgd)
Facility Design Flow	1.2 mgd
Watershed	Santa Catalina Subwatershed
Receiving Water	Pacific Ocean
Receiving Water Type	Ocean waters

A. The City of Avalon (City or Discharger) owns the Avalon Wastewater Treatment Facility (Facility or Avalon WWTF), a Publicly Owned Treatment Works (POTW), located at 123 Pebbly Beach Road, Avalon, California, on Santa Catalina Island. Environ Strategy Consultants, Inc (Environ) operates the Facility under a contract with the City.