



Los Angeles Regional Water Quality Control Board

Notice of Public Meeting Thursday and Friday, October 4-5, 2012 9:00 a.m.

Meeting Location:
**Metropolitan Water District of
Southern California (Board Room)
700 North Alameda Street
Los Angeles, California**

Agenda

The Regional Board strives to conduct an accessible, orderly, and fair meeting. During the meeting, the Chair will conduct the meeting and establish appropriate rules and time limitations for each item. The Board will only act on items designed as action items. Action items on the agenda are staff proposals, and may be modified by the Board as a result of public comment or Board member input. Additional information about Regional Board meeting procedures is included after the last agenda item.

To ensure a fair hearing and that the Regional Board Members have an opportunity to fully study and consider written material, unless stated otherwise, written materials must be provided to the Executive Officer ***not later than 5:00 p.m. on September 24, 2012. Please consult the agenda description for specific items, because certain items may have an earlier deadline for written submissions. If you are considering submitting written materials, please consult the notes at the end of the agenda. Failure to follow the required procedures may result in your materials being excluded from the hearing record; however, failure to timely submit written materials does not preclude a person from testifying before the Board.***

INTRODUCTORY ITEMS

1. **Roll Call.**
2. **Order of Agenda.** The agenda items are numbered for identification purposes only and may not necessarily be considered in this order.
3. **Approval of draft meeting minutes for the September 14, 2012 Board meeting.**
[Ronji Moffett, (213) 576-6612]
4. **Board Member Communications.**
 - 4.a. Ex Parte Disclosure. Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code section 11430.40.

- 4.b. Board Member Reports. The Board Members may discuss communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction.
5. **Executive Officer's Report.** [Samuel Unger, (213) 576-6605]
6. **Update from State Board.** [Fran Spivy-Weber, (916) 341-5607]
7. **Public Forum.** Any person may address the Board regarding any matter within the Board's jurisdiction provided the matter does not appear elsewhere on this agenda, has not been scheduled to appear on a future agenda, and is not expected to be imminently scheduled for the Board's consideration. Remarks will be limited to three (3) minutes, unless otherwise directed by the Chair. If a person intends to use a PowerPoint presentation or other visual aid, you must contact Ronji Moffett, (213) 576-6612, at the Regional Board at least 48 hours prior to the meeting to arrange for equipment use and be prepared to load any PowerPoint presentation on the computer prior to the meeting to assure the orderly conduct of the meeting. ***(This item will follow Item 8 on October 5, 2012.)***

PUBLIC HEARING

8. Public hearing on the Tentative National Pollutant Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer System (MS4) discharges within the Coastal Watersheds of Los Angeles County, with the exception of discharges originating from the City of Long Beach, NPDES No. CAS004001 (Tentative Order). During the hearing, Regional Board staff will provide an overview of the Tentative Order and a summary and response to significant comments received, and will answer any questions by the Regional Board. Parties and interested persons will have the opportunity to address the Regional Board on the Tentative Order as provided in the Notice of Opportunity for Public Comment and Notice of Public Hearing dated June 6, 2012. No new written materials may be submitted on the Tentative Order. Final Board action will not be taken on October 4th or 5th. The Board will continue the hearing and expects to consider adoption of a Revised Tentative Order in November 2012. *(Written comments were due by noon on July 23, 2012.)* [Ivar Ridgeway, (213) 620-2150]

CLOSED SESSION

9. As authorized by Government Code section 11126, the Regional Board will be meeting in closed session. Closed session items are not open to the public. Items the Board may discuss include the following: [Jennifer Fordyce (JF) (916) 324-6682; Frances McChesney (FM), (916) 341-5174; Nicole Johnson (NJ) (916) 322-4142]
- 9.1 *State Department of Finance, State Water Resources Control Board and Los Angeles Regional Water Quality Control Board v. Commission on State Mandates*, Los Angeles County Superior Court Case No. BS130730. [Challenging the Commission's decision that portions of the LA MS4 permit created unfunded state mandates]. (JF)
- 9.2 *In re: Halaco Engineering Company*, United States Bankruptcy Court Central District of California, Northern Division, No. ND-02-1255 RR [Regarding a CDO and CAO at the Oxnard Property]. (JF)

- 9.3 *In re: Los Angeles Region Water Permit – Ventura County*, Commission on State Mandate Test Claim No. 110-TC-01 [Regarding a test claim filed by Ventura County Watershed Protection District and the County of Ventura alleging that portions of Order No. R4-2010-0108 created an unfunded state mandate]. (JF)
- 9.4 *In re: Petition of City of Redondo Beach for Review of Administrative Civil Liability Order No. R4-2008-0058-M, SWRCB/OCC File A-2124* [Challenging assessment of mandatory minimum penalties for violations of Order Nos. 99-057 and R4-2005-0016]. (FM)
- 9.5 *In re: Petition of Signal Hill, Downey, et al, for Review of Order No. R4-2009-0130, SWRCB/OCC File A-2071* [Challenging the incorporation into the MS4 Permit of the Waste Load Allocations from the Los Angeles River Watershed Trash TMDL.] (JF)
- 9.6 *In re: Kinder Morgan, Inc., Chevron Corp., et al for Review of Revised Cleanup and Abatement Order No. R4-2008-0006, SWRCB/OCC File A-2085* [Challenging the revised cleanup goals in the order]. (FM)
- 9.7 *In re: Upper Santa Clara River Chloride Total Maximum Daily Load Requirements Imposed by the Los Angeles Regional Water Quality Control Board in Resolution R40-2008-0012*. Commission on State Mandates Test Claim No. 10-TC-09 [Regarding a test claim filed by the Santa Clarita Valley Sanitation District of Los Angeles County alleging that portions of Resolution R4-2008-0012 created an unfunded state mandate]. (JF)
- 9.8 *Joan C. Lavine v. State Water Resources Control Board and Los Angeles Regional Board*, Los Angeles County Superior Court Case No. BS128989 [Challenging the Basin Plan Amendment prohibiting on-site wastewater disposal systems in the Malibu Civic Center area]. (FM)
- 9.9 *Charles Conway et al. v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Ventura County Superior Court Case No. 56-2011-00399391-CU-WM-VTA [Challenging the McGrath Lake TMDL for polychlorinated biphenyls (PCBs), pesticides, and sediment toxicity]. (JF)
- 9.10 *In re: Petition of Santa Monica Baykeeper and Heal the Bay, SWRCB/OCC File A-2175* [Challenging the Memorandum of Understanding between the City of Malibu, the Los Angeles Regional Board, and the State Water Resources Control Board regarding phased implementation of the Basin Plan amendment prohibiting on-site wastewater disposal systems in the Malibu Civic Center area]. (FM)
- 9.11 *Green Acres, LLC v. Los Angeles Regional Water Quality Control Board and State Water Resources Control Board*, Los Angeles County Superior Court Case No. BS138872 [Challenging the Basin Plan Amendment prohibiting on-site wastewater disposal systems in the Malibu Civic Center area]. (FM)
- 9.12 Consultation with counsel about:
 - (a) A judicial or administrative adjudicatory proceeding that has been formally initiated to which the Regional Board is a party;
 - (b) A matter that, based on existing facts and circumstances, presents significant exposure to litigation against the Regional Board; or
 - (c) A matter which, based on existing facts and circumstances, the Regional Board is deciding whether to initiate litigation. (JF/FM/NJ)
- 9.13 Consideration of the appointment, employment, or evaluation of performance about a public employee. (JF/FM/NJ)

10. **Adjournment of current meeting.** The next meeting will be held on November 8, 2012 beginning at 9:00 a.m. Location to be determined.

**

Ex Parte Communications: An ex parte communication is a communication to a board member from any person, about a pending matter, that occurs in the absence of other parties and without notice and opportunity for them to respond. The California Government Code prohibits the board members from engaging in ex parte communications during permitting, enforcement, and other “quasi-adjudicatory” matters. The Regional Board discourages ex parte communications during rulemaking and other “quasi-legislative” proceedings. The ex parte rules are intended to provide fairness, and to ensure that the board’s decisions are transparent, based on the evidence in the administrative record, and that evidence is used only if stakeholders have had the opportunity to hear and respond to it. Ex parte rules do not prevent anyone from providing information to the water boards or requesting that the water boards take a particular action. They simply require that the information come into the record through proper channels during a duly noticed, public meeting. A board member who has engaged or been engaged in a prohibited ex parte communication will be required to publicly disclose the communication on the record and may be disqualified from participating in the proceeding. For more information, please look at the ex parte questions and answers document found at www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf

Procedures: The Regional Board follows procedures established by the State Water Resources Control Board. These procedures are established in regulations commencing with section 647 of title 23 of the California Code of Regulations. The Chair may establish specific procedures for each item, and consistent with section 648, subdivision (d) of title 23 of the California Code of Regulations may waive nonstatutory provisions of the regulations. Generally, all witnesses testifying before the Regional Board must affirm the truth of their testimony and are subject to questioning by the Board Members. The Board does not, generally, require the designation of parties, the prior identification of witnesses, or the cross examination of witnesses. Generally, speakers are allowed three minutes for comments. Any requests for an alternate hearing process, such as requesting additional time to make a presentation, should be made to the Executive Officer in advance of the meeting, and under no circumstances later than 5:00 p.m. on the Thursday preceding the Board meeting. The provisions of this paragraph shall be deemed superseded to the extent that they are contradicted by a hearing notice specific to a particular agenda item.

Written Submissions: Written materials (whether hand-delivered, mailed, e-mailed, or facsimiled) ***must be received prior to the relevant deadline*** established in the agenda and public notice for an item. If the submitted material is more than 10 pages or contains foldouts, color graphics, maps, or similar items, 12 copies must be submitted prior to the relevant deadline.

Failure to comply with requirements for written submissions is grounds for the Chair to refuse to admit the proposed written comment or exhibit into evidence. (Cal. Code Regs. tit. 23, § 648.4(e).) The Chair may refuse to admit written testimony into evidence unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would otherwise create a hardship. If any other party demonstrates prejudice resulting from admission of the written testimony, the Chair may refuse to admit it.

Administrative Record: Material presented to the Board as part of testimony that is to be made part of the record must be left with the Board. This includes photographs, slides, charts,

diagrams, etc. All Board files pertaining to the items on this Agenda are hereby made a part of the record submitted to the Regional Board by staff for its consideration prior to action on the related items.

Accessibility: Individuals requiring special accommodations or language needs should contact Dolores Renick at (213) 576-6629 or drenick@waterboards.ca.gov at least ten working days prior to the meeting. TTY/TDD Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Availability of Complete Agenda Package: A copy of the complete agenda package is available for examination at the Regional Board Office during regular working hours (8:00 a.m. to 5:00 p.m. Monday through Friday) beginning 10 days before the Board meeting. Questions about specific items on the agenda should be directed to the staff person whose name is listed with the item.

Continuance of Items: The Board will endeavor to consider all matters listed on this agenda. However, time may not allow the Board to hear all matters listed. Matters not heard at this meeting may be carried over to the next Board meeting or to a future Board meeting. Parties will be notified in writing of the rescheduling of their item. Please contact the Regional Board staff to find out about rescheduled items.

Challenging Regional Board Actions: Pursuant to Water Code section 13320, any aggrieved person may file a petition to seek review by the State Water Resources Control Board of most actions taken by the Regional Board. A petition must be filed within 30 days of the action. Petitions must be sent to State Water Resources Control Board, Office of Chief Counsel; ATTN: Phil Wyels, Assistant Chief Counsel; 1001 "I" Street, 22nd Floor; Sacramento, CA 95814.

State of California
 Environmental Protection Agency
 State Water Resources Control Board
 Los Angeles Regional Water Quality Control Board



SIGN-IN SHEET

Board Meeting
 October 4-5, 2012

Name	Mail Address	E-Mail Address or Telephone Number	Add Name to Mail List
Richard Watson	21922 VISTA Lane Mission Viejo, CA 92691 Richard Watson & Associates	r.watson@rwa-planning.com	
Joe Ballano	31200 Oak Crest Dr. Westlake Village, CA 91361	jballano@willam.com	
Lataja Cyprus	City of San Dimas	lcyprus@ci.san-dimas.ca.us	
Gerry Greene	CW E	ggreene@cwecorp.com	
Kirsken James	Heal the Bay	Kjames@healthebay.org	
Vivian Castro	CITY OF COVINA	Vcastro@covinaca.gov	
Walt Allen	CITY OF COVINA		
Frank Wu	LACRPW	fwu@dpw.lacounty.gov	



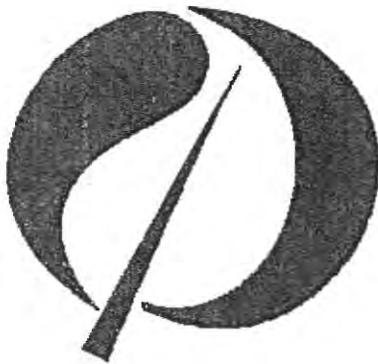
State of California
 Environmental Protection Agency
 State Water Resources Control Board
 Los Angeles Regional Water Quality Control Board

SIGN-IN SHEET

Board Meeting
 October 4-5, 2012

RB-AR17895

Name	Mail Address Company Name/Organization	E-Mail Address or Telephone Number	Add Name to Mail List
Angela George	LACDPW	ageorge@dpu.lacounty.gov	
Julie Carver	Pomona	Julie_Carver@ci.pomona.ca.us	
Danielle Soto	Pomona	Danielle_Soto@ci.pomona.ca.us	
Daryl Grigsby	Pomona	Daryl_Grigsby@ci.pomona.ca.us	
Meg McLade	Pomona	Meg-McLade@ci.pomona.ca.us	
JL Knells	La Verne	jknells@ci.la-verne.ca.us	
Heather Maloney	Monrovia	hmaloney@ci.monrovia.ca.us	✓
Laurie Lile	Monrovia	lile@ci.monrovia.ca.us	



State of California
 Environmental Protection Agency
 State Water Resources Control Board
 Los Angeles Regional Water Quality Control Board

SIGN-IN SHEET

Board Meeting
 October 4-5, 2012

RB-AR17896

Name	Mail Address Company Name/Organization	E-Mail Address or Telephone Number	Add Name to Mail List
ED SUHER	AEI-CASC / CITY OF INDUSTRY	310 - 291-1150	
CHRIS LAPAZ	INFRASTRUCTURE ENGINEERS	(714) 940-0100	
Bob Wu	robert.wu@dot.ca.gov Galtans District 7	213 8978636	
Paul Boyes	Alexander Wyndes	714 757-0883 boyes@wyndes.com	

ORDER OF PROCEEDINGS**Thursday, October 4, 2012**

1)	Opening statement by Chair, introductory items, and administration of oath to persons who intend to testify	Approx. 30 minutes	
2)	Board Staff Presentation	Approx. 1 hour	
3)	Elected Officials' Policy Statements	3 minutes maximum each	
4)	U.S. Environmental Protection Agency	Approx. 15 minutes	
5)	Designated Parties' Presentations		
	A. LA Permit Group (on behalf of 62 designated parties)	1 hour, 30 minutes maximum	
	B. Agoura Hills	5 minutes maximum	
	C. Malibu	5 minutes maximum	
	D. Monrovia	15 minutes maximum	
	E. Norwalk	15 minutes maximum	
	F. Santa Monica	10 minutes maximum	
	G. Vernon	15 minutes maximum	
	H. Westlake Village	3 minutes maximum	
	I. Ray Tahir – representing the Cities of Azusa, Baldwin Park, Carson, Cerritos, Compton, Covina, Claremont, Duarte, El Monte, Gardena, Lawndale, Irwindale, Lomita, Pico Rivera, San Dimas, San Fernando, San Gabriel, South El Monte, and West Covina	30 minutes maximum	
	J. Signal Hill	15 minutes maximum	
	K. Claremont	15 minutes maximum	
	L. Pomona	15 minutes maximum	
	M. Los Angeles County and Los Angeles County Flood Control District	1 hour, 30 minutes maximum	
	N. Heal the Bay, NRDC, and LA Waterkeeper	1 hour, 30 minutes maximum	
	O. All other parties not identified above	3 minutes maximum each	

Friday, October 5, 2012*(NOTE: Items from October 4th will continue if necessary on October 5th)*

*	Administration of oath to persons who intend to testify		
6)	Public/Interested Persons' Comments	3 minutes maximum each	
	A. Building Industry Association of Southern California and the Construction Industry Coalition on Water Quality	15 minutes maximum	
7)	Board Staff Responses to Comments and Recommendations	Approx. 1 hour	
8)	Board Questions, Comments, and Deliberations	Unlimited	

****CONTINUE HEARING AT THE END OF FRIDAY****

*To attend this tour, you must be able to board on and off a bus numerous times, walk short distances on gravel or rocky ground, and possibly climb staircases at some of the facilities (e.g., spiral staircase at Jones Pumping Plant).

*Costumes for Halloween are optional!

Required Information:

Attached are a waiver, security and meal choice forms. Please read, sign and return the enclosed waiver form and security/meal form to me or your Executive Assistant by **Friday, October 12, 2012.**

As we get closer to the tour date, additional information may be provided. If you have any questions, please let me know.

Thank you,

Jenifer L. Taylor

State Water Board

Office of Research, Planning, & Performance

Phone (916) 327-8090

jltaylor@waterboards.ca.gov

State of California
Environmental Protection Agency
Water Resources Control Board

RB-AR17899

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

absent

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: MARY STANLEY
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/05/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Susan Reyes
 Representing Self
 Representing: Senator Ed Hernandez

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

did not speak

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: ATHENA SHILEEN

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

** Cede time to Marcus Erickson*

SPEAKER REQUEST CARD

Date: 10/5/12

did not speak

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Sam Lichtman

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

RB-AR17901

Los Angeles Regional Water Quality Control Board

absent

SPEAKER REQUEST CARD

Date: 10-4-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. TMDL *J*
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: STEVEN DUNN
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

0

absent

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: WENDI WERNER
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17902

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. environmental group presentation
 I oppose Agenda Item No. _____

Name: Layla Campos

- Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Shelley Luce

- Representing Self
 Representing: Santa Monica Bay Restoration Commission

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17903

16:00 minutes
Remaining

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8 *cross-examination rebuttal of closing statement*
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: LA Permit Group
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: _____

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. _____
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. 8 *the environmental group presentation on*
 I oppose Agenda Item No. _____

Name: Ana Ahern
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

ELECTED

RB-AR17904
OFFICIAL

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: SUSAN NISSMAN

- Representing Self
 Representing: LOS ANGELES COUNTY BOARD OF SUPERVISORS

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support ^{the environmental group presentation} Agenda Item No. 8
 I oppose Agenda Item No. _____

Name: J. Antonio Carrera

- Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

RB-AR17905

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8 - during ^{time for} ^{elected} ^{officials}
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Lou La Monte - Mayor City of Malibu
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/04/2012

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8, NPDES MS4 Permit ^{10:30}
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Matt Kilroy, Council member
 Representing Self
 Representing: City of Redondo Beach

Unless exempted by the Board, comments are limited to three (3) minutes.

Elected Official
City of Redondo Beach
Not Available until
after

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/05/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. Environmental group presentation
- I oppose Agenda Item No. _____

Name: Evayn Salgado

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10-5-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. also 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. Environmental Group Presentation
- I oppose Agenda Item No. _____

Name: Nina Avetsyan

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17907

SPEAKER REQUEST CARD

Date: 10/05/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. ENVIRONMENTAL GROUP PRESENTATION
 I oppose Agenda Item No. _____

Name: FARMEN VASQUEZ
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/05/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. ENVIRONMENT GROUPS
 I oppose Agenda Item No. _____

Name: George Ruiz
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

Environmental Protection Agency

Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8

I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

the environmental group presentation
 I support Agenda Item No. _____

I oppose Agenda Item No. _____

Name: Rafael Mkrtchyan

Representing Self

Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California

Environmental Protection Agency

Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8

I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

the environmental group presentation
 I support Agenda Item No. 8

I oppose Agenda Item No. _____

Name: Isaac Castaneda

Representing Self

Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17909

SPEAKER REQUEST CARD

Date: Oct. 5th, 12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support the environmental group presentation Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Socelyn Orvotia

- Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/9/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support the environmental group presentation Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Evan C Arriaga

- Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support ~~Agenda Item No.~~ the environmental group presentation.
- I oppose Agenda Item No. _____

Name: Mercedes Ortiz

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support ~~Agenda Item No.~~ the environmental group presentation.
- I oppose Agenda Item No. _____

Name: Eveline Bravo

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. I support the environmental group participants
- I oppose Agenda Item No. _____

Name: Michael Amador

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: Oct. 5, 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. 8
- I oppose Agenda Item No. _____

Name: MATT FAIRWEATHER

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. MS4 permit, public comment
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Careen Mandelbaum
 Representing Self
 Representing: Generation Water

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Katherine Pease
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

** Cede time
to Leslie
Tamminen
Did not
speak
MM*

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

★ cede RB-AR17913

to Leslie
Tamminen
Did not
speak

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Edward Murray
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

Elected

SPEAKER REQUEST CARD

Date: 04 OCT 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: D. Montgomery Lewis
 Representing Self
 Representing: CITY OF Bradbury

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

Elected Official RB-AR17914

SPEAKER REQUEST CARD

Date: 04 Oct 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Larry Forester
 Representing Self
 Representing: City of Signal Hill

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

E

SPEAKER REQUEST CARD

Date: Oct. 4, 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Adriana Figueroa
 Representing Self
 Representing: City of Norwalk

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

EB-AR17915
City of Norwalk

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Adriana Faverca Representing
 Representing Self
 Representing: Mayor Cheri Kelley

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

ELECTED OFFICIAL

SPEAKER REQUEST CARD

Date: 10/4/15

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Walt Allen
 Representing Self
 Representing: City of Covina

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

Elected Official
RB-AR17916
CM Soto / Pomona

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: D Councilmember Danielle Soto
 Representing Self
 Representing: City of Pomona

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

ELECTED OFFICIAL
COUNCILMAN
FRANKLIN

SPEAKER REQUEST CARD

Date: 10/4/2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: RALPH FRANKLIN
 Representing Self
 Representing: CITY OF INGLEWOOD

Unless exempted by the Board, comments are limited to three (3) minutes.

* Council Member
RB-AR17917
San Dimas

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: DENIS Bertone

- Representing Self
- Representing: City of San Dimas

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Electe! Officials

Date: 10/04/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: MARK STERES

- Representing Self
- Representing: City of La Canada Flintridge

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: John Hunter
 Representing Self
 Representing: City of Downey

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

6

SPEAKER REQUEST CARD

Date: 10-4-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: John Dettle
 Representing Self
 Representing: City of Torrance

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17919
Elected Official

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: ANDREW WEISMAN, MAYOR
 Representing Self
 Representing: CULVER CITY

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10-4-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item. *ELECTED OFFICIALS*

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: FRANK SENTENO, Public Works Dir.
 Representing Self
 Representing: CITY OF HERMOSA BEACH

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Patricia Elkins
 Representing Self
 Representing: Mayor Jim Dear

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10-5-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. LA MS4
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Mark Ryaver, President
 Representing Self
 Representing: Venice Stakeholders Association

Unless exempted by the Board, comments are limited to three (3) minutes.

3 Min

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

HOWARD
GUEST

Name: GAIL FARBER, MARK PESTRELLA, GARY HILDEBRAND, TRACY EGOSQUE, MARK LOMBOS, &
 Representing Self
 Representing: County of LA and LA County Flood control District

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

Pomona L
Allotted 15 Min.

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Darby Grigsby, Public Works Director
 Representing Self
 Representing: City of Pomona

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Cameron McCollough
Jillian Brickey

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: John Hunter
 Representing Self
 Representing: City of South Gate

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

0

Date: 10-4-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Shahram Kharaghani
 Representing Self
 Representing: City of Los Angeles

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: James Ranells
 Representing Self
 Representing: the City of La Verne

Unless exempted by the Board, comments are limited to three (3) minutes.

D/E

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: Oct. 4, 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Andrew Brady
 Representing Self
 Representing: City of Monrovia, City of Norwalk

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: James Ranells
 Representing Self
 Representing: the City of La Verne

Unless exempted by the Board, comments are limited to three (3) minutes.

D/E

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: Oct 4, 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Andrew Brady
 Representing Self
 Representing: City of Monrovia, City of Norwalk

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17925 0

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8 ~~[Order Item 10]~~
 I wish to speak during Public Forum on a non-agenda item. *to the park*

for City of Manhattan Beach

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: KATHLEEN MCGOWAN

Representing Self
 Representing: CITY OF MANHATTAN BEACH

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

0

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: SHARON PERLSTEIN

Representing Self
 Representing: CITY OF WEST HOLLYWOOD

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: Oct. 5th 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Andy Lipkis

Representing Self

Representing: Tree People

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

* Approved for RV
1.5 hours

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8 LA M54
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Kirsten James, Liz Crossen, Noah Garrison, Daniel Cooper,

Representing Self Steve Fleischli

Representing: Heal the Bay, LA Waterkeeper, NRDC

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17927

SPEAKER REQUEST CARD

Date: Oct. 5, 2012

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Marcus Eriksen, PhD
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/2012

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: JERRY BURKE
 Representing Self
 Representing: CITY OF GLENDORA

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. WA Permit
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Michael Shay

- Representing Self
- Representing: City of Redondo Beach

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10-5

15 Min.

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Holly Schraeder + Mark Grey

- Representing Self
- Representing: BIA + CICWA

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/8/2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: LA Permit Group (Heather Merenda, Heather Maloney)
 Representing Self Joe Bellomo, John Dettle
 Representing: LA Permit Group

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

USEPA (4)

SPEAKER REQUEST CARD

Date: 10/4

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: John Kemmer
 Representing Self
 Representing: USEPA

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

Pre allotted 3 minutes
*Official Party
D

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Laurie Lile, City of Monrovia
Representing Self
 Representing: City of Monrovia

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

C

SPEAKER REQUEST CARD

Date: 10/4

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Jim THORSEN
Representing Self
 Representing: CITY OF MALIBU

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10.4.12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Dean Kubani

Representing Self

Representing: City of Santa Monica

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

7

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Kevin Wilson

Representing Self

Representing: City of Vernon

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 04 Oct 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Richard Watson and Steve Myrter

- Representing Self
- Representing: City of Signal Hill

Unless exempted by the Board, comments are limited to three (3) minutes.

K

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: ANDRE MONETTE

- Representing Self
- Representing: CITY OF CLAREMONT

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Chris Baca

Representing Self

Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. 8
the environmental group presentation on
- I oppose Agenda Item No. _____

Name: Bobby Feingold

Representing Self

Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10.6

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: MELANIE WINTER

Representing Self

Representing: THE RIVER PROJECT

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Anne Bergman

Representing Self

Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17935

after
12
lunch

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Gerald Greene

- Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10-5-12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. LAMS4 permit #8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Ann Heil

- Representing Self
 Representing: LA County Sanitation Districts

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

RB-AR17936

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Andy Shrader
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. the environmental presentation
 I oppose Agenda Item No. _____

Name: Lisa Ikeda
 Representing Self
 Representing: The Children's Nature Institute

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Elroy Kiepke
 Representing Self
 Representing: Rosemead, Paramount & La Canada Flintridge

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
 Environmental Protection Agency
 Water Resources Control Board
 Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: MEREDITH MCCARTHY
 Representing Self
 Representing: Ron Batherff - Friends of the Santa Clara River

*She spoke
~~but is absent~~*

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. _____
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Kimberly Colbert
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8 LA R84 Hearings
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Tatiana K. Gaur
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17939

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: MERRILL BARR
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Stephen Mejia-Carranza
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/2022

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8 MS4
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Joyce Dillard
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/18

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Kelly Zhao
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 5 Oct 2012

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Sandy Shimooka

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: Ann Shabtay

- Representing Self
- Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

RB-AR17942

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Cara Young

Representing Self

Representing:

Center for Biological Diversity
- on behalf of Ileene Anderson

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

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SPEAKER REQUEST CARD

Date: 10/6/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. MS4
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Carner Everts

Representing Self

Representing:

southern californiawatershed alliance

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: VAIKKO ALLEN
 Representing Self
 Representing: CONTECH

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10-5

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
- I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
- I oppose Agenda Item No. _____

Name: KEN KURTIS
 Representing Self
 Representing: REEF SEEKERS DIVE CO.

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board

RB-AR17944

Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/4/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. _____

I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____

I oppose Agenda Item No. _____

Name: Gerhardt Hubner

Representing Self

Representing: Ventura County Stormwater Program
+ Ventura County Watershed Protection District

Unless exempted by the Board, comments are limited to three (3) minutes.

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

SPEAKER REQUEST CARD

Date: 10/05/12

I wish to speak during the Board Meeting:

I wish to speak on Agenda Item No. 8 MSA

I wish to speak during Public Forum on a ~~non-agenda~~ item.

I do not wish to speak but I do want to express the following position:

I support Agenda Item No. _____

I oppose Agenda Item No. _____

Name: LESUE TAMMINKEN

Representing Self

Representing: SEVENTH GENERATION
ADVISORS (NGO)

Unless exempted by the Board, comments are limited to three (3) minutes.

combined
time
~ 8 minutes

State of California
Environmental Protection Agency
Water Resources Control Board
Los Angeles Regional Water Quality Control Board

★ Cede RB-AR17945
time to
Marcus
Erickson

SPEAKER REQUEST CARD

Date: 10/5/12

I wish to speak during the Board Meeting:

- I wish to speak on Agenda Item No. 8
 I wish to speak during Public Forum on a non-agenda item.

I do not wish to speak but I do want to express the following position:

- I support Agenda Item No. _____
 I oppose Agenda Item No. _____

Name: Nancy Smodes
 Representing Self
 Representing: _____

Unless exempted by the Board, comments are limited to three (3) minutes.

Students from APEX highschool
need to leave at 11:30am.
Can a few students speak on behalf
of the group?

students:

Nina
Karmen
Juan
Rafael

teacher: Ralph Gomez

**NPDES Permit for MS4 Discharges within the
Coastal Watersheds of Los Angeles County,
with the exception of Long Beach**

Public Hearing
LA Regional Water Quality Control Board
October 4-5, 2012

Themes of New Permit

- Desired water quality outcomes drive programs
- Greater accountability; options for demonstrating compliance
 - Numeric limitations & compliance schedules
 - Action levels
- Flexibility, while ensuring baseline level of implementation
 - Opportunities to customize - Watershed Management Program, monitoring, minimum control measures
 - Opportunities to work individually or collaboratively

Permit Structure

- Single permit for 84 cities, LA County & LACFCD
- Considerations:
 - CWA § 402(p)(3)(B)(i) & 40 CFR § 122.26(a)(1)
 - Highly interconnected system across jurisdictional boundaries
 - Frequently commingled discharges to receiving waters
 - MS4 infrastructure largely owned by LACFCD
 - Watershed based TMDLs
 - Permittee input; opportunities for collaboration
- Provides:
 - Equitability
 - Flexibility
 - Cost Efficiency

Permit Components

- Non-stormwater Discharge Prohibition
- Core Storm Water Management Program/Minimum Control Measures
- TMDL Provisions
- Receiving Water Limitations
- Monitoring and Reporting Requirements
- Watershed Management Program

Effective Prohibition on Non-Storm Water Discharges

- CWA § 402(p)(3)(B)(ii) - Effectively prohibit non-storm water discharges
- 40 CFR §§ 122.26(d)(2)(i), (iv)(B) - Requirements for legal authority to control & implementation of illicit discharge detection and elimination program
- Permit provisions:
 - Part III.A – Non-storm water discharge prohibition, some authorized and conditionally exempt discharges
 - Attachment E – Part IX – Non-storm water outfall based screening and monitoring
 - Part VI.D - Provisions to implement IDDE program & public information and participation program

Non-Storm Water Discharges

Areas of Enhancement

- Refined list of authorized and conditionally exempt non-storm water discharges
 - Addition of more specific conditions/BMPs for conditionally exempted discharges
 - New categories – “conditionally exempt essential” discharges & temporary discharges authorized by USEPA
- Provisions to address compliance concerns regarding “conditionally exempt essential” discharges and temporary discharges pursuant to sections 104(a) or 104(b) of CERCLA
- More explicit procedures for screening and evaluating non-storm water discharges and taking action if they are a source of pollutants

Storm Water Management Program: Minimum Control Measures

- 40 CFR §122.26(d)(2)(iv)
- Industrial / Commercial Program
- Development Construction Program
- Illicit Discharge Detection / Elimination Program
- Public Agency Activities Program
- New Development/Redevelopment Program
- Public Information and Participation Program

Minimum Control Measure Industrial/Commercial Control Program

- Key Objective: Ensure the implementation of BMPs at industrial/commercial facilities to reduce the contribution of pollutants to the MS4 from industrial/commercial activities.
- Key Requirements
 - Watershed-based database of all industrial and commercial facilities
 - 2 Inspections of all designated industrial/commercial facilities within 5 years
 - Ensure BMP implementation (e.g. CASQA manual)
 - Coordination between State and local Agencies
- No significant revisions anticipated

Minimum Control Measure

Development Construction Program

- Key Objective: Ensure the implementation of BMPs at construction sites to reduce the contribution of pollutants to the MS4 from construction activities.
- Key Requirements
 - Inventory of grading permits, encroachment permits, demolition permits, building permits, or construction permits
 - Development, review and written approval of a Erosion and Sediment Control Plan (ESCP)
 - BMP implementation (per CASQA or Caltrans manual)
 - Tiered Requirements
 - Substitution of State SWPPP (GCASP) for Erosion and Sediment Control Plan

Minimum Control Measure Development Construction Program

- No significant revisions anticipated

Minimum Control Measure Illicit Discharge Detection / Elimination

- Key Objective: Effectively prohibit non-storm water discharges to the MS₄
- Key Requirements
 - Source investigations for IC/IDs
 - Procedures for eliminating for IC/IDs
- No significant revisions anticipated

Minimum Control Measure Public Agency Activities Program

- Key Objective: Minimize storm water pollution impacts from Permittee owned or operated facilities and activities
- Key Requirements
 - Maintain an inventory and map of all Permittee-owned or operated facilities.
 - Implement activity specific BMPs (such as catch basin cleaning, open channel maintenance, street sweeping, and appropriate pesticide application)
 - Training of employees and contractors
 - Inventory of areas of existing development for retrofit opportunities
- No significant revisions anticipated

Minimum Control Measure

New Development and Redevelopment

- Key Objective: Minimize the impacts of development and significant re-development projects on water quality and hydrology
- Key Requirements
 - On-site retention of the storm water runoff volume resulting from the 85th percentile, 24-hour storm or the 0.75 inch 24-hour storm, whichever is greater.
 - Off-site mitigation required where on-site retention is technically infeasible.
 - Development of a prioritized list of off-site mitigation projects
 - Offsite Alternatives
 - Retrofit Incentive
 - Groundwater Replenishment

Minimum Control Measure New Development and Redevelopment

- Local LID Equivalence

Minimum Control Measure

New Development and Redevelopment

- Hydromodification (sites < 50 acres)
- Applies to “Natural Drainage Areas”
- Requirements
 - On-site retention of the volume of runoff from the 95th percentile, 24-hour storm, or
 - BMP implementation to ensure the runoff flow rate, volume, velocity, and duration for the post-development condition do not exceed the pre-development condition for the 2-year, 24-hour rainfall event.
 - The Erosion Potential (E_p) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study

Minimum Control Measure

New Development and Redevelopment

- Hydromodification (sites > 50 acres)
- Applies to “Natural Drainage Areas”
- Requirements
 - On-site project infiltration of at least the runoff from a 2-year, 24-hour storm event, or
 - BMP implementation to ensure the runoff flow rate, volume, velocity, and duration for the post-development condition do not exceed the pre-development condition for the 2-year, 24-hour rainfall event. These conditions must be substantiated by hydrologic modeling acceptable to the Permittee, or
 - The Erosion Potential (E_p) in the receiving water channel <1

Minimum Control Measure New Development and Redevelopment

- Significant revisions anticipated
 - Regional Groundwater Replenishment Section Created
 - 2009 Los Angeles County LID Manual Hydromodification Requirements Added as an Additional Alternative
 - Flexibility to Use Updated Erosion Potential Equations
 - Technical Infeasibility Infiltration Criteria Revised from 0.15" to 0.3"

Minimum Control Measure

Public Information and Participation Program

- Key Objective: To measurably increase the knowledge of the target audience about the adverse impacts of storm water pollution and change the waste disposal and storm water pollution generation behavior of target audiences
- Key Requirements
 - Watershed-wide reporting hotline
 - Storm water pollution prevention advertising campaign
 - Distribution of outreach materials
 - Conduct storm water pollution prevention public service announcements
 - Provide schools within each school district in the watershed storm water pollution prevention materials

Minimum Control Measures

LACFCD Section

- Applicable minimum control measures
 - Illicit Discharge Detection / Elimination Program
 - Public Agency Activities Program
 - Development Construction requirements for LACFCD facilities
 - New / Redevelopment requirements for LACFCD facilities
 - Public Information and Participation Program

Total Maximum Daily Load (TMDL) Provisions

- CWA §402(p)(3)(B)(iii) – Provisions appropriate for the control of pollutants
- 40 CFR § 122.44(d)(1)(vii)(B) – Effluent limitations consistent with assumptions and requirements of any available TMDL wasteload allocation
- Permit Provisions:
 - Numeric interim & final water quality based effluent limitations and receiving water limitations
 - Alternative means to demonstrate compliance with numeric limitations
 - Compliance deadlines according to TMDL implementation schedule
 - Compliance monitoring requirements consistent with TMDL monitoring requirements and approved monitoring plans
 - Reporting requirements

TMDL Provisions

- Requirements to implement 33 TMDLs
 - General provisions, including language regarding compliance demonstration
- Matrices identifying individual Permittees subject to each TMDL
- Attachment for each Watershed Management Area
 - Numeric water quality based effluent limitations established to implement each TMDL WLA
 - Specific receiving water limitations included, where consistent with WLAs (e.g. exceedance days for bacteria TMDLs)
- Monitoring and reporting requirements

TMDL Provisions

- Permit includes numeric water quality based effluent limitations (WQBELs) to implement available WLAs
 - Insufficient information to fully specify BMP based requirements at the present time, with reasonable assurance that such requirements are sufficient to implement WLAs
 - Numeric WQBELs are feasible to calculate
- Permits provides alternative means of demonstrating compliance

Methods for Demonstrating Compliance

- If any of the following is demonstrated, Permittee is considered in compliance with WQBELs and receiving water limitations for the pollutant:
 - Numeric effluent limitations attained at MS4 outfall
 - Receiving water limitations attained downstream of outfall
 - No discharge from MS4
 - BMPs and other actions implemented in accordance with an approved Watershed Management Program (Compliance pathway for interim WQBELs only)

TMDL Provisions

Compliance Schedules

- Equal to State-adopted TMDL implementation schedules
- Approach to EPA-established TMDLs without an implementation plan
 - Watershed Management Program with time schedule for actions, or
 - Demonstrate compliance with WLAs immediately based on monitoring data
- Approach to final compliance deadlines that have passed
 - If anticipated immediate non-compliance, Permittees may request Time Schedule Order (TSO)
 - Justification including actions taken to date, status of attainment, planned actions and schedule to achieve TMDL deadlines as soon as possible
 - Board consideration of TSO or other appropriate orders

Receiving Water Limitations (RWLs)

- CWA § 402(p)(3)(B)(iii) & 40 CFR § 122.44(d)(1)(i) – Requires permit conditions necessary to achieve water quality standards
- RWLs = Applicable water quality standards
- Permit Provisions:
 - Ensure that discharges from the MS₄ do not cause or contribute to exceedances of applicable WQS; protect beneficial uses
 - Language based on State Water Board precedential order, Order WQ 99-05; same as 2001 Permit and 2010 Ventura MS₄ Permit

Receiving Water Limitations (RWL)

- Relationship to TMDL provisions - Achieve compliance with RWLs for specific water body-pollutant combinations as outlined in TMDL provisions, pursuant to applicable compliance schedules
- Considerations regarding water body-pollutant combinations not addressed by a TMDL

Monitoring and Reporting

- 40 CFR §§ 122.26(d)(2)(iii)(D), 122.41(h), 122.42(c) – Requires monitoring program for representative data collection, and reporting
- Five Primary Objectives
 - Assess impacts of MS4 discharges on receiving waters.
 - Assess compliance with receiving water limitations and WQBELs established to implement TMDL WLAs
 - Characterize pollutant loads in MS4 discharges
 - Identify sources of pollutants in MS4 discharges
 - Measure and improve the effectiveness of pollutant controls implemented under the permit

Monitoring and Reporting

- Elements
 - Receiving water monitoring (wet and dry weather)
 - Outfall monitoring (storm water and non-storm water)
 - Regional studies (bioassessment, pyrethroid insecticides, TMDL special studies)
 - New and Re-development LID tracking
- Approaches
 - Individual or Coordinated Monitoring Program
 - Baseline requirements, including required TMDL monitoring

Monitoring and Reporting

- Comments regarding:
 - Addition of outfall monitoring, resulting in overall increase in monitoring requirements
 - Allowance for customization of monitoring requirements through Watershed Management Program
- Staff recommendations in response to comments:
 - Permittees may submit for approval a customized monitoring program that achieves the five primary objectives and includes the four elements in conjunction with a Watershed Management Program

Economic Considerations

Cost Considerations of Tentative Order

- New / Redevelopment Provisions (LID)
- Hydromodification
- TMDLs
- Monitoring and Reporting

- Watershed Management Program

Key Points

- Regional Board adopted TMDLs
- The nature of storm water and urban runoff management
- Program cost variability
- Inconsistent reporting

Annual Reporting

- Self reported costs of implementing the six MCMs
- Also included costs associated with program management, management programs and other
- Wide variation:
 - Average annual cost to the Permittees: \$4,090,876
Median cost of \$687,633
 - Average annual cost per household: \$120.04
Median cost of \$57.31 per household

Actual costs vs. Reported

- Not all costs reported can be solely attributable to compliance with the requirements of the LA County MS4 Permit
- Storm drain maintenance, street sweeping and trash/litter collection costs
- Adjusted average annual costs to Permittees: \$2,397,315
Median annual cost: \$290,000
- Average annual cost per household: \$42.57
(\$3.55/month)
Median annual cost: \$17.89

State Board Funded Study

- Surveyed the costs to develop, implement, maintain and monitor MS4 and control programs
- The results found that the annual total cost per household ranged from \$18 - \$46
- Study was also examined and applied to the Ventura County MS4 Permit
- Found an annual cost per household that ranged from \$27.60 to \$42.00 in 2008 dollars

State Board Study Cont.

- Found data quality issues
- Implementation costs include activities that provide separate and additional municipal benefits
- Non-uniformity among reporting
- Cost Categories – Other - represented as 76% of total cost

Benefits

- The costs associated with storm water management creates many benefits

- USC/UCLA study

Nonstructural Costs: \$2.8 billion

Nonstructural Benefits: \$5.6 billion

Structural Costs: \$5.7 – 7.4 billion

Structural Benefits: \$18 billion

Willingness to pay

- USEPA Study : \$158 – \$210.62 per household per year for improvements in fresh water quality for fishing and boating
- The State Water Board study: \$180.63 per household per year for statewide clean water
- Beaches

Funding Sources

Source of Money	Dollars	% of total costs funded by State (only for those projects which included State funding)
Only State Board-awarded funding (Propositions 12, 13, 40, 50, and 84; and federal money, 319h, 205j, ARRA)	\$49,143,132	47%
Only State money from any State agency (propositions only, no federal); includes State Board, DWR, Coastal Conservancy, Fish & Game	\$67,461,699	58%
Total costs (approx.) for projects involving State money	\$114,703,731	N/A
Prop A	\$4,981,772	N/A
Prop O	\$508,678,258	N/A
Measure V	\$9,107,959	N/A
Total Public Funds (federal, State, local bonds and measures) expended on stormwater control projects	\$645,389,932	N/A (information not available for projects funded by local bonds and measures)

Future Funding Sources

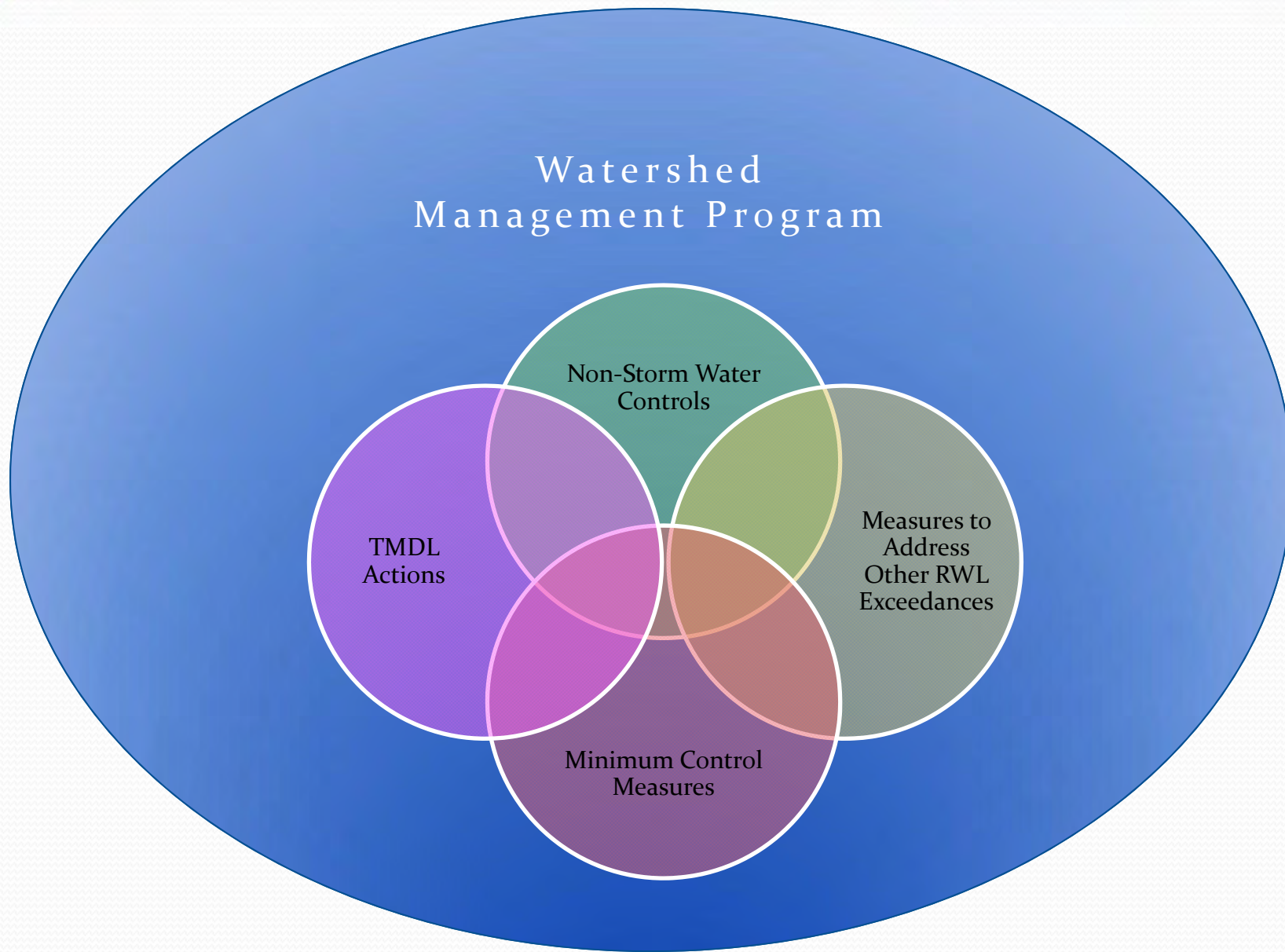
- AB 2554 – Los Angeles County Flood Control District's Water Quality Initiative
- Could create an estimated annual revenue of \$300M for various storm water projects
- 40% to municipalities
- 50% to 9 Watershed Authority Groups
- 10% to LACFCD

Conclusions

- Estimating the costs of storm water management is difficult
- Not all costs reported are representative
- Benefits outweigh the costs
- Household willingness to pay for water quality improvement exceeds estimated household costs
- Current funding is available to help offset costs
- Future funding options could also be created

Watershed Management Programs (WMPs)

- Organizing framework for permit provisions
- Water quality priorities are driver
 - TMDL requirements
 - Section 303(d) listed water quality impairments
- Allows flexibility to customize some core permit requirements/sequence implementation actions to achieve equal or greater pollutant control, meet TMDL compliance deadlines, and address exceedances of RWLs



Scope of WMPs

- Seven Watershed Management Areas
 - Further subdivision based on subwatersheds, e.g. WQFI subwatersheds
- Individual vs. Group programs
 - Encourage cooperative programs among all Permittees within WMA
 - Permittees may participate in more than one WMP
 - An individual Permittee may develop its own WMP for each WMA within its jurisdiction

Watershed Management Areas in Los Angeles County



WMP Elements

Identify Watershed Priorities

- Water quality characterization
- Waterbody-pollutant classification
- Source assessment
- Prioritization

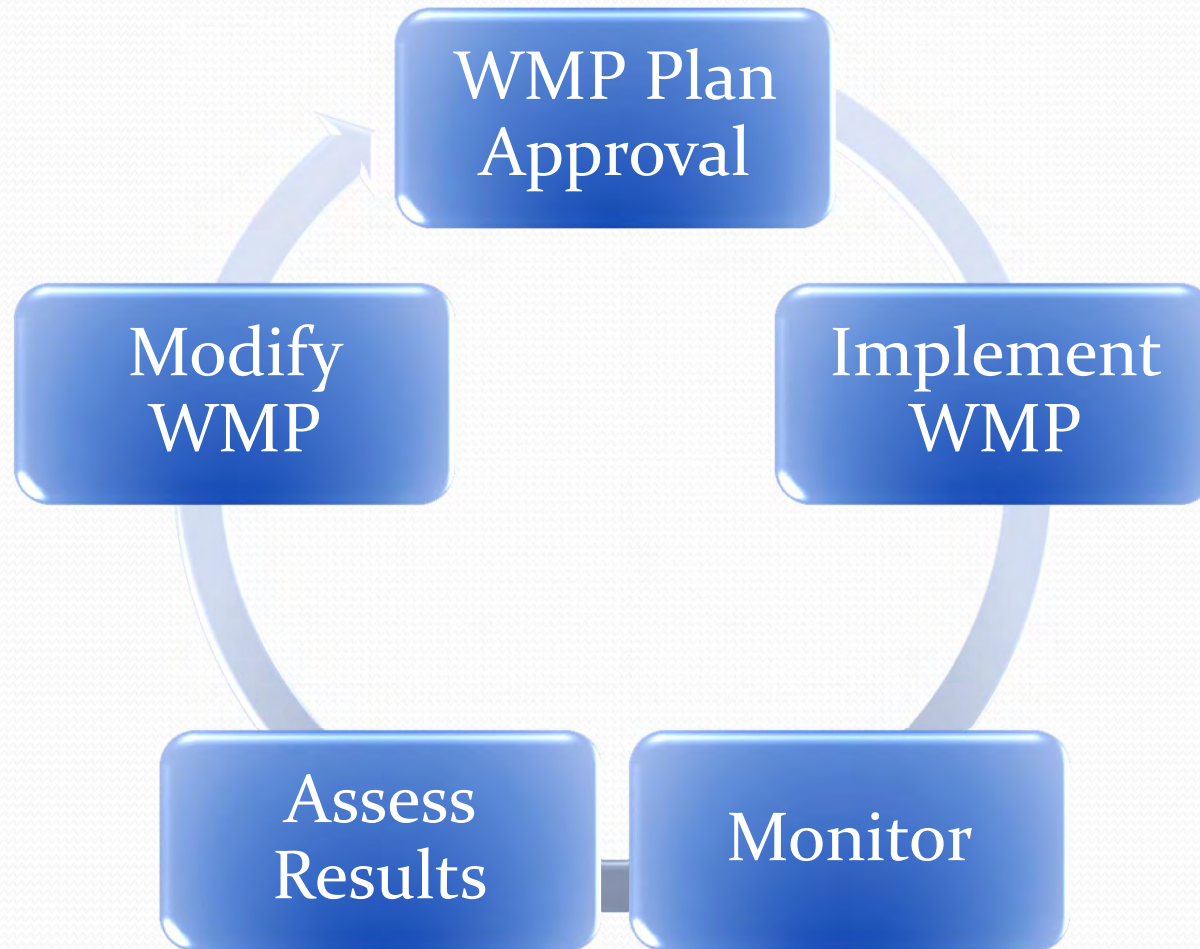
Select Watershed Control Measures

- Customize Minimum Control Measures
- Target non-storm water discharge controls
- Compile TMDL implementation actions from Implementation Plans
- Identify individual Permittee responsibilities

Conduct Reasonable Assurance Analysis

- Quantitative analysis/modeling of control measures
- Focus on deadlines within permit term and progress toward achieving final WQBELs
- Documentation of legal authority to implement selected control measures

Implementation Cycle



WMP Timeline

Part	Provision	Due Date
VI.C.2.b	Notify Regional Water Board of intent to develop Watershed Management Program	6 months after Order adoption
VI.C.2.b	Submit draft plan to Executive Officer	1 year after Order adoption
VI.C.2.c	Submit final plan to Executive Officer	3 months after receipt of Regional Water Board comments on draft plan
VI.C.4	Begin implementation of Watershed Management Program	Upon submittal of final plan
VI.C.6.a.ii	First evaluation of Watershed Management Program and submittal of revisions to plan	1½ years after submittal of final plan
VI.C.6.a.ii	Second evaluation of Watershed Management Program and submittal of revisions to plan	180 days prior to expiration date of Order

Reasonable Assurance Analysis

- Address all effluent and/or receiving water limitations assigned to the Permittee(s) pursuant to established TMDLs
- Identify BMPs and other actions or programs to achieve limitations
- Demonstrate through quantitative analysis/modeling that Watershed Control Measures in WMP have reasonable assurance of achieving limitations

Monitoring and Evaluation Requirements

- Comprehensive reporting on BMPs/actions implemented, including their performance
- Ongoing model validation based on monitoring data
- Determination regarding whether suite of BMPs/actions continues to provide reasonable assurance that limitations will be met

WMP Compliance Determination

- Permittee is implementing all elements of approved WMP in accordance with approved schedule
- BMPs properly sized and operated/maintained
- Modifications to WMP are submitted upon determination that interim milestones may not be/have not been met
- Approved modification are implemented per schedule
- If milestones are not met, compliance determination based on numeric effluent limitations and/or receiving water limitations

Significant Issues of Concern/ Comments

- Timing for submittal of WMPs and monitoring programs
- Flexibility to customize monitoring requirements
- Compliance with final numeric water quality based effluent limitations

Significant Issues of Concern/ Comments

- Opportunity to implement alternate multi-benefit watershed programs/longer planning horizon
 - Integrated program that focuses on addressing non-storm water and storm water through the implementation of multi-benefit regional projects that include
 - Storm water infiltration for ground water replenishment
 - Storm water capture and storage for beneficial use
 - Other BMPs and processes to prevent or reduce pollutants from reaching or impacting receiving waters, while achieving water supply and other environmental benefits

Receiving Water Limitations, Non-TMDL Waters and the WMP

303(d) listed Pollutants in same “class” as those in existing TMDL

- Demonstrate that Watershed Control Measures to achieve TMDL provisions will adequately address pollutant, using the same interim and final requirements and deadlines as in the TMDL
- Pollutant would be included in the reasonable assurance analysis

303(d) listed Pollutants in different “class” from those in existing TMDL

- Identify Watershed Control Measures to adequately address MS4 contributions of pollutant
- Include water body-pollutant combination in reasonable assurance analysis
- Establish enforceable numeric milestones and deadlines to address MS4 contributions of pollutant

Receiving Water Limitations, Non-TMDL Waters and the WMP

- Pollutants for which there are exceedances of RWLs, but that are not 303(d) listed as impaired
 - Assess pollutant contributions from MS₄ discharges/sources of pollutants in MS₄ discharges based on data collected pursuant to MRP
 - Identify Watershed Control Measures to address MS₄ pollutant contributions during adaptive management process for WMP
 - Included in updated reasonable assurance analysis
 - Establish enforceable milestones and deadlines

Themes of New Permit

- Desired water quality outcomes drive programs
- Greater accountability; options for demonstrating compliance
 - Numeric limitations & compliance schedules
 - Action levels
- Flexibility, while ensuring baseline level of implementation
 - Opportunities to customize - Watershed Management Program, monitoring, minimum control measures
 - Opportunities to work individually or collaboratively

Comments on the Development of the Greater LA County MS4 NPDES Permit NPDES No. CAS004001

October 4, 2012

Los Angeles Regional Water Quality Control Board
Public Hearing

LA PERMIT GROUP

*A collaborative effort to negotiate the
Los Angeles County MS4 NPDES Permit*

Presenter Panel

Heather Maloney, City of Monrovia

John Dettle, City of Torrance

Joe Bellomo, City of Westlake Village & Agoura Hills

Heather Merenda, City of Santa Clarita

Lauren Langer, Jenkins & Hogen, LLP

Brian Currier, P.E

Ashli Cooper-Desai, Larry Walker Associates

Mitch Mysliwicz, Larry Walker Associates

LA Permit Group

62 Voting Agencies

- * Agoura Hills
- * Alhambra
- * Arcadia
- * Artesia
- * Azusa
- * Baldwin Park
- * Bell
- * Bell Gardens
- * Bellflower
- * Beverly Hills
- * Bradbury
- * Burbank
- * Calabasas
- * Carson
- * Claremont
- * Commerce
- * Covina
- * Culver City
- * Diamond Bar
- * Duarte
- * El Monte
- * Gardena
- * Glendale
- * Glendora
- * Hawthorne
- * Hermosa Beach
- * Hidden Hills
- * Huntington Park
- * Industry
- * Inglewood
- * La Verne
- * Lakewood
- * Lawndale
- * Los Angeles
- * Lynnwood
- * Malibu
- * Manhattan Beach
- * Monrovia
- * Montebello
- * Monterey Park
- * Paramount
- * Pasadena
- * Pico Rivera
- * Pomona
- * Redondo Beach
- * Rolling Hills
- * Rolling Hills Estates
- * Rosemead
- * San Dimas
- * San Gabriel
- * San Marino
- * Santa Clarita
- * Santa Fe Springs
- * Santa Monica
- * Sierra Madre
- * South El Monte
- * South Gate
- * Torrance
- * Vernon
- * West Covina
- * West Hollywood
- * Westlake Village

“Implementation must not be conceived as a process that takes place after, independent of, the design of policy... programs must be design by gearing programs more directly to the demands of executing them”

- Jeffrey L. Pressman and Aaron Wildavsky

Fiscal Resources

- * Limited control to increase stormwater fees (Prop 218)
- * Cost of cumulative regulations EO 13563)
- * Balance Health, Safety, Quality of Life, regulatory requirements and clean water



Permit Development Timeline

- * Review time too compressed
- * Several significant issues still remain
- * Need the ability to see response to comments & Revised Tentative

Permit Development Timeline

- * Following this meeting, release an Administrative Working Draft of the permit.
- * 90 days after the release of the Administrative Working Draft, release a Revised Tentative Order.
- * A least 60 days following the release of the Revised Tentative, schedule Adoption Hearing.
- * Permit Effectiveness date of July 1, 2013.

Paradigm Shift



Key Issues

- * Timeframes allowed for Watershed Management Program and Integrated Watershed Monitoring Plan Development are too short Technical and liability Issues with MCM's and NSD
- * Receiving Water Limitations Language needs to be revised
- * Final TMDL WLA should be BMP Based
- * Response to comments not received to date

Monitoring

Monitoring

- * Receiving Water monitoring should be consistent with SWAMP protocols including the requirement that ambient monitoring be conducted two days following a storm event.

Monitoring

- * **Non-stormwater monitoring should be to help identify illicit discharges and not for assessing the multitude of objectives noted in the MRP**
- * Focus should be on tracking discharges “into” the MS4 and not on discharges from the MS4 that could cause exceedances of water quality standards.

Monitoring

- * Regional Studies should be conducted by the Regional Board, with a mechanism for Permittees to participate in the studies.
- * Toxicity monitoring should be limited to the receiving water only to first determine where this expensive outfall monitoring is required.

Monitoring

- * 12 months to prepare Coordinated Integrated Monitoring Plans (CIMP) is not sufficient.
- * **It takes at least 12 months to process a Memorandum of Agreement to participate in a CIMP, another 12 months to prepare the CIMP and 9 months to solicit proposals, award and permit monitoring contracts.**

Watershed Management Program

Watershed Management Program

- * Overall the LA Permit Group supports the Regional Board's proposed approach to address high priority water quality issues by the development and implementation of a watershed management plan
- * The working proposal supports flexibility by providing sufficient detail to guide the development of the watershed plan without being overly prescriptive.

Watershed Management Program

- * The monitoring program should be directly integrated into the Watershed Management Program to provide guidance for BMP placement, design and evaluation.
- * The Watershed Management Program should include options for multi-benefit and/or streambed restoration projects that provide more rigorous ecosystem health but may not ultimately attain TMDLs.



Watershed Management Program

- * Adequate time is not provided for the development of the Watershed Management Programs.
- * Plans need be based on monitoring data to provide reasonable assurance required by the Permit.
- * **It takes at least 12 months to process a Memorandum of Agreement and another 24 months to prepare the computer model and report.**
- * This schedule is coordinated with CIMP because it provides at least one season of monitoring data to calibrate the computer model.

Watershed Management Program

- * Clarify compliance during the interim period while developing Watershed Management Program
 - *Permittees shall continue implementing existing Stormwater Quality Management Plan
 - *Permittees shall continue existing TMDL implementation plans
 - *Permittees shall continue existing TMDL monitoring plans

- * Streamlined Reporting and Assessments
 - *Projects take up to 5 years to fund and complete
 - *Many seasons of rain data are needed to assess BMP effectiveness
 - *Recommend annual progress reporting with watershed assessment every 5 years.

Watershed Management Program

- * A technical and financial feasibility analysis for complying with water quality standards must be included in the Watershed Management Program
 - * If WMP shows it is not technically feasible or cost prohibitive to comply with Final Waste Load Allocations, then Board needs to address these limitations with Permittees.

- * Clarification should be added to acknowledge some pollutant sources are outside the Permittees' authority or control
 - * Natural sources, permitted sources and upstream contributions are all beyond Permittees authority to control.

Minimum Control Measures

Part VI.D.

Storm Water Management Program Minimum Control Measures (MCMs)

Joe Bellomo

Reporting and CORE Programs

Part VI.D. (MCMs)

Criteria

Establish criteria that will be used to support any customization of Part VI.D. (Minimum Control Measures)

Clarification

adaptive management approach = iterative approach

Part VI.D. (MCMs)

Timeline for Implementation

The Draft Order does not provide adequate and reasonable timelines for the start-up and implementation of the MCM requirements.

We request that the Permit allow a 12 month time schedule to transition from our current efforts to the new and enhanced MCMs requirements.

Part VI.D. (MCMs)

Shifting of State Responsibility to the MS4

Those elements that shift State responsibility should be eliminated and the MCMs should be coordinated with other state and federal requirements, with particular attention to NSWDP, GCASP and General Industrial Activities Permit requirements.

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

1. Storm design criteria
2. Alternative compliance option offsite mitigation
3. Treatment control performance benchmarks
4. Hydromodification
5. BMP specificity and guidance
6. BMP tracking and inspection

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

1. **Storm Design Criteria**

We recommend that the Tentative Order be modified to specify that the two criteria are equivalent.

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

2. Alternative Compliance Option for Offsite Mitigation

We would recommend that the developer be required to remove only the pollutant loads that would have been removed at the project site, and if the mitigation site cannot meet that load reduction then the developer can implement treatment controls at the project site for the remaining differential.

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

3. Treatment Control Performance Benchmarks

We recommend that provision VI.D.6.c.iv.(1)(a) (page 74) be modified so that the selection of post construction BMPs is consistent with the Ventura Permit and is based on the development site's pollutant(s) of concern and the corresponding top performing BMP(s) that can meet the Table 11 benchmarks.

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

4. Hydromodification

We believe it more constructive to keep with the previously developed hydromodification criteria and not revised it for the interim until the final criteria can be developed by the State.

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

5. **BMP Specificity and Guidance**

We recommend that Attachment H be removed and a provision be established that establishes a collaborative approach to promote a technical guidance manual that would include the design specifications for bioretention/biofiltration.

Part VI.D. (MCMs)

NEW DEVELOPMENT PROGRAMS – AREAS OF CONCERN

6. BMP Tracking and Inspection

We recommend that the tracking and inspection of post construction BMPs be limited to only the conventional BMPs (e.g. detention basins, wetlands, etc.); alternatively require the MS4 to spot check a limited number of LID measures to ascertain how well they are operating.

Minimum Control Measures

- Major Theme of Comments

- * **Provide the requirement, allow the Permittee the flexibility to implement**
- * **Provide the time necessary to comply with the requirements**
 - Some requirements affect agency budgeting processes, contracting agreements, and stakeholder involvement
- * **Requirements should be based on a clear nexus to water quality benefits**
- * **Consider the cost to comply**

Receiving Water Limitations

Receiving Water Limitation

- * Revise the Receiving Water Limitation language
 - * Add a reopener to revise when SWRCB comes to terms
- * Postpone Permit adoption for 6 months to
 - * Consider RWL changes at the SWRCB
 - * Fully develop alternative proposals

Receiving Water Limitations

- * SWRCB Order WQ 2001-15: RWL provision did not require strict compliance with standards
- * 2011 Ninth Circuit Appellate Court found the RWL does require strict compliance
- * Currently proposed RWL provision is same as in the 2001 Permit
- * Strict compliance is not possible as we will demonstrate

Receiving Water Limitations

- * RWL describes how compliance with standards will be determined
- * Current approach is 90 percent there
- * Remaining 10 percent is critical and must be addressed
- * SWRCB workshop scheduled for November 20, 2012

Receiving Water Limitations

- * Draft Permit allows compliance with RWL through TMDL process
- “ A Permittee shall not be considered in violation of Part V.A of this Order for the specific pollutants addressed in the TMDL, if it is in compliance with the applicable TMDL requirement(s), including compliance schedules, or this Part VI.E and Attachments L through R.” (Part VI.E.2.c.ii)
- * Only applies to pollutants that have TMDLs

Receiving Water Limitations

- * Some pollutants found in receiving waters currently do not have TMDLs
- * Examples:
 - * Fecal Coliform and Ammonia in Dominguez Channel
 - * Cyanide in Los Angeles River
 - * pH in Ballona Creek, Los Angeles River, and Dominguez Channel, and Malibu Creek

Receiving Water Limitations

- * Permittees cannot comply immediately; need time to:
 - * Find sources
 - * Develop strategy
 - * Design and implement control measures
- * Current RWL would require strict compliance immediately
- * If unchanged you will issue a permit with which permittees cannot comply

Receiving Water Limitations

- * RWL should support the adaptive management approach discussed in the Watershed Management Plans
 - * Currently RWL conflicts with Watershed Planning
 - * Proposed language exposes the municipalities to enforcement action (and third party law suits) **even when** the municipality is engaged in an adaptive management approach to address the exceedance
 - * This is counterproductive as cities now have no choice but to shift resources to manage for liability rather than focusing on researching sources of pollutants

Receiving Water Limitations

- * Adapt CASQA Approach
 - * Submitted to the SWRCB on February 21, 2012
- * Modified Adaptive Management
 - * Address TMDLs and non-TMDL pollutants through the Adaptive Management Process
 - * Revise watershed management plans to prioritize and address exceedances over time

Receiving Water Limitation

- * Modify Part VI.C.1.b:

“Participation in a Watershed Management Program is voluntary and allows a Permittee to customize the requirements in Part VI.D ... to address the highest watershed priorities, including achieving compliance with the requirements of Part VI.E... and to address discharges that cause or contribute to receiving water limitations exceedances not covered under a TMDL.”

- * Add to Parts VI.C.6.a.ii and VI.C.6.b.ii:

“A Permittee shall not be considered in violation of Part V.A of this Order if it is implementing the Adaptive Management Process.”

Receiving Water Limitations

- * Revise the RWL language and provide an additional six months to review the draft
- * Permit as proposed is not attainable
- * Inverts prioritization efforts i.e.. TMDLs
- * Permittees vulnerable to third party lawsuits
 - * Example: City of Stockton and City of Malibu

TMDLs

Primary Concern with TMDL Provisions of Permit

- * 33 TMDL Wasteload Allocations (WLAs) incorporated into LA County MS4 Permit for first time
- * Compliance options for interim WLAs and EPA TMDLs include implementing Best Management Practices (BMPs) defined in a watershed management program
- * Compliance with final WLAs excludes BMP compliance option
 - * Compliance can only be determined by meeting specific numbers using water quality monitoring (numeric effluent limitations)

Requested Change to Permit

- * Allow compliance with final WLAs through BMPs implemented in accordance with an approved watershed management program or TMDL implementation plan
 - * Include same compliance options as interim WLAs and EPA TMDLs
 - * Apply to all TMDLs
 - * Final compliance deadlines prior to, within, and after the permit term

Overview of Reasons for Request

- * Numeric Effluent Limits (NELs) are not feasible for MS4s per the Blue Ribbon Panel
- * Adaptive Management Needed to Implement Final WLAs
- * Reasonable Assurance Provides Mechanism to Demonstrate BMPs can meet WLAs
- * NELs are not required
- * NELs are not consistent with the assumptions of TMDL WLAs
- * Implementation analysis for TMDLs did not consider technical or economic feasibility of meeting NELs or MEP

Storm Water Panel Recommendations to the California State Water Resources Control Board

Recommendations for MS4 Permits

Presented by Brian Currier, P.E., NEL Panel Member

Presented to the Los Angeles Regional Water Quality Control Board,
October 4, 2012

How was panel formed?

- * “Nationally recognized experts in NPDES Storm Water Program” (SWRCB)
- * 8 of 10 recruited experts agreed to serve
- * Members vetted through stakeholders (personal communication with an NGO)

What was charge?

“Is it technically feasible to establish numeric effluent limitations, ***or some other quantifiable limit***, for inclusion in storm water permits? How would such limitations or criteria be established, and what information and data would be required?” [emphasis added]

...

Charge (cont.)

“...In evaluating establishment of any objective criteria, the panel should address all of the following:

- 1) The ability of the State Water Board to establish appropriate objective limitations or criteria;
- 2) how compliance determinations would be made;
- 3) the ability of dischargers and inspectors to monitor for compliance; and
- 4) the technical and financial ability of dischargers to comply with the limitations or criteria.”

What was analyzed?

- * Water quality data
 - * International BMP Database
 - * National Stormwater Quality Database
 - * Local data
- * Factors affecting discharge quality
 - * Climate, land use, region, BMP type, level of program implementation, etc.

NEL conclusion

- * No NELs for MS4
- * Reasons NELs are infeasible:
 - * High variability in available discharge quality data
 - * Different mix of BMPs in each watershed decreases predictability of effluent
 - * MS4 is an open system: lack of MS4 control of the watershed effects discharge quality, even in post-construction discharges (e.g., accidental spills, illegal dumping, etc.)
 - * Uncertain if existing BMP study results apply to other watersheds due to differing conditions

Recommendations in lieu of NELs

- * Action Levels

- * Flag obvious problems that “most all could agree that some action should be taken”
- * Still, an action level is not a “quantifiable limit”
- * Instead, the panel focused on defining “**some other quantifiable limit**” without using NELs...

The other “*quantifiable limit*” recommendation

“Compliance with design criteria and the maintenance plan and schedule would constitute [permit compliance]”

Appears similar to an interim TMDL compliance method in the draft permit, VI.E.2.d.i.(4)(b): “... designed and maintained to treat storm water runoff from the 85th percentile, 24-hour storm, and maintenance records...”

Is BMP design and maintenance a “quantifiable limit”?

- (1) The ability of the State Water Board to establish appropriate objective limitations or criteria;
- (2) how compliance determinations would be made;
- (3) the ability of dischargers and inspectors to monitor for compliance
- (4) the technical and financial ability of **dischargers** to comply with the limitations or criteria.”

- ✓ Yes
- ✓ Yes, but limited to post-construction BMPs
- ✓ Yes
- ✓ Yes, for new development

MS4 Summary

- * NELs are infeasible for MS4s
- * Verifying BMP design and maintenance is a “quantifiable limit”

Variability in MS4 Discharges Requires Adaptive Management

What is a TMDL? – 40 CFR Defined

Maximum amount of a pollutant from each source that can discharge to a waterbody and still have the waterbody meet water quality objectives.

Agriculture Discharge



Urban Runoff



Wastewater



Storm Flows



What is a Reasonable Assurance Analysis? – Permit Provision

Watershed wide actions determined to control a pollutant in Urban Runoff and Stormwater so their contribution meets wasteload allocations.

Agriculture Discharge



Urban Runoff



Wastewater



Storm Flows

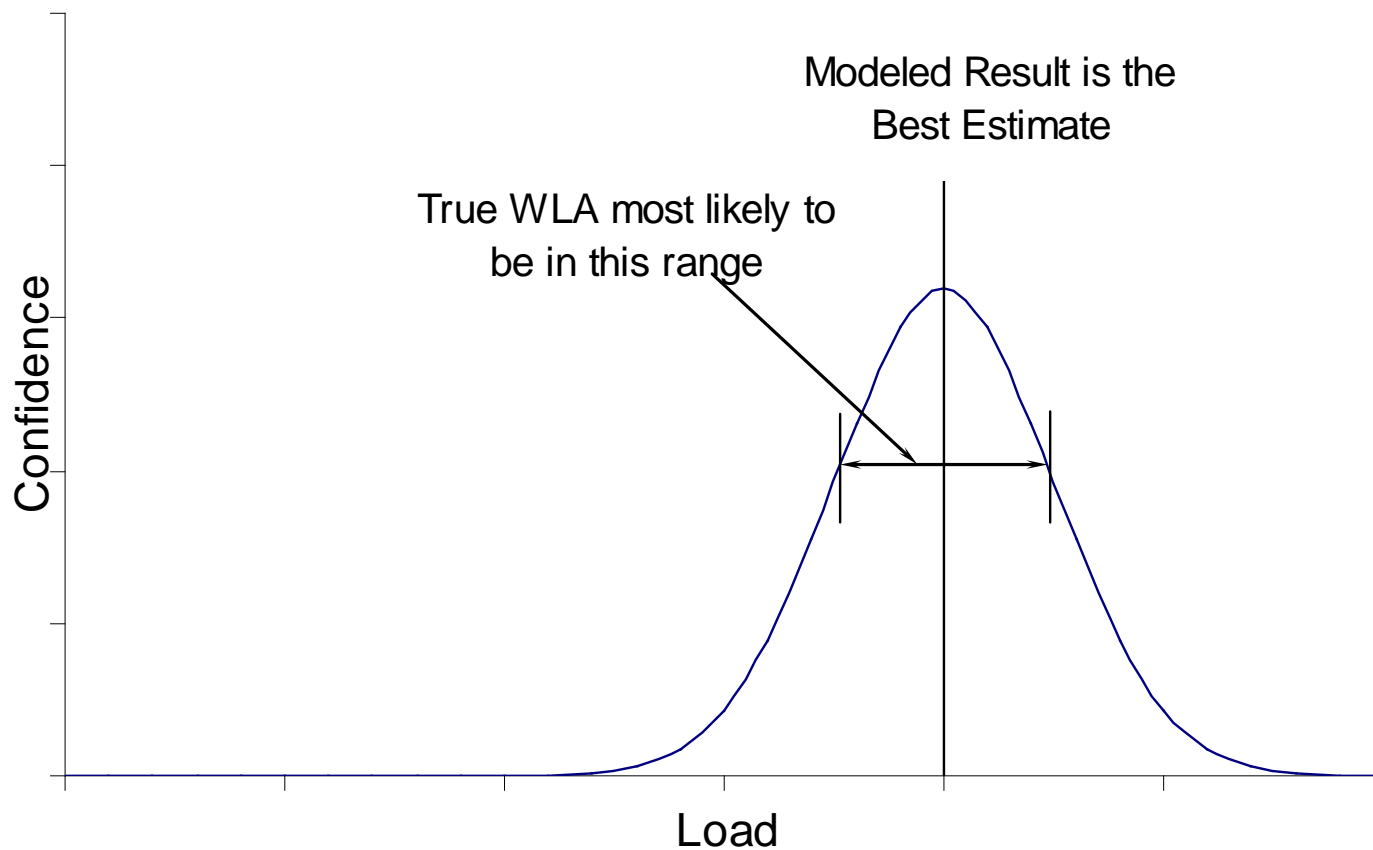


Physical Mechanisms Evaluated Empirically – aka Modeling



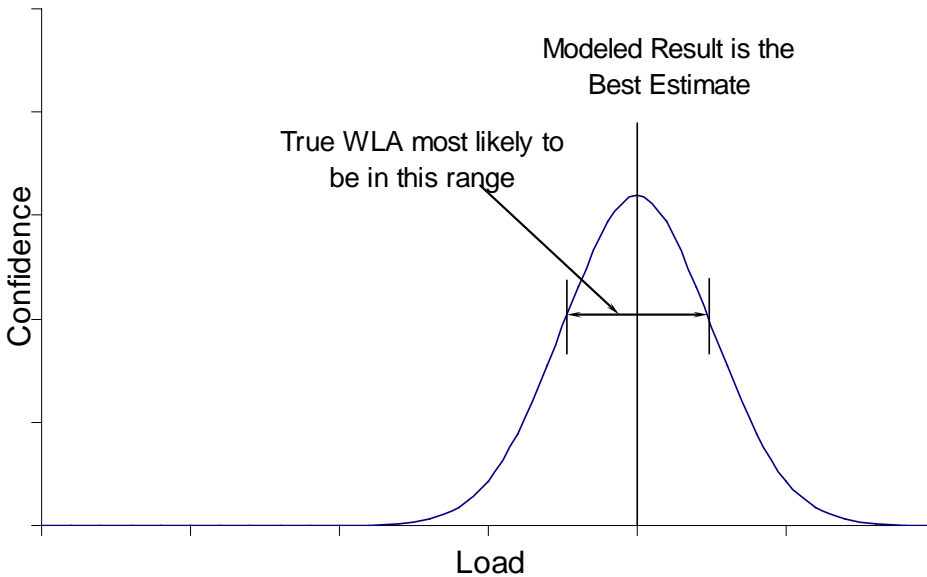
Compounding Variability

Variability in TMDL WLA

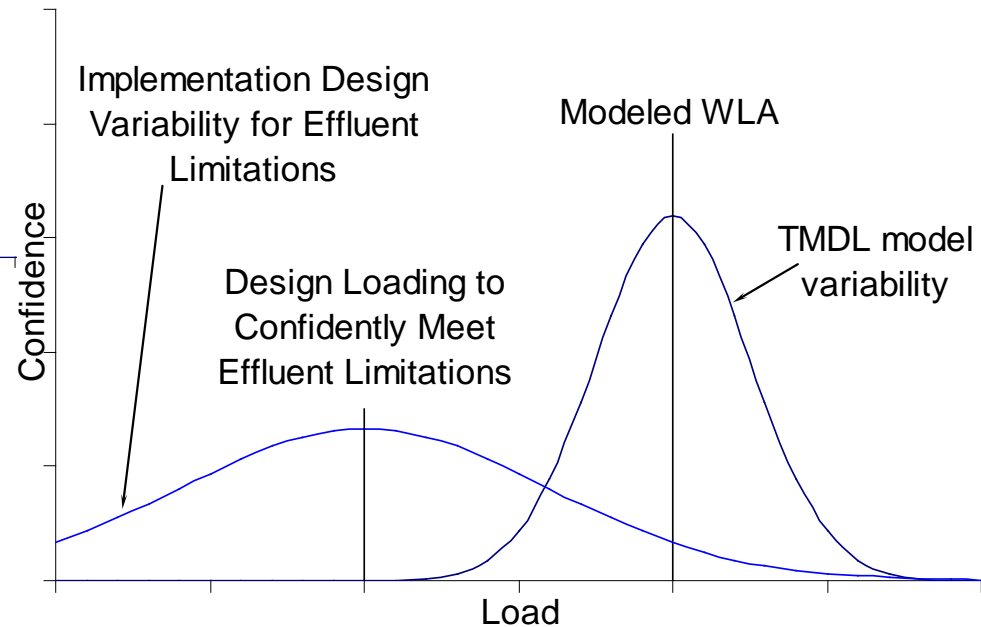


Compounding Variability

Variability in TMDL WLA



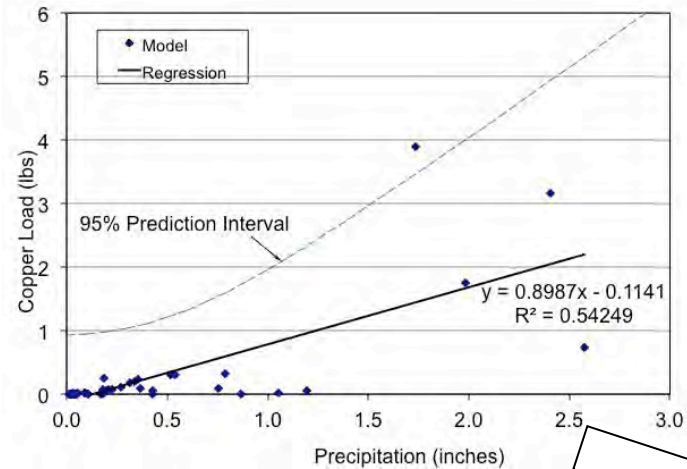
Variability In Reasonable Assurance



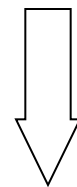
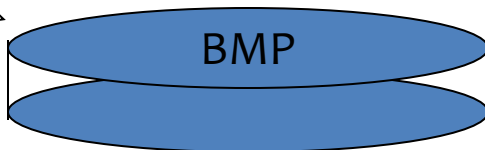
Summary of TMDL Development and Reasonable Assurance Analysis

Parameter	TMDL	Reasonable Assurance
Watershed Info		
Input Data		
Modeling Tools		
Best Available Info		
BMP Information		
Make Most Informed Decision		
Should Use Adaptive Management		

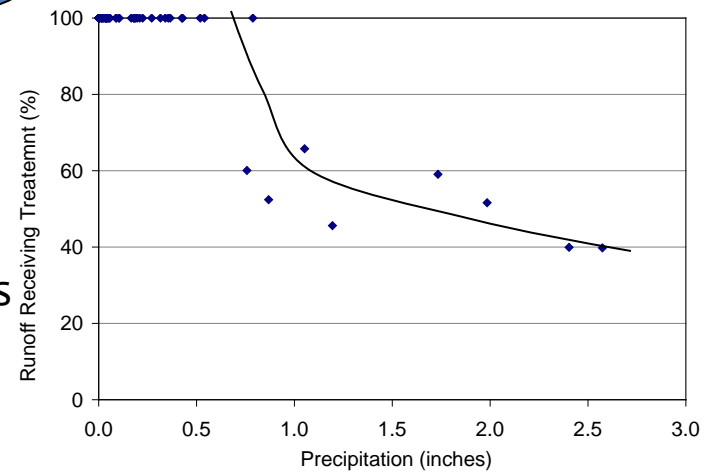
BMP Selection



Size to Address
WLA



Variable Effectiveness

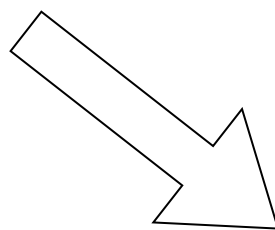


Implementation Variability

- * Rate of Redevelopment and LID
- * Population Growth
- * Land Use Patterns
- * Water Conservation
- * Future Weather

Summary

Variability



Adaptability

Adaptive Management Built Into Both Processes

- * TMDL
 - * Adaptive Management to refine WLA through Special Studies and TMDL Reopeners
- * Reasonable Assurance Analysis
 - * Informs Adaptive Management Process outlined in Permit by Refining Modeling and BMP effectiveness

Regulatory Concerns with the Use of NELs for TMDL WLAs

Basis for Numeric Effluent Limitations in MS4 Permit

- * Permit Fact Sheet supports need for NELs based on guidance from USEPA in a 2010 memo.
- * Issues with reasoning
 - * Memo does not require the use of NELs
 - * 2010 memo is currently under review

2010 EPA Memo

- * *“Where the TMDL includes WLAs for stormwater sources that provide numeric pollutant load or numeric surrogate pollutant parameter objectives, the WLA should, where feasible, be translated into numeric WQBELs in the applicable stormwater permits.”*
(emphasis added)
- * Permit Fact sheet does not provide demonstration that numeric WQBELs are feasible

2010 EPA Memo Comments

- * In response to concerns raised on the 2010 EPA Memo, EPA issued request for comments that included the following points:
 - * EPA does not anticipate that NELs applied “end-of-pipe” will be used frequently;
 - * NELs are broadly defined and can include surrogates such as stormwater volume; and
 - * The 2010 memorandum is intended as guidance and does not include legally binding requirements.

NELs Not Necessary

- * CWA and EPA guidance do not require NELs
- * Recently adopted MS4 permits in California allow for compliance including BMP-based methods
- * BMP-based approaches are consistent with the 2002 EPA memo and allowed for under the 2010 EPA memo

NELs are Inconsistent with TMDL Assumptions

- * Many TMDLs adopted under presumption compliance would be through BMP implementation, not numeric effluent limits
- * Some TMDLs specifically allow for a BMP compliance option and the option was excluded from the permit conditions

Example TMDL Assumptions

- * San Gabriel Metals TMDL Response to Comments stated:
 - * *“The TMDL will not result in the application of CTR limits as end-of-pipe numeric limits for the municipalities. The TMDL supports the use of an iterative BMP approach.”*
- * Los Angeles River Nutrient TMDL Staff Report States:
 - * *“However, as the MS4 permittees are a minor load of ammonia, nitrite, and nitrate to the Santa Clara River, the compliance alternative is an iterative approach, which is consistent with the November 22, 2002 memorandum. “*

Examples Cont'd

- * Los Angeles River Metals, San Gabriel River Metals, and Ballona Creek Estuary Toxics TMDL Basin Plan Amendments State:
 - * *“A phased implementation approach, using a combination of non-structural and structural BMPs may be used to achieve compliance with the stormwater waste load allocations.”*

Trash TMDLs

- * Good example of BMP-based compliance approach
 - * Defines quantifiable limit
- * Provided regulatory certainty for dischargers
- * Implementation has proceeded successfully

TMDL Implementation Analysis

- * TMDL Staff Reports did not consider control of pollutants to the Maximum Extent Practicable (MEP)
- * TMDL Staff Reports do not generally consider the technical and economic feasibility of achieving numeric WLAs by the dates established in TMDL compliance schedules

Summary

- * NELs are not feasible for MS4s per the Blue Ribbon Panel
- * Adaptive Management Needed to Implement Final WLAs
- * Reasonable Assurance Provides Mechanism to Demonstrate BMPs can meet WLAs
- * NELs are not required
- * Not consistent with many TMDLs or the presumptions dischargers had when TMDLs adopted
- * Implementation analysis for TMDLs did not consider technical or economic feasibility of meeting NELs or MEP

Requested Permit Modification

- * Allow for BMP-based compliance for effluent limits to meet final TMDL WLAs
 - * Add the language from compliance option E.2.d.i.4 under Interim WLAs on page 113 of permit to page 114 as E.2.e.i.4

Cities Working Hard for Clean Water

Sufficient time is needed to travel the road ahead so that we accomplish clean water and reach the finish line together

In this scenario, everyone wins with clean water



Comments on Proposed NPDES Permit



*Clean waters are the goal.
Sound science takes us there.*

Malibu's \$70 Million Commitment to Clean Water

\$10 million spent to
comply with the
NPDES Permit in the last
10 years



Equal to **\$200** per
household each year

\$60 million spent or
allocated to clean water
projects in the last
7 years



Equal to **\$1,300** per
household each year

3 Water Treatment Facilities



Civic Center



Paradise Cove

County-owned Marie Canyon

**3
Facilities**

**Treating
runoff**

3.5 MGD

**Protecting
the water**



Biofiltration Projects



Wildlife Road Treatment Project

Broad Beach Biofiltration Project

***Treat or eliminate
runoff from
10 major
storm drains***



Legacy Park



Manages runoff from 330 acres

Treats runoff up to 2 MGD

Exceeds TMDL Requirements

9 major environmental awards

Public Outreach and Education

RB-AR18088

Environmental Sustainability Department

Enforcement of environmental ordinances

Development of guidelines for runoff management

Malibu hosts 15 million visitors a year

Clean Water Initiatives

Multiple environmental protection ordinances

Integrated TMDL Implementation Plans

ASBS Special Protection Projects

Enhanced Inspection & Monitoring Programs

**Educating our
community &
visitors about
water issues**

Clean Water Cost Estimates

Original RWQCB estimate was **\$1.52/year per HOUSEHOLD** to achieve dry weather bacteria TMDL compliance for SMB



Malibu is spending over **\$1,500/year per HOUSEHOLD** to solve a regional problem

Revise Permit Details



Malibu needs the help of the RWQCB in order to meet the shared goals of clean water



Timing Issues



Provide appropriate review time

Set realistic time frames to meet requirements

Need to identify costs of new permit

**Provide agencies
with a realistic
process**



Limit Unnecessary Legal Exposure

\$2 million spent on Baykeeper/NRDC Lawsuit in 2 years

1000s of hours of staff time



Need tools to succeed



**Scarce resources
should be
directed to source
control and projects**



Set Reasonable Regulations



**Help Malibu
and all agencies
meet the necessary
clean water goals**

Amend RWL Language

Limits should reflect natural sources

Set reasonable requirements

**Recognize good
faith efforts and an
iterative process**



Natural Source Exclusion

RB-AR18094

93%

Prior to
Treatment

6%

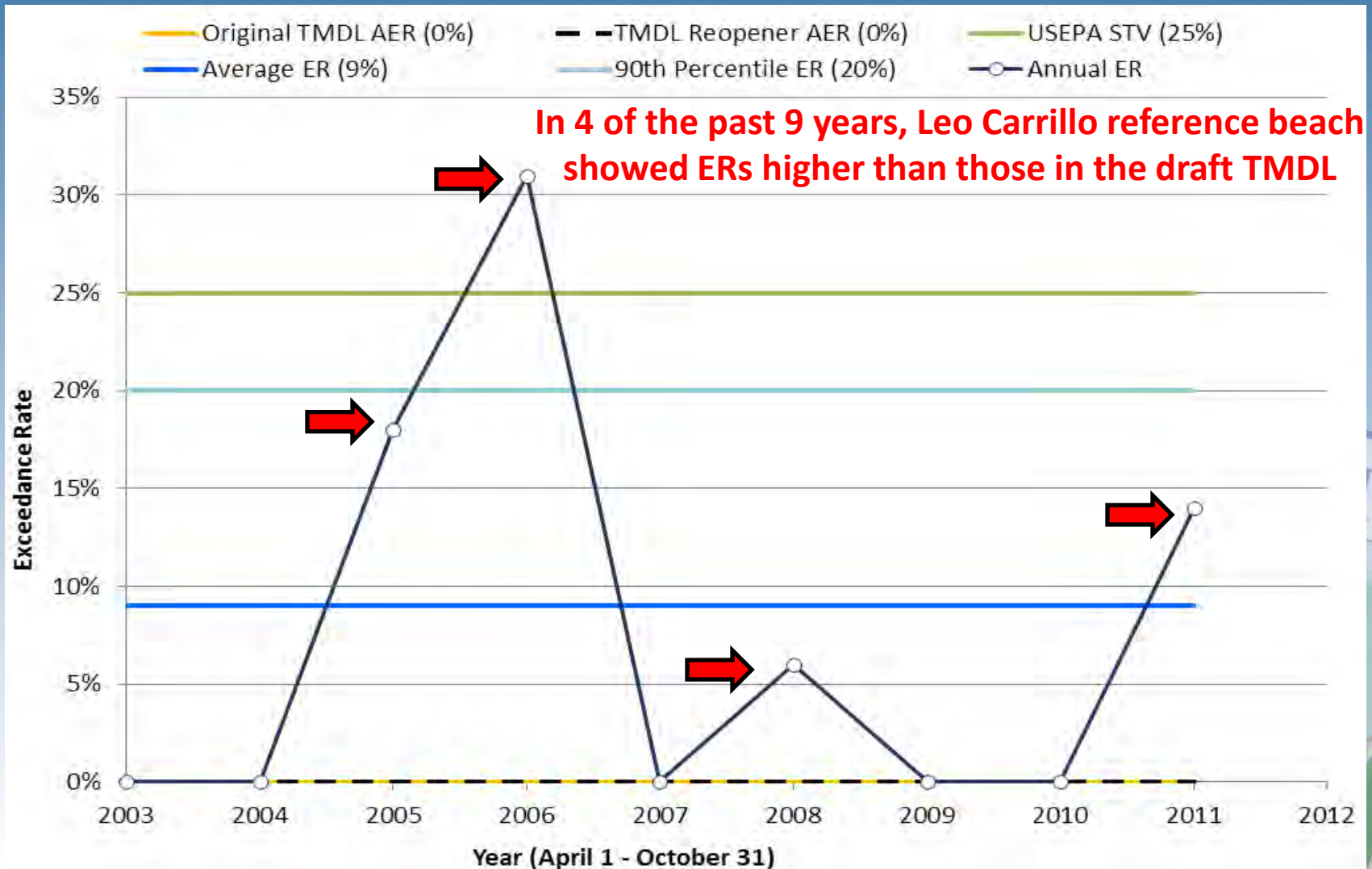
At Discharge

34%

In Sand
5 feet from
discharge

Exceeds Enterococcus Limit

Leo Carrillo Summer Dry Weather



Clean Water is Achievable

Provide additional time

Revise RWL Language

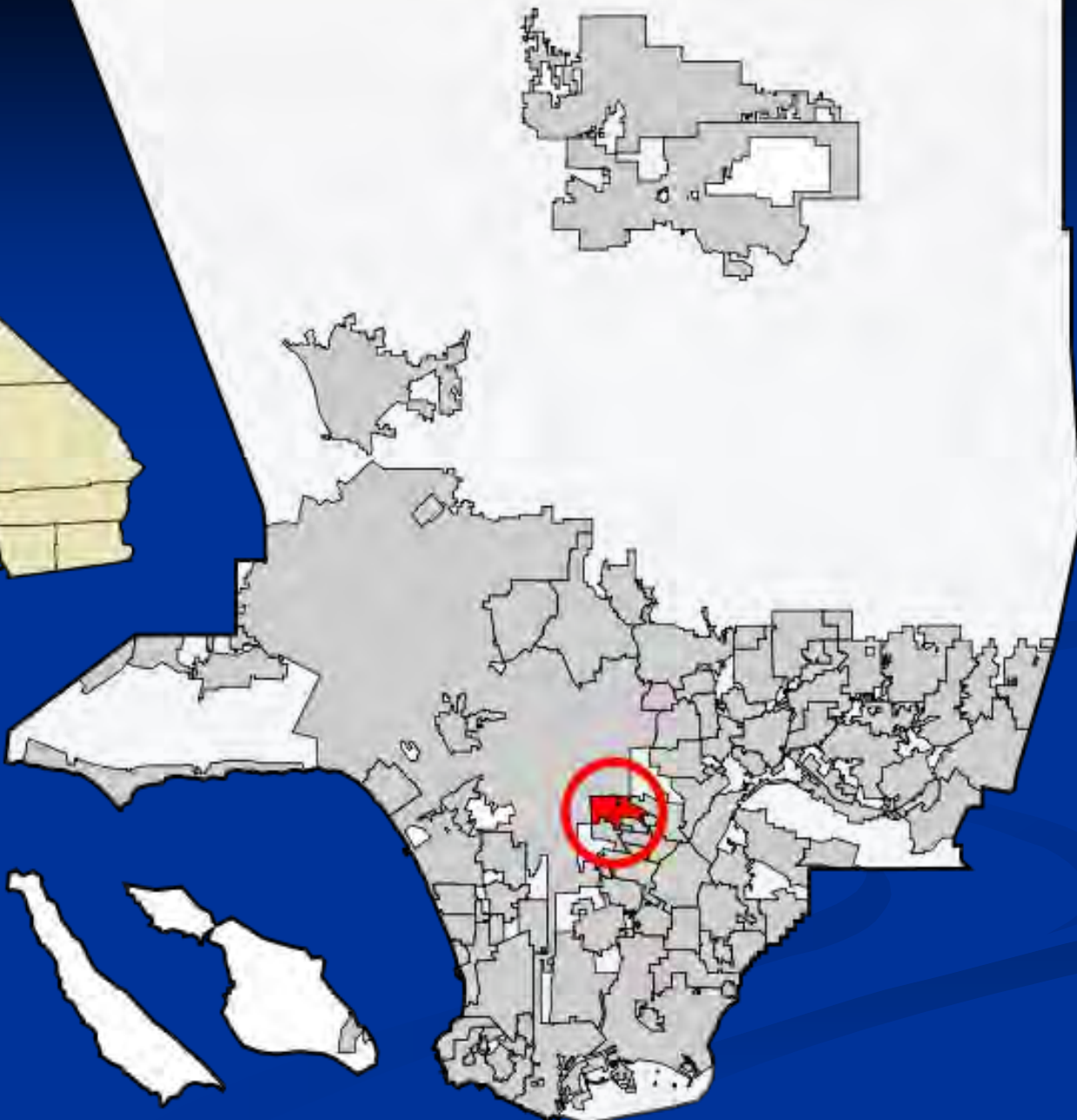
Establish reasonable regulations

Working together toward a common goal

Tentative Los Angeles County MS4 Permit

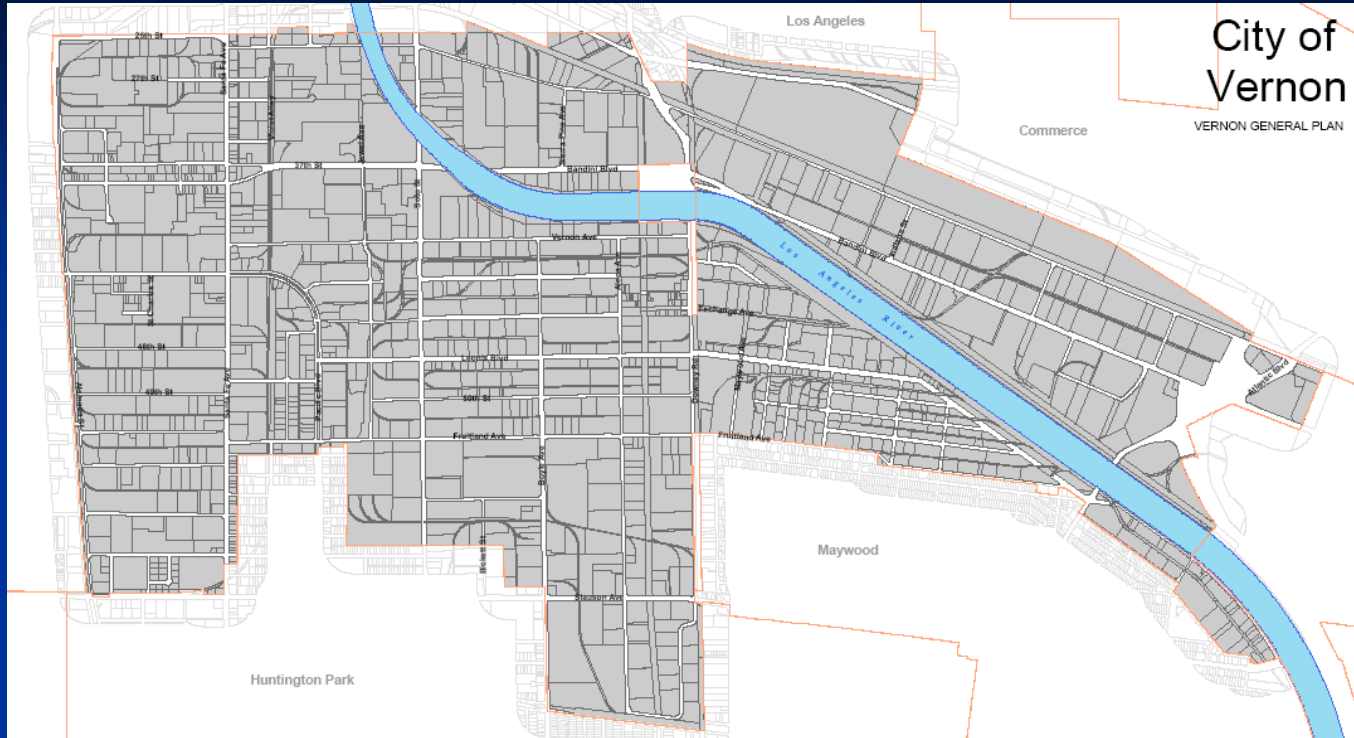


Presented by the City of Vernon
October 4, 2012



Overview of the City of Vernon

RB-AR18099



- Founded in 1905 to create jobs
- Industrial City
- 5.2 square miles
- Drains exclusively to the Los Angeles River

Overview of the City of Vernon

RB-AR18100

- More than 1,800 businesses create more than 105,000 jobs for the Los Angeles area.
- 55,000 of those jobs are within the city.
- Voted “Most Business Friendly City” by the L.A. County Development Corp.



Successes



- We partnered with LARWQCB in issuing the first Administrative Civil Liability fine to a plastics manufacturer.
- We have partnered with the US EPA on environmental justice projects related to the 710 Freeway and the prevention of releases of hazardous materials.
- We are currently working with the State Department of Toxic Substances Control, South Coast AQMD, and the LARWQCB staff on a project concerning potential stormwater impacts from a battery recycling facility.



Successes



- Earth Day Events
- Pollution Prevention & Sustainability Training
- Stormwater Regulatory Compliance Seminars
- Presented stormwater information at Industry Group seminars
- Host an annual e-waste/universal waste collection event
- Used Oil Recycling Program
- Stainless Steel Marker Program

Successes



- Weekly Street Sweeping
- Storm drain and Sewer Pipe Lining
- Clean catch basins at least 2 times per year
- Continue to work with LARWQCB staff in enforcement of Water Board's Industrial and Construction Stormwater Permits.
- Installed catch basin inserts throughout jurisdiction
- Robust Commercial/Industrial Inspection and Illicit Discharge/Connection Programs

Concerns

~150 Industrial NPDES Permits



Construction NPDES permits



Caltrans NPDES





RB-AR18105



Economics

- Permit neglects economic feasibility and fiscal responsibility
- Cost estimate of the Los Angeles River Bacteria TMDL –

\$2,478,170 PER YEAR

- Forced to eliminate approximately 30 positions
- 30 positions from the Fire and Police Departments, Public Works, Environmental Services, etc.
- Current financial state of the City of Vernon

Economics

Sept. 18, 2012

Voters rejected a City proposed 9.8% utility user tax to fill a \$12,000,000.00 hole in the City's general fund.

Vernon Voters Reject Utility User Tax

City faces \$12 million
shortfall.

Elizabeth Hsing-Huei Chou
EGP Staff Writer

A tax measure placed on the ballot after Vernon city officials declared a state of fiscal emergency has failed.

Concerns (cont'd)

No established compliance storm event.



City's Comments on Draft Permit

- State shifting responsibilities to Permittees for inspection and enforcement activities of Industrial & Construction General Permits
- Iterative/Adaptive Management Process
- Maximum Extent Practicable (MEP) needs to be redefined
- Impracticality and economic infeasibility of current permit may lead to litigation



Disappointments with the Permitting Process

- Absence of a Revised Tentative LA County MS4 Permit
- Deferment of Adoption Hearing
- Denial of a time extension to review and comment on the Tentative LA County MS4 Permit

Questions?



Tentative Order and Adoption Process Issues

Ray Tahir
for the cities of

Baldwin Park, Compton, Duarte, Claremont, Duarte, Gardena,
Irwindale, San Fernando, South El Monte, and West Covina

Tentative Order Public Hearing

➤ Discussion Points

- *Tentative Order should not be the object of an adjudicative hearing on a draft order until RB staff has responded to previously submitted comments in writing*
- *Revised order permit should not be issued until:*
 - Staff provides a compliance cost-estimate – especially regarding TMDLs
 - Staff corrects ambiguities and explains unclear provisions
 - Staff incorporates into the revised order protective features of the Caltrans MS4 permit
 - the State Board conducts its Receiving Water Limitations language workshop in November and recommends standard language
 - The U.S. Supreme Court decides LACFDC v. NRDC (will be reviewed in early December)

Tentative Order Public Hearing

- **RB staff released the first draft order too late in the game**
 - RB staff released a complete draft order in June and gave stakeholders 45 days to review and comment (by July 23rd)
 - Historically RB staff has provided considerably more time to review and complete a draft order
 - the Ventura Permit complete draft was released almost 3 years prior to it being adopted in 2010
 - The draft order for the current permit was issued a year before the final order was adopted in December or 2001
 - Other regional boards also provide at least a year between the time the draft order is issued and when a final order is adopted – why?
 - because permits are expensive, controversial, legal, and complicated – therefore the permit renewal process must be patient, open, and transparent – which is not the case here

Tentative Order Public Hearing

➤ Adjudicative Hearing is Premature

- Despite what legal counsel has asserted, an adjudicative proceeding should not be held until a final draft order has been prepared – you can't base it on the draft order
- RB staff should not argue if it is legal to hold an adjudicative hearing prior to issuing a revised or final draft order, but rather argue whether it is right and in keeping with past practice
- Staff needs to respond to stakeholders comments first and in writing as it has done this in the past with regard to TMDLs, the Ventura Permit and the current MS4 permit
- One of the purposes of the adjudicative hearing is to ask staff questions about the order – but these questions have already been raised but not responded to
- The ball is in staff's court: it should respond to those comments – otherwise the process becomes redundant without serving any purpose
- Also raises the question: once staff provides comments – hopefully written ones -- will it use them to revise the draft order and will call for another adjudicative hearing?
- And will a revised order trigger another 45 day review and comment period?

Tentative Order Public Hearing

➤ Process is Unusual

- Staff indicated that written comments would be made available after the adjudicative hearing – its backwards
- Permittees can't ask staff questions or cross-examine staff without seeing a written response to comments pegged to the draft tentative order
- Comments have to be seen not just heard – else how can you know what to ask?
- What are we commenting on: a revision we have not seen?
- How do we know what the costs will be in the final analysis without seeing the final order?
- It undermines the purpose of an adjudicative proceeding which is to present information to the board so that it can decide a proposed rule
- But the tentative is not final so the adjudicative proceeding is premature
- Should wait until the final order is ready to hold an adjudicative hearing

Tentative Order Public Hearing

➤ Let's Talk Cost Issues

- In response to Board Member Camacho's question about compliance costs staff (at the USC workshop) was unable to provide a dollar amount
- Staff response (per Rene Purdy) is that permittees have no difficulty paying for permit costs based on annual reports
- Rene did not answer the question which was pegged to the proposed new permit – not the existing one
- The budgets do not contain TMDL compliance costs except for those cities subject to the trash TMDL because it is in the current permit
- They are not representative costs

NPDES No. CAS 004001

Order No. 01-182

Los Angeles County Municipal Storm Water Permit (Order 01-182)

Individual Annual Report Form

Attachment U-4

TABLE 2

Program Element	Expenditures in Fiscal Year 11-12	Estimated Amount Needed to implement Order 01-182 FY 12-13
1. Program management		
a. Administrative costs	\$78,000	\$80,340
b. Capital costs	0	0
2. Public Information and Participation		
a. Public Outreach/Education	\$ 7,500	\$ 7,725
b. Employee Training	\$ 1,500	\$ 1,545
c. Corporate Outreach	0	0
d. Business Assistance	0	0
3. Industrial/Commercial inspections	\$35,000	\$36,050
4. Development Planning	\$70,000	\$72,100
5. Development Construction	\$70,000	\$72,100
a. Construction inspections		
6. Public Agency Activities		
a. Maintenance of structural and treatment control BMPs	\$ 7,000	\$ 7,210
	\$183,000	\$188,490
b. Municipal street sweeping	\$ 6,000	\$ 6,180
c. Catch basin cleaning	\$ 91,000	\$ 93,730
d. Trash collection/recycling	0	0
e. Capital costs	0	0
f. Other	0	0
7. IC/ID Program	\$ 5,000	\$ 5,150
a. Operations and Maintenance	0	0
b. Capitol Costs		
8. Monitoring	\$ 5,000	\$ 5,150
9. Other	\$ 5,000	\$ 5,150
10. Total	\$564,000	\$580,920

List any supplemental dedicated budgets for the above categories:

Tentative Order Public Hearing

- How much will it cost to implement the tentative order if adopted today?
 - For cities in the Los Angeles River, San Gabriel River, and Dominguez Channel TMDL compliance is estimated to cost \$500,000 per square mile per year over a 20 year period
 - Based on L.A. River Bacteria TMDL provided by RB staff (\$5.6 billion over a 22 year period)
 - If cities in these watersheds are tied to the clean-up of the Los Angeles and Long Beach Harbors the cost would be another \$500,000 per square mile per year over a 10 year period
 - Based on Dominguez Channel/Harbors Toxics TMDL \$1.1 billion clean-cost estimate
 - For a city 2 square miles in area the TMDL compliance cost would be \$2 million per year over a 20 year period; the harbors remediation would be another \$2 million over a 10 year period
 - Would result in serious reduction in programs/services and could place a City at risk for bankruptcy
 - No funding is available – Water Quality Initiative would not be enough
 - If staff disagrees with this estimate then it should provide its own estimate

Tentative Order Public Hearing

- Costs can be significantly lower if the tentative order mirrors essentially elements of the Caltrans MS4 permit (adopted last week) by
 1. changing the compliance point from the receiving water (unless water quality standards are already met there) to the **outfall** -- in the discharges from it -- as is the case with the Caltrans MS4 permit
 2. allowing only BMP-WQBELs not numeric WQBELs as called for in the tentative order
 3. eliminating compliance with wet weather TMDL numeric targets in receiving waters (rivers, lakes and oceans)
 4. clearly recognizing the iterative (let's see what works) process applies to meeting water quality standards in the receiving water – per the Caltrans MS4 permit
 5. prohibiting non-stormwater discharges to the MS4 not from it or through it

Tentative Order Public Hearing

■ Tentative Order

- Compliance with Numeric Water Quality Based Effluent Limits and/or receiving water limitations
- Conditional iterative process (adaptive management)
- Non-stormwater prohibition from and through the MS4
- Compliance with wet weather TMDLs

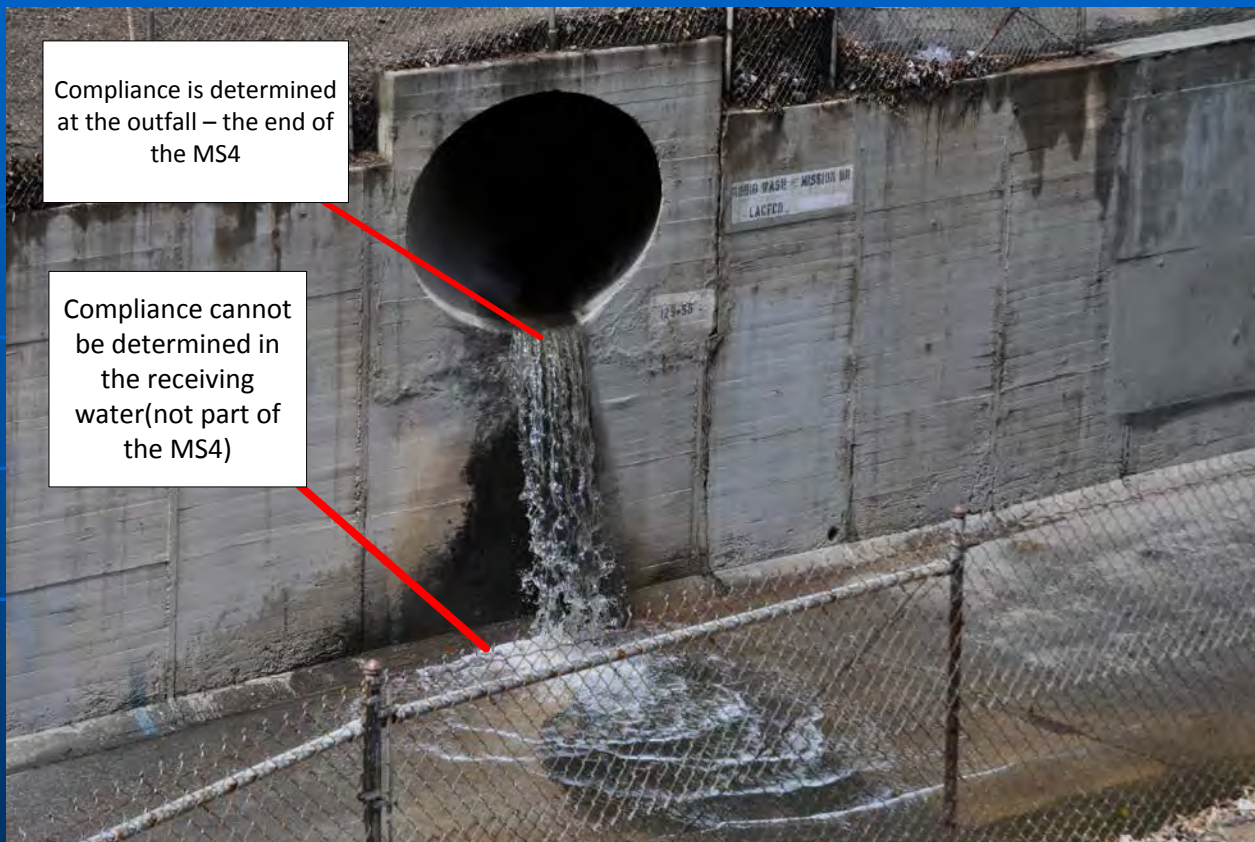
■ Caltrans MS4 Permit

- Compliance with BMP-WQBELs
- Stormwater Quality Management Plan (SQMP) implementation (contains WQBEL BMPs)
- Unconditional application of iterative (trial and error) process
- Non-stormwater discharge prohibition to the MS4
- No compliance with weather TMDLs

Tentative Order Public Hearing

- Costs can be significantly lower if the tentative order mirrors essential elements of the Caltrans MS4 permit (adopted last week) by
 1. changing the compliance point from the receiving water (unless water quality standards are already met there) to the **outfall** -- in the discharges from it), as is the case with the Caltrans MS4 permit
 2. allowing only BMP-WQBELs not numeric WQBELs as called for in the tentative order
 3. eliminating compliance with wet weather TMDL numeric targets in receiving waters (rivers, lakes and oceans)
 4. clearly recognizing the iterative process (trial and error) applies to meeting water quality standards in the receiving water – per the Caltrans MS4 permit
 5. prohibiting non-stormwater discharges to the MS4 not from it or through it

Tentative Order Public Hearing



Tentative Order Public Hearing

- The need for clarification
 1. Comments were submitted to staff asking for clarification regarding ambiguous or unclear requirements in the draft order
 2. Not clear if staff intends to response to them in writing
 3. Example: according to the L.A. River metals TMDL cities in Reach 2 of the Rio Hondo are subject to its requirements – but the CWA 303(d) list which determines what water bodies are subject to TMDLs, does not identify this Reach as being impaired for metals
 4. Example: the draft order calls for compliance with TMDL numeric targets through numeric WQBELs and/or receiving water limitations – are permittees supposed to comply with one or the other or both and if so, why?

Tentative Order Public Hearing

- Recommendation - hold off on adopting a final order until:
 1. Staff provides an estimate of how much permit/TMDL compliance will cost and how permittees will pay for it
 2. A demonstration that ambiguities and conflicts in the tentative order have been resolved (example: compliance with WQBELs and/or RWLs; compliance with MALs or TMDLs?)
 3. Staff has incorporated essential elements of the recently adopted Caltrans MS4 permit – the template for all MS4 permits
 4. State Board convenes a RWL workshop and recommends standard language for MS4 permits
 5. United States Supreme Court decides LACFDC v. NRDC

Tentative Order Public Hearing

➤ Questions to Staff

- The questions regarding the draft order have already been posed to staff

➤ Request to Regional Board

- Regional Board:
 - Please direct staff to answering them in writing before the next public hearing, adjudicative or not
 - Also why has it rushed the permit renewal process (administrative convenience, avoidance of controversy, lack of experience in writing permits)?
 - Why didn't staff begin the process sooner?

Tentative Order Public Hearing

- Let's adopt the new permit properly in keeping with federal and state board precedential order
 - To do otherwise would compel permittees to file an administrative petition with the State Board, in which case the permit could be returned to staff for correction
- A word about the U.S. Supreme Court review of LACFCD v. NRDC – court is likely to affirm that compliance with TMDLs is determined from discharges monitored from at outfall, not in the receiving water
 - Once the decision is handed down and the current order requires compliance in the receiving water, it will have to re-opened and corrected

Tentative Order Public Hearing

- There's no rush
 - The board can afford to wait 180 days by which time the Supreme Court will make decide the case
 - The Long Beach permit is more overdue than the L.A. permit – it should have been re-issued in 2004
 - The Caltrans MS4 permit, which was adopted last week, also should have been reissued in 2004
 - Whereas the L.B. and Caltrans are 8 years overdue the L.A. permit is only 6 years overdue

Tentative Order Public Hearing

➤ Finally

- The permit renewal process has not been transparent one as it has been in the past
 - releasing a complete draft order a year prior to the projected adoption date
 - Staff's avoidance of the cost impact question posed by Ms. Camacho
 - Staff's unwillingness to respond to requests for clarifying unclear, conflicting, and ambiguous draft order requirements
 - Staff's unwillingness to provide

Tentative Order Public Hearing

➤ Cross Examination/Questions to Staff

- WQBELs are required when an exceedance of a water quality standard is detected at the outfall. When did the Regional Board determine that WQBELs are needed based on outfall monitoring data revealing exceedances of TMDLs?
- How does staff define “ambient” in ambient monitoring? Ambient in this context, per the CWA is the natural state of a receiving water body prior to being mixed with outfall discharges.

City of Signal Hill



Presentation to the Los Angeles Regional Water Board

4 October 2012



City of Signal Hill

Technical Issues with Tentative Order

Richard Watson, A.I.C.P.

Outline

- Costs
- Monitoring
- Prohibition and Receiving Water Limitations Language
- Expression of WLAs for TMDLs
- Watershed Management Program
- Design Storm

The seal of the Mayor of Signal Hill, featuring a woman in a pink dress holding a torch, with a landscape and a sun in the background. The text "MAYOR OF SIGNAL HILL" is visible around the border.

Excessive and Disruptive Costs

- Loss of redevelopment funding a significant problem
 - Signal Hill Redevelopment Agency had budgeted over \$800,000 this year to begin to address 5 of 6 current TMDLs currently regulating our 2.2 sq. mi. City.
 - Without planned Redevelopment Agency expenditures, the City has budgeted \$869,235 for the coming year
 - The City's estimated stormwater budget to fully address permit requirements and TMDL implementation over the next few years is approximately \$1.6 million per year.
 - General Fund can't keep up – existing programs will need to be cut to fund stormwater

FY 12/13 Budget Summary

- Final FY 2011-12 Environmental Program expenditures were \$659,000
- Proposed FY 2012-13 Environmental Program expenditures of \$870,000
- Per capita cost of \$78
- Requirements of the new permit should become effective July 1, 2013, the beginning of the next fiscal year.



Proposed Environmental Program Budget - FY 2013

Acct. No.	Budget Item Description	Proposed FY 12/13 Budget	Comments
510	Personnel	\$ 63,010	
309	Trash Reduction TMDL	\$ 74,575	Storm Water Runoff Trash Capture
347	Annual MS4 Permit Fee	\$ 5,000	Public outreach required per the MS4 Permit
355	Legal Services	\$ 50,000	
356	Storm Water Quality Contract Services & Technical Studies	\$427,000	Includes expenditures required for special studies for newly implemented and proposed TMDL's
372	Restaurant /Industrial Waste Inspections	\$ 44,000	Cost offset by fees
376	Street Sweeping	\$150,400	
	Bus Shelter Cleaning	\$ 31,000	Cost offset by Proposition A
440	Recycling and Haz-Waste	\$ 24,250	
Proposed FY 12-13 NPDES Budget:		\$869,235	

Water Quality Technical Studies Budget

RB-AR18137

Sub-Acct. No.	Item Description	Budget FY 12/13	Comments
356.1	Current Storm Water Permit Administration	\$ 48,000	<i>On-going annual Expenses</i>
356.2	New Storm Water Permit Implementation	\$120,000	<i>Includes Additional Monitoring & LID Ordinance Development</i>
356.3	LA River Metals TMDL	\$ 22,000	<i>Studies & Implementation Plan</i>
356.4	LA River Bacteria TMDL	\$ 15,000	<i>Studies & Implementation Plan</i>
356.5	LA River Estuary Bacteria TMDL	\$ 20,000	<i>Studies & Implementation Plan</i>
356.6	LA Harbor Toxics TMDL	\$ 20,000	<i>Studies & Implementation Plan</i>
356.7	Los Cerritos Channel Metals TMDL	\$ 17,000	<i>Studies & Implementation Plan</i>
357.8	Hamilton Bowl Low Flow Diversion	\$ 30,000	<i>Preliminary Engineering Phase</i>
357.9	Water Quality Master Plan	\$135,000	<i>Phase 1 & 2</i>
Total Contracts & Technical Studies =		\$427,000	

Monitoring

- KLI concluded that, as proposed, the monitoring program would be extremely costly and would not increase likelihood of meeting Clean Water Act “fishable and swimmable” goals.
- Proposed wet-weather stormwater outfall monitoring and toxicity testing requirements in Attachment E to draft order would drastically increase costs
- Toxicity identification evaluation (TIE) requirements would add substantial costs without providing useful information.
- The City requests that Regional Board staff meet with monitoring consultants to refine the program to make it more practicable and less costly.



Prohibition and Receiving Water Limitations Language

- Receiving water limitations (RWL) language not fully consistent with State Water Board Order 99-05
- Creates an unnecessary liability for Permittees
- Order 99-05 states, “Permittees shall comply with Discharge Prohibitions and Receiving Water Limitations through timely implementation of control measures and other actions to reduce pollutants in the discharges...”
- This iterative process language is only included in RWL section – should also be in Discharge Prohibition section
- The Order should clearly state that the iterative process language also applies to *cause or contribute* prohibition in the RWL component of the Order.



Expression of WLAs for TMDLs

- Signal Hill agrees that permit requirements must be consistent with the assumptions and requirements of WLAs established in TMDLs for which permittees in the Order are responsible
- Regulations do not require WQBELs to be numeric
- 2002 and 2010 EPA guidance memos clearly allow WQBELs in permits to be expressed in the form of BMPs.
- State Board Order 98-01 explained that, “narrative effluent limitations requiring implementation of BMPs are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements...”



Watershed Management Program

RB-AR18141

- The City appreciate staff's efforts to support and facilitate the watershed approach.
- Encourages collaboration and focusing on highest priorities
- Signal Hill took a leadership role in organizing 40 cities, LA County, and Caltrans to address monitoring requirements and special studies for LA River Metals TMDLs.
- City also organized Jurisdictional Group 1 for LA River Metals TMDLs and organized cities within the Los Cerritos Channel Watershed to work with EPA and the Regional Water Board on another metals TMDL.
- The permit should encourage regional solutions and regional BMPs.

Design Storm

- The City requests that the permit be structured to use the 85th percentile, 24-hour storm event as a consistent design storm for both BMP design and enforcement of water quality standards.
- The County has built on work done by the Regional Board's Design Storm Task Force and presents a compelling argument for validity of the 85th percentile, 24-hour storm.
- Specifying this design storm would help convince municipalities that they are not wasting money by investing in BMPs in the absence of a physical limit on storm size for which they have to meet standards.
- It's time to adopt a design storm.



Signal Hill's Request for an Individual MS4 Permit

Steve Myrter, Director of Public Works



Signal Hill's Individual Permit

- Opportunity for the Board to work with a small community that is taking seriously its responsibilities to improve water quality, while addressing our unique circumstances.
- Other cities have grouped together for their own reasons and we respect their decisions.
- We would hope that our decision is respected as well.



Signal Hill's Individual Permit

(Continued)

- Signal Hill submitted our ROWD application in June 2006.
- The Executive Officer replied on July 12, 2006 that Signal Hill was “***proposing some positive changes***” and that staff looked “***forward to working out these details with your Staff during the MS4 Permit Reapplication Process.***”



Signal Hill's Individual Permit

(Continued)

- Absent any response from the Board, Signal Hill has worked to design and implement new programs to insure compliance with our application for our individual permit.
- Signal Hill is at 90% trash reduction rate, while the TMDL requires 70% this year.

Signal Hill's Unique Geographic Characteristics

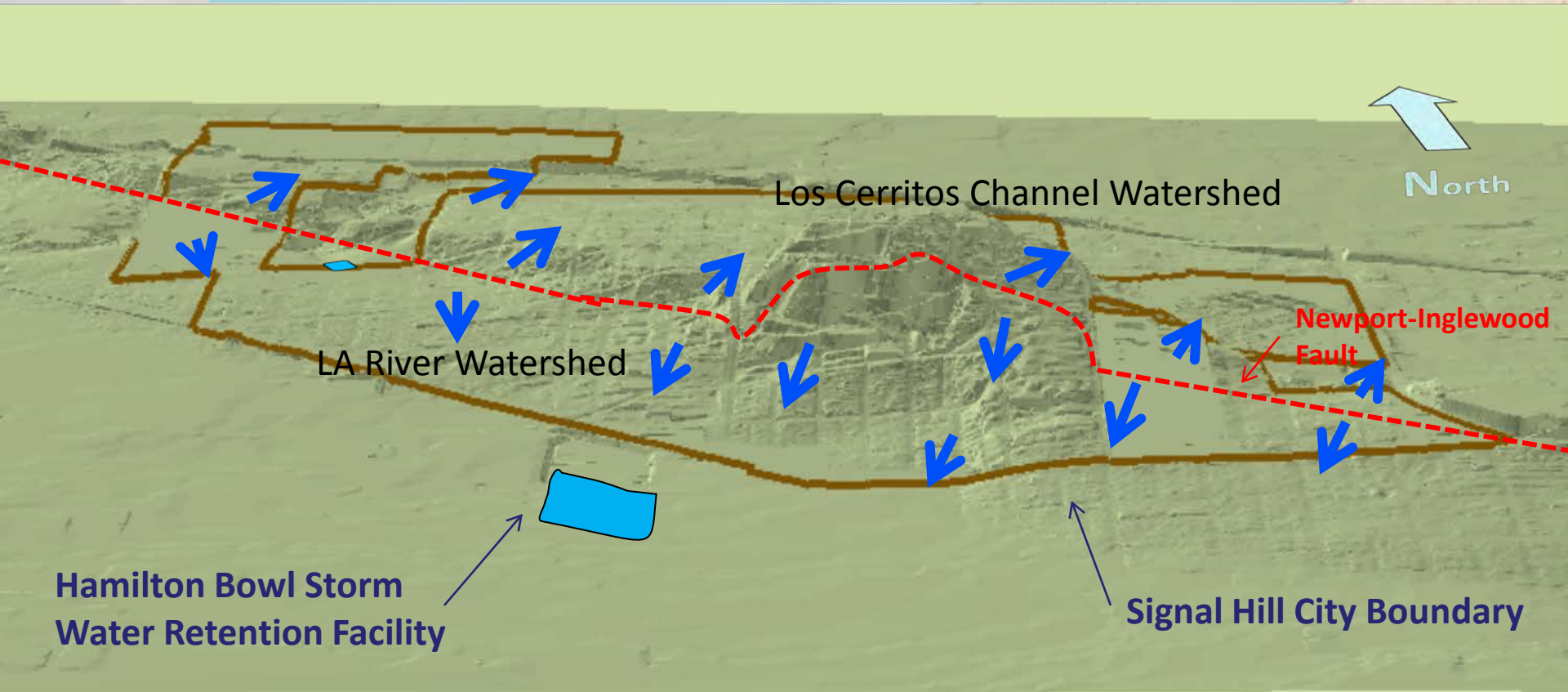
- Population of 11,072
- 2.1 square miles in size
- Surrounded by City of Long Beach
- Unique geology due to Newport Inglewood Fault
- Surface drainage to 2 Watersheds
- 85 years of oil exploration/production
- Oil production continues with over 1 million barrels pumped annually





Signal Hill's Unique Geographic Characteristics

City Surface Water Drainage / Watersheds



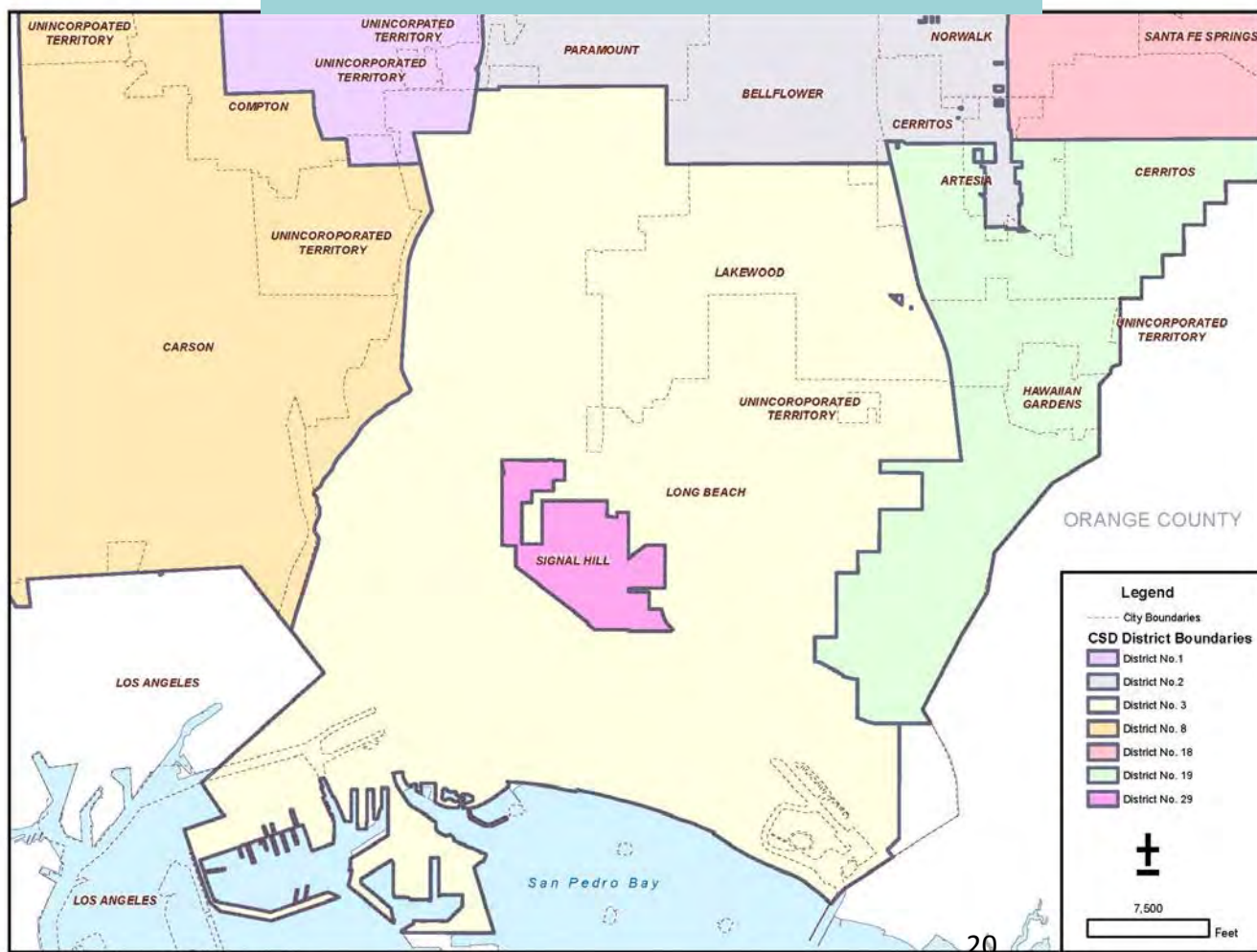
City's Oil Production Legacy



Late 1920's

Signal Hill's Unique Geographic Characteristics

LACSD Boundary Map



- LA County Sanitation Districts is a county-wide system that serves 77 municipalities
- LACSD services Signal Hill as a stand alone District District No. 29
- District Boundary that of City Boundary
- Signal Hill became a stand-alone County Sanitation District to deal with the oil legacy.

City's Unique Factors

(Continued)

- Both the City's oil legacy and unique geology creates need for individual MS4 Permit and individually tailored storm water programs.
 - Decades of oil production left a legacy of soil contamination, 1,700 abandoned wells, including numerous leaking wells
 - Storm water runoff flows out the city boundaries and drains into the Los Angeles River and the Los Cerritos Channel.
 - Signal Hill drains through the City of Long Beach
- Regional Board is planning on issuing an individual permit to the City of Long Beach.
- Individual permit will be more responsive to unique issues confronting Signal Hill.



Signal's Hill Actions

(Based on Regional Board's 2006 Letter)

- City Council directed preparation of Storm Water Quality Master Plan
- Signal Hill has installed 8 trash nets on the Hamilton Retention Facility, completed the installation of trash capture devices on our 134 catch basins
- Implemented SUSMP, LID, and installed CDS units on dozens of developments
- National Academy of Sciences studied "state of the art" runoff requirements at recently constructed Signal Hill concrete batch plant



Signal's Hill Actions

(Continued)

- City has submitted monitoring plan with our ROWD.
- City has budgeted a monitoring program and the installation of two auto-samplers
- City is designing dry-weather diversion program for LA River Metals and Bacteria TMDL.

The logo of the City of Signal Hill, featuring a woman in a pink dress and a red shawl, holding a torch, with a landscape of hills and flowers below. The text "CITY OF SIGNAL HILL" is visible around the top edge of the circular emblem.

Signal Hill and Regional Efforts

- City will continue to participate in regional efforts, even with individual permit
 - Leading LA River Metals TMDL Special Studies
 - Leading Los Cerritos Channel Metals TMDL Implementation Plan
 - Participates in the LA River CMP
 - Participates in County-wide Public Outreach Effort

Conclusion

- Signal Hill does not choose to be included in the system-wide permit:
 - City has unique legacy issues, unique facilities, unique topography which require specific programs
 - City is proposing a robust monitoring program
 - City does not want the “top down” “one-size-fits-all” system-wide permit being proposed
 - City looks forward to working with the Board, the City of Long Beach and the Flood Control District in a collaborative process to obtain our individual permit



City of Signal Hill

Thank You!



*Tentative NPDES Permit for MS4
Discharges within Los Angeles County*

Los Angeles Regional Water Quality Control Board
October 4, 2012

City of Pomona

- Pomona is on easterly edge of San Gabriel Valley and borders San Bernardino County
- Largest of 31 SGV cities
- 6th Largest of Los Angeles County
- 23 square miles with 4,563 Businesses
- Home to 149,058 residents
 - 22% of Residents are below poverty level
- Over 70% of residents are Latino
- Significant immigrant population
- Young population due to several colleges and universities
- Located 40+ miles from beaches

Pomona's Green Accomplishments

- Member of Santa Ana Watershed Project Authority (SAWPA) for the Middle Santa Ana River Watershed TMDL
- Coordinates San Antonio Canyon Watershed Clean-Up Events
- Pomona Valley Protective Association
- Recycled Water Pioneer
- Environmental Stewardship Subcommittee
 - Energy Action Plan for Greenhouse Gas Emissions and Green Plan
- SCEs Energy Leader Partnership Model – Silver Level
- Fremont High School Storm Water Management Classes

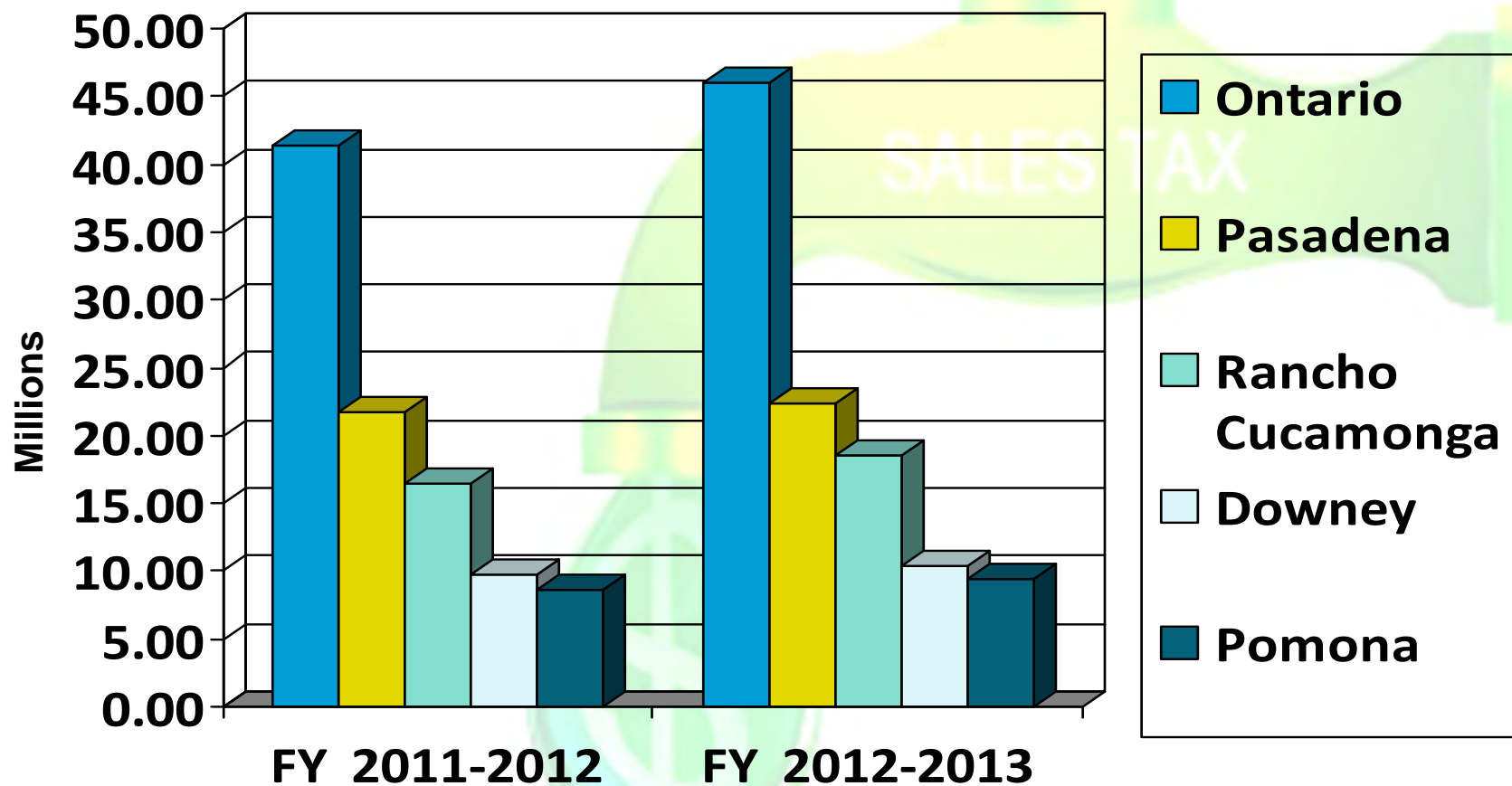
City of Pomona Story

- We are not a “Beach City”
- Beach parents are concerned about their children going to the beach when there is an advisory
- Pomona parents are worried about their kids not having a library due to budget cuts

City of Pomona Story Cont.

- Work force reduced 31 % over the last few years with reduction in over 240 positions
- Redevelopment Agency dissolved
- Outsourced many key functions, such as tree trimming and park maintenance
- Fire Station Closed

Sales Tax Comparison



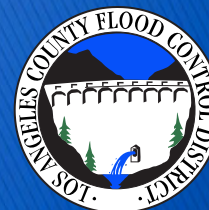
What Does This Permit Mean for Pomona?

- Unfunded Mandates
 - Trash excluders on Catch Basins cost approximately \$2 Million over the next 2 years
 - Implementation of other TMDLs to comply could be an additional \$800,000 a year
- Costs of permit compliance are expected to exceed current budget
 - Additional cuts will need to be made to General Fund, which pays for police and fire positions, and recreation programs.

Los Angeles County Municipal Stormwater NPDES Permit

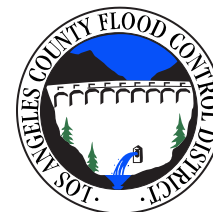
Regional Board Hearing
October 4 - 5, 2012

County of Los Angeles and Los Angeles County
Flood Control District



Overview

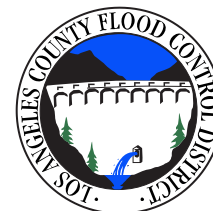
- ▶ Proactive Steps
- ▶ Multi-Benefit Approach
- ▶ Way Forward



Proactive Steps

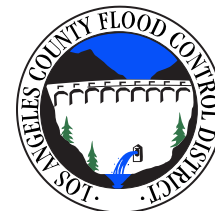
- ▶ Watershed protection over the last 10 years

- ▶ Tools Used
 - New Ordinances and Guidelines
 - County Infrastructure Upgrades
 - Source Control
 - Enhanced Monitoring Efforts and Source Identification
 - Watershed Model Development
 - Structural BMPs



LID Ordinance & Green Infrastructure Guidelines

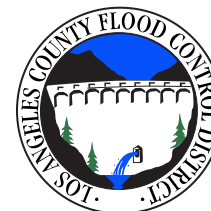
- ▶ County Board of Supervisors adopted a Low Impact Development (LID) Ordinance (January 2009)
- ▶ Over 370 projects in Unincorporated County areas have been required to incorporate LID elements
- ▶ Green Infrastructure Guidelines for County projects (June 2011)



Plastic Bag Ban

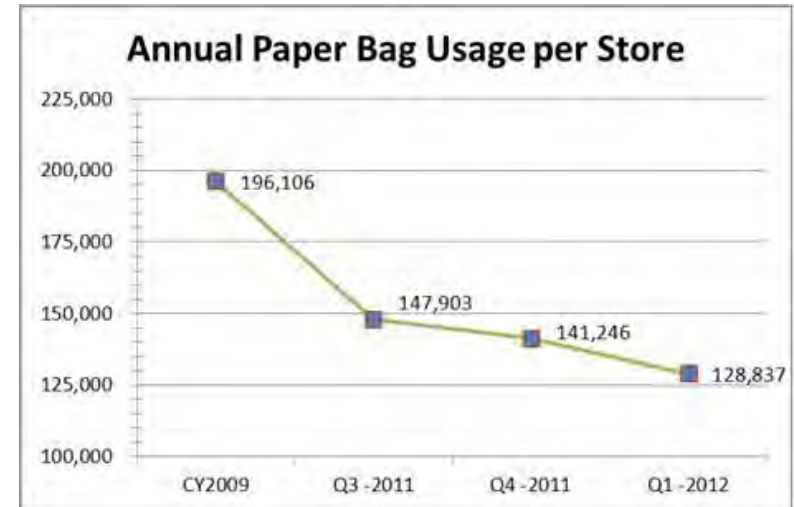
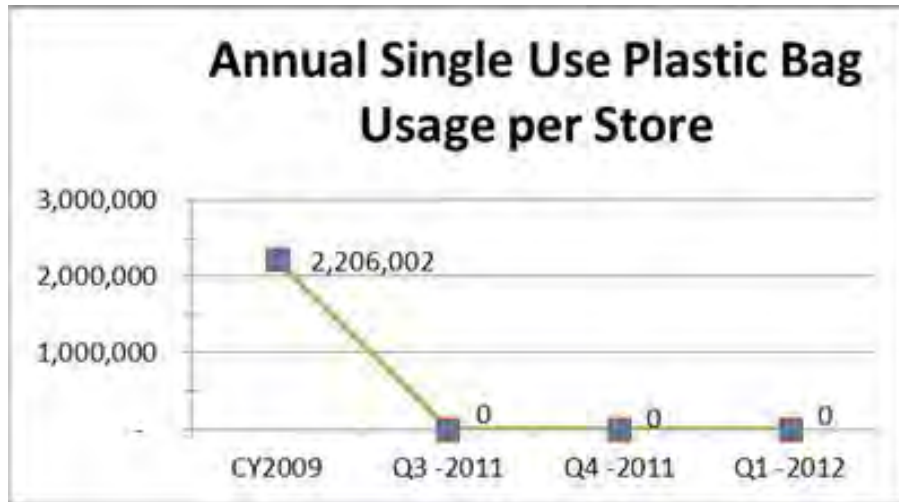
- ▶ County Board of Supervisors adopted a Plastic Bag Ordinance (November 2010)
- ▶ Reducing a major source of trash
- ▶ Complementing regional municipal efforts

Malibu (2008)	Manhattan Beach (2010)
Santa Monica (2011)	Calabasas (2011)
Long Beach (2011)	Pasadena (2011)
West Hollywood (2012)	Los Angeles (est. 2012–13)

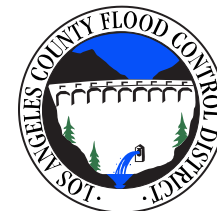


Impact of Plastic Bag Ban

- ▶ 95% reduction in overall single bag use (both plastic and paper)

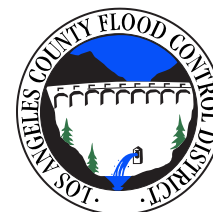


Source: www.AboutTheBag.com



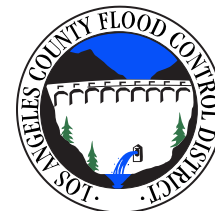
Styrofoam Ban

- ▶ County Board of Supervisors prohibited Styrofoam food containers at all County facilities and operations (September 2010)
- ▶ Reducing another major source of trash



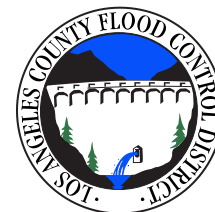
Source Control Advocacy – Brake Pads

- ▶ Copper in brake pads is a major source of stormwater pollution
- ▶ Copper in dissolved form cannot be removed through conventional treatment
- ▶ County supported SB 346 Brake Pad Reformulation (signed into law September 2010)
- ▶ Law requires copper content reduction by 2025
- ▶ Example of effective source control



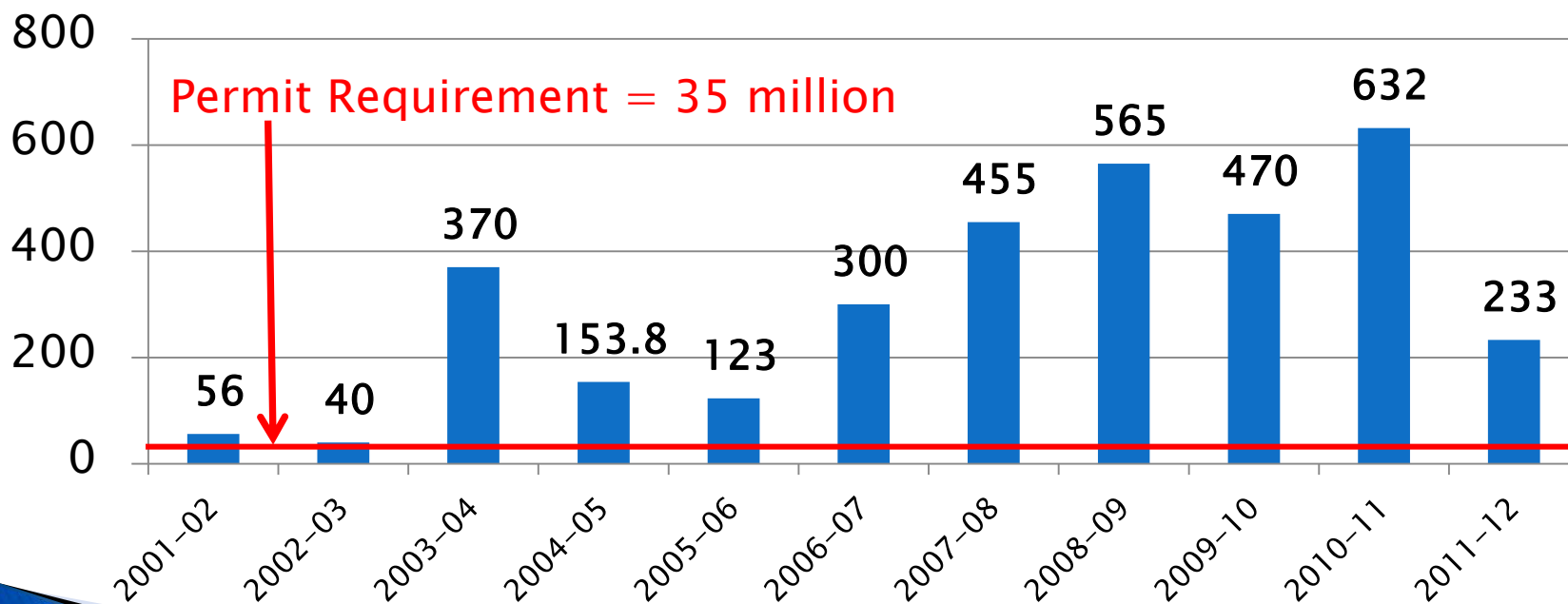
County Sanitary Sewer Upgrades

- ▶ Rehabilitated 127 miles of sanitary sewers in County Unincorporated Areas
- ▶ Including all sanitary sewers in Marina del Rey (11 miles)
- ▶ Reduced sanitary sewer leaks



Public Outreach

- ▶ Award-winning public outreach program
- ▶ Consistently Exceeds Permit Requirement Impressions (x Millions)



Public Outreach

Recycle. Don't Dump.



Call 1 (888) CLEAN LA or visit CleanLA.com for FREE drop-off locations.





Fish Food?

Don't let litter flow to the ocean.
Put your butts in an ashtray.



www.CleanLA.com



Millions of butts... tossed in L.A. County every month.

Litter ends up in gutters that flow to the ocean.
Use an ashtray to dispose of cigarette butts.



1 (888) CleanLA
www.CleanLA.com



GENERATION EARTH

www.generationearth.org

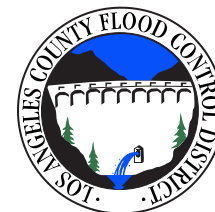
Enhanced Monitoring Efforts

- ▶ Pilot program for telemetry upgrade
- ▶ 11 sites in 5 watersheds
- ▶ Real time remote monitoring of basic parameters
- ▶ Operational by 2013



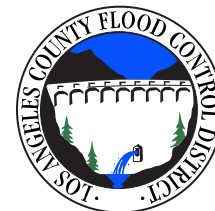
Source ID: Ramirez and Escondido Bacteria

- ▶ In 2007, County coordinated and funded a \$1 million study to identify bacteria sources
- ▶ Cooperatively developed with many stakeholders including Regional Board, Heal the Bay, and other local agencies
- ▶ Results showed that in general, County unincorporated areas of the watersheds were not a source

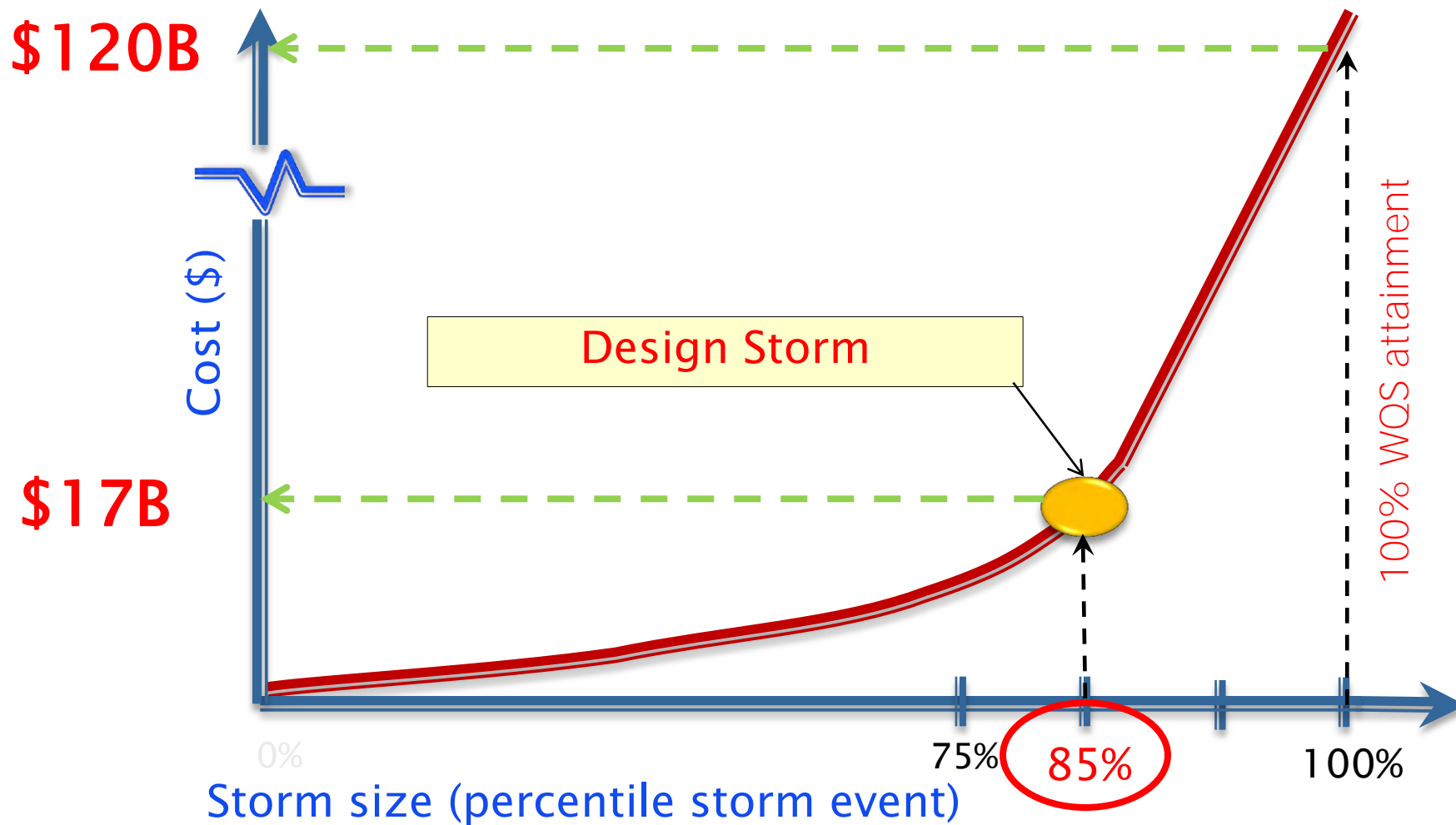


Watershed Model Development

- ▶ State of the art computer modeling tool for stormwater management and planning
- ▶ Based on USEPA model for TMDL development and recognized nationally
- ▶ Developed with stakeholder input: USEPA, Regional Board, Heal the Bay, cities
- ▶ Integral in implementing TMDLs

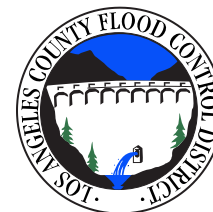


Model Results



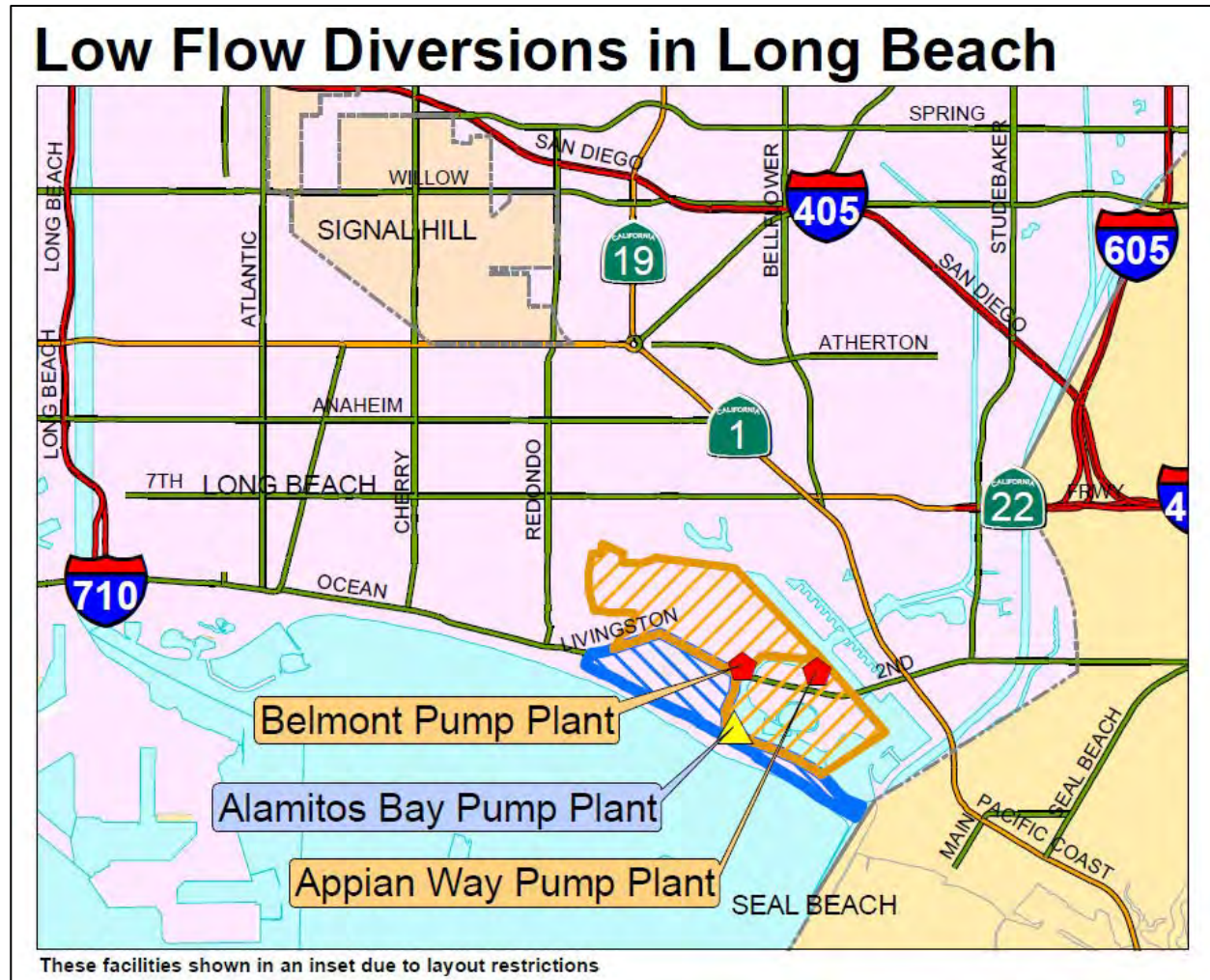
Structural BMPs

- ▶ Low flow diversions
- ▶ UV treatment
- ▶ Catch basin screens
- ▶ Infiltration

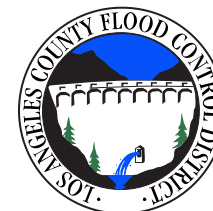
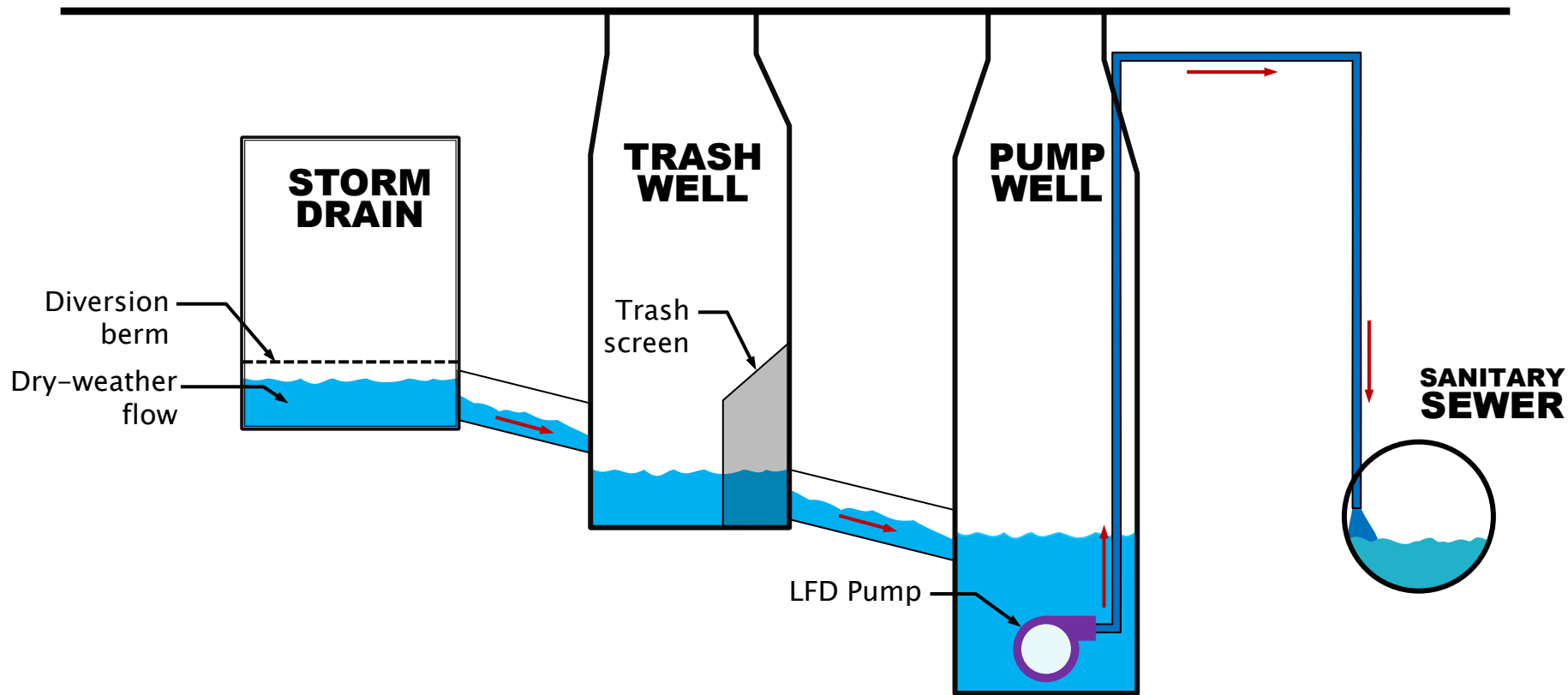


Low Flow Diversions: Long Beach

- ▶ 3 LFDs in partnership with Long Beach
- ▶ Termino Avenue Drain
 - \$36 million

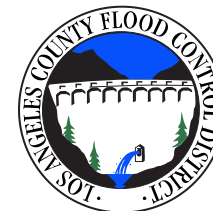
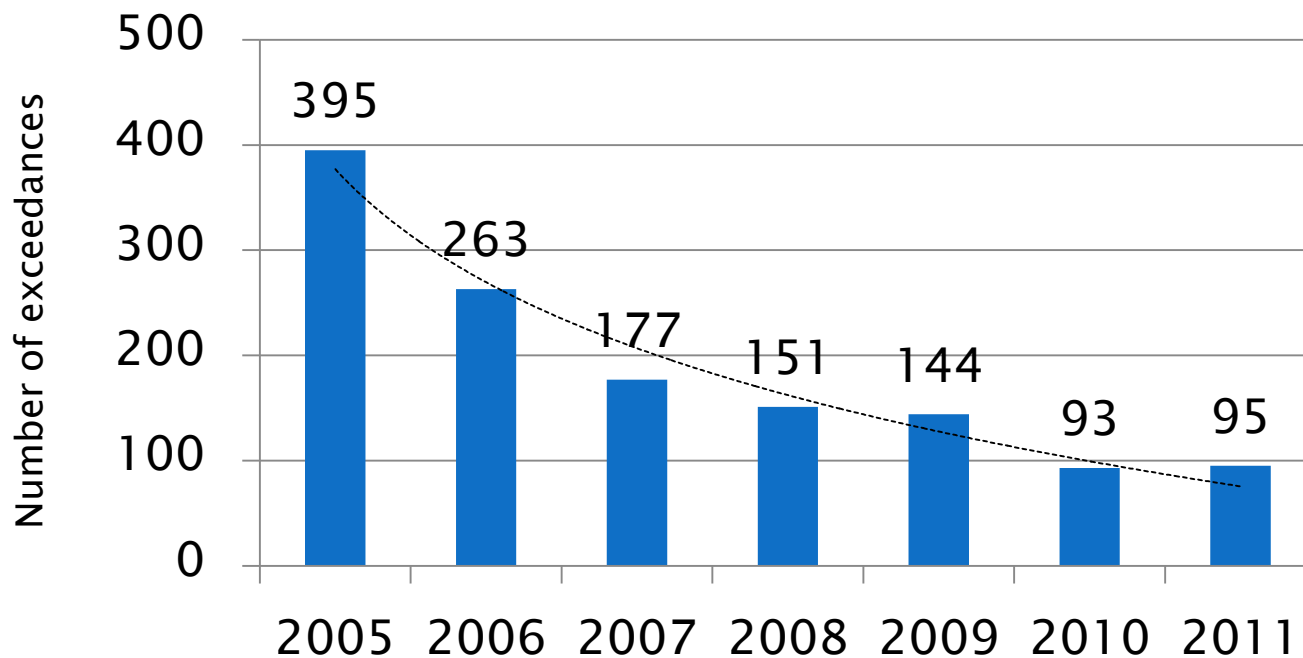


Low Flow Diversion Schematic



Cleaner Beaches

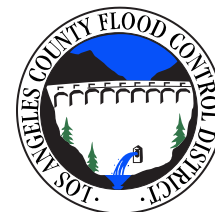
Summer Dry Weather Beach Water Quality Exceedances Sites with LFDs



Marie Canyon UV Treatment



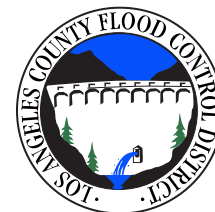
- ▶ Installed in 2007 for \$1.3 million
- ▶ Designed to treat 100 gpm of dry-weather runoff from Marie Canyon
- ▶ Dramatically improved dry weather runoff



Trash Reduction BMPs

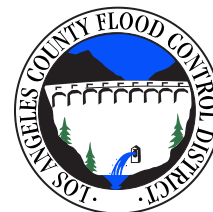


- ▶ Trash TMDLs are successful
- ▶ Retrofits ahead of schedule
- ▶ SWRCB Trash Policy



County Proposed Alternative

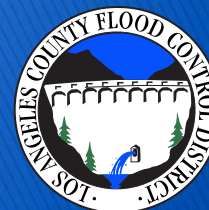
- ▶ Multi-Benefit Regional Projects
 - Improve water quality
 - Alleviate flooding
 - Conserve and replenish local water supply
 - Create open space and recreational opportunities
 - Create wildlife habitat
 - Sustainability
 - Foster collaboration



Sun Valley Watershed Management Plan

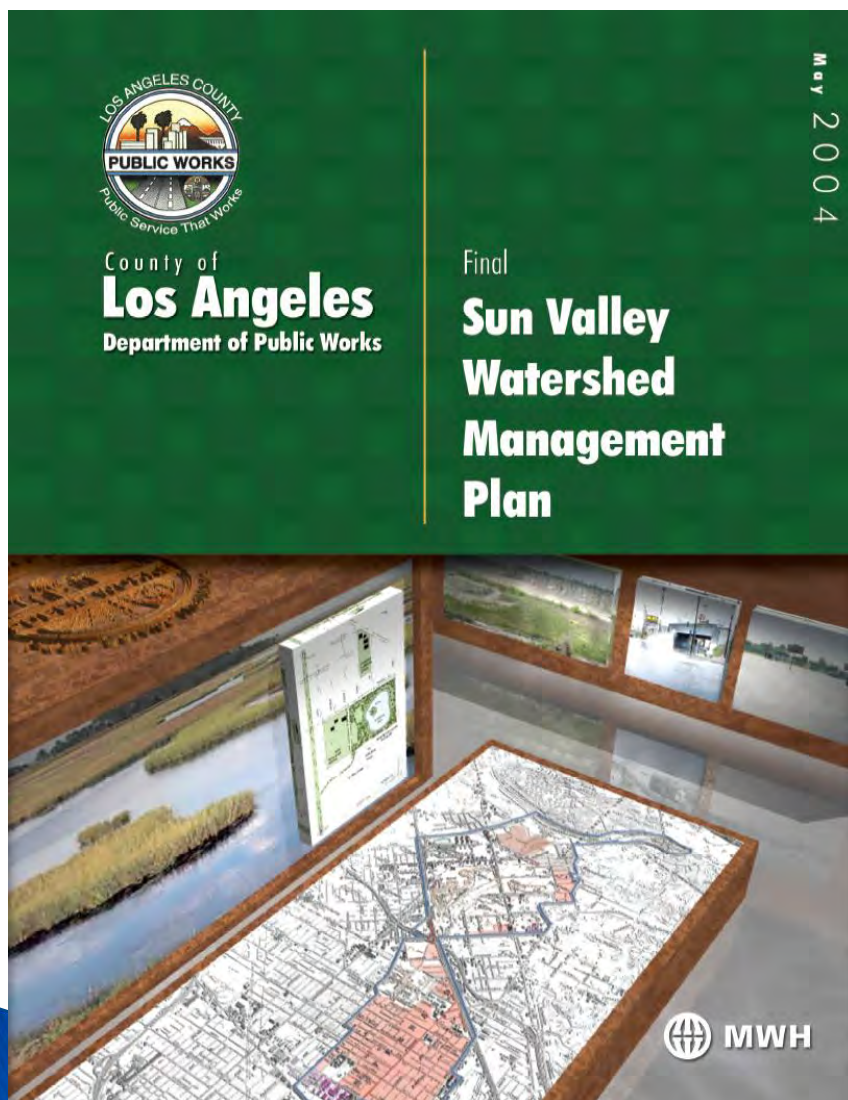
A Multi-Benefit Approach to Addressing Urban Watershed Health Issues

County of Los Angeles and Los Angeles County
Flood Control District





Multi-Benefit Approach



- ▶ Stakeholder Group
- ▶ Existing watershed condition
- ▶ 18 pilot projects
- ▶ Planning document
- ▶ Flood Protection
- ▶ Water Quality
- ▶ Stormwater Capture
- ▶ Habitat Restoration
- ▶ Recreational Opportunities
- ▶ 3-year development process



Elmer Avenue Retrofit



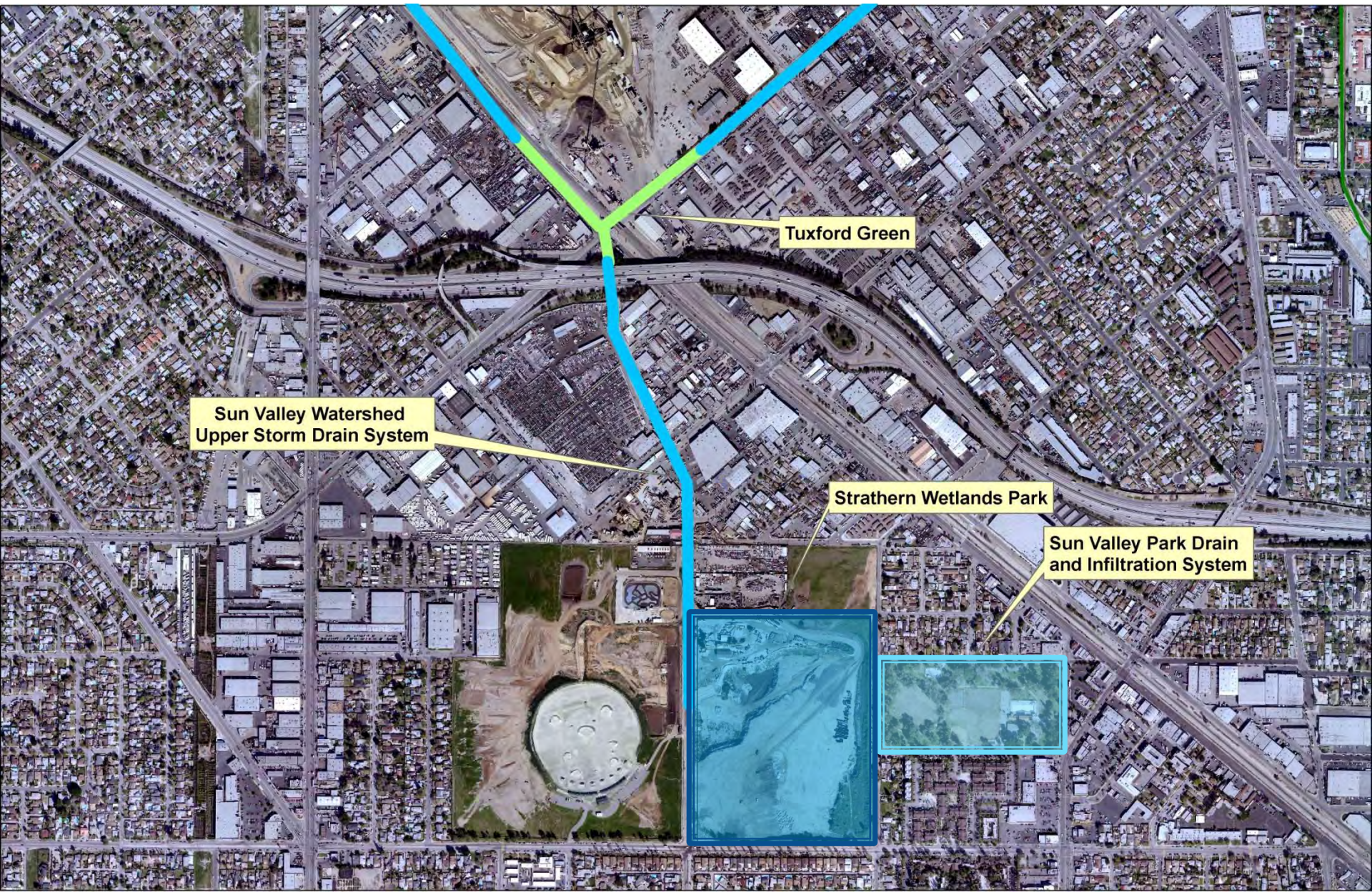
Tuxford Green

Sun Valley Park Drain and Infiltration System



Sun Valley Park Drain and Infiltration System





Sun Valley Watershed
Upper Storm Drain System

Tuxford Green

Strathern Wetlands Park

Sun Valley Park Drain
and Infiltration System



Groundwater recharge
(Sun Valley Park)

Water infiltrated:
590 AF/yr.

Strathern Wetlands Park

STRATHERN ST.



RB-AR18197



Community Outreach

STRATHERN WETLANDS PARK



Sun Valley Watershed Projects Costs

- ▶ Tuxford Green: \$4 million
- ▶ Sun Valley Park: \$7 million
- ▶ Strathern Wetlands Park
 - Acquisition: \$28 million
 - Park Construction: \$38 million
- ▶ **Total Cost: \$77 million**



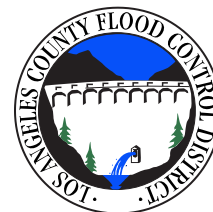
Dominguez Gap Wetlands



Tujunga Wash Greenway and Streambed Restoration

Way Forward

- ▶ Work with Regional Board staff to address outstanding issues
- ▶ Use incentives to foster cooperation and smart solutions
- ▶ Integrated Water Management



50-60 Million Beachgoers Per Year



10 Million People Live and Work Among our Waters



George Wolfe

Overview

- Summary of Our Proposal
- Current State of Los Angeles Waterways
- Impacts to beneficial uses (Expert testimony)
- Legal Framework
- Low Impact Development (Expert testimony)
- TMDLs
- Monitoring and Reporting Program
- Remaining Time Reserved for Cross-Exam and Rebuttal



Our Proposal

- **Water Quality Standards** – compliance required
- **TMDLs** – incorporate all waste load allocations and include lawful compliance schedules
- **Low Impact Development** – require permittees to retain stormwater with no discharge to receiving waters unless infeasible
- **Public Participation** – future actions on Permit must include public participation and Board oversight
- **Monitoring** – require coordinated receiving water and outfall monitoring for all constituents currently monitored, TMDLs, and toxicity



Current State of LA Waterbodies

LA County Mass Emission Stations

Discharger Data

The LA County **MS4** persistently contributes to **violations of water quality standards and TMDLs**.

The water quality limits for fecal **bacteria**, various heavy **metals**, ammonia, pH and **cyanide**, among other constituents were exceeded in **Ballona Creek**, **Malibu Creek**, the **Los Angeles River**, **Santa Clara River**, **Dominguez Channel**, and **Coyote Creek** **1105 times** since 2003.



Los Angeles River near mass emissions station, 2012

Current State of LA Waterbodies

Malibu Creek and Compton Creek

3rd Party Data: Heal the Bay

- **Malibu Creek Watershed (1998 – 2010):** regulatory limits for **nitrogen, ammonia, phosphate, E.coli and enterococcus** were **routinely exceeded** both during wet and dry weather.
- **Compton Creek (2006 – 2011):** numerous exceedances of Basin Plan and California Toxics Rule limits



Compton Creek sampling, 2011

Current State of LA Waterbodies

Los Angeles River

3rd Party Data: Friends of the LA River

- **13 of 22** sites received an **F grade for failing water quality standards** for PH, temperature, dissolved solids, nutrients, dissolved oxygen and turbidity. (2005)



- **Bacteria** monitoring data at **23 sites** in the LA River watershed reveal **fecal bacteria** indicator exceedances. (2003-2004)



Los Angeles River, 2011



Current State of LA Waterbodies

Ballona Creek and Malibu Beaches



3rd Party Data: LA Waterkeeper

- **18 storm drains** had consistently high levels of **bacteria** in dry weather discharges from these storm drains flowing into Ballona Creek.
- Receiving water sampling conducted in Ballona Creek together with the dry weather storm drain sampling demonstrates **the link between polluted storm drain discharges and exceedances of water quality standards.**
- Monitoring data at **Malibu beaches** confirm that the MS4 system is a **significant source of pollution** to receiving waters and contributes to violations of **bacteria water quality limits.**

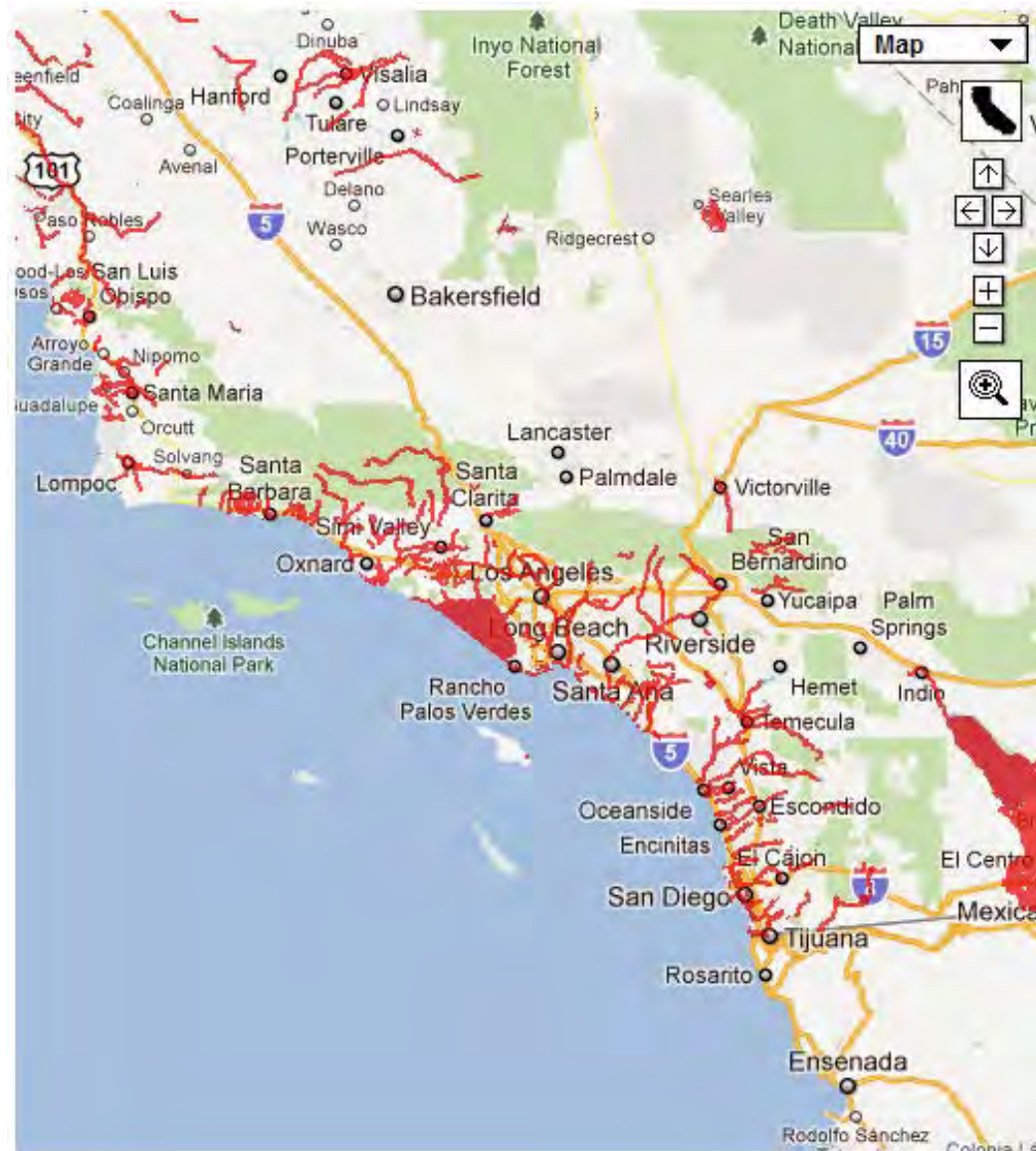


Malibu
beach,
2010

Current State of LA Waterbodies

2010 303(d) List (Impaired Uses)

RB-AR18211



Bacteria TMDL exceedances (Santa Monica Bay and Marina del Rey)

2006*	2007**	2008	2009	2010	2011	2012+	Total
181	533	663	587	526	879	465+	3834

* Santa Monica Bay Bacteria TMDL effective date (9-14-06)

** Marina del Rey Bacteria TMDL effective date (8-9-07)

+ Partial AB411 year (4-1-12 through 9-19-12)



Public Health Impacts - Recreation



Beneficial Use: Water Contact Recreation

Public Health Impacts - Consumption



Public Health Impacts - Consumption



Aquatic Life Impacts



Photo: Whale Rescue Team

Aquatic Life Impacts

- Marine mammals, birds, fish, reptiles, amphibians and invertebrates found entangled or trapped by plastic
 - (International Coastal Cleanup)
- Two studies: 7% and 61% of green turtles captured or found dead had ingested plastic
 - (Seminoff et al. in 2002 and Bugoni et al. in 2001, respectively)



Ocean Economy

- “California has the largest Ocean Economy in the United States, ranking number one overall for both employment and gross state product”
- Beach goers in California spend as much as \$9.5 billion annually and the non-market values associated with beach going in California may be as high as \$5.8 billion annually.



Beach Closures

- Los Angeles County reported 2,430 total closing or advisory days in 2011 from all sources (underreported). Stormwater is the largest cause.
- An increase in water quality in Long Beach (a C grade), to the healthier standards of Huntington City Beach (a B grade) would create \$8.8 million in economic benefits over a 10-year period.



Costs Claimed by Permittees

- “Reported costs of compliance for the same program element can vary widely from Permittee to Permittee, often by a **very wide margin that is not easily explained.**” (F-138)
- “It is important to note that reported program costs are not all solely attributable to compliance with requirements of the LA County MS4 Permit. Many program components, and their associated costs, existed before the first LA County MS4 Permit was issued in 1990.” (F-138)
- In 2010 Los Angeles County asserted that compliance with the Trash TMDLs “could cost the municipalities over \$1 billion.”
 - LA County noted that compliance could cost less than \$1 million
 - Gateway Region IRWM Authority Awarded \$10 million from the American Recovery and Reinvestment Act to implement the LA River Trash TMDL: “everybody will be in compliance.”



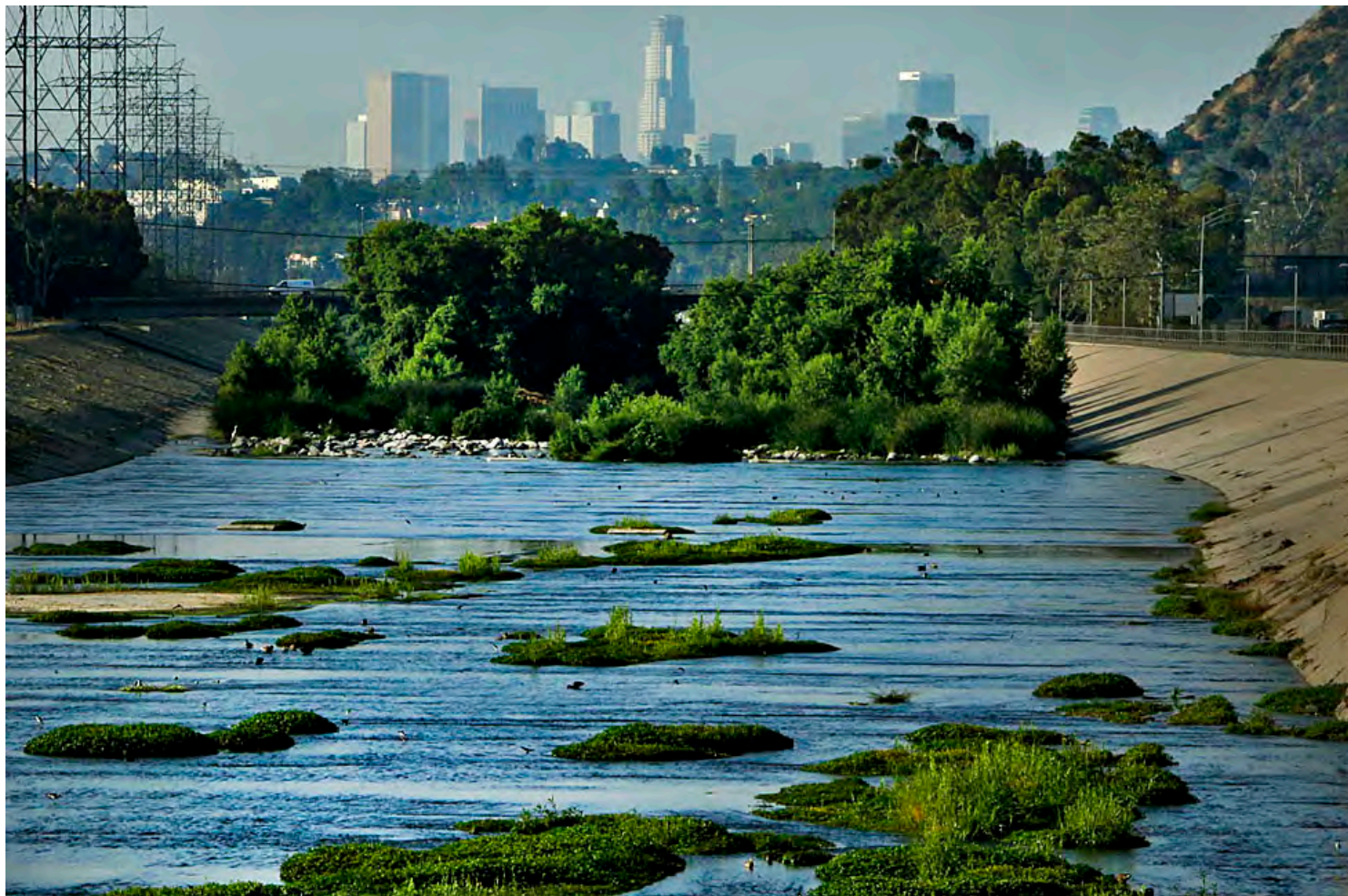
Grants/bonds/fees

- Over \$645 million

Source of Money	Dollars	% of total costs funded by State (only for those projects which included State funding)
Only State Board-awarded funding (Propositions 12, 13, 40, 50, and 84; and federal money, 319h, 205j, ARRA)	\$49,143,132	47%
Only State money from any State agency (propositions only, no federal); includes State Board, DWR, Coastal Conservancy, Fish & Game	\$67,461,699	58%
Total costs (approx.) for projects involving State money	\$114,703,731	N/A
Prop A	\$4,981,772	N/A
Prop O	\$508,678,258	N/A
Measure V	\$9,107,959	N/A
Total Public Funds (federal, State, local bonds and measures) expended on stormwater control projects	\$645,389,932	N/A (information not available for projects funded by local bonds and measures)



The Clean Water Act



(Mark Boster / Los Angeles Times)



Beneficial Uses and Water Quality Standards

State must adopt water quality standards – include maximum permissible pollutant levels sufficiently stringent to protect public health and enhance water quality consistent with designated uses.

33 U.S.C. § § 1311(b)(1)(C), 1313

Water quality standards provide a basis for regulating discharges “to prevent water quality from falling below acceptable levels.”

PUD No. 1 of Jefferson County v. Washington Dep’t of Ecology

(1994) 511 U.S. 700, 704



Receiving Water Limitations

2001 LA MS4 Permit:

Part 2.1 – “discharges from the MS4 that cause or contribute to the violation of Water Quality Standards or water quality objectives are prohibited.”



Receiving Water Limitations

The Regional Board “included Parts 2.1 and 2.2 in the Permit without a ‘safe harbor.’” These are independently enforceable requirements that prohibit discharges that cause or contribute to a violation of Water Quality Standards.

L.A. County Mun. Storm Water Permit Litigation, No. BS 080548 at 7 (L.A. Super. Ct. March 24, 2005)

9th Circuit Court of Appeals

“no such ‘safe harbor’ is present in this Permit [there is] no textual support for the proposition that compliance with certain provisions shall forgive non-compliance with the discharge prohibitions.”

Natural Resources Defense Council v. County of Los Angeles
(2011) 673 F.3d 880, 897



Receiving Water Limitations

“[I]t is impossible for Permittees to strictly comply with Part 2 of the Permit; they would be in violation of Parts 2.1 and 2.2 of the Permit from its effective date. . . .”

Cities of Arcadia et al.’s Opening Brief, Feb. 13, 2006, at 103
(in *County of Los Angeles* 143 Cal.App.4th 985)

“the proposed RWL language is unacceptable because it would place cities into instant noncompliance.”

Ray Tahir, Testimony at Regional Board Hearing on 2001 LA MS4 Permit,
December 13, 2001



Continued Regional Board Support

“the plain meaning of these provisions is clear: they prohibit discharges that cause or contribute to a ‘violation of Water Quality Standards’”

Brief of Amicus Curae California Regional Water Quality Control Board, Los Angeles Region, in *Santa Monica Baykeeper v. City of Malibu* (No. CV 08-1465-AHM (PLAx) (C.D. Cal.) (filed Feb. 5, 2010), at 4



The Clean Water Act

Anti-Backsliding:

“when a permit is renewed or reissued, interim effluent limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit.”

40 C.F.R. 122.44(l)(1)



The Clean Water Act

Anti-Degradation Policy:

Protects existing uses and water quality necessary to support existing uses, or, for “high quality” waters, protects water quality better than necessary for “fishable/swimmable” uses.

In no case may water quality be lowered to a level which would interfere with existing or designated uses.

40 CFR § 131.12



Low Impact Development



Environmental Services, City of Portland, Oregon/Kevin Robert Perry



Impervious vs. Pervious Surfaces and Groundwater Recharge



City of Lincoln, NE, Watershed Management Division

Infiltration & Capture BMPs

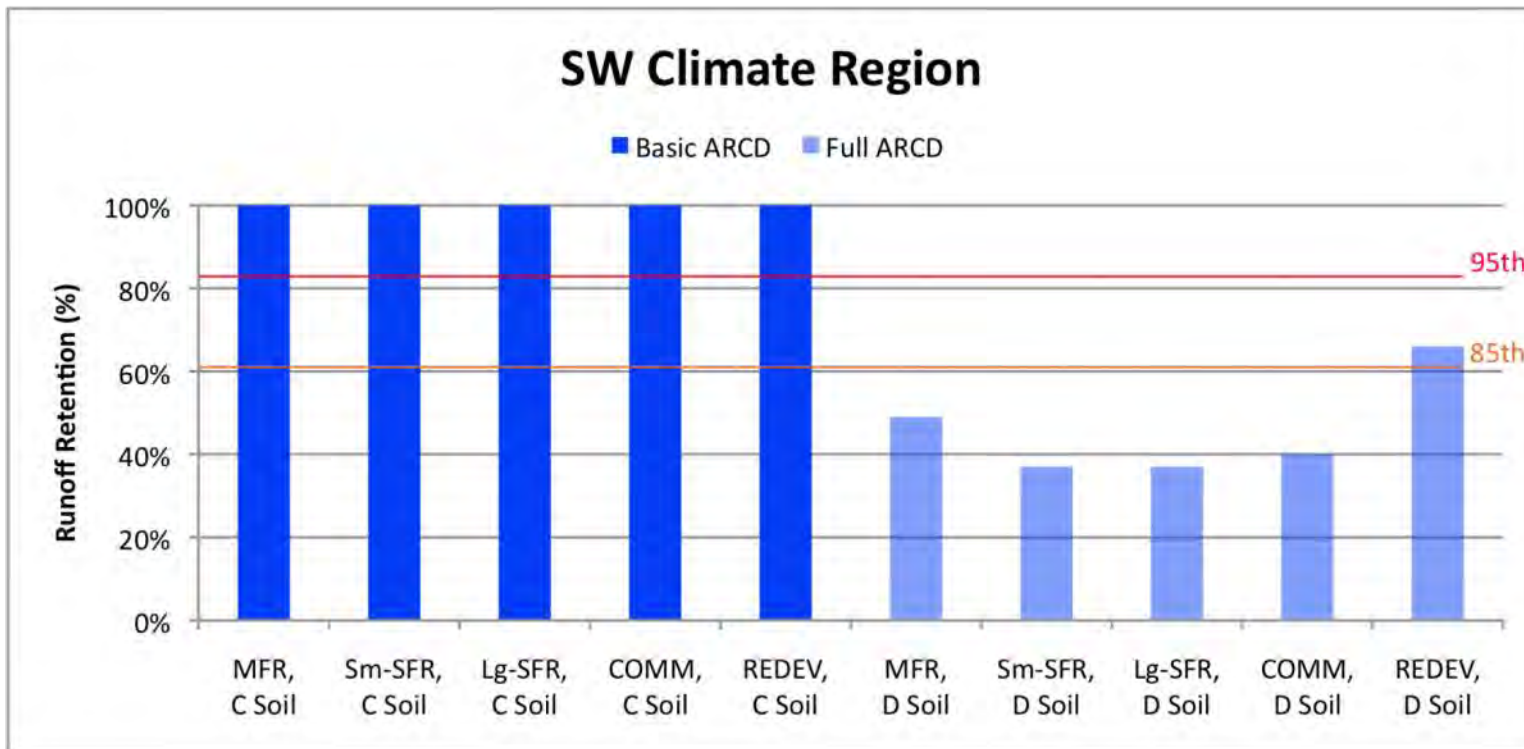


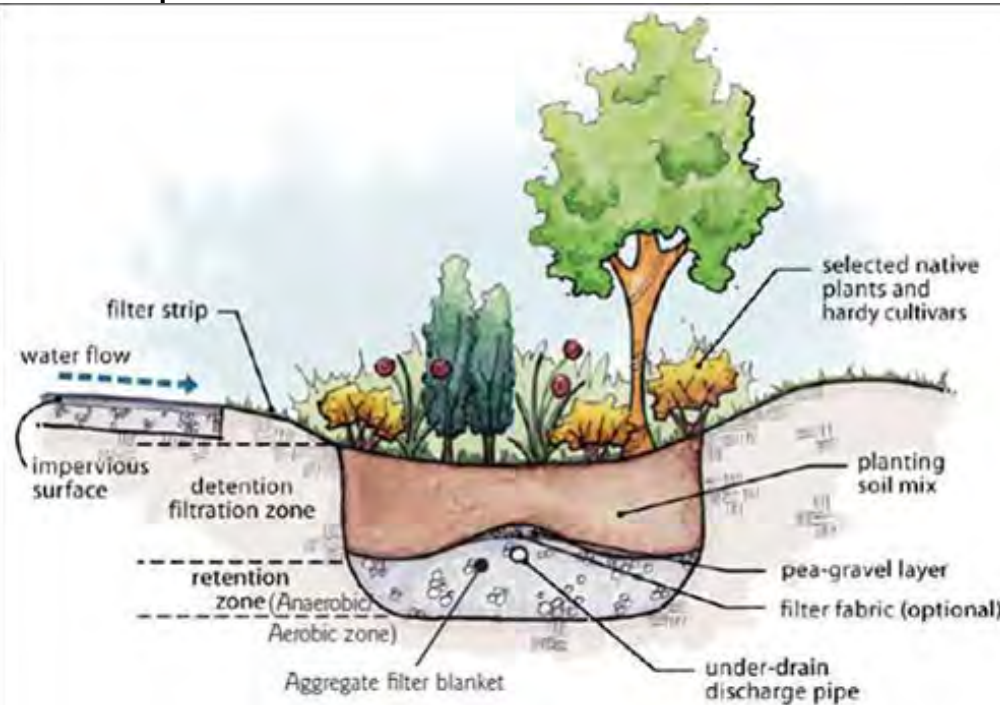
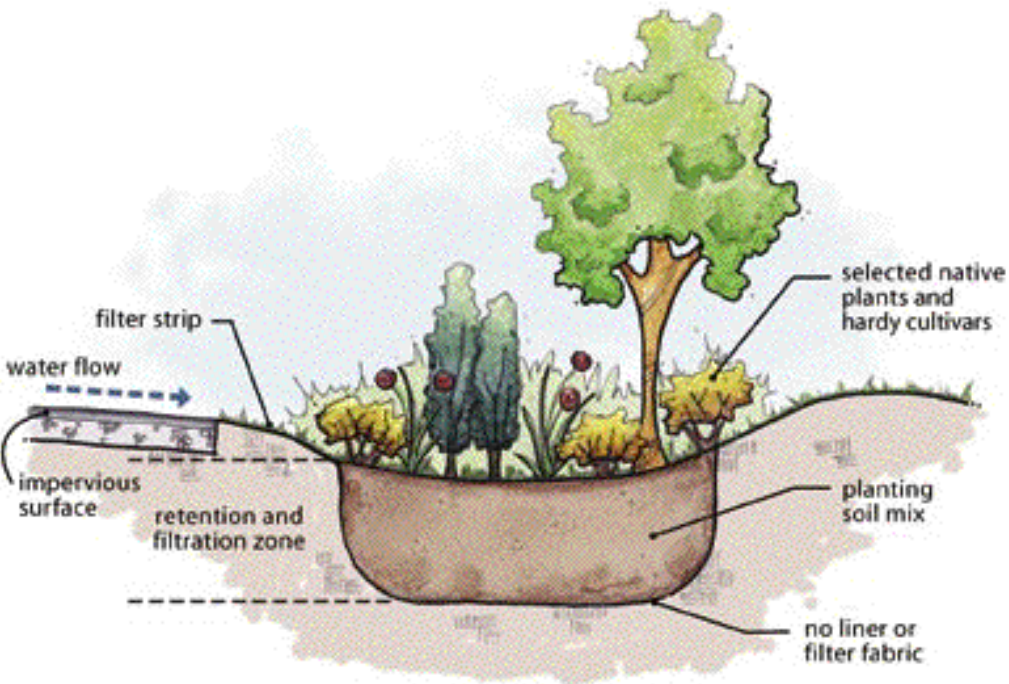
Forested and Urban Hydrology Compared



Impervious	~0%	~20%	~60%	~95%
<u>Surface runoff</u>				
Total output	< 5%	~20%	~55%	~85%
2-year peak				
Stream flow	1X	~2X	~4X	-

Feasibility of Retention





LID vs. Conventional Cost Examples

- U.S. Environmental Protection Agency (2007) study: In almost all cases, significant savings with LID (15 to 80%)
- Seattle street-side bioretention cost per block (330 ft) \$325,000, compared to \$425,000 for traditional curb and gutter and piped drainage system
- Portland, OR residential roof downspout disconnection program cost \$8.5 million but is expected to save \$250 million in storage infrastructure to prevent combined sewer overflows.



Specific Language - LID

The Final Order Must:

- Require on-site retention of the 85th percentile storm event with no discharge where feasible
 - Can be on-site or conveyed to regional retention project with no discharge to receiving water
- Allow offsite Mitigation *only* where infeasible to retain runoff on-site
- Allow compliance through offsite mitigation or retrofit of existing development only through retention, not biofiltration or other practice resulting in discharge of runoff
- Revise sizing threshold to require only 10,000 sq ft impervious surface



Public Participation & Board Oversight

Permit Provisions:

- Local Ordinance Equivalence (VI.D.6.d.i)
- TMDL interim milestones (VI.C.3.b.iv.(5)(b))
- Watershed Management Program (VI.C.1.b)
- Minimum Control Measures (VI.d.1.a)

“stormwater management programs that are designed by regulated parties must, in every instance, be subject to meaningful review by an appropriate regulating entity. . . .”

Environmental Defense Center v. U.S. EPA (9th Cir. 2003) 344 F.3d 832, 854-56



Impaired Waters and TMDLs



Ballona Creek, Los Angeles



(California Coastal Commission)



TMDLs are the means for bringing impaired waterways back into compliance for pollutants such as bacteria, metals, trash, etc.

Clean Water Act NPDES permits must be consistent with the waste load allocation (“WLA”) in each TMDL.

(40 C.F.R. § 122.44(d)(1)(vii)(B))

TMDLs in Draft Permit Are Not Consistent with Clean Water Act

- The Draft Permit incorporates illegal compliance schedules



TMDLs in Draft Permit Are Not Consistent with Clean Water Act

- Compliance Schedules Must:
 - Lead to compliance “as soon as possible”
 - Many TMDLs delay compliance for 20+ years



TMDLs in Draft Permit Are Not Consistent with Clean Water Act

- Compliance Schedules Must:
 - Include interim deadlines with reports and milestones and a final compliance date
 - Many TMDLs do not include interim deadlines
 - Many TMDLs do not require interim reporting



TMDLs in Draft Permit Are Not Consistent with Clean Water Act

- Compliance Schedules Must:
 - Be authorized
 - For CTR pollutants (metals), there is a 10-year maximum on compliance schedules and no schedule can be established after May 18, 2010
 - TMDLs for CTR pollutants include compliance schedules beyond May 18, 2010



The Clean Water Act and SWRCB Precedent Prohibit Compliance Schedules for CTR Pollutants Beyond 2010

The Office of Chief Counsel has previously advised regional water boards that compliance schedules must, **“terminate[] on or before May 18, 2010 consistent with the CTR.”**

*Michael Lauffer, State Water Resources Control Board Chief Counsel,
Letter to State Board Executive Office, Sept. 15, 2006*

“Compliance schedules for permit limitations implementing a water quality objective that is identical to a CTR criterion and that was adopted after promulgation of the CTR **may not extend beyond May 18, 2010.**”

*State Board Policy on NPDES Compliance Schedules,
Resolution No. 2008-0025 at 4.*



Monitoring

The Clean Water Act requires that a Permittee undertake a self-monitoring program sufficient to determine compliance with its NPDES permit.
40 C.F.R. § 122.44(i)(1).



Receiving Water

1. Mass Emission Stations

- + Current Locations Required
- + Current Parameters

2. TMDL

3. + Additional Locations



Outfall



- **Compare to WQS**, not weak “action levels”

Example, Zinc:

Proposed MAL: 641 ug/l

Water Quality Standard (CTR): 120 ug/l

Ventura: 21.6 ug/l

- **Include BMP Performance Standards** (Ventura Permit)

Beaches

- Draft appropriately incorporates CMP
- + Specify frequency of monitoring (consistent with current Order)
 - 5 times per week



Santa Monica Canyon

Toxicity Monitoring

- “Safety Net” of NPDES Program
 - Support dry and wet weather
 - Support Receiving Water and Outfall
- + Increase outfall frequency
- + Remove the “off ramps”



Our Proposal

- **Water Quality Standards** – compliance required
- **TMDLs** – incorporate all waste load allocations and include lawful compliance schedules
- **Low Impact Development** – require permittees to retain stormwater with no discharge to receiving waters unless infeasible
- **Monitoring** – require coordinated receiving water and outfall monitoring for all constituents currently monitored, TMDLs, and toxicity
- **Public Participation** – future actions on Permit must include public participation and Board oversight





George Wolfe





09/24/2012



RB-AR18256





2005

2005

323.537.4337

DRIVE-THRU
TOM'S JR

10
6J0X593

2005
5RZM148

5TNU725

RB-AR18258





Santa Monica Bay Beaches Bacteria Total Maximum Daily Load Monitoring

- Two programs
 - Current permit Shoreline Monitoring
 - TMDL Coordinate Shoreline Monitoring Plan (CSMP)
- Significant overlap and redundancy between programs

Sampling Frequency Criteria

- CSMP
 - Weekly on Monday
 - Permit

e) Sample frequency shall be either weekly or 5 times per week, depending upon historical shoreline monitoring data. Days not sampled shall be Sundays and Mondays or Tuesdays. Sampling shall be conducted 5 times per week at shoreline monitoring sites with historical water quality that is worse than the reference beach identified in the Santa Monica Bay Beaches Bacteria TMDLs (Resolutions 2002-004 and 2002-022). Systematic weekly sampling shall be conducted at shoreline monitoring sites with historical water quality that is as good as or better than the reference beach.¹⁰

b) The City of Los Angeles shall supplement the weekly sampling done by the Los Angeles Department of Health Services at two additional shoreline monitoring locations, Manhattan Beach at 28th Street (DHS 113) and the Herondo storm drain (DHS 115), to increase sampling frequency at these sites to 5 times per week.

Santa Monica Bay Beaches Bacteria

Total Maximum Daily Load

Sampling Rate

RB-AR18262

Rank	Station	Exceed rate	Rank	Station	Exceed rate	Rank	Station	Exceed rate
1	SMB-2-1	50.0%	24	SMB-2-9	8.6%	46	SMB-1-4	2.8%
2	SMB-1-12	50.0%	25	SMB-3-4 (S6)	8.5%	47	SMB-2-12	2.3%
3	SMB-3-3 (S5)	40.9%	26	SMB-1-14	8.3%	48	SMB-2-10 (S11)	2.2%
4	SMB-1-8	37.1%	27	SMB-1-11	8.2%	49	SMB-6-6 (S18)	2.0%
5	SMB-2-2	32.1%	28	SMB-1-17	7.4%	50	SMB-5-3 (S14)	2.0%
6	SMB-MC-2 (S1)	28.7%	29	SMB-2-6	7.0%	51	SMB-1-16	1.7%
7	SMB-1-18 (S2)	23.6%	30	SMB-2-13 (S12)	7.0%	52	SMB-4-1	1.7%
8	SMB-BC-1 (S10)	21.0%	31	SMB-5-2 (DHS113)	6.9%	53	SMB-2-14	1.7%
9	SMB-1-7	20.3%	32	SMB-3-8 (S8)	6.4%	54	SMB-5-1 (S13)	1.7%
10	SMB-1-10	19.7%	33	SMB-6-5 (S17)	5.7%	55	SMB-3-5 (S7)	1.2%
11	SMB-MC-3	18.6%	34	SMB-6-3	5.6%	56	SMB-7-9	1.1%
12	SMB-2-7 (S4)	17.1%	35	SMB-6-4	5.0%	57	SMB-7-4	0.7%
13	SMB-1-9	15.4%	36	SMB-7-7	4.6%	58	SMB-2-11	0.6%
14	SMB-3-1	13.0%	37	SMB-3-6	4.6%	59	SMB-5-4	0.5%
15	SMB-2-4 (S3)	12.7%	38	SMB-2-3	4.5%	60	SMB-7-5	0.3%
16	SMB-1-13	12.3%	39	SMB-1-5	4.5%	61	SMB-7-1	0.0%
17	SMB-6-2 (S16)*	11.6%	40	SMB-2-8	3.9%	62	SMB-7-8	0.0%
18	SMB-MC-1	11.2%	41	SMB-1-6	3.5%	63	SMB-7-3	0.0%
19	SMB-1-15	11.1%	42	SMB-2-15	3.4%	64	SMB-7-6	0.0%
20	SMB-5-5 (S15)	10.6%	43	SMB-3-7	3.4%	65	SMB-1-2	0.0%
21	SMB-3-2	10.5%	44	SMB-6-1 (DHS115)	3.2%	66	SMB-1-3	0.0%
22	SMB-1-1	10.2%	45	SMB-3-9	2.8%	67	SMB-7-2	0.0%
23	SMB-2-5	9.7%						

* S16 is located south of the Redondo Beach Pier not 100 yards south of pier

Summer Dry Weather Samples

Incorporation in New Permit

- Proposed to include both existing permit and CSMP
- Consequence
 - Redundent sampling
 - Higher potential liability for some cities
 - Redondo Beach five stations
 - Two 5 days per week
 - Two 2 days per week
 - One 1 days per week
 - 3 times more liability

Recommendation

- Eliminate current permit Shoreline Monitoring program
- Only incorporate CSMP into permit until Watershed Monitoring Programs can be developed and approved.

Redondo Beach Pier Station

NPDES No. CAS004001

Order No. 01-182

Station	Location ¹	Latitude	Longitude
	of pier	<u>86112</u>	<u>118.402784</u> 0270
S16	Redondo Pier, Redondo Beach, <u>50-100</u> yds S. of pier	<u>33.83833</u> <u>83908</u>	= <u>118.391113</u> 9000
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, <u>50 yds S. of drainpoint zero</u>	<u>33.81889</u> <u>81944</u>	= <u>118.391113</u> 9000
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	<u>33.80500</u> <u>80440</u>	= <u>118.394673</u> 9424

¹ Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999, updated based on *Santa Monica Bay Beaches Bacterial TMDLs Coordinated Shoreline Monitoring Plan*, April 7, 2004.

Santa Monica Bay Beaches Bacteria

RB-AR18266

Total Maximum Daily Load Sampling Rate

Rank	Station	Exceed rate	Rank	Station	Exceed rate	Rank	Station	Exceed rate
1	SMB-2-1	50.0%	24	SMB-2-9	8.6%	46	SMB-1-4	2.8%
2	SMB-1-12	50.0%	25	SMB-3-4	8.5%	47	SMB-2-12	2.3%
3	SMB-3-3	40.9%	26	SMB-1-14	8.3%	48	SMB-2-10	2.2%
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23	SMB-2-5	9.7%						

* S16 is located south of the Redondo Beach Pier not 100 yards south of pier

Summer Dry Weather Samples



Southern California
Los Angeles and Ventura
Counties Chapter



Comments on Tentative Draft LA County MS4 Permit

**Building Industry Association of Southern California
&
Construction Industry Coalition on Water Quality**

October 5, 2012



LA County Tentative Draft MS4 Permit Planning and Land Development Program

Permit Issue	Concerns and Technical Support	Suggested Approach
<p>Permit characterizes biofiltration as an alternative compliance practice</p> <p>Biofiltration is relegated to a lesser status in meeting DCV requirement</p> <p>Biofiltration is a recognized LID practice and a necessary tool to achieve integrated water resources management</p>	<p>All California and National MS4 permits allow biofiltration to meet DCV standard:</p> <p>Ventura County; North and South Orange County; Riverside County; San Bernardino County</p> <p>San Francisco Bay Area Sacramento</p> <p>Portland, Philadelphia, West Virginia, Georgia</p>	<p>Explicitly allow biofiltration to meet the DCV standard once on-site retention is shown to be technically infeasible.</p> <p>Recognize hierarchy</p> <p>Move using biofiltration from Alternative Compliance (pg 71) to Integrated Water Quality/ Flow Reduction/ Resources Management Criteria (pg 69).</p>

Biofiltration BMPs

Essential LID Tools



Parking Lot Curb Contained



Urban Street Curb Contained



**Building, Urban Sidewalk and Street
Biofiltration Planter Box**

LA County Tentative Draft MS4 Permit Planning and Land Development Program

RB-AR18270

Permit Issue	Concerns and Technical Support	Suggested Approach
Use of off-site projects to meet LID BMP performance criteria	Permit sets up process, but disfavors equivalent off-site/regional projects	Allow regional projects as co-equal to onsite compliance (pgs. 70 – 71); Exempt these projects from on-site feasibility analysis
Regional watershed master planning permit language missing	Permit eliminates this option	Re-establish condition similar to Sect. 4.d.9 provision in current LA County MS4 permit

Micro Replenishment versus Regional Stormwater Capture



Single Home Rainfall Harvest
Volume: Hundreds of Gallons



Regional Water Quality Management
Volume: Millions of Gallons

LA County Tentative Draft MS4 Permit Planning and Land Development Program

RB-AR18272

Permit Issue	Concerns and Technical Support	Suggested Approach
Technical and engineering criteria for LID BMP consideration placed in permit language	Creates rigid, inflexible standards for achievement Doesn't allow adaptation and improvement	Use a separate Technical Guidance Manual that implements permit conditions; standard of practice
Maximum application of green roof required for infeasibility analysis	No legal authority for LARWQCB to impose; building issues for cities	Remove reference to maximum application (pg. 70)

LA County Tentative Draft MS4 Permit Planning and Land Development Program

Permit Issue	Concerns and Technical Support	Suggested Approach
<p>Technically inappropriate soil infiltration rate of 0.15 inches per hour standard is proposed</p>	<p>Unnecessarily short drawdown time for achieving acceptable performance in back-to-back storms</p> <p>Criterion is extremely low and un-protective compared other LID BMP design guidance</p>	<p>Create 3-Tier system with a 0.5 inch per hour infiltration criterion as starting point for feasibility (pg. 70)</p> <p>Adjust infiltration drawdown criterion to “48 to 72 hours” (Attachment H-1)</p>

LA County Tentative Draft MS4 Permit Planning and Land Development Program

Permit Issue	Interpretation and Concerns	Suggested Approach
<p>Table 11 treatment BMP limitations provide poor design basis</p>	<p>It is not technically appropriate to establish a benchmark that must be met all the time by taking the median of studies in the ASCE database</p>	<p>Delete Table 11 (pg. 75)</p> <p>Use POC analysis and appropriate benchmarks in Technical Guidance as BMP design guidance</p>
<p>Grandfathering of existing projects unreasonable</p>	<p>LID is best applied during project planning and design phase; grandfathering language is tied to grading in construction phase</p>	<p>Use language consistent with Ventura Permit (pg. 69)</p>



Southern California
Los Angeles and Ventura
Counties Chapter

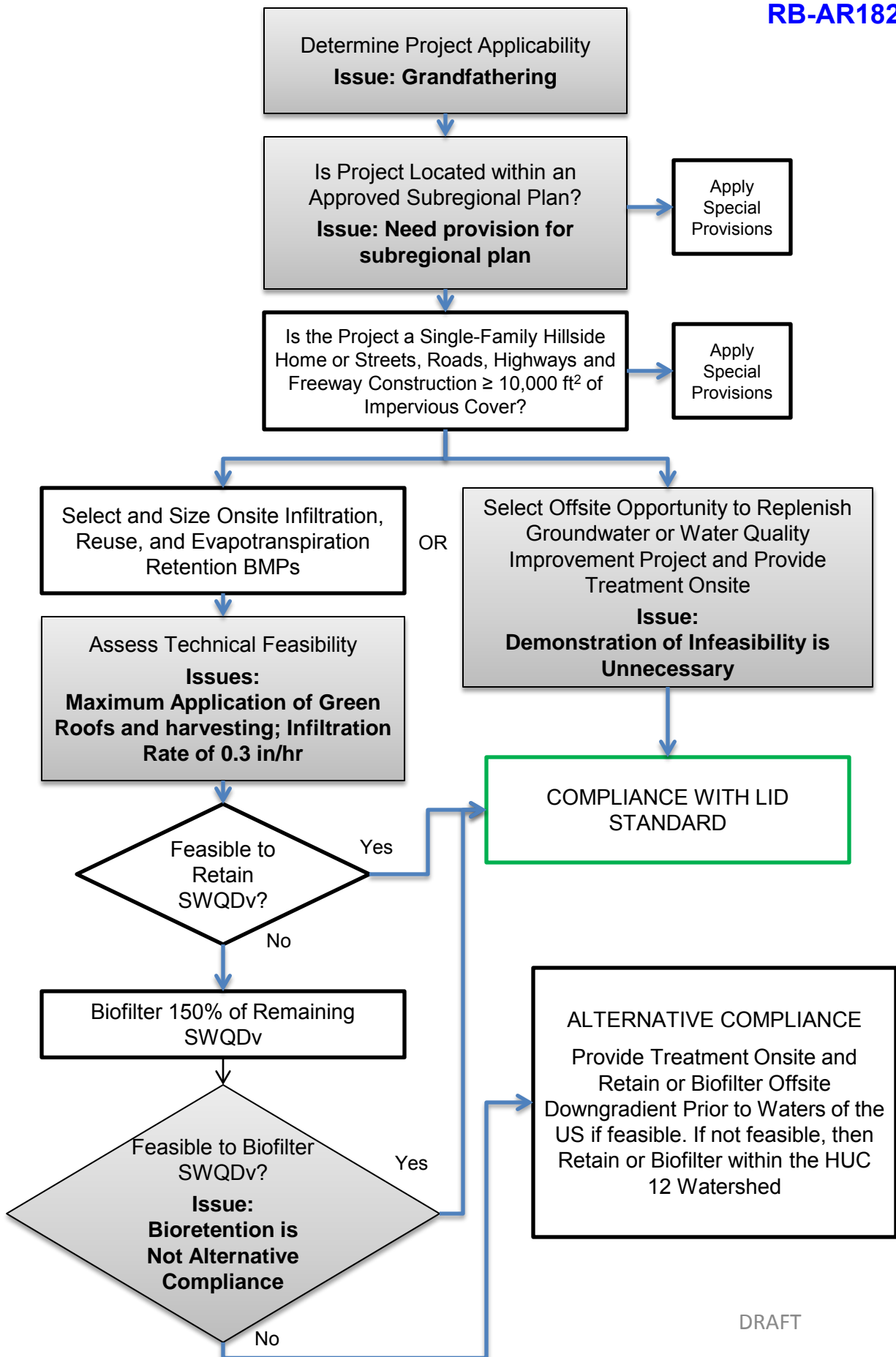


Thank you

Mark Grey, Ph.D.

Director of Environmental Affairs

mgrey@biasc.org





*Ventura Countywide
Stormwater Quality
Management Program*

Comments on Los Angeles County Municipal Stormwater Permit

**Gerhardt Hubner
Deputy Director
Watershed Protection District
October 2012**

Presentation to LA RWQCB



Major Issues – Our Comment Letter of July 23, 2012

- Stormwater/Municipal Action Levels
- Treatment Control BMP Benchmarks
- Receiving Water Limitation Language
- TMDL – Compliance with Final WLAs

Municipal Action Levels & BMP Treatment Control - Consistency

- MALs
 - Appear to be Calculated at 75th Percentile
 - Revised Tentative Ventura Permit 80th Percentile
 - Other CA Stormwater Permits adopted 90th Percentile
- BMP Treatment Control
 - Not consistency with Ventura Permit, should be focused on pollutants of concern

Receiving Water Limitations Language


- **Huge Public Policy Implications!**
 - Places Permittees in Jeopardy for 3rd Party Lawsuits
 - Disrupts and Redirects Limited Resources
 - Enforcement and Mandatory Minimum Penalties – WQ Improvement Plans May Not Shield
 - Could Fundamentally Change the Relationship Between Flood Control Districts & Cities/County
- **You have Discretion on this Issue!**

TMDLs – Why the Public Policy Change?

- * Numeric Effluent Limitations were determined infeasible for MS4s per the SWRCB Blue Ribbon Panel Report
- * U.S. EPA 2010 Memo – Draft Document
- * Calculation Easy – Very Hard to Implement
- * Not consistent with many TMDLs or the Presumptions Dischargers had when TMDLs adopted
- * Implementation analysis did not consider technical or economic feasibility of meeting Numeric Effluent Limitations

TMDL Example - Mercury

- Sherwood Lake TMDL – Recently EPA Developed. No Yet in Permit
- No Known Local Sources – Atmospheric or Natural Source Extremely Likely
- WLA Translated into Effluent Limitations for Mercury at MS4?



TMDLs Compliance Financial Impacts County's Contributions (Alone) – 2010 Estimates

RE-AR18283

Future Cost Estimate

From \$375,000 to \$1.5M Special Study/ Work Plan Preparation

From \$362,000 to \$524,000/ year* Monitoring and Reporting

From \$45M to more than \$465M Implementation/ Others

- * The estimate was based on the assumption that under the *worst case scenario* that all TMDLs are effective and require monitoring.
- ** Cost estimates were based on TMDL Implementation Budget Estimation prepared by Geosyntec (July 2010), CCW TMDL information from Larry Walker and Associates, and PWA staff professional judgment.

Annual VC Permit Costs Countywide 2006 Tracker Survey - \$25 per Household

Water Quality Regulation	Cost per Household
Previous Permit Fiscal Year 2006	\$35/yr
Current Permit Three Year Average	\$67/yr
Current Permit & TMDLs* Three Year Average	\$72/yr

* Does not include cost of TMDL compliance for other Responsible Parties (e.g. agriculture and POTWs)

Requested Action Today – Direction to Staff

- Receiving Water Limitations Language: Incorporate CASQA language and/or Reopener
- TMDLs: Allow for BMP-based compliance for effluent limits to meet final TMDL WLAs
 - Add the language from compliance option E.2.d.i.4 under Interim WLAs on page 113 of permit to page 114 as E.2.e.i.4

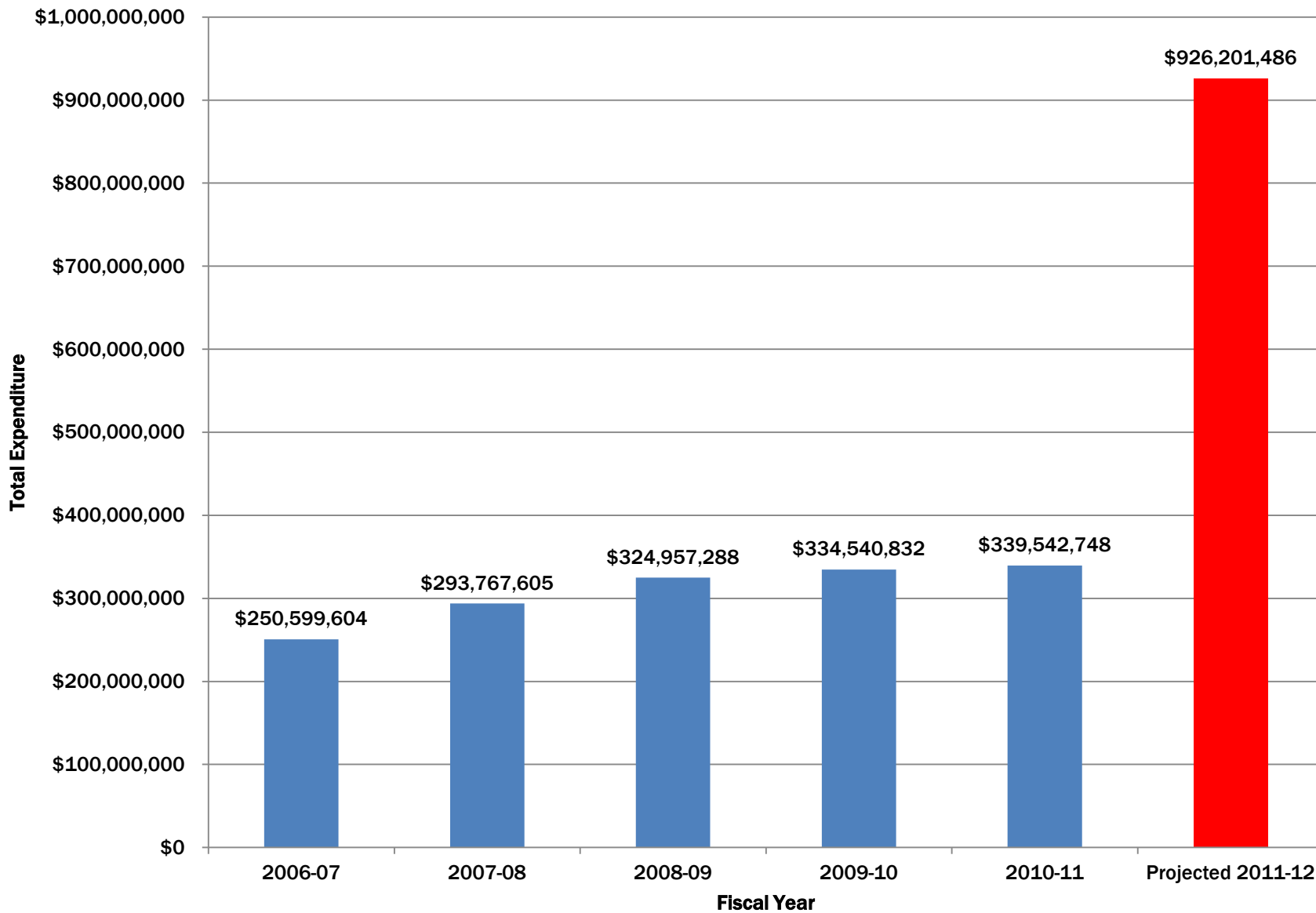
Summary

- Receiving Water Limitation Language – Jeopardy for Municipalities
- TMDL – BMP approach vs. Numeric Effluent Limitations? Shift in Public Policy - Source Control vs. Treatment Control
- Support LA County FCD's Concept for Multiple-Benefit Regional Projects – SW Capture/Storage
- Happy to Answer Any Questions?

REPORTED EXPENDITURES VS. ACTUAL

- Comparison of Storm Water Reported Expenditures (2006-2011)
- Review of Cities with Greatest One-Year Change in Expenditures (“Red Flag” Cities)
- Examination of Specific Reported Expenditures
 - Culver City
 - Diamond Bar
 - Lynwood
 - South Pasadena
- Findings

Total Stormwater Expenditure 6 Year Trend



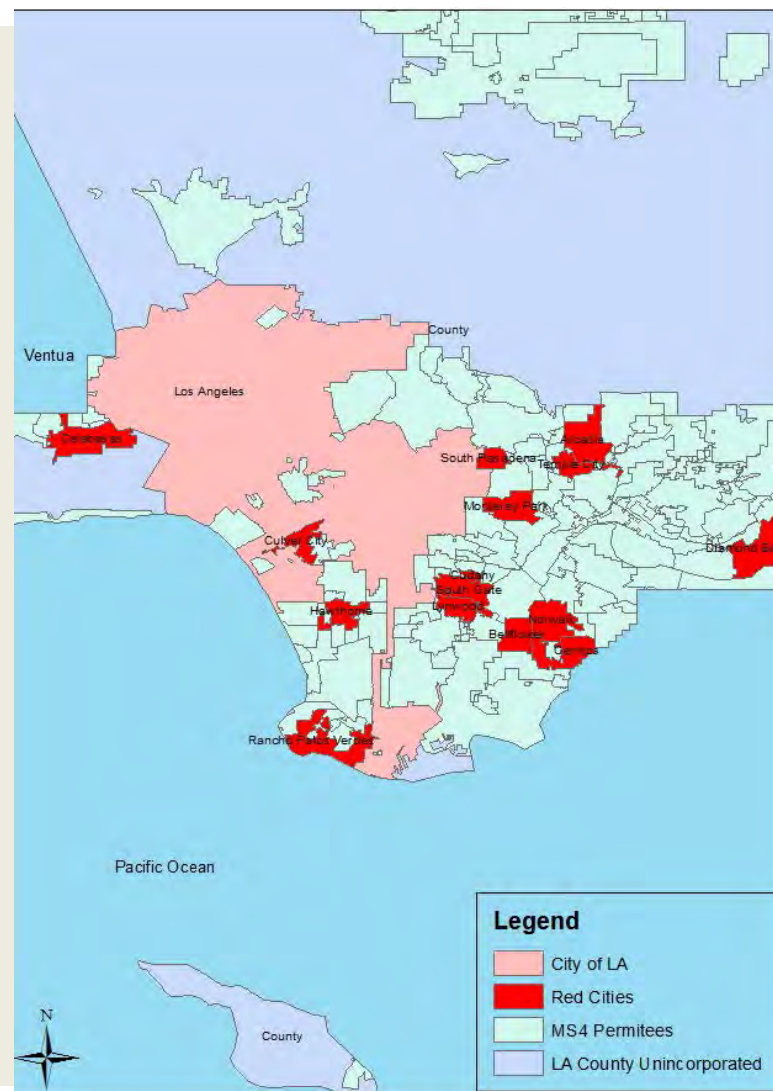
STORMWATER 6-YEAR TREND

Fiscal Years	2006-07 to 2007-08	2007-08 to 2008-09	2008-09 to 2009-10	2009-10 to 2010-11	2010-11 to 2011-12
Percent Change	17.23%	10.62%	2.95%	1.50% →	172.78%
Percent Change (Price Index-Adjusted 2010 \$)	-31%	-50%	-115%	0	+237%

- 2006-07 to 2010-11: Expenditure increases by less every year
- 2010-11 to 2011-12: Drastic percentage increase

“RED CITIES”

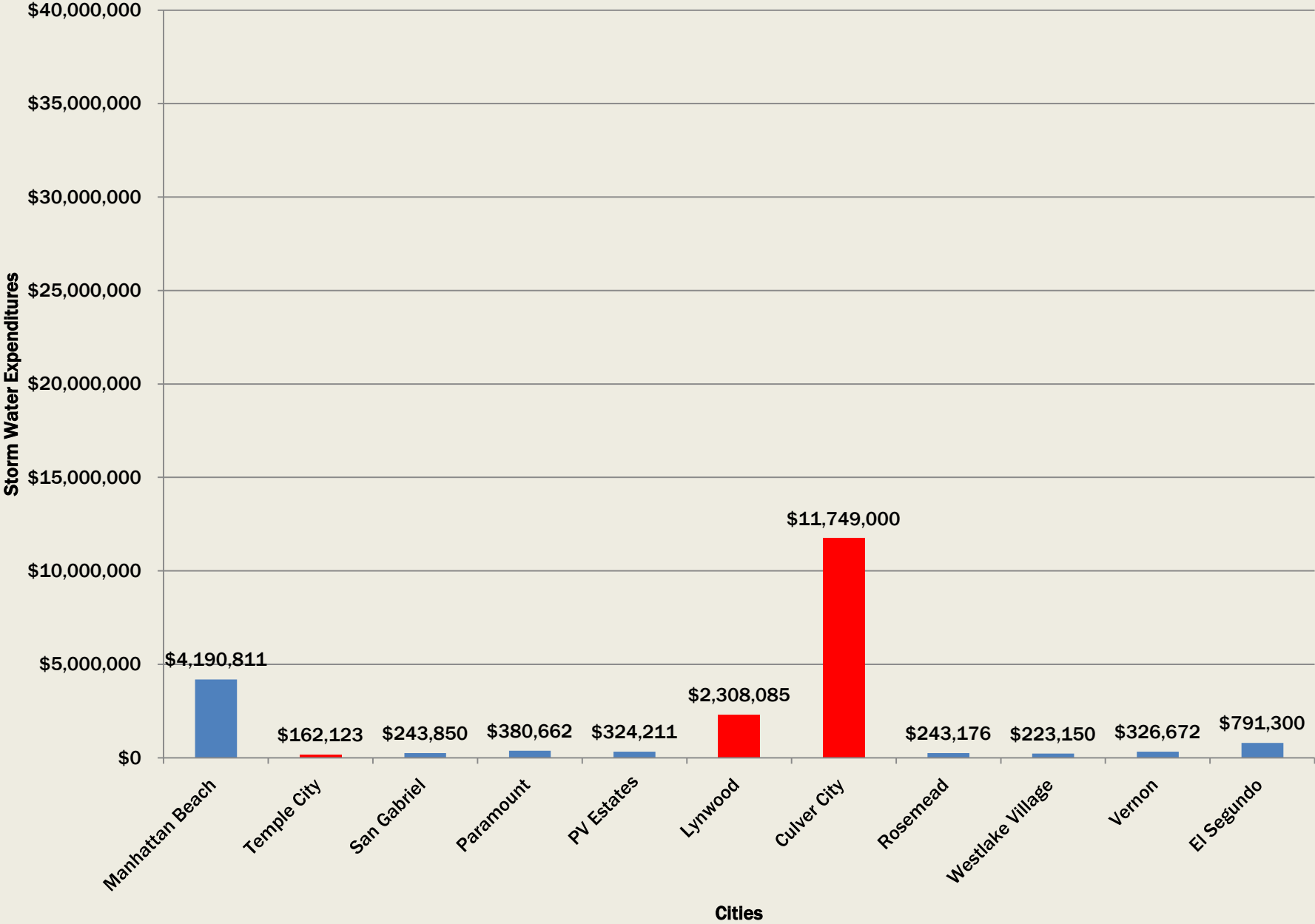
Permittee	2010-11 Total	2011-12 Total	Change
Arcadia	\$563,678	\$1,016,000	\$452,322
Bellflower	\$431,000	\$3,096,200	\$2,665,200
Calabasas	\$519,000	\$6,654,000	\$6,135,000
Cerritos	\$874,978	\$15,808,683	\$14,933,705
Cudahy	\$64,800	\$108,000	\$43,200
Culver City	\$11,749,000	\$53,580,000	\$41,831,000
Diamond Bar	\$451,706	\$8,376,844	\$7,925,138
Hawthorne	\$497,734	\$5,016,450	\$4,518,716
Los Angeles	\$68,436,970	\$472,285,633	\$403,848,663
Lynwood	\$2,308,085	\$12,988,000	\$10,679,915
Monterey Park	\$5,089,855	\$37,637,284	\$32,547,429
Norwalk	\$729,538	\$6,654,252	\$5,924,714
Rancho Palos Verdes	\$324,211	\$2,746,577	\$2,422,366
South Gate	\$5,492,596	\$24,743,775	\$19,251,179
South Pasadena	\$3,995,852	\$28,697,450	\$24,701,598
Temple City	\$162,123	\$2,328,600	\$2,166,477



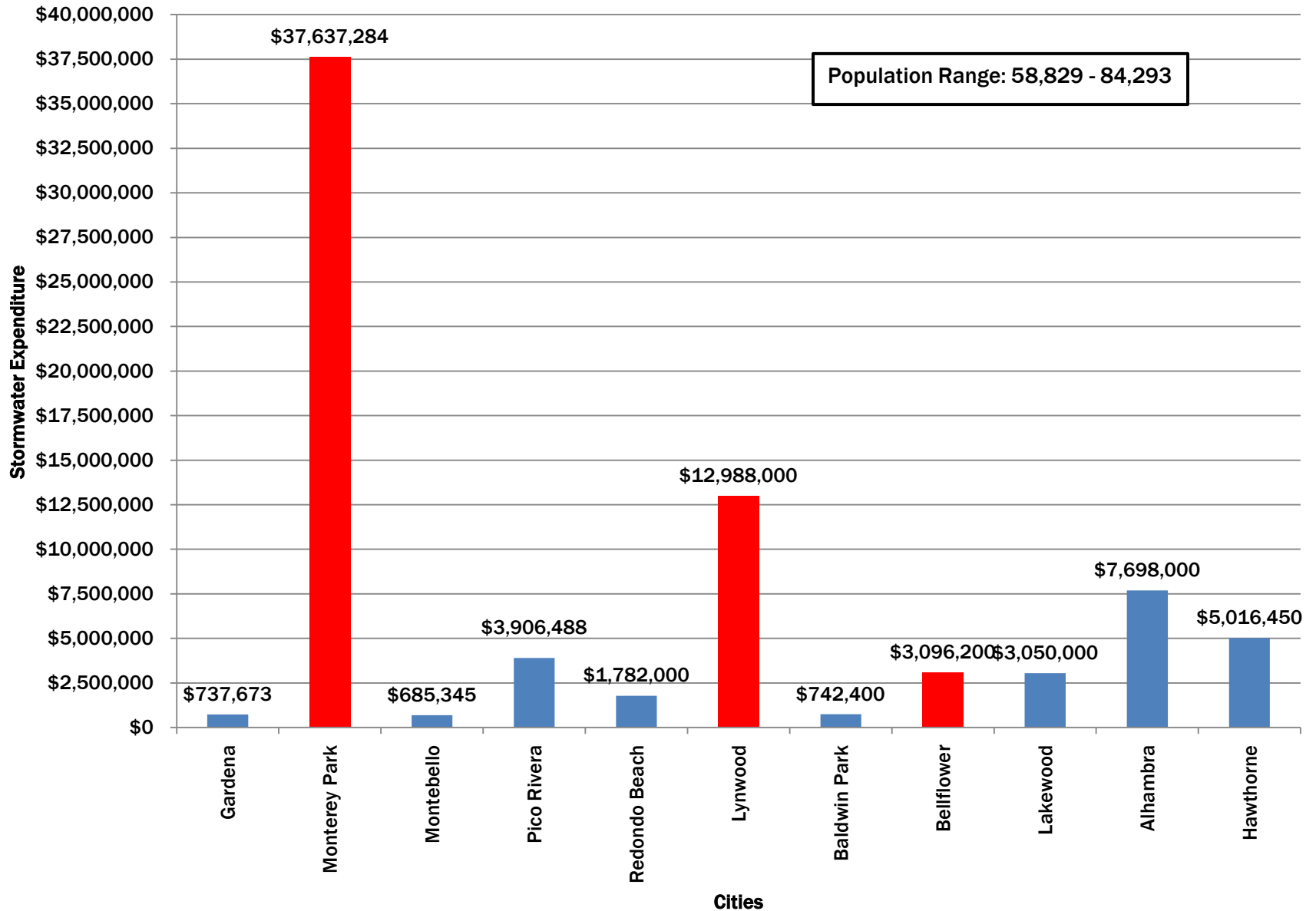
LYNWOOD

CITY CASE
STUDY

Lynwood Population Cohort: 2010-2011 Storm Water Expenditures



Lynwood Population Cohort: 2011-12 Stormwater Expenditures



BUDGET 2011-12

Lynwood 2011-12 Budget:

STORM WATER PROGRAM

GOALS

To manage the and implement the new State mandated storm water programs and monitor any new requirements related to the Nation Pollution Elimination Discharge System (NPDES) permit.

OBJECTIVES

1. Prepare a plan to comply with the State mandated NPDES requirements.
2. Monitor the existing NPDES related programs for any additional requirements and current progress.
3. Implement the storm water catch basin insert project.
4. Implement a catch basin cleaning program.

PUBLIC WORKS

FY 2011-12 DETAIL OF HISTORICAL EXPENDITURES AND BUDGET DIVISIONAL LEVEL

1011 General Fund
45 Public Works
457 Storm Water Program

Account Number	2009 Actuals	2010 Actuals	2011 Adopted Budget	2011 Yr. End Est	2012 Adopted Budget
62015 Prof & contractual svcs	\$ 292,931	\$ 227,198	\$ 308,976	\$ 293,140	\$ 278,078
62025 Advertising & printing	0	0	2,500	0	0
64399 Other fees for services	0	10,238	0	0	0
65020 Operating supplies	500	0	17,800	0	16,020
65040 Dues & subscriptions	0	0	0	20,000	0
Total Storm Water Program	\$ 293,431	\$ 237,432	\$ 329,276	\$ 313,140	\$ 294,098

REPORTED EXPENDITURES COMPARED TO CITY'S OWN ACTUALS

City	2006-07	2007-08	2008-09	2009-10	2010-11	Projected 2011-12
Lynwood	\$2,435,475	\$2,573,547	\$2,590,725	\$2,590,725	\$2,308,085	\$12,988,000

Account Number	2009 Actuals	2010 Actuals	2011 Adopted Budget	2011 Yr. End Est	2012 Adopted Budget
62015 Prof & contractual svcs	\$ 292,931	\$ 227,198	\$ 308,976	\$ 293,140	\$ 278,078
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65020 Operating supplies	500	0	17,800	0	16,020
65040 Dues & subscriptions	0	0	0	20,000	0
Total Storm Water Program	\$ 293,431	\$ 237,432	\$ 329,276	\$ 313,140	\$ 294,098

FINDINGS

- **Several municipalities appear to have mischaracterized their stormwater expenditures in their Regional Board Annual Reports**
 - **Examples: Culver City, Diamond Bar, Lynwood, South Pasadena**
- **City budgets and Regional Board-reported stormwater expenditures do not always match**
- **Capital and Proposition-funded projects should not be included in the annual expenditure reporting**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
MARIA MEHRANIAN, CHAIRPERSON

In the Matter of the)
Regional Board)
Public Meeting/Hearing)
_____)

TRANSCRIPT OF PROCEEDINGS
Los Angeles, California
Thursday, October 4, 2012

Reported by:

MARCENA M. MUNGUIA,
CSR No. 10420
-and-
KATRINA WOYJECK,
CSR No. 13603

Job No. :
B8827WQLA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

MARIA MEHRANIAN, CHAIRPERSON

In the Matter of the)
Regional Board)
Public Meeting/Hearing)
_____)

TRANSCRIPT OF PROCEEDINGS, taken at
Metropolitan Water District of Southern
California, Board Room, 700 North Alameda Street,
Los Angeles, California, commencing at 9:15 a.m.
on Thursday, October 4, 2012, heard before the
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD,
reported by MARCENA M. MUNGUIA, CSR No. 10420,
and KATRINA WOYJECK, CSR No. 13603, Certified
Shorthand Reporters in and for the State of
California.

APPEARANCES :

CHAIRPERSON: Maria Mehranian

VICE CHAIR: Charles Stringer

BOARD MEMBERS: Maria Camacho
Francine Diamond
Madelyn Glickfeld
Mary Ann Lutz
Irma Munoz
Larry Yee

EXECUTIVE OFFICER: Samuel Unger

BOARD STAFF: Jennifer Fordyce
Nichole Johnson
Frances McChesney
Deborah Smith
Ronji Moffett

I N D E X

AGENDA ITEM NUMBER	PAGE
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3 - Approval of draft meeting Minutes	8
4 - Board Member Communications	8
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6 - Update from State Board	9
7 - Public Forum	13
PUBLIC HEARING:	
8 - Public hearing on the Tentative NPDES Permit for MS4 discharges within the Coastal Watersheds of Los Angeles County, with the exception of discharges originating from the City of Long Beach, NPDES No. CAS004001.	13
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1 Los Angeles, California, Thursday, October 4, 2012

2 9:15 a.m.

3
4
5 MS. MEHRANIAN: Good morning. This is the monthly
6 meeting of Los Angeles Water Quality Control Board.

7 Welcome. And we'll start with the Pledge of Allegiance.

8 Board Member Camacho, would you please lead us.

9 (Pledge of Allegiance)

10 MS. MEHRANIAN: Thank you.

11 Can we have roll call?

12 MS. MOFFETT: Yes. Ms. Camacho?

13 MS. CAMACHO: Present.

14 MS. MOFFETT: Ms. Diamond?

15 MS. DIAMOND: Here.

16 MS. MOFFETT: Ms. Glickfeld?

17 MS. GLICKFELD: Here.

18 MS. MOFFETT: Ms. Lutz?

19 MS. LUTZ: Present.

20 MS. MOFFETT: Ms. Mehranian?

21 MS. MEHRANIAN: Here.

22 MS. MOFFETT: Ms. Munoz?

23 MS. MUNOZ: Here.

24 MS. MOFFETT: Mr. Stringer?

25 MR. STRINGER: Here.

1 MS. MOFFETT: And Mr. Yee?

2 MR. YEE: Here.

3 MS. MEHRANIAN: Thank you.

4 Approval of draft meeting minutes.

5 MR. UNGER: You want to talk about order of the
6 agenda?

7 MS. MEHRANIAN: Yes. The order of the agenda.

8 MR. UNGER: Yeah. There are no changes -- well,
9 there are a couple of changes that I'd like you to note;
10 that the public forum is on the agenda and it's already
11 listed as following Item 8, which is the MS4 hearing, and
12 the building closes at 5:00 p.m. tomorrow. So I'd like
13 to announce to everyone that we may not have a time for
14 public forum and we may not have time for an E.O. report.
15 So those have moved to the end of the proceedings.

16 MS. MEHRANIAN: Thank you.

17 So the minutes, you said --

18 MR. UNGER: Since our last meeting was just three
19 weeks ago, the minutes -- the transcript's not quite
20 available to us yet, so we'll be bringing the minutes to
21 you from the September meeting at our next meeting, for
22 approval.

23 MS. MEHRANIAN: Thank you.

24 Then we move on to Item 4, Board member
25 communications.

1 Board Member Munoz?

2 MS. MUNOZ: I have nothing, Chair.

3 MS. MEHRANIAN: Board Member Camacho?

4 MS. CAMACHO: None.

5 MR. YEE: None to report.

6 MR. STRINGER: Nothing from me.

7 MS. MEHRANIAN: Fran?

8 MS. DIAMOND: Nothing.

9 MS. MEHRANIAN: Madelyn?

10 MS. GLICKFELD: Nothing.

11 MS. LUTZ: None. Thank you.

12 MS. MEHRANIAN: Moving on to Item 4, Executive
13 Officer's report, we moved that.

14 Update from the State Board, Item 6. We have
15 Fran Spivy-Weber with us.

16 MS. SPIVY-WEBER: It is a little soft, but I am here.

17 Very quickly, as most of you know, the Governor
18 signed the bill on ex parte. I can't really tell you a
19 whole lot more at this point, but the attorneys are
20 working on some ways, some forms, and some approaches
21 that will make this as convenient for everyone as
22 possible, both the Board members as well as the
23 stakeholders who wish to have more interaction; and so
24 they have started on this and I will be able to report
25 more on this at the next meeting.

1 There will be an opportunity for you to
2 determine whether or not you want to cut off this
3 ex parte communication two weeks before a decision is
4 made and, again, language will be made available to you
5 through your attorneys as to -- and you can consider it,
6 if you decide that you want to do that.

7 We at the State Board haven't decided yet, so I
8 can't even give you a clue as to what we're going to do
9 there.

10 We did adopt at our last September -- at our
11 second September meeting the CalTrans Stormwater Permit,
12 the General Permit, with a reopener for receiving water
13 limitations and we're encouraging everyone, yourselves
14 and others, to include this reopener in your stormwater
15 Permits. We're going to be putting this into all of our
16 general Permits and we're encouraging all the Regional
17 Boards to if they -- whether they already have general --
18 already have MS4 Permits, to essentially open them up and
19 put in reopeners.

20 This would enable the receiving water
21 limitations -- whatever the decision is -- it could be
22 status quo, it could be changed, it could be who knows
23 what, but it would be the same for everyone. It would be
24 the same for CalTrans as for cities and counties. It
25 would be the same for everyone. So we really strongly

1 encourage this.

2 Again, language is coming to your staff on what
3 that -- how you might -- what that language might look
4 like in terms of agreeing to open this up later, but --
5 and it may have gone this week. Anyway, I've seen it.
6 I've seen it and I think if it's not there already, it's
7 on its way and your attorneys can use it for putting --
8 for incorporation into your current deliberations.

9 Finally, there is -- unfortunately, there are
10 limitations on what I can say since if this is -- if your
11 MS4 gets appealed to the State Board, I'll be on the
12 State Board, possibly, I guess. It depends on when. And
13 so there's a limit to what I can say. Certainly I don't
14 and can't prejudge what you're going to do, but suffice
15 it to say that whatever you decide in November and
16 whatever we have decided now on CalTrans, the industrial
17 and on our Phase II, the attorneys will be working
18 closely together to make sure that there is an emphasis
19 on harmonizing the effects of all of these various
20 Permits coming from different regions and different
21 perspectives.

22 So that's -- that, I can promise because I have
23 been in quite a number of conversations about that
24 recently.

25 Finally, or almost finally, we've approved

1 yesterday a list of two groups of applicants for funding
2 for stormwater Permits, LID, low impact development
3 Permits. There's an A list and a B list. The A list,
4 they've got their money and they can get started on their
5 Permits as soon as all the paperwork is taken care of.
6 The B list have some questions, fixable questions, but
7 questions like, Is -- there are some things that are in
8 these proposals that we can't fund and so those things
9 need to come out, and sometimes the budget doesn't seem
10 to match exactly what's going to be done and so we've
11 just got some questions that are fixable. We have the
12 money to cover the B list, so there's no problem as long
13 as people fix those issues. And many of these projects
14 are in this region, in Ventura as well as in Southern
15 California, so that's good.

16 And I hope to see all of you or many of you on
17 Halloween on the Delta tour or the 1st and the 2nd for
18 the WQCC meeting and it is -- as it was, as I described
19 last time, we expect it to come off without a hitch. So
20 we're looking forward to seeing you there, and it will be
21 a wonderful opportunity to get to know your colleagues
22 and share the lessons you have learned with them.

23 Thank you.

24 MS. MEHRANIAN: Thank you very much for your report.

25 Questions, Board members? Questions?

1 Thank you very much.

2 We'll move to the Item 8, the public hearing,
3 and we'll open up the public hearing.

4 Before we start, Board Member Lutz has a
5 statement that we'll hear.

6 Board Member Lutz, go ahead.

7 MS. LUTZ: Thank you. Thank you, Madam Chair.

8 I have a statement I would like to read at this
9 time.

10 In response to the urging from the Water Board
11 counsel, I have decided to recuse myself from
12 participating in these proceedings regarding the MS4. I
13 understand the recommendation made by the counsel and I
14 disagree with their conclusions. I believe that I have
15 fully complied with the provisions of the Administrative
16 Procedures Act and that I have taken no disqualifying
17 actions and that I could be able to participate in these
18 proceedings with an open mind, free from bias and
19 influence of any undisclosed communications that actually
20 relate to this issue.

21 Although I have decided to recuse myself from
22 these proceedings from the L.A. MS4, I want the record to
23 reflect how and why I reached this conclusion and my
24 strong opinion that staff's advice to me and to the Board
25 was a result oriented and not based on the interest -- of

1 what would be of interest to this Board and to the people
2 we serve.

3 I have made this decision rather to resist the
4 staff's conclusions solely because I believe that it is
5 the focus of this process on the application and its
6 merits, rather than on the appropriateness of my
7 participation.

8 From the outset of this process, I knew and
9 understood the regulations and acted accordingly. In
10 fact, it was I that reminded staff and the attorneys on
11 several occasions that I should not hear comments or not
12 be sent communications regarding this item. I know,
13 understand, and obey not only the spirit but the literal
14 writings of the Water Code and the other laws that govern
15 us.

16 Let me refresh your memory regarding the events
17 that took place. Knowing at the time that the Water Code
18 stated that I did have a conflict of interest, I was
19 recused from this item. I consulted the Water Board
20 attorneys and the Executive Director, apprising them of
21 my idea to gather the MS4 stakeholders together with the
22 purpose of narrowing the MS4 issues. All agreed that it
23 was appropriate and within my ability to do so. I was
24 even told they felt that this was a very positive step
25 and that it would serve to improve communication.

1 Attorney Fordyce suggested that I focus my
2 efforts on gathering the stakeholders and not get
3 involved into the details, and I agreed. I made no less
4 than three disclosures to this Board and our stakeholders
5 at Board meetings explaining my purpose and my intent and
6 what I was going to do, and at no time did objections
7 follow those statements.

8 When the California legislature changed the
9 provision of Section Code 13207 to eliminate the
10 conflict-of-interest provisions that had previously been
11 interpreted to bar my participation, I immediately
12 changed my actions to adhere to the new provisions.

13 Again, I followed and obeyed the spirit and the
14 literal sense of the Water Code and the other laws, but
15 it soon became clear to me that interest groups and some
16 members of our staff were not going to let this issue
17 drop merely because the legislature had told them to do
18 so. I was informed that I needed to gather all
19 communications, paperwork, e-mails, notes, anything
20 regarding the MS4. I spent countless hours reviewing my
21 e-mails, going through notes, recalling past
22 communications, and I have submitted all that information
23 to the Water Board attorneys. I have complied with every
24 request and feel that the communications that have been
25 submitted have been clearly and -- that have been cleared

1 to be disclosed by others.

2 Frankly, I submitted more information than was
3 legally necessary, but the Board attorneys, without
4 authority and without any factual basis, have advised me
5 that because there are a few communications which do not
6 relate to the substance of this Permit, have not been
7 made public, that my communications have not been fully
8 disclosed.

9 I believe that all the information that I have
10 provided provides a clear picture that confirms that I
11 was not intimately involved in the stakeholder process.
12 I have informed the Board attorneys of these facts to no
13 avail, which leads me to believe that their most recent
14 advice was determined before and without a fair
15 evaluation of the facts.

16 In fact, I would submit to you that I have far
17 less information regarding the opinions and the desires
18 of the stakeholders in this position than all other Board
19 members because I was recused from all but one workshop.
20 All other Board members heard more details, more input
21 with more specificity regarding this Permit than I.

22 And with regard to bias, while the Water Board
23 attorneys feel that there's no need to address the
24 accusations that the third parties have levied, I
25 disagree. There has been no evidence of bias, not on my

1 part. I'm not sure that can be said for everybody else
2 who's been involved in this process, but there is
3 absolutely no evidence of bias brought forward. I have
4 never demonstrated bias against or for any stakeholder,
5 but staff's strong urging that I recuse myself from this
6 proceeding and some stakeholders' expressed advocacy of
7 that recusal implies that I cannot be fair.

8 I am personally offended that after eight years
9 of working on this Board with one goal in mind, to adhere
10 and to uphold the goals of the Clean Water Act and the
11 California Water Act and the Porter-Cologne Act, that
12 this accusation would be levied. My record of
13 impartiality on this Board speaks for itself.

14 I have been told that in order for me to be
15 allowed to participate in these proceedings, the Board
16 would have to engage in a full-blown hearing whereby the
17 documents gathered by me would be made public and
18 testimony would be heard to this Board regarding the
19 information that I provided to the attorneys.

20 There was a formal objection filed to my
21 participation by NRDC and the Waterkeepers and it is
22 filled with inaccurate conclusions and innuendo, and I
23 would expect that they would be allowed and giving their
24 testimony at this hearing. I would also bring my own
25 witnesses to testify to the fact that I was not involved

1 in the details of the negotiations or the strategic
2 planning with the Water Board staff regarding this
3 Permit. In fact, the Water Board staff can testify to
4 that as well.

5 My sole focus regarding this MS4 Permit prior to
6 the change of conflict of interest was to gather the
7 stakeholders together, to encourage them to find common
8 ground amongst themselves to better communicate with the
9 Water Board staff and this body. I did not participate
10 within this process with them.

11 I understand that after this hearing, after this
12 Board hears all the witnesses and all -- and reviewing
13 all the documents that they would then render a decision
14 as to my ability to participate.

15 The Water Board attorneys have urged me to
16 recuse myself and I presume that they would advise the
17 Board that I should be disqualified.

18 To fully and fairly present my side of the
19 argument, I would have to seek the Board's permission to
20 waive the attorney-client privilege so I could talk about
21 the process for its legal advice that has been given to
22 me. Frankly, I have a pretty good idea what that long,
23 costly and distracting process would be.

24 The result of this baseless and undetermined
25 advice that I should recuse myself is that the views and

1 perspective that I was appointed to bring to this process
2 will not be applied to this decision where that
3 perspective could not be more relevant. Perhaps that was
4 the intent of those who raised this question in the first
5 place.

6 I have repeatedly been told by counsel and staff
7 that they are concerned about the possibility of lawsuits
8 that could be threatened by the NRDC and others if I
9 continue to participate. I wish that our counsel's
10 advice had been driven on what is right and what is just
11 and not just on the fear of lawsuits from one side in
12 these proceedings.

13 In my view, the staff and the Board should be
14 just as concerned about potential litigation from those
15 that may be brought by permittees who feel that the staff
16 and the interest groups have further stacked the deck
17 against them in eliminating this perspective in the
18 proceedings.

19 Governor Schwarzenegger appointed me to this
20 Board to bring a perspective from municipal government.
21 Governor Brown and the legislature have eliminated that
22 conflict of interest and impediments to allow that unique
23 perspective to be part of this discussion. After all
24 these good intentions, they have now been thwarted by
25 special interest groups and knee-jerk reactions by

1 attorneys.

2 As a result, I am being disenfranchised and so
3 too are those who believe that a balanced consideration
4 of these important issues is vital to the legitimacy of
5 this Permit. It is a shame that this body and this
6 Permit will be heard without my legally permitted
7 participation.

8 I am not recusing myself because I believe that
9 I have done anything inappropriate or that I am biased in
10 any way. I do so only in an effort to preserve this
11 process for the Permit without subjecting you, the Board
12 and the stakeholders, to any more drama and controversy.

13 This is an important Permit for our region and
14 it will have long-lasting effects that -- and it deserves
15 to be heard in the best-possible scenario. It is
16 unfortunate that the fairness of this consideration is
17 already tainted in this way. Thank you.

18 MS. MEHRANIAN: Thank you, Board Member Lutz.

19 Just one comment, Board Member Lutz. Please
20 know that the Board members have a lot of trust and
21 respect in you and the longevity of your work and what it
22 stands for, and we are sorry that per legal proceedings,
23 you have to leave. Thank you for your decision and we
24 appreciate your participation.

25 MS. LUTZ: Thank you.

1 (Whereupon Board Member Lutz exited the
2 proceedings)

3 MS. MEHRANIAN: We are moving on with the public
4 hearing on agenda Item Number 8, Los Angeles County MS4
5 Permit.

6 This is the time and the place for a public
7 hearing to consider renewal of NPDES Permit for Municipal
8 Separate Storm Sewer System, also known as MS4,
9 discharges for 86 co-permittees within the Coastal
10 Watersheds of Los Angeles County, with the exception of
11 the City of Long Beach.

12 I am Maria Mehranian and I am the chair of the
13 Regional Board and will be presiding at this hearing.

14 This hearing will be conducted in accordance
15 with a Notice of Public Hearing dated June 6, 2012 and
16 with the Chair's Order on Objections and Requests
17 Concerning Hearing Procedures and Process and Order of
18 Proceedings.

19 The Regional Board will conduct a two-part
20 hearing on this Permit, today and tomorrow. The Board
21 will hear from Board staff, the parties to the
22 proceedings, and the public. Following the testimony,
23 the Board may ask questions of the staff, parties and
24 interested persons, and may provide directions to staff.

25 The hearing will continue to a later date, which

1 is expected to be November 8. The staff is intending to
2 publish a Revised Tentative Permit prior to November 8.
3 At the continued hearing, the parties and public will
4 have an opportunity to provide comments on revisions to
5 the Tentative Permit. Then the Board will proceed to
6 deliberation and voting under the Revised Tentative
7 Permit.

8 Several parties have requested extended time to
9 present testimony to the Board. I have issued a Chair's
10 ruling and a revised ruling specifying the time limits
11 for each party and for the public. Each party will be
12 allowed the amount of time specified in the Chair's
13 ruling for an opening statement, direct testimony,
14 cross-examination, rebuttal, and closing statements.

15 Note that you have had the opportunity to submit
16 written comments in advance of the hearing and most have
17 submitted lengthy comments on the Tentative Permit. The
18 Board was provided all written comments prior to this
19 hearing. In addition, the Board has held several
20 Board-level and staff-level workshops and has allowed
21 comments on working drafts of several portions of the
22 Tentative Permit.

23 Please adhere to the time limits. I request
24 that you summarize your written comments and avoid
25 duplication. You are encouraged to present all comments

1 and evidence that you would like the Board to consider.
2 Persons with similar concerns or opinions are encouraged
3 to choose one representative to speak. Speakers may also
4 simply state that they agree with a previous speaker
5 without repeating comments.

6 Repetitive comments are not helpful to the
7 Board. What is helpful is for you to identify specific
8 provisions of the Permit that are of interest to you. If
9 you wish to reserve time for cross-examination of another
10 party to this proceeding, please indicate how much time
11 you would like to reserve and our timer will notify you
12 when you have that amount of time remaining.

13 The deadline of submitting written comments and
14 evidence was July 23rd, 2012. If you use speaking notes
15 or visual aids that illustrate previously submitted
16 evidence with your presentation, please leave a copy with
17 staff before you leave so they can be incorporated into
18 the record. No other written or documentary evidence
19 will be accepted into the record unless I make a specific
20 ruling allowing it.

21 The Board received numerous objections and
22 requests concerning the hearing process. I issued
23 rulings on the objections and don't intend to provide
24 additional time to address these objections today, with
25 the exception that Board Member Lutz, Mary Ann Lutz, will

1 make the statement prior to the start of this testimony.

2 If any party has additional objections, you can
3 make those objections at the time of your statement.

4 The parties to these proceedings are Los Angeles
5 County Flood Control District; the County of Los Angeles;
6 the 84 cities within the Permit area, with the exception
7 of the City of Long Beach; Heal the Bay; NRDC; and L.A.
8 Waterkeeper.

9 Any person or entity that I did not identify as
10 parties are deemed interested persons and they may
11 present comments to the Regional Board at the appropriate
12 time.

13 Regional Board staff, including the attorneys,
14 is neither a party nor an interested person to these
15 proceedings. Staff's sole function here is to advise and
16 assist the Water Board in its consideration of proposed
17 Permit.

18 The order of the proceedings of this hearing
19 will generally be as follows: First, the staff will
20 present the Proposed Permit. Elected officials may make
21 policy statements for three minutes. U.S. Environmental
22 Protection Agency representative will make a statement
23 for 15 minutes. Next, the parties will be allowed to
24 testify according to the order and allocated time set
25 forth in the Chair's Revised Order of Proceedings.

1 On Friday, the Board will hear from the public,
2 three minutes or less, depending on the time and number
3 of speakers. Following public comments, staff will
4 provide a summary and response to the key significant
5 comments and recommend the changes to the Tentative
6 Permit to address certain comments.

7 After completion of the staff's summary and
8 responses, the Board members may ask questions of staff,
9 parties, and interested persons.

10 After the conclusion of the Board questions, the
11 Board may provide direction to staff and then the hearing
12 will be continued. You will be notified of the date and
13 the location of the next meeting.

14 If you intend to speak today, please promptly
15 fill out a speaker card and hand it to the Board's clerk,
16 Ronji Moffett, or staff.

17 I will now administer the oath. All persons
18 intending to speak today, please stand at this time,
19 raise your right hand, and take the following oath.

20 (Whereupon all prospective witnesses were
21 collectively sworn)

22 MS. MEHRANIAN: Before we begin hearing testimony, we
23 would like to -- Sam, is there anything before the
24 testimony or we just start now?

25 MR. UNGER: You can ask them again for ex parte

1 communications.

2 MS. MEHRANIAN: Sure. Ex parte communications on
3 these items, Board members?

4 MS. GLICKFELD: Thank you, Madam Chair.

5 My ex parte communications were ones that were
6 caught in the middle of otherwise completely unrelated
7 conversations. Kirsten James asked me whether or not I
8 knew when public comment would be taken for individuals
9 not allocated time and I said I didn't but that I would
10 have the staff get back to her.

11 Mark Gold informed me that he would be coming to
12 testify today. Tracy Egoscue informed me that she was
13 representing the County. Felicia Federico, who I worked
14 with at UCLA and who submitted comments, asked me if she
15 could talk to me about it and I said no.

16 That's my comments.

17 MS. MEHRANIAN: Board Member Diamond, any ex parte?

18 MS. DIAMOND: I was also told by Tracy Egoscue that
19 she would be here representing the County. That's all.

20 MR. STRINGER: I have none.

21 MR. YEE: None.

22 MS. CAMACHO: None from me.

23 MS. MUNOZ: None.

24 MS. MEHRANIAN: So with that, before we start, we'd
25 like the attorneys to address some of the objections that

1 we have received regarding the hearing process.

2 MS. FORDYCE: As the Board knows, the Board received
3 several objections to the hearing process and procedures.
4 All but one of those objections were addressed in written
5 rulings, which I've provided to you over the course of
6 the last two weeks.

7 One of the objections that was not addressed in
8 written form was an objection from L.A. Permit Group
9 received on September 28th, 2012 in response to the Order
10 of Proceedings and the Order of Objections and Requests
11 for Hearing that were distributed to the parties,
12 interested persons last Wednesday, September 26th.

13 I just wanted to respond to the Board my
14 thoughts on this ruling. So essentially what the L.A.
15 Permit Group takes issue with, which is similar to the
16 letter that the Board received from Ray Tahir, is
17 objecting to the manner of what we've termed as the
18 bifurcated process of having the hearing on October 4th
19 and 5th and then having an adoption hearing at a later
20 date.

21 Just so the Board knows, this is a process
22 routinely used by the State Water Board. It is legal.
23 There is no requirement that the Board provide written
24 responses to comments prior to today's hearing. Federal
25 regulations are very, very clear that written response to

1 comments only have to be provided when a final decision
2 is made; and since the Board is not making a decision
3 either today or tomorrow, written responses to comments
4 can be provided later on but before the Board takes final
5 action, which is expected in November.

6 I also wanted to note that State law grants the
7 Board very, very, very broad discretion about how to
8 conduct these hearings. So it is within the Board's
9 purview to follow this process.

10 And lastly, there is no legal requirement that
11 Board staff provide a Revised Tentative to the Board
12 members prior to holding a hearing today. Board staff
13 has indicated that they will, in fact, provide a Revised
14 Tentative next week and that, in fact, I did want to
15 address the allegation in the letter that by having this
16 bifurcated process, it doesn't -- it says "not comport
17 with an open and transparent process" and I would just
18 strongly object to that. It actually, in fact -- I
19 believe that the process is actually more open and more
20 fair because the parties and interested persons will have
21 an opportunity to comment on those changes that are made
22 in the Revised Tentative.

23 As the Board knows, when they have a hearing and
24 an adoption the same day, changes are made, and not all
25 the time do people have an opportunity to make comments

1 on those changes and, in fact, this process will allow
2 the participants of this hearing to make comments at a
3 later date.

4 So I would suggest -- my recommended ruling for
5 the Board is to deny the objections.

6 MS. MEHRANIAN: Mr. Unger?

7 MS. GLICKFELD: We don't have to take action?

8 MR. UNGER: Do we start the staff presentation?

9 MS. FORDYCE: It's up to the Board's purview about
10 not having a hearing today. If the Board wants to
11 discuss it, they can.

12 MS. MEHRANIAN: I don't think we have any
13 discussions.

14 Go ahead. Sam.

15 MR. UNGER: Good morning, Chair Mehranian, members of
16 the Regional Board. Before we get started with staff's
17 presentation on this hearing for issuance of a renewed
18 National Pollutant Discharge Elimination System Permit,
19 also known as an NPDES Permit, for discharges from the
20 Municipal Separate Stormwater Systems, also known as
21 MS4s, in Los Angeles County, I would like to briefly
22 provide a bit of background and overview of the process
23 which has brought us to this point and how this Permit
24 before you builds upon the accomplishments of this Board
25 in developing TMDLs, how this Permit takes into account

1 the lessons learned in more than ten years of
2 implementing the existing Permit, and how this Permit
3 incorporates and incentivizes watershed approaches to
4 gain multiple and integrated benefits through Los Angeles
5 County.

6 So first, I wish to provide a brief description
7 of the unique challenges of managing stormwater quality
8 and regulating discharges from MS4s in Los Angeles
9 County. Discharges from MS4s are universally recognized
10 to mobilize pollutants to receiving waters and to impair
11 beneficial uses.

12 In 1990, the U.S. Environmental Protection
13 Agency published regulations, known as the Phase I rule,
14 requiring NPDES Permits for certain industrial,
15 commercial, and municipal sources of stormwater runoff.
16 Nationwide, approximately a thousand MS4s have been
17 Permitted under the Phase I regulation with permittees
18 consisting primarily of city and county government
19 agencies responsible for the stormwater management.

20 These Permits regulate MS4s generally serving
21 populations of 100,000 or more, and we're well above that
22 in Los Angeles County. Thus, the Regional Board must
23 issue a Permit for these discharges within our region and
24 in accordance with the NPDES program, this Permit should
25 be reissued every five years.

1 There are a number of unique challenges in
2 Los Angeles County that complicate the management of
3 stormwater quality and the issuance of an MS4 Permit.
4 First, the sheer physical nature of the watersheds in
5 Los Angeles County lead to an MS4 that must handle large
6 volumes of stormwater that are generated by precipitation
7 events. Steep and large upper watersheds drain through
8 tributaries into a few major waterbodies, including the
9 Santa Clara, Los Angeles, and San Gabriel Rivers, Ballona
10 and Malibu Creeks, and the Dominguez channel.

11 During precipitation events, large volumes of
12 water are delivered to these receiving waters, creating
13 the potential for flooding, and indeed the history of
14 Los Angeles is marked by catastrophic flooding events.

15 To handle these storm flows and prevent untoward
16 flooding of the lower urban areas in Los Angeles County,
17 the Los Angeles County Flood Control District was formed
18 in 1915. Hydraulic engineers chose to design a system
19 that relied on armoring of natural waterways with
20 concrete in several different configurations; and you've
21 seen some of these, trapezoidal channels, box channels
22 with hardened or soft bottoms.

23 In these efforts to address flooding potential,
24 long stretches of natural receiving waters were armored
25 and channelized. Certainly this mitigated the flooding

1 potential and allowed for growth and economic development
2 in the lower watersheds, but these modifications of
3 natural rivers and waterbodies are also very efficient in
4 mobilizing pollutants to the waterbodies many miles from
5 their sources.

6 Further complicating the challenges of
7 controlling pollutants from MS4 systems is that the
8 nature and the concentration of the pollutants in
9 stormwater is generally more variable than it is in
10 municipal or industrial wastewater discharges, which are
11 also regulated under NPDES Permits.

12 There is also a challenge of just the sheer
13 number of the municipalities in Los Angeles County and
14 the fact that storm and nonstormwater discharges which
15 originate within different jurisdictions are commingled
16 within the MS4. This has proven to be a challenge in
17 assigning responsibility for both the discharge and
18 receiving water quality and new provisions in this Permit
19 to address these challenges.

20 Despite years of stormwater program
21 implementation, many, if not most, of the waterbodies of
22 Los Angeles County have been listed as impaired. So to
23 address these impairments, this Board over the past 11
24 years has developed an unprecedented number of TMDLs, 33
25 of which assign wasteload allocations to MS4 dischargers

1 within the Coastal Watersheds of Los Angeles County.

2 TMDLs by their nature are based on an analysis
3 of waste generation and wasteload reductions on a
4 watershed scale. Thus, jurisdictions within the
5 watershed often share responsibilities for achieving
6 these wasteload reductions to comply with TMDLs and in
7 many cases, in fact, jurisdictions have joined together
8 to submit TMDL implementation plans and TMDL
9 implementation actions that are watershed based.

10 Watershed-based approaches are well recognized
11 as efficient and effective mechanisms to improve water
12 quality and attain multiple benefits, including water
13 conservation, reuse, and sustainability. Watershed
14 approaches coordinate various surface and groundwater
15 regulatory programs and promote cooperative,
16 collaborative, cost-effective efforts within a watershed
17 to achieve multiple benefits.

18 Staff has taken note that there has been some
19 significant water quality improvements in our region when
20 watershed approaches are used, and I'll show you a couple
21 slides of those in a few minutes, and we've seen
22 improvements at beaches where low-flow storm drain
23 diversions are implemented. We have seen improvements
24 where trash excluders and non point source trash programs
25 have been implemented, and we've seen improvement where

1 MS4s are diverted from discharging directly into harbors
2 and into urban lakes.

3 It is a Federal requirement to implement
4 wasteload allocations through the NPDES Permits and the
5 Proposed Permit incorporates these TMDLs and because of
6 the TMDLs that this Board established, the Permit before
7 you includes provisions that are based on a watershed
8 approach. Indeed, when we first started development of
9 this Permit over a year ago, staff discussed with the
10 permittees what type of Permit structure was preferred
11 and the majority recommended one which would account for
12 their investment to date in the development of Watershed
13 Plans and the watershed actions that had taken place.

14 Consequently, we developed, with much input from
15 permittees and stakeholders in numerous meetings, an
16 entirely new section within this Permit. The Watershed
17 Management Section allows but does not require permittees
18 to collaborate on a watershed scale that would be subject
19 to public review and Executive Officer approval. Through
20 this collaboration, permittees can take advantage of
21 economies of scale and efficient deployment of resources.
22 And although TMDLs represent a new requirement within
23 this Permit, staff is recommending in the Watershed
24 Management Program an approach that is less costly and
25 more effective than that with the current Permit.

1 Renee will be explaining how the details of
2 the -- how this section of the Permit operates, but as a
3 brief introduction, the Proposed Permit includes a
4 provision that if permittees are in compliance with an
5 approved Watershed Plan, they would not be considered in
6 violation of receiving water limits for specific
7 pollutants addressed by TMDLs. That is what you have
8 before you now.

9 I wish to stress that this is not a, quote,
10 unquote, "safe harbor," because permittees need to be
11 implementing the Watershed Management Plan, including
12 enforceable schedules and milestones that are specified
13 in the TMDLs. If the plan is not implemented, including
14 slippage of milestones and deadlines, then exceedences of
15 receiving water limits would be considered violations of
16 the Permit.

17 Staff released the Tentative Permit on June 6th
18 and provided an extended public comment period. As you
19 know, we received numerous lengthy and detailed comments
20 and staff is preparing written responses to those
21 comments which will be complete prior to the Board
22 adoption of this Permit. In our usual practice, staff
23 will propose revisions to the Tentative Permit in
24 response to the written and oral comments received and we
25 will be providing a Revised Tentative Permit for your

1 review well before the November 8th hearing.

2 The most important comment from many
3 stakeholders concerned the Watershed Management Program
4 and how it is associated with the Receiving Water
5 Limitation Section of the Permit. The issue is that the
6 waterbodies and pollutants that are subject to TMDLs are
7 inherently different from those that are not. For the
8 waterbodies with TMDLs, if permittees implement the
9 Watershed Management Plans and interim milestones, they
10 are considered to be in the compliance with the receiving
11 water limitations. However, for waterbodies that weren't
12 subject to TMDLs or pollutants that weren't subject to
13 TMDLs, the receiving water limitation language is used as
14 an independent compliance measure.

15 Most permittees requested that the Watershed
16 Management Program be expanded to cover pollutants in
17 waterbodies which may not have TMDLs. In fact, the City
18 of Los Angeles and the County of Los Angeles comment
19 letters stated that this was the key issue that they have
20 with the current Permit.

21 We understand that the environmental groups
22 oppose this, this suggestion, and this comment, and the
23 Board staff not recommend it, but we will continue to
24 meet with stakeholders, including environmental groups,
25 and we will bring a recommended approach on this issue in

1 the Revised Tentative Permit that will come before you on
2 November 8th. Staff will discuss this issue today,
3 including how the Watershed Management Program would work
4 with other provisions.

5 Staff does not recommend this Watershed
6 Management Program lightly. Over the past 10 years, we
7 have realized we have made more progress in improving
8 water quality through implementation of BMPs tailored by
9 TMDLs and Watershed Plans to addressing specific water
10 quality issues of concern rather than attempted
11 enforcement of receiving water limitations.

12 With the development of stakeholder initiatives
13 like the RWMP, Watershed Plans, regional cooperation from
14 jurisdiction groups, staff has realized that a Permit
15 that provides stakeholders flexibility to implement these
16 plans will yield greater results; and if the stakeholders
17 do not avail themselves of this flexibility that is built
18 into this, the existing compliance and enforcement
19 mechanisms will be in effect.

20 I'd like to just show a couple of brief slides,
21 if I might, and just some recent success that we've had
22 through the TMDL program. This is a shot of Colorado
23 Lagoon. You may recall that our State Board liaison
24 Fran Spivy-Weber reported on this. The State Board
25 provided funding through the Cleanup and Abatement

1 Account to dredge the lagoon, and the reason I show this
2 slide to you is it gives an example where a TMDL was
3 implemented and the MS4 really did not shoulder the
4 entire burden of the projects that were needed to
5 essentially clean this waterbody. You had
6 implementation. There was also storm drain diversions.

7 So you will be hearing from Nick Martorano,
8 formerly of our staff, now with State Board staff, on
9 costs, but I wanted to make it clear that these successes
10 are made not solely on the sole shoulders of the MS4
11 permittees.

12 Next slide, please.

13 And this is just another shot of the Colorado
14 Lagoon. And the final one I wanted to show you, too, is
15 another example of -- this is an artist's depiction of
16 Inner Cabrillo Beach. This has been on the Heal the
17 Bay's beach report cards for nearly ten years with
18 consistent weekly grades over ten years of Fs. Just this
19 last week, it received its first A grade and we're very
20 happy with that. And, again, the MS4 was a component of
21 the fix here. The storm drain was diverted to achieve
22 this. However, it was not the entire burden.

23 So when you hear information about costs in
24 TMDLs, you have to realize that only those portions of
25 the costs assigned to the MS4s are shouldered in this

1 program.

2 Finally, there have been a number of letters
3 regarding process and procedures, most requesting a
4 delay, objecting to the process for this hearing. Some
5 object to having a two-part hearing and some object that
6 they have not received response to comments. Many
7 commenters have also requested that the Board delay the
8 hearing for many months.

9 I wish to point out that I must respectfully
10 disagree with the objections for this process. The Board
11 has provided a very thorough process. We've had four
12 Board workshops, numerous staff workshops, countless
13 meetings with stakeholders over the past 17 months.
14 Staff has provided multiple working drafts of the Permit
15 and have provided both oral and written comments for
16 comments on those working drafts. The public has been
17 allowed extra time to submit written comments on the
18 Proposed Tentative Permit and will have opportunity to
19 make oral comments today and will have additional time
20 for comments on changes that will be in the Revised
21 Tentative prior to the Board action in November.

22 I don't know of any Basin Plan Amendment, 303(d)
23 listing resolution or Permit before this Board, be it a
24 WDR or an NPDES Permit, that has provided more
25 opportunities for stakeholders to interact with both

1 staff and the Board.

2 As far as legalities, Jennifer touched on some
3 of them, but I would simply note that this process is the
4 typical process used by the State Water Board for their
5 Permits and we have used this process most recently for
6 the Newhall Ranch hearing.

7 Contrary to claims, this two-part process
8 provides the parties with a greater opportunity to
9 comment than the usual process since they will have a
10 chance to provide oral comments to the Board on the
11 revised changes.

12 As to the request for delay of the proceeding, I
13 also strongly recommend that you do not agree to this
14 delay. In response to previous requests, the Board
15 postponed action from the original proposed date from May
16 until September and again postponed the hearing until
17 October and now a final action in November. As I've
18 noticed, there have been very extensive opportunities for
19 comments and interactions with the Board and staff.

20 So as I summarize, I would like you to keep
21 three things in mind today and tomorrow as we listen to
22 comments on this, and basically they are: Implementation
23 of watershed-based programs with multiple benefits. This
24 Permit provides for that; flexibilities for dischargers
25 to customize the program to comply most cost effectively;

1 and finally, water quality based methods and outcomes.

2 And before I turn -- and I think that's about
3 it. We talked about the Heal the Bay report card and
4 with that, I will turn it over to Renee unless there are
5 questions.

6 MS. MEHRANIAN: Thank you, Sam.

7 MS. PURDY: Good morning, Chair Mehranian, members of
8 the Board. My name is Renee Purdy and I am the section
9 chief of the Regional Programs Section at the Regional
10 Board.

11 And before I begin my presentation, I would like
12 to acknowledge the team that has worked on the
13 development of this Permit because it really has been a
14 team effort, and this has included Ivar Ridgeway, who's
15 the Chief of the Stormwater Permitting Unit; also,
16 Rebecca Christmann, who is a water resources control
17 engineer with the Stormwater Permitting Unit; Nick
18 Martorano, who Sam mentioned already, used to be with us,
19 has left us for State Board, unfortunately. And also, I
20 want to acknowledge Thom Siebels. He's our GIS
21 coordinator and made the fabulous, fabulous maps that are
22 a part of the Tentative Order; also Theresa Rodgers and
23 Sandra Kelley and also Richard Ramos, who have all been
24 tremendous in terms of their support in pulling together
25 such a large project; and of course our three attorneys

1 and Sam and Deb.

2 So it really has been a wonderful effort. And I
3 do also want to take a moment before we get started to
4 really thank the many permittees and their
5 representatives as well as the environmental stakeholder
6 organizations and stakeholders. They have spent a lot of
7 time over -- it's been an 18-month process since we began
8 the Permit development and they have spent a lot of time
9 with us at Board workshops, staff workshops, one-on-one
10 meetings, joint meetings that we held at your direction,
11 and have really invested a lot in thinking about this
12 Permit and giving us their thoughts. So I just wanted to
13 thank everybody who's been involved, as well as, of
14 course, you, the Board members, who have also spent
15 countless hours on this already.

16 So I want to start out by just laying a little
17 bit of groundwork which Sam started out doing.

18 The L.A. County Permit was last issued on the
19 cusp of TMDL development -- should I pause for just a
20 minute?

21 MR. STRINGER: They're looking for a copy of your
22 presentation.

23 MS. PURDY: Oh, I'm sorry.

24 MR. UNGER: We'll try to get it up on your screens.
25 I think we have them. Thank you, Rebecca.

1 MS. PURDY: So the L.A. County Permit, as I was
2 saying, was last issued on the cusp of TMDL development
3 in 2001. The advent of the TMDL Program and the
4 development of TMDLs has really driven a paradigm shift
5 in the L.A. MS4 Permit from a Permit that had pretty much
6 standardized, prescriptive programmatic requirements for
7 86 co-permittees across the board to a Permit that
8 establishes and focuses on achievement of measurable
9 water quality based limitations. To achieve these water
10 quality outcomes, the new Permit provides substantial
11 flexibility, as Sam was talking about, in the
12 requirements to provide permittees with opportunities to
13 customize their Stormwater Management Programs and their
14 stormwater and nonstormwater controls based on the
15 specific water quality issues of concern within a
16 watershed or within their individual community.

17 So in the following presentation, staff -- and
18 it's going to include presentations by myself, also by
19 Ivar and by Nick -- we're going to go over the main
20 elements of the Proposed Tentative Order.

21 We've discussed all of these with you and with
22 the permittees and stakeholders in previous Board
23 workshops and staff-level workshops. Therefore, our
24 presentation today, given our time constraints, is not
25 going to go into the same level of detail as we were able

1 to do in those thematic workshops that we held with you
2 earlier. Instead, we'll be highlighting the key
3 provisions of each section of the Permit. We'll also, as
4 Sam said, be presenting you a summary of our cost
5 considerations during the development of this Permit; and
6 finally, we will be identifying some of the major issues
7 of concern that have been identified by commenters and
8 what staff's current thinking is regarding how these
9 issues might be addressed in a Revised Tentative Order.

10 Let's see. Do I have control of this, Alex?

11 So as Sam started out introducing, what I'd like
12 to do is frame the presentation and the Tentative Permit
13 in terms of several themes. And I think maybe when we
14 add Sam's and mine together, we actually come up with
15 four.

16 So the first one is that the desired water
17 quality outcomes that we have for the Los Angeles County
18 region are driving these programs.

19 So when I talk about the nonstormwater discharge
20 prohibitions, when Ivar talks about the minimum control
21 measures, when we talk about TMDLs and we talk about
22 Watershed Management Programs, it's really desired water
23 quality outcomes that are going to allow permittees to
24 tailor these programs and most effectively and cost
25 efficiently address these.

1 The second theme that I also want to add to
2 Sam's list is the theme of greater accountability, but
3 with options for demonstrating compliance in a variety of
4 ways.

5 So this greater accountability comes with the
6 advent of the numeric water quality based effluent
7 limitations that we're inserting as a result of TMDLs, as
8 well as their associated compliance schedules for
9 achieving those numeric water quality based effluent
10 limits. It also means interim milestones and deadlines
11 for addressing other pollutants that might not have TMDLs
12 yet and it also includes the inclusion of action levels
13 as a tool for evaluating Stormwater Management Programs
14 and identifying where more action needs to be taken.

15 The other thing that I want us to keep in mind
16 throughout the next two days is flexibility, as Sam said,
17 And this is flexibility while at the same time ensuring a
18 baseline level of implementation across all permittees.

19 So this flexibility is going to allow permittees
20 to do two things. One, it's going to allow them to
21 customize their programs, as I said, to address the
22 highest priority water quality issues. The second thing
23 is that it's going to provide the flexibility to allow
24 permittees to either work individually on a
25 jurisdiction-by-jurisdiction basis or to work

1 collectively on a watershed basis.

2 So as we go through the presentation, I'll try
3 to touch on those from time to time and then we'll come
4 back to those at the end of the presentation.

5 The next thing that I wanted to do is just
6 review for you again the decision that we made and the
7 staff is recommending regarding the Permit structure.

8 As you recall, it was actually almost a year ago
9 when you had your first Board workshop. It was
10 November of 2011 on this Permit, and specifically that
11 workshop was focused on discussing the Permit structure.
12 And at that time -- and I'll just reiterate for you now,
13 Federal regulations give the permitting authority
14 discretion to issue a Permit on a systemwide basis, on a
15 watershed basis, or on a jurisdictional basis.

16 After taking into consideration a number of
17 different factors, the Tentative Permit before you is a
18 single Permit with 86 entities. It includes 84 cities,
19 the Los Angeles County unincorporated areas, and the
20 Los Angeles County Flood Control District with
21 watershed-based TMDL provisions and opportunities to
22 develop Watershed Management Programs. And this
23 structure continues to recognize the fact that this is a
24 highly interconnected system and we have a lot of
25 commingled discharges that reach the receiving waters,

1 but it also provides opportunities for coordination among
2 permittees on a watershed basis to really build on the
3 TMDL implementation efforts that are already under way in
4 the region.

5 Also, this Permit structure ensures
6 equitability, meaning that there are standard provisions
7 that will be applicable to all permittees, but it does
8 provide the flexibility that we've been talking about to
9 customize those provisions and it also supports
10 cost-effective implementation by allowing the
11 customization, by allowing watershed-based prioritization
12 and sequencing of actions, and also allowing
13 opportunities for cooperation and combining resources of
14 multiple permittees to address things in a cost-efficient
15 manner.

16 So in the presentation that we go through today
17 there are basically six main elements of the Tentative
18 Order that's before you and these are listed on this
19 slide here. We're going to walk through each of these in
20 this order during our presentation.

21 The first element of the Permit, which is not a
22 new element -- and actually, most of these are not new
23 elements from the 2001 Permit, but they do have some
24 enhancements that we'll discuss with you.

25 The first is the requirement for permittees to

1 effectively prohibit nonstormwater discharges. And this
2 requirement -- first of all, let me start out by saying
3 nonstormwater discharges are essentially any discharges
4 that are not composed entirely of stormwater, meaning
5 precipitation-related runoff, and the Clean Water Act and
6 the implementing Federal regulations require that MS4
7 Permits must effectively prohibit nonstormwater
8 discharges into the MS4 unless they fall within certain
9 categories that are assumed to not be a source of
10 pollutants to the receiving waters.

11 Nonstormwater discharges that are a source of
12 pollutants are considered in Federal regulations to be
13 illicit discharges and must be prevented from discharging
14 through the MS4 to receiving waters.

15 So Federal regulations require that permittees
16 address these discharges by controlling the discharge of
17 nonstormwater to the MS4 in a variety of ways. However,
18 one of the things that we did during the Permit
19 development is we evaluated some of the programs that
20 permittees have been implementing to address these
21 discharges and we found that there continues to be a
22 widespread presence of persistent nonstormwater
23 discharges and a poor understanding of the sources and
24 characteristics of these discharges; and as a result of
25 that lack of understanding, there's really been limited

1 actions to address these in a targeted fashion.

2 Additionally, we've evaluated the data from the
3 mass emissions monitoring stations and identified that
4 there continue to be widespread exceedences of water
5 quality standards during dry weather and of course that
6 is also evidenced by the fact that we have a number of
7 TMDLs that assign dry wasteload allocations to MS4
8 discharges.

9 So to better address the issue of nonstormwater
10 discharges, the Permit before you contains several
11 aspects or several places where it addresses these. One
12 is in Part III.A, which is the nonstormwater discharge
13 prohibition language, and this includes some authorized
14 and conditionally exempt discharges; and this is also
15 addressed in Attachment E, which is the Monitoring and
16 Reporting Program, where we have the nonstormwater
17 outfall-based Screening and Monitoring Program; and
18 finally, in Part VI.D, which Ivar is going to speak
19 about, which is provisions to implement the Illicit
20 Discharge Detection and Elimination Program.

21 Is that helpful to people to have the lights
22 turned down?

23 MR. STRINGER: It'll put me to sleep.

24 MS. PURDY: I don't know if somebody requested that
25 or not.

1 So I want to briefly talk about some of the
2 areas of enhancement with regard to the nonstormwater
3 discharge prohibitions in particular. The first, as I
4 said, is the fact that we've included a refined list of
5 authorized and conditionally exempted nonstormwater
6 discharge. And in particular, one of the things that
7 we've done -- sorry for the flickering lights; it's
8 outside of my control.

9 One of the things that we've done is we've
10 included the addition of more specific conditions and
11 best management practices for these conditionally exempt
12 discharges, so things like landscape irrigation runoff
13 and potable water supply discharges and things like that.
14 We've included BMPs to ensure that those discharges are
15 not a source of pollutants to the MS4.

16 Additionally, one of the other new things in the
17 Tentative Order is that we've included some new
18 categories of conditionally exempt discharges, and
19 specifically we've renamed some of these conditionally
20 exempt essential discharges because some of these
21 discharges are required under Federal or State
22 regulations, such as discharges from water supply
23 systems.

24 So we've included another category to address
25 those. Also, firefighting flows is another category, and

1 another category we've included in this Tentative Order
2 relates to temporary discharges that are authorized by
3 USEPA under CERCLA; and these discharges have been a
4 concern to MS4 permittees because in some cases, there's
5 been a concern that these are a source of pollutants and
6 that permittees would then be held responsible for
7 exceedences of water quality standards that resulted from
8 these discharges.

9 So in the Tentative Order, we've included
10 language that basically says that an MS4 permittee would
11 not be held responsible for exceedences of receiving
12 water limitations if the permittee identified that it was
13 one of these conditionally exempt essential or authorized
14 discharges that was the cause of the exceedence in the
15 receiving water, and that demonstration would be based on
16 the characteristics of the conditionally exempt discharge
17 as well as monitoring data in receiving water for that
18 sampling event.

19 The other enhancement to the program that I
20 wanted to touch on is the fact that we've included more
21 explicit procedures for screening and evaluating
22 nonstormwater discharges and then taking action if those
23 discharges are a source of pollutants, and specifically
24 what we've done -- and Ivar is going to touch a little
25 bit on some of this -- but we've included more directed

1 field screening to identify persistent nonstormwater
2 discharges. We've also included monitoring then when we
3 identify persistent nonstormwater discharges to see if
4 those are exceeding TMDL limits or nonstormwater action
5 levels and whether there needs to be additional action
6 taken to further control those through the use of BMPs or
7 eliminate those through the Illicit Connection and
8 Illicit Discharge Detection and Elimination Program.

9 So at this point I'm going to turn it over to
10 Ivar and he's going to take the next part of the
11 presentation to talk about the Stormwater Management
12 Program and the six minimum control measures.

13 MR. RIDGEWAY: Good morning, Chair Mehranian, Board
14 members, permittees, and stakeholders. I'm Ivar
15 Ridgeway, Unit Chief of the Stormwater Permitting Unit.

16 I'll briefly describe the six requirements for
17 each of the six minimum control measures which are
18 required under 40 CFR. The six minimum control measures
19 apply to the permittees and are in the current 2001 L.A.
20 Permit. All six minimum control measures are
21 customizable under the Watershed Management Program.
22 This presentation discusses the minimum control measures
23 if permittees elect not to customize them.

24 40 CFR requires that permittees establish
25 priorities and procedures for inspection of industrial

1 facilities and priority commercial establishments.

2 In the unified 2006 L.A. MS4 ROWD, or Report of
3 Waste Discharge, it was noted that permittees have found
4 that the inspection program has been effective in
5 educating and bringing awareness to restaurant and other
6 business operators on stormwater pollution prevention
7 measures.

8 The Tentative Order requires an inspection
9 frequency identical to that which is in the 2001 L.A. MS4
10 Permit and the current Ventura County MS4 Permit, which
11 is two inspections per designated facilities within five
12 years. The Tentative Order requires the use of
13 prescriptive BMPs for pollutant-generating activities
14 which are based on the California Stormwater Quality
15 Association manual, or CASQA manual, but the Order allows
16 the use of alternative manuals if appropriate best
17 management practices are specified. The California
18 Stormwater Quality Association is an organization
19 comprised of stormwater agencies throughout the state.

20 40 CFR requires a description of a program to
21 implement and maintain structural and nonstructural BMPs
22 to reduce pollutants in stormwater runoff from
23 construction sites to the MS4. In ROWD -- in the Report
24 of Waste Discharge application for the 2001 L.A. MS4
25 Order, inspections of construction sites were

1 recommended.

2 The requirements staff are proposing are largely
3 based on those in the current Ventura County MS4 Permit.
4 Prior to issuing a grading or building Permit, an Erosion
5 and Sediment Control Plan must be submitted to the
6 permittees prior to building of -- the implementation of
7 those Permits.

8 MR. UNGER: Ivar, excuse me just one moment, please.
9 Could you reference the Bates numbers when you're
10 speaking to different sections of the Permit for the
11 Board members, please, if you have those.

12 MR. RIDGEWAY: I don't have those.

13 MR. UNGER: Can you help him out with that, please.

14 So Renee -- just give Renee a second to get
15 those. Thank you.

16 MS. MEHRANIAN: Just the chapter and section.

17 MR. UNGER: Yeah.

18 MS. SMITH: It's under Section VI.

19 MS. PURDY: So the section that Ivar is speaking
20 about, which is the Stormwater Management Program,
21 minimum control measures, starts on page 8-2.56.

22 MS. GLICKFELD: Thank you.

23 MS. MEHRANIAN: Thank you.

24 Please continue.

25 MR. RIDGEWAY: The requirements staff are proposing

1 are largely based on those in the current Ventura County
2 MS4 Permit. Prior to issuing a grading or building
3 Permit, an Erosion and Sediment Control Plan must be
4 submitted to the permittees for approval prior to land
5 disturbance. The Erosion and Sediment Control Plan
6 specifies control measures to be implemented to reduce or
7 eliminate pollutants in stormwater. Controls for these
8 various construction activities are based on those in the
9 CASQA Best Management Practices Handbooks or the CalTrans
10 Handbook for public transportation-related construction
11 projects.

12 As with the industrial/commercial minimum
13 control measures, permittees can use other manuals which
14 implement appropriate BMPs. Inspection frequency and
15 level of controls required on-site are based on the risks
16 posed by the project.

17 Staff anticipate making no significant revisions
18 to this minimum control measure.

19 The Illicit Connection/Illicit Discharge program
20 is directly tied to nonstormwater monitoring, which
21 requires permittees to identify outfalls with significant
22 nonstormwater discharges and assess if unauthorized
23 nonstormwater discharges are occurring. The Illicit
24 Discharge Detection and Elimination Program is focused on
25 the elimination of illicit discharges identified by the

1 Dry Weather Monitoring Program and those reported to the
2 permittees.

3 The requirements for the Public Agency
4 Activities Program is very similar to what's in the
5 current L.A. MS4 Permit and very similar to what's in the
6 recently adopted Ventura MS4 Permit. Staff are proposing
7 to continue Permit requirements, such as catch basin
8 cleaning, open channel maintenance, and street sweeping.

9 The New Development and Redevelopment Minimum
10 Control Measure builds on the SUSMP requirements in the
11 current 2001 Order. The SUSMP requirement requires the
12 infiltration of the 85th percentile, 24-hour storm or the
13 treatment of the flow produced from 0.2 inch per hour
14 storm event. The new and redevelopment provisions in the
15 Tentative Order requires designated new development and
16 redevelopment projects to retain on-site the stormwater
17 runoff resulting from the 85th percentile, 24-hour storm
18 or the three-quarter-inch 24-hour storm, whichever is
19 greater of the two.

20 When a permittee finds that the project
21 applicant has demonstrated technical infeasibility and
22 has taken all steps feasible to comply with on-site
23 requirements, staff is proposing permittees implement --
24 provide off-site mitigation. In addition to on-site BMP
25 implementation, permittees are allowed to implement

1 off-site retrofit projects and groundwater replenishment
2 projects in lieu of on-site LID implementation.

3 Staff has included Permit language that will
4 allow municipalities to utilize their current Low Impact
5 Development Ordinance if they require the retention of
6 the 85th percentile, 24-hour storm with a minimum
7 baseline of the retention of the three-quarter-inch
8 24-hour storm.

9 The hydromodification requirements were crafted
10 to mitigate the potential negative impacts of stormwater
11 runoff on natural drainage systems. For the most part,
12 they were derived from the current requirements in the
13 Ventura MS4 Order. The three hydromodification
14 compliance alternatives are: the on-site retention of
15 the runoff from a designated storm event; the
16 implementation of BMPs to control runoff volume, runoff
17 rate, runoff velocity, and runoff duration for a
18 designated storm event; a last alternative is the
19 attainment of an erosion potential of one or less.

20 For sites less than 50 acres, the
21 hydromodification design storm is smaller and the control
22 of runoff volume, rate, velocity and duration can be
23 demonstrated by simple screening models.

24 For sites over 50 acres, the proposed
25 requirements are very similar, with the exception of the

1 volume of runoff from a larger hydromodification design
2 storm is required to be retained on-site and modeling is
3 required to demonstrate the matching of predevelopment
4 and post-development requirements.

5 Staff anticipate the following changes to be
6 made in the Revised Tentative: Staff is considering the
7 idea of including a Regional Groundwater Replenishment
8 Section for added clarity. As a fourth alternative for
9 hydromodification, staff are proposing to have -- to
10 allow the use of a 2009 L.A. County LID manual. Based on
11 our outdated erosion potential equation, staff are
12 also going to include the flexibility to allow the use of
13 updated erosion potential equations. Last, staff is
14 increasing the technical infeasibility infiltration
15 criteria from 0.15 to 0.3 inches.

16 The Public Information and Participation Program
17 is based on the current Ventura MS4 Permit and is fairly
18 similar to what's in the current 2001 order. Tentative
19 Order requires permittees to conduct a stormwater
20 pollution prevention advertising campaign and distribute
21 stormwater pollution prevention public education
22 materials to such potential pollutant-generating entities
23 within the watershed, such as automotive parts stores and
24 home improvement centers. In addition, the Board is
25 requiring permittees to develop and implement, or

1 continue the implementation, of a reporting hotline which
2 serves as a general public reporting contact for
3 reporting illicit discharges and dumping.

4 Lastly, staff are anticipating including a
5 Los Angeles County Flood Control District section. The
6 requirements would be the same as the other minimum
7 control measure provisions but would eliminate
8 requirements that aren't applicable to the L.A. County
9 Flood Control District due to their unique
10 characteristics.

11 In closing, I would like to point out that staff
12 have incorporated the necessary flexibility of the Permit
13 to allow the customization of any of these measures.

14 I'd like to turn this presentation back over to
15 Renee.

16 MS. PURDY: Thanks, Ivar.

17 So the next section of the Permit that I want to
18 talk about is the section that is incorporating 33 total
19 maximum daily loads that have been adopted by this Board
20 over the last decade, and this is certainly one of the
21 most significant parts of the Tentative Order before you
22 today.

23 The incorporation of TMDLs and provisions to
24 implement TMDLs is required by the Clean Water Act and
25 also by the implementing regulations at 40 CFR 122.44,

1 which requires that there are effluent limitations
2 included in the Permit consistent with the assumptions
3 and the requirements of any available TMDL wasteload
4 allocation.

5 So the way this is addressed in the Permit
6 before you is through a variety of Permit provisions that
7 are primarily contained in Section VI.E, which begins on
8 page 8.2-111, and these Permit provisions basically
9 include the following components: First of all, it
10 includes numeric interim and final water quality based
11 effluent limitations and receiving water limitations to
12 implement the TMDL wasteload allocations.

13 It also includes a variety of means to
14 demonstrate compliance with these numeric limitations,
15 both some means for demonstrating compliance with interim
16 limitations as well as means for demonstrating compliance
17 with the final limitations. It includes compliance
18 schedules which are consistent with the implementation
19 schedules that this Board adopted as part of the TMDL and
20 it also includes compliance monitoring requirements that
21 are consistent with the TMDL monitoring requirements in
22 approved TMDL monitoring plans, and then there are also
23 reporting requirements. In many cases, the TMDLs require
24 annual reporting of the monitoring data as well as
25 progress toward the implementation.

1 So that's essentially the components that are
2 included in that Section VI.E.

3 Like I said, this Tentative Permit incorporates
4 provisions to implement 33 TMDLs and the 33 TMDLs, the
5 way we've dealt with this, because there are 86
6 permittees times 33 TMDLs, so you can imagine it's quite
7 a matrix in terms of identifying which permittees are
8 responsible for implementing which TMDLs. So in
9 Attachment K, we've included a matrix by watershed
10 management area which indicates which permittees are
11 responsible for which TMDLs, and then following that
12 Attachment K is Attachments L through R, which are
13 organized by watershed management area, and include all
14 of the TMDL provisions that fall within a certain
15 watershed management area. And those requirements are
16 found on page 8.2-438 to page 502.

17 And then the monitoring and reporting
18 requirements -- I'm sorry. I didn't jot down the Bates
19 stamp number for those -- are in the Water Reporting
20 Program, which is Attachment E of your Tentative Order.

21 So the one thing that I do want to spend a
22 moment to talk about and I've talked about before in
23 Board workshops is the fact that the Tentative Order
24 before you does include numeric water quality based
25 effluent limitations to implement all of the available

1 wasteload allocations and we have included these numeric
2 water quality based effluent limitations at this time in
3 accordance with the requirements of the Clean Water Act
4 and Federal regulations and we find that at this time
5 there's insufficient information to fully specify a
6 BMP-based set of requirements with reasonable assurance
7 that those BMPs would be sufficient to achieve the
8 interim and the final wasteload allocations, and we also
9 find that it is feasible to calculate numeric water
10 quality based effluent limitations and include those in
11 this Permit. And so at this time, we have included the
12 numeric effluent limitations, but as I've said, we have
13 included a variety of means for permittees to comply with
14 those, in particular -- or to demonstrate compliance with
15 those, in particular through the Watershed Management
16 Program and a BMP approach for the interim water quality
17 based effluent limitations, which I'm going to discuss a
18 little bit later on.

19 But you can find, if you'd like to look on pages
20 8.2-113 and 114, you can find the various mechanisms by
21 which permittees can demonstrate compliance with these
22 numeric limitations. And I do want to point out that
23 this is certainly a very significant and probably one of
24 the most significant issues for permittees and
25 environmental organizations alike with regard to this

1 Tentative Order.

2 The permittees want the flexibility to be able
3 to demonstrate compliance through the implementation of
4 BMPs and on the other hand, the environmental
5 organizations want compliance to be demonstrated using
6 monitoring data in direct comparison with the numeric
7 limitations. And so I'm sure I've simplified it greatly,
8 but you will have a chance to hear from each of those
9 groups, their perspectives on this matter.

10 And like I said before, there are a variety of
11 means to demonstrate compliance and through the
12 implementation of an approved Watershed Management
13 Program, essentially what we've done in the Tentative
14 Order is we've provided both options to permittees either
15 to use monitoring data, in direct comparison to these
16 numeric effluent limitations, or for the time being with
17 regard to the interim water quality based effluent
18 limitations, they can specify a set of BMPs and do the
19 quantitative analysis to show that there is reasonable
20 assurance that those will achieve the interim numeric
21 limitations and then use those BMPs as a way of
22 demonstrating compliance with the numeric limitations in
23 the Permit.

24 And I think I forgot to change my slide and I've
25 basically gone over a large part of this one, but I'll

1 just review the other options for permittees to
2 demonstrate compliance.

3 I've gone over basically the demonstration with
4 the numeric effluent limitations attained at the MS4
5 outfall. Also, the last one regarding the use of BMPs.

6 Additionally, an MS4 permittee can demonstrate
7 compliance by showing that the receiving water
8 limitations are met in the receiving water. And so in
9 that case, if that is met, then they will be found in
10 compliance with the numeric effluent limitations. Of
11 course during dry weather, another option that has been
12 used very effectively in the region is to eliminate all
13 nonstormwater discharges through the use of low-flow
14 diversions; and if there is no discharge from the MS4,
15 then clearly permittees would be considered in compliance
16 with the numeric effluent limitations contained in the
17 Permit.

18 The next thing that I do want to touch on a
19 little bit more is the TMDL provisions related to the
20 compliance schedules. And what we've done -- a couple
21 things with regard to compliance schedules. First, as I
22 mentioned, the compliance schedules that are included in
23 the Permit for the TMDL provisions are equivalent to the
24 implementation schedules, both the interim deadlines as
25 well as the final deadlines that this Board adopted as

1 part of the TMDLs.

2 In the case of EPA-established TMDLs, those
3 TMDLs do not have an implementation schedule that's been
4 adopted through the State process. So in those cases,
5 what we've done is we've provided permittees with two
6 options for demonstrating compliance. One is by
7 developing a Watershed Management Program and then
8 identifying interim milestones and deadlines for
9 achieving those milestones within the Permit term to
10 address the wasteload allocations from EPA TMDLs.

11 Alternatively, since a Watershed Management
12 Program is voluntary on the part of permittees,
13 permittees instead can demonstrate compliance with the
14 wasteload allocations in the EPA TMDL directly through
15 the use of monitoring data from the outfall and/or the
16 receiving water.

17 The last bit that I want to talk about for the
18 compliance schedules is with regard to the final
19 compliance deadlines that have already passed before this
20 Permit will actually be in place, and there are some
21 situations -- it's a relatively limited number of
22 TMDLs -- where the final compliance deadlines have
23 passed, but they are some significant ones with regard to
24 dry-weather discharges to Santa Monica Bay beaches, to
25 Marina del Rey Harbor, and some other Bacteria TMDLs.

1 And so in those cases, compliance is expected upon the
2 effective date of this Order; however, we do recognize
3 that there may be situations in which a permittee may not
4 be able to comply. And in that case, the Tentative Order
5 provides them with the opportunity to submit a request
6 for a Time Schedule Order with justification to provide
7 additional time to come into full compliance with those
8 TMDLs for which the final compliance deadlines have
9 passed.

10 So the next thing that I'd like to do is I'd
11 like to talk about the receiving water limitation
12 language in the Tentative Order. This is on page 8.2-37
13 of your Tentative Order, and this language is language
14 that has been included to address the requirement that
15 NPDES Permits comply -- include provisions to comply with
16 water quality standards, and the receiving water
17 limitations are essentially the applicable water quality
18 standards for the waterbody at issue and receiving water
19 limitations is defined in Appendix A. I don't know the
20 page number of that. I apologize.

21 But basically the Permit provisions that are
22 included in this section of the Permit come almost
23 directly from the existing 2001 Order, which the language
24 from that Order came from the precedential State Water
25 Board order 99-05 and the Permit provisions essentially

1 include three parts. The first is that there's a
2 provision to ensure that discharges from the MS4 do not
3 cause or contribute to exceedences of applicable water
4 quality standards. There's also a provision to ensure
5 that they don't cause or contribute to a condition of
6 nuisance, and then there are a set of provisions that
7 basically outline the process that permittees need to
8 undertake if there are exceedences of those receiving
9 water limitations in order to address those.

10 So basically, like I said, the language in this,
11 in the Tentative Order, is essentially directly from the
12 language of 99-05 and I want to say, I mean, clearly you
13 guys have seen from the comment letters we've received
14 this is a long-standing issue with the Water Board, the
15 environmental organizations, and the permittees, meaning
16 specifically whether compliance with the iterative
17 process that's outlined in the Permit constitutes
18 compliance with the receiving water limitations, even if
19 there is an exceedence, and what the courts have found
20 recently is that these are independently applicable
21 provisions in the Permit and we recognize that this is a
22 very big concern for permittees and one of the ways that
23 we have dealt with this, in particular, with regard to
24 TMDLs is that we have included provisions in the TMDL
25 section of the Permit on page 112 of the Tentative Order

1 that states that if a permittee is achieving compliance
2 with the TMDL provisions, then they will be found in
3 compliance with the receiving water limitations for that
4 waterbody pollutant combination.

5 So clearly the purpose of TMDLs has been to
6 provide time for permittees to come into compliance with
7 water quality standards and the Board has adopted a
8 schedule by which permittees can do that and so for most
9 of the pollutants of concern in the region, this
10 provision on page 112 addresses, I think, the concern
11 with regard to the receiving water limitations.

12 The one thing that I will be talking about at
13 the end of my presentation is the still present concern
14 on the part of permittees, as Sam mentioned in his
15 opening remarks, that for nonTMDL waterbody pollutant
16 combinations, there remains a concern by permittees that
17 if there is an exceedence of receiving water limitations
18 that then they can be held immediately responsible and
19 out of compliance as a result of that exceedence and that
20 that -- by the fact of that, that disrupts their ability
21 to really prioritize water quality issues and address
22 them in a sequenced kind of way.

23 So I will touch on that in more detail, like I
24 said, at the end of my presentation.

25 The next thing that I want to do is discuss the

1 monitoring and reporting requirements of the Permit.
2 There are some changes to the monitoring and reporting
3 requirements in this Permit. In the past, the 2001 Order
4 essentially required monitoring of seven mass emission
5 stations and that monitoring was primarily conducted by
6 the Los Angeles County Flood Control District and
7 Los Angeles County. Additionally, there were
8 requirements for shoreline monitoring for purposes of
9 looking at bacteria exceedences.

10 The Monitoring and Reporting Program in the
11 Tentative Order includes five primary objectives, which
12 I've included on the slide, and one of the things that
13 we're really trying to do more so with this Tentative
14 Order is assess the impacts of MS4 discharges on
15 receiving waters by including not only receiving water
16 monitoring, as we have had in the past, but also
17 outfall-based monitoring during both dry-weather and
18 wet-weather conditions.

19 This monitoring data collected from the outfall
20 will allow us to assess compliance with the numeric water
21 quality based effluent limitations that I described
22 earlier to implement the TMDL wasteload allocations and
23 it will also allow us to look at the relationship between
24 MS4 discharges and the quality of the receiving water.

25 We also want to be able to characterize the

1 pollutant loads coming from MS4 discharges and do a
2 better job of identifying sources of pollutants in MS4
3 discharges so that those can then be addressed.

4 As I said, particularly, for example, with
5 nonstormwater discharges, we've tried to create a more
6 tailored and targeted process through monitoring to
7 identify where there are sources of pollutants from those
8 discharges and then set forth some procedures for
9 addressing those in a targeted fashion, and of course we
10 want to have monitoring data in order to track and
11 evaluate how well the stormwater and nonstormwater
12 controls that are being implemented are working so that
13 we can improve the adaptive management process through
14 this Permit.

15 So just to cover again the elements of the
16 Monitoring and Reporting Program, it does include
17 receiving water monitoring during both wet and dry
18 weather, which has been included in the past. It
19 includes the outfall monitoring at storm drains of both
20 stormwater and nonstormwater discharges.

21 The Tentative Order does include two more
22 regional-type monitoring efforts. One is to do
23 bioassessment throughout the watersheds in the region and
24 the other is to look at the presence of pyrethroid
25 insecticides throughout waters in the region. I've also

1 included on the slide TMDL special studies.

2 As I said earlier, to the extent that there are
3 TMDL monitoring requirements or special study
4 requirements, all of those have been folded into the
5 Tentative Order to the extent that they relate to MS4
6 discharges and permittees.

7 And the one thing that I did want to say lastly
8 about monitoring is we're providing the option for
9 permittees to take two different approaches or one of two
10 approaches with regard to monitoring. One is to conduct
11 monitoring on an individual basis, just jurisdiction by
12 jurisdiction, or alternatively to work collaboratively
13 with a group of permittees, ideally on a watershed basis,
14 to do monitoring, which we think will be a more effective
15 way to carry out a Monitoring Program and a more
16 cost-efficient way to carry out a Monitoring Program.

17 Additionally, one of the things I think
18 you'll hear today about the Monitoring Program is that
19 there is concern with the addition of outfall monitoring,
20 in particular, as well as the TMDL monitoring
21 requirements, that permittees feel as though the
22 monitoring has increased substantially and there's
23 concern about the logistics and the cost of that.

24 We are providing baseline requirements for
25 monitoring, but one of the things that we have been in

1 discussions about and we are currently thinking about
2 right now is providing opportunities for permittees to
3 customize the baseline requirements in Attachment E to
4 really align them with their Watershed Management
5 Programs should they elect to do a Watershed Management
6 Program, to try to find as much opportunity to integrate
7 and not have, you know, duplicative requirements and find
8 cost efficiencies wherever possible, while still meeting
9 the five objectives that I've laid out for the Monitoring
10 Program.

11 Okay. And at this point, I'm actually going to
12 turn it over to Nick Martorano and he's going to talk
13 about some of the economic considerations and then I'll
14 come back from a final wrap-up.

15 MR. MARTORANO: Thank you, Renee.

16 Good morning, Chair Mehranian, members of the
17 Regional Board. My name is Nick Martorano. I am
18 currently an environmental scientist with the State Water
19 Resources Control Board, but until recently I was a
20 member of the Los Angeles Water Board working
21 specifically on the Tentative Order before you.

22 The detailed economic considerations can be
23 found on Attachment F on page 8-2.379.

24 Regional Board has received comments raising
25 concerns about cost, which is what I'm here to discuss.

1 The Tentative Order includes new post-construction
2 measures, hydromodification requirements, LID measures,
3 it includes the 33 TMDLs, outfall monitoring and
4 reporting requirements.

5 Consequently, staff has proposed some options to
6 allow permittees additional flexibility that could help
7 in managing costs; specifically, the Watershed Management
8 Program which allows permittees to identify priority
9 areas based on specific watershed needs. Renee will be
10 discussing the Watershed Management Program in much more
11 detail following my presentation.

12 Some key points to note: The costs associated
13 with complying with the Regional Board adopted TMDLs were
14 considered during the team development process; however,
15 they are based on recommended compliance strategies
16 rather than a firm compliance option, ultimately left to
17 the responsible parties the method of compliance and,
18 therefore, costs. So the estimates found in TMDL staff
19 reports are not necessarily accurate and representative
20 to the MS4.

21 Furthermore, in cases where a waterbody is
22 subject to several TMDLs, the Regional Board has
23 specifically created TMDLs with the mind-set that a
24 single program can be implemented to comply with several
25 TMDLs.

1 Secondly, it is very difficult to estimate the
2 true costs of implementing MS4 Permits and other
3 stormwater/urban runoff management programs because of
4 the highly variable nature of stormwater itself and the
5 implementation strategies that can be used by permittees.

6 Even if specific management programs' elements
7 can be identified, the costs associated with those
8 elements can vary widely from permittee to permittee.

9 Past permittee cost reporting is inconsistent
10 and lacks detail.

11 Staff primarily utilized the data provided by
12 permittees as part of the Unified Annual Stormwater
13 Report. This data includes self-reported information on
14 costs of implementing the six minimum control measures
15 outlined by Ivar earlier and also included costs
16 associated with program management, monitoring programs
17 and a category described as "other."

18 The costs did vary widely and the average annual
19 cost to the permittees during the 2010/2011 reporting
20 year was approximately \$4 million, with a median cost of
21 687,000. We then took the 2010 U.S. Census Bureau data
22 and tabulated the annual average cost per household,
23 which came out to be \$120 per year with a median cost of
24 \$57 per household.

25 It is important to note that many program

1 components and their associated costs existed before the
2 first Los Angeles County MS4 permit was issued in 1990.
3 Most notably are costs associated with storm drain
4 maintenance, street sweeping, and trash and litter
5 collection. Therefore, the true program costs related to
6 complying with MS4 permit requirements is some fraction
7 of the total reported costs. Staff examined this by
8 recalculating the annual average costs without the costs
9 associated with street sweeping and trash collection.
10 This gave an adjusted annual average of 2.4 million with
11 a median cost of 290,000. Staff again used the 2010
12 Census data and came out with an annual cost per
13 household to be roughly \$42 and a median cost of \$17.
14 Staff is not suggesting these costs are the actual costs
15 but is rather suggesting that it is somewhere in between.

16 In 2005, the State Water Board funded a study
17 through Cal State Sacramento entitled, "NPDES Stormwater
18 Cost Survey, Final Report." This report examined the
19 costs associated with developing, implementing,
20 maintaining, and monitoring MS4 programs in the cities of
21 Corona, Encinitas, Fremont, the Fresno-Clovis Metro Area,
22 Sacramento and Santa Clarita. The results of the study
23 found that the annual household costs ranged from \$18 to
24 \$46 with a true mean of \$29 related to 2002 dollars.

25 This same study was further examined and applied

1 to the recent Ventura County MS4 Permit which found that
2 when adjusted for inflation to the total annual cost to
3 MS4 permittees ranged from 7.15 to 10.9 million depending
4 on the averaging method. This translated to an annual
5 cost per household that ranged from \$27 to \$42 in 2008
6 dollars.

7 The results of both of these studies are
8 consistent with the numbers found in the adjusted annual
9 costs associated with the 2010-2011 Unified Annual
10 Report.

11 Some key problems were identified in the State
12 Board Study that were consistent with the Regional Board
13 staff findings. The State Board found significant
14 limitations in cost data quality due to inconsistencies
15 in reporting, detail and references. This makes it
16 impossible for independent review of the accuracy and
17 completeness of the cost data.

18 The State Board study also found that certain
19 stormwater implementation costs included activities like
20 street sweeping and storm drain/channel cleaning that
21 provide separate and additional municipal benefits were
22 included not uniformly. This nonuniformity is consistent
23 with the data gleaned from the 2010-2011 Unified Annual
24 Report and the wide variation in cost of median values.

25 Regional Board staff also compared cost

1 categories examined by the State Board study and found
2 that they had a much more even distribution of costs
3 amongst programs in the municipalities examined. The
4 Los Angeles Unified Report had over three-quarters of its
5 total costs associated with a category described as
6 "other" which many times included costs associated with
7 street sweeping and trash collection.

8 Although the Regional Board is not required to
9 conduct a cost-benefit analysis, it is important to
10 consider the benefits associated with stormwater
11 management. The benefits of implementation of the Draft
12 Order include improvements in water quality, enhancement
13 of beneficial uses, increased implement of income, and
14 satisfaction from environmental amenities.

15 A study conducted by USC and UCLA as part of the
16 overall study Commissioned by the L.A. Water Board
17 entitled, "Alternative Approaches to Stormwater Control"
18 found that nonstructural control systems could cost
19 approximately 2.8 billion dollars but provide upwards of
20 5.6 billion in benefits. If structural systems were
21 needed, the study found that the total costs could be
22 between 5.7 to 7.4 billion, while benefits could reach
23 18 billion.

24 The USEPA also performed a study on the national
25 willingness to pay for freshwater quality benefits for

1 areas that are either boatable, fishable or sizeable --
2 basically Rec 1 and Rec 2 designated waterbodies -- and
3 found that nationally, households were willing to pay
4 between \$158 to \$210 annually depending on the use.

5 This information was corroborated by the State
6 Water Board study which surveyed households and found
7 that they were willing to pay approximately \$180 per year
8 for statewide clean water.

9 Furthermore, Los Angeles County has several
10 beaches that are impacted by urban runoff and costs
11 cities and the public millions of dollars in loss of
12 tourism and instances of health-related expenses.

13 Finally, staff examined funding sources
14 available to permittees to help compensate for added
15 costs of the Draft Order. The table before you
16 summarizes the total amount of funds allocated by the
17 public funds -- Federal, State, and local bond
18 measures -- specifically for stormwater management in
19 Los Angeles County. The total amount of funds to date
20 totals 645 million dollars.

21 A potential source of future funds beyond the
22 current source, sources, is Assembly Bill 2554 or the
23 Los Angeles County Flood Control District's water quality
24 initiative. If the Board of Supervisors approve the fee
25 proposal and no majority protest is received, it will be

1 submitted for voter approval. If passed, it will create
2 an estimated 300 million dollars annually to be utilized
3 for various stormwater projects, of which 40 percent
4 would be returned to the municipalities to create new
5 local projects and programs, as well as maintenance of
6 current projects. 50 percent would be distributed among
7 nine newly created Watershed Authority Groups to develop
8 water quality improvement plans and implement regional
9 projects and programs. The remaining 10 percent would be
10 allocated to Flood Control District for program
11 administration and other District-run programs and
12 projects.

13 In conclusion, the cost analysis found some key
14 conclusions. Number one is the reporting of costs to
15 develop, implement, and maintain the stormwater
16 management is inconsistent and should be standardized to
17 offer independent review.

18 Second, not all costs reported as being solely
19 for the stormwater are representative, especially --
20 specifically those associated with street sweeping and
21 trash/litter removal, which were programs that were in
22 place before the first MS4 permit was issued.
23 Furthermore, when the costs associated with those
24 programs were factored out, the annual cost per household
25 matched much more closely with the numbers estimated from

1 the State Water Board study and the study conducted in
2 association with the Ventura MS4 Permit.

3 Thirdly, it's been shown that the benefits of
4 controlling stormwater outweigh the costs by two to one
5 and that the estimated willingness to pay from the public
6 for improved water quality actually is much higher than
7 the actual estimated costs of implementing the Permit.

8 Lastly, there is public funding available. Over
9 645 million has already been allocated to L.A. County to
10 date and with the possibility of future funds on the
11 horizon, municipalities will have options looking ahead.

12 I'll turn it back over to Renee.

13 MS. PURDY: Okay. So lastly, we want to talk about
14 the section of the Permit that's regarding Watershed
15 Management Programs, which you've heard Sam and myself
16 and Ivar and Nick I think all touch on somewhat. We
17 wanted to save this particular section for last because
18 it really is the section of the Permit that is intended
19 to integrate all the other parts of the Permit in a
20 cost-effective way for permittees.

21 It is on page 8.2-45 of your Tentative Order and
22 goes basically to page 55 of your Tentative Order.

23 And the purpose of the Watershed Management
24 Programs, like I said, is to provide a framework for
25 permittees to work collaboratively to implement both

1 their individual and regional BMPs and watershed control
2 measures to address the highest watershed priorities and
3 these programs will provide permittees with the
4 flexibility to customize some of their nonstormwater
5 discharge provisions in the Permit, the core Permit
6 requirements under the minimum control measures that Ivar
7 spoke about, and also sequence their implementation
8 actions to reduce pollutants and MS4 discharges to
9 achieve the water quality based effluent limitations
10 established to implement TMDLs, and also to address other
11 receiving water limitation exceedences that they
12 identify.

13 So the next slide is a slide that I've shown you
14 before and I just want to demonstrate how the Watershed
15 Management Program can integrate the various aspects of
16 the Permit that we've been talking about.

17 First is the nonstormwater controls, and then we
18 also have the minimum control measures that Ivar spoke
19 about. We have the TMDL provisions that I was speaking
20 about before in part VI.E and also Attachments L through
21 R, and then finally we have measures that are necessary
22 to address other receiving water limitations. And all of
23 these can be addressed within the context of the
24 Watershed Management Program. And I also want to note,
25 as you can see on the slide, that there's a lot of

1 overlap between the various elements within the Watershed
2 Management Program.

3 For example, controls that are done to address
4 nonstormwater discharges through the MS4 in many cases
5 will be the very same controls that are needed to address
6 the dry-weather water quality based effluent limitations
7 that need to be achieved pursuant to TMDLs.

8 Similarly, measures to eliminate exceedences of
9 receiving water limitations that are not addressed by a
10 TMDL will also sometimes fall within one of the minimum
11 control measure categories that Ivar spoke about earlier
12 which complies with a permittee's Stormwater Management
13 Program. It may mean that these minimum control measures
14 need to just be enhanced in a certain watershed or
15 subwatershed area, and I think there have been some good
16 examples of that.

17 One is in the southern part of Santa Monica Bay,
18 a focus on pollutant controls at restaurants through the
19 restaurant certification programs.

20 So the one other thing that I do want to mention
21 about the Watershed Management Program is while we do
22 encourage permittees to work together on these Watershed
23 Management Programs, the Tentative Order does allow the
24 flexibility for an individual permittee to develop a
25 Watershed Management Program to address the watershed --

1 just the watershed area within their jurisdiction or
2 permittees, as we would encourage, can work
3 collaboratively as a group within the entire watershed to
4 develop a program which identifies both responsibilities
5 or regional controls that they'll undertake as a group,
6 as well as controls that they would implement
7 individually within their jurisdiction.

8 So the scope of the Watershed Management
9 Programs is basically the seven watershed management
10 areas that the Regional Board uses in developing its
11 TMDLs, and we did bring large-scale maps which identify
12 the boundaries of these seven watershed management areas
13 in the context of the City jurisdictional boundaries as
14 well as in the context of the storm drain system within
15 L.A. County.

16 And like I said, these Watershed Management
17 Programs can either be implemented individually by a
18 jurisdiction for the watersheds within which it lies or
19 it can be implemented as a group. And in some cases, a
20 permittee may be a part of more than one Watershed
21 Management Program, and I'm sure you may hear that the
22 City of L.A. is a good example of one that falls within
23 several watersheds.

24 This is just a pictorial of the seven watershed
25 areas without all of the additional detail.

1 Next I'd like to just briefly review for you
2 what the elements of a Watershed Management Program are
3 and I'll just touch on these briefly. I have reviewed
4 them in previous Board workshops.

5 Basically, there are three primary components to
6 the initial program plan. The first is to identify
7 watershed priorities and part of that identification
8 process is to do a source assessment looking at MS4
9 discharges and contributions from MS4 discharges to
10 receiving waters and then to do a prioritization, which
11 the highest priorities of which would be to implement
12 TMDL water quality based effluent limitations as well as
13 to address known exceedences of receiving water
14 limitations that might be caused or contributed to by MS4
15 discharges.

16 The next aspect of the plan is to select
17 watershed control measures that can adequately address
18 those TMDL water quality based effluent limitations as
19 well as contributions from the MS4 that are leading to
20 receiving water exceedances. And it is in this area of
21 the watershed control measures that the permittees can
22 customize their nonstormwater discharge controls, their
23 minimum control measures, as well as other provisions to
24 address the watershed priorities.

25 The other key aspect of a Watershed Management

1 Program is to conduct what we're referring to as a
2 reasonable assurance analysis, and this reasonable
3 assurance analysis is a quantitative analysis of the
4 control measures to ensure that they will be sufficient
5 to achieve the water quality priorities that have been
6 identified.

7 And I'm going to talk about that a little bit
8 more, but first I want to briefly go over the
9 implementation cycle for a Watershed Management Program
10 because there is, as proposed in the Tentative Order, a
11 requirement to first submit a draft plan to the Regional
12 Board and that would be subject to a public review period
13 and then Executive Officer approval and that would occur
14 within 12 months of the effective date of the Tentative
15 Order, although I will tell you later about some comments
16 we've received on that time line.

17 But after submittal and approval of the plan and
18 a period of implementation, then the Tentative Order
19 includes a process, of course, for monitoring to see how
20 effective the plan implementation is and then an
21 opportunity to evaluate the results and then modify the
22 plan as necessary. So if for some reason the initial
23 reasonable assurance analysis was found to not be really
24 bearing out as expected, there's an opportunity to go
25 back and revise or add or enhance the watershed control

1 measures so that permittees make sure that they stay on
2 track with achieving the water quality based effluent
3 limitations that they are trying to address through the
4 Watershed Management Plan.

5 The time line like I spoke about is -- there are
6 a couple of aspects to it. The first is that within six
7 months of the effective date of the Order, we want
8 permittees to notify the Regional Board of their intent
9 to pursue a Watershed Management Program, and this is
10 because the Watershed Management Programs are voluntary
11 and we want to be aware of those permittees that intend
12 to follow this pathway for developing watershed control
13 measures and demonstrating compliance with some of the
14 provisions of the Permit. And then at this point, right
15 now what we've proposed is a draft plan after one year of
16 the effective date of the Order and then there would be a
17 period, as I said, of review and then both by the public
18 as well as by Regional Board staff and then we would
19 provide comments to the permittees and they would make
20 revisions to the plan. And then within three months of
21 getting those comments from us, they would finalize the
22 plan and begin implementation of it upon final approval.

23 And then right now, what we have laid out is a
24 process for doing the adaptive management, the evaluation
25 and adaptive management process, approximately one and a

1 half years after the plan goes into effect and
2 implementation has begun, which would allow two
3 opportunities for evaluating and modifying the plan
4 within the Permit term.

5 Just to go back to the reasonable assurance
6 analysis a little bit more because I feel like this is a
7 very important part of the Watershed Management Program,
8 this is important because, as I've said, one of the ways
9 that permittees can demonstrate compliance with the
10 numeric water quality effluent limitations, particularly
11 through the interim limitations, is by identifying
12 watershed control measures and then if there's been a
13 reasonable assurance analysis done that provides a
14 quantitative analysis that shows that those BMPs are
15 sufficient to achieve the interim water quality based
16 effluent limitations, they can demonstrate compliance
17 through a more action-based pathway, meaning that so long
18 as they're implementing the actions per the schedule
19 outlined in the Watershed Management Program, then they
20 would be considered in compliance with the numeric
21 interim water quality based effluent limitations.

22 So a reasonable assurance analysis needs to
23 address all of the effluent limitations and/or the
24 receiving water limitations that are being addressed by
25 the Watershed Management Program, and of course it needs

1 to identify the watershed control measures that will be
2 implemented and a schedule for implementing those and
3 then using modeling or other quantitative approaches show
4 the linkage between the expected water quality outcomes
5 of implementing those measures and the requirements in
6 terms of the numeric effluent limitations.

7 I think I have already probably spoken enough
8 about the monitoring and evaluation requirements, so I'm
9 going to, in the interest of time, move on from that.

10 And just to reiterate again, as I said, if
11 permittees choose to follow a watershed management
12 approach and the permittee is implementing all the
13 components of that approved Watershed Management Program
14 in accordance with the approved schedule, then the
15 permittee would be considered in compliance with the
16 interim water quality based effluent eliminations and
17 receiving water limitations contained in the TMDL
18 provisions.

19 The next thing that I want to do is I just want
20 to go over some of the more significant issues of concern
21 and comments that we received, just in wrapping up, and
22 the first that I wanted to talk about is the timing of
23 submittal of the Watershed Management Programs and the
24 monitoring programs.

25 There was concern on the part of permittees that

1 the time frame of a year for submitting Watershed
2 Management Programs was not sufficient to really develop
3 a very good, robust Watershed Management Plan,
4 particularly in the case of permittees that want to
5 cooperate together as a group to develop these plans, and
6 so staff is currently considering those comments and
7 intends to in a Revised Tentative recommend that
8 additional time be allowed for permittees who are
9 developing Watershed Management Programs so long as
10 there's a commitment to certain early actions that would
11 go on concurrently with planned development, and those
12 early actions specifically would relate to the
13 development, if one doesn't exist already, of a local LID
14 ordinance as well as development at a jurisdictional
15 level of policies for implementing green streets
16 throughout the jurisdiction.

17 The next significant issue that we heard quite a
18 bit of, and I touched on this before briefly, is the
19 flexibility to customize the monitoring requirements.
20 Because of the addition of TMDL monitoring requirements
21 as well as outfall monitoring requirements and the fact
22 that some permittees cover very large geographical areas
23 and it would require a large number of outfalls for
24 monitoring, they have requested the ability to customize
25 the monitoring to still achieve the objectives and

1 contain all of the basic elements of the MRP but to try
2 to find ways to integrate requirements in a
3 cost-effective manner. And so what we're proposing to
4 do, because already the Tentative Order requires
5 Executive Officer review and approval as well as public
6 review of the monitoring programs, is to align these
7 monitoring programs with the Watershed Management
8 Programs and allow permittees to propose a program in
9 lieu of the baseline requirements that are contained in
10 Attachment E; but as I said, one that would still meet
11 the requirements of or the objectives of Attachment E and
12 fulfill any TMDL monitoring requirements in the
13 watershed.

14 So the next significant issue which I also
15 mentioned earlier is the compliance with the final
16 numeric water quality based effluent limitations. As I
17 said to you before, we felt like we had insufficient data
18 at this point to rely wholly on BMP-based approaches for
19 implementing or demonstrating compliance with the numeric
20 water quality effluent limitations. We've provided
21 permittees with the option of developing the Watershed
22 Management Programs and using that to show compliance
23 with interim water quality based effluent limitations,
24 but we feel it's premature until we have an opportunity
25 to evaluate the effectiveness of the Watershed Management

1 Approach in achieving those interim water quality based
2 effluent limitations to yet apply that to the final water
3 quality based effluent limitations. However, we did
4 indicate in the Fact Sheet that that's something that the
5 Board could consider down the road, perhaps in a next
6 Permit term, as to whether it would be appropriate to use
7 a similar approach for the final water quality based
8 effluent limitations.

9 In response to comments, staff is also
10 contemplating now in a Revised Tentative Order that we
11 may include additional, more specific reopener language
12 in the Permit itself that would indicate that within a
13 certain period of time, perhaps two years of a final
14 water quality based effluent limitation deadline
15 arriving, that the Board would reconsider the Permit and
16 consider this issue of whether compliance with final
17 numeric water quality based effluent limitations could be
18 demonstrated in other ways.

19 Okay. So the other thing that we -- let's see
20 if I can put all of this up at once.

21 The other comment that we heard particularly
22 from the County and the Flood Control District, which I'm
23 sure they'll speak on today, is the request for the
24 opportunity to implement what I refer to here as ultimate
25 multi-benefit watershed programs that would have a longer

1 planning horizon than the Watershed Management Programs
2 that we've proposed in the Tentative Order.

3 And just to define what these would be, these
4 would be integrated programs that focus on addressing
5 nonstormwater and stormwater through the implementation
6 of large-scale, multi-benefit regional projects that
7 would include stormwater infiltration for groundwater
8 replenishment, stormwater capture and storage for
9 beneficial use, and then also other BMPs as necessary to
10 reduce or eliminate pollutant discharges to receiving
11 waters.

12 And the request that has been made, as I said,
13 is that this be an option in lieu of Watershed Management
14 Programs and that there be an allowance, given the scale
15 of what's being proposed, for a longer planning horizon.
16 And I think you'll hear from the permittees regarding
17 what they're requesting, but right now we are thinking
18 about whether this could be used in lieu of Watershed
19 Management Programs. Our primary concern and what we're
20 still trying to work on is what sorts of commitments
21 would occur during the planning phases. So if the
22 planning was a longer time frame on the order of two and
23 a half to three years, then what things would be
24 committed to during those planning phases to ensure that
25 there were actions happening on the ground?

1 So some of the things that we're contemplating
2 right now is some interim deadlines regarding the planned
3 development itself, also some requirements regarding
4 having an executed MOU among participating permittees so
5 that we can see the commitment to this type of
6 larger-scale alternate program; and also the
7 identification of the commitment to fund some pilot
8 projects in each watershed during the planned development
9 phases.

10 So we are thinking about how we could include
11 that in a Revised Tentative Order and will be interested
12 in hearing your thoughts on that during our discussions
13 tomorrow.

14 The last thing that I want to touch on in my
15 presentation is the receiving water limitations language
16 specifically as it relates to nonTMDL waters and its
17 relationship to the Watershed Management Program, and I
18 would say this was probably the most frequently raised
19 issue and probably the one of most concern among
20 permittees was regarding the means of demonstrating
21 compliance with the receiving water limitations where
22 there's not a TMDL in place for the waterbody pollutant
23 combination.

24 In particular, the permittees have expressed
25 concern about the risk of enforcement and third-party

1 lawsuits from exceedences of receiving water limitations
2 without being provided the opportunity to remedy the
3 exceedance first.

4 Permittees have also expressed concern that
5 because of the risk of noncompliance, permittees will be
6 compelled in a sense to chase after exceedences of
7 receiving water limitations that might cause them to
8 divert their resources and disrupt their focus on the
9 watershed priorities that they've identified through
10 their Watershed Management Program.

11 So in response to these concerns, staff has been
12 thinking long and hard about an approach that will ensure
13 that MS4 contributions to receiving water exceedences are
14 addressed in a timely and effective manner while allowing
15 permittees to focus on the water quality priorities
16 identified in the Watershed Management Program.

17 The approach staff is contemplating would be
18 available to permittees electing to develop a Watershed
19 Management Program. The Watershed Management Program
20 promotes a process similar in some ways to the iterative
21 approach but emphasizes a more proactive approach to
22 identifying and addressing pollutant contributions from
23 MS4 discharges to receiving waters, including the robust
24 quantitative analysis that I described to the reasonable
25 assurance analysis, prior to implementation to ensure

1 that the BMPs will be effective at addressing the
2 pollutant contributions; and it would also require the
3 establishment of enforceable milestones and deadlines for
4 their achievement to ensure that there was timely
5 progress toward addressing MS4 discharges.

6 This approach would also be supported by
7 monitoring requirements that would be adequate to measure
8 progress toward achieving the receiving water
9 limitations.

10 So staff has identified three categories of
11 waterbody pollutant combinations that would be addressed
12 using this approach.

13 As I mentioned earlier, the category of TMDL
14 waterbody pollutant combinations has already been
15 addressed through Part VI.E in the Tentative Order.

16 The first would be waterbody pollutant
17 combinations that are identified on the 303(d) list as
18 impaired but for which a TMDL has not been developed,
19 though there is a TMDL in place for a similar class of
20 pollutants in the waterbody. And by "similar class," I
21 mean a class of pollutants with similar fate and
22 transport mechanisms. An example would be a metal such
23 as aluminum or selenium where there's already a metals
24 TMDL in place.

25 So in this case, I've shown on this slide on the

1 left-hand side what the requirements would be. And it
2 would be through the Watershed Management Program that
3 they would -- a permittee would need to demonstrate that
4 the watershed control measures identified to achieve the
5 TMDL for the similar class of pollutants would also
6 adequately address the other pollutant using the same
7 interim and final requirements and deadlines in the TMDL,
8 and this pollutant would also be included in the
9 reasonable assurance analysis.

10 The second class or group of pollutants would be
11 waterbody pollutant combinations identified on the 303(d)
12 list as impaired but for which a TMDL has not been
13 adopted yet and there is no TMDL in place for a similar
14 class of pollutants in the waterbody And an example of
15 this would be bacteria in the Dominguez Channel, for
16 example.

17 So on the right-hand side of the slide, I have
18 indicated what the requirements under the Watershed
19 Management Program would be for this, and they're
20 essentially the same in that there would need to be
21 identification of watershed control measures to
22 adequately address MS4 contributions of that pollutant to
23 the receiving waters. That waterbody pollutant
24 combination would need to be included in the reasonable
25 assurance analysis, and then the one difference between

1 the previous group is that in this case we don't have a
2 compliance schedule to rely upon or interim requirements,
3 so the permittees would be required to identify
4 enforceable numeric milestones and deadlines to address
5 the MS4 contributions of that pollutant to receiving
6 waters.

7 The final group of pollutants would be the
8 pollutant waterbody combinations where there are
9 exceedances of receiving water limitations, but those
10 pollutants have not yet been listed as 303(d) impaired
11 waterbodies. And in this case what would happen through
12 the Watershed Management process, either at the beginning
13 of the process if those receiving water limitations were
14 known at the time of the planned development, or at the
15 stage of the adaptive management stage when the Watershed
16 Management Program is being evaluated and modified would
17 be that first the permittees would be required to assess
18 the pollutant combination contributions from the MS4
19 discharges and sources of those pollutants in the MS4
20 discharges based on data that they've collected through
21 their monitoring and reporting program.

22 Then again, they would need to identify
23 watershed control measures to address the MS4 pollutant
24 contributions and include those pollutants in the updated
25 reasonable assurance analysis and once again for those

1 pollutants establish enforceable milestones and deadlines
2 for addressing MS4 contributions of the pollutant to the
3 receiving water limitations.

4 So those are the three categories that would be
5 addressed through this approach that staff is considering
6 including in a Revised Tentative Order.

7 And then for each of these three categories of
8 waterbody pollutant combinations, a permittee would then
9 not be considered in violation of the receiving water
10 limitations that are included in Part V.A of the Permit
11 for the specific waterbody pollutant combinations that
12 are addressed through the approved Watershed Management
13 Program if the permittee is in full compliance with all
14 of the milestones and deadlines that are included in the
15 Watershed Management Program.

16 Permittees that do not elect to develop a
17 Watershed Management Program would be subject to the
18 provisions of Part V.A without the benefit of the
19 Watershed Management Program mechanism for demonstrating
20 compliance with the receiving water limitations.

21 So staff at this point has concluded that this
22 would provide an effective approach for addressing MS4
23 contributions to exceedances of receiving water
24 limitations in a proactive and robust manner and would
25 afford permittees the same compliance demonstration

1 approach as is provided for TMDL waterbody contributions
2 through this Tentative Order.

3 So, again, I just want to flash these back up on
4 the screen in closing to say, as I started out with and
5 Sam started out with, what we really tried to do in terms
6 of new directions with this Tentative Order is make sure
7 that the provisions that we've included in the Order are
8 directly related to the desired water quality outcomes
9 that we're looking for in the waterbodies within the
10 Los Angeles region, provide greater accountability for
11 permittees to achieve those water quality outcomes but
12 while providing a variety of means for permittees to
13 demonstrate compliance; and then also, as we've been
14 talking about, really give permittees the flexibility to
15 customize these requirements if they desire through the
16 Watershed Management Program approach to best address the
17 water quality priorities within each individual watershed
18 or within each permittee's community.

19 And with that, I would like to close my
20 presentation. Thank you.

21 MS. MEHRANIAN: Thank you, Renee.

22 We are going to take a short break because the
23 court reporter needs a break.

24 MR. UNGER: 15 minutes, I think.

25 MS. MEHRANIAN: 10?

1 MR. UNGER: 10 minutes.

2 MS. MEHRANIAN: So we will be here at 11:35.

3 (Recess)

4 MS. MEHRANIAN: We would like to continue our
5 hearing. There are three issues that we would want to
6 discuss before we move on.

7 One is that the MWD requested that we ask
8 everybody to get rid of your drinks and food and do not
9 bring food and drink inside, the audience. So that's the
10 first.

11 The second item that I would like to mention is
12 that please know that the Board members are not asking
13 questions today or having discussions. So if you would
14 like to hear some of the questions and discussions that
15 the Board members have, it's going to have to be
16 tomorrow. So today we're going to let the public have
17 all the hearing and everybody that is agendized to speak
18 to speak.

19 And then the third item is there was a statement
20 that was read by Board Member Lutz. I would like for
21 everyone to know that this was a process. It was a lot
22 of thinking gone through by the attorneys and by the
23 Board members and as I mentioned before, Board
24 Member Lutz is a very valued member of this Board.

25 I would like for our attorneys to explain to the

1 Board and -- one more time -- and to the public of what
2 the process was and how the determination was made.
3 Frances?

4 MS. MC CHESNEY: Okay. Thank you.

5 So first of all, just without disclosing any
6 attorney-client privileged information, so I'll be brief,
7 but I just wanted to explain that this Permit has been
8 pending for approximately four or five years, actively
9 pending for about two years; and at the time that it
10 became pending, Ms. Lutz or Board Member Lutz was
11 prohibited from participating under State law which says
12 that a person --

13 UNIDENTIFIED SPEAKER: We can't hear you.

14 UNIDENTIFIED SPEAKER: Use your mic.

15 MS. MC CHESNEY: It's on. Can you hear me now?

16 UNIDENTIFIED SPEAKER: No.

17 MS. MEHRANIAN: You want to go there (indicating)?

18 MS. MC CHESNEY: Is it on?

19 MR. UNGER: Yes.

20 MS. MC CHESNEY: So this Permit has been pending for
21 approximately four years, maybe longer, I'm not sure, and
22 actively pending for two years; and at the time that it
23 began to be pending or started out, there was a State law
24 that required that Board members who were a discharger or
25 associated with a discharger were prohibited from

1 participating in the matter. And since Board Member Lutz
2 was on the City Council and the mayor of the City of
3 Monrovia, she was prohibited from participating. Then in
4 June of this year, that law was changed and therefore
5 Ms. Lutz was no longer prohibited from participating due
6 to her position as the mayor of Monrovia, as a --
7 associated with a discharger. And because her -- any
8 money she got from the City of Monrovia is not considered
9 income under the Fair Political Practices Act, she was
10 not precluded from participating due to a financial
11 conflict.

12 However, there are two additional laws that
13 apply. The first one is that a Board -- that because the
14 Permit had been pending for such a long time, there is
15 the possibility that she had engaged in ex parte
16 communications regarding the Permit; and because she
17 could have had those communications, they wouldn't have
18 been improper at the time.

19 So the law requires that she disclose all her
20 ex parte communications by preparing a memo that
21 describes all the oral communications and any resulting
22 actions from those oral communications and also disclose
23 all written communications relevant to this proceeding.

24 The second part that needs to be complied with
25 is that no Board member can participate -- would be

1 disqualified from participating for bias, prejudice, or
2 an interest in the matter.

3 So back to the first part about disclosure. For
4 various reasons which I won't get into, the disclosure of
5 all of those ex parte communications did not occur in a
6 timely manner. They would have had to occur and provide
7 ten days' opportunity for the public to comment on those
8 ex parte communications. That did not occur so,
9 therefore, Ms. Lutz was not able to complete that step of
10 the process, which is to disclose all those documents
11 and, therefore, there is no necessity for the Board to
12 have weighed in on whether or not she should have been
13 disqualified for bias, prejudice or interest in the
14 matter; and that would have had to have occurred in a
15 public setting with the Board weighing in on whether that
16 was appropriate with an opportunity for public comment.

17 So if you have any other questions, that's -- so
18 just to basically summarize, the first part of disclosing
19 the ex parte communications did not occur and, therefore,
20 Ms. Lutz is not able to participate.

21 MS. MEHRANIAN: Thank you.

22 Questions or comments, Board members?

23 MR. STRINGER: Just -- actually, just a comment.

24 I just wanted to say I wish that Mary Ann was
25 here to hear it, that I don't have any question about her

1 ability to be impartial, her objectivity, and her lack of
2 bias.

3 At the same time, I don't have any question
4 about the professionalism of our staff and their
5 objectivity on these matters and other matters as well
6 and I understand the legal decision and where it sort of
7 came down and it's unfortunate. Mary Ann has a lot to
8 offer to all of our conversations and decisions,
9 including this one, but I understand why it came down the
10 way it came down.

11 MS. MEHRANIAN: Other comments, questions?

12 Okay. Thank you.

13 So we'll proceed with the public hearing and we
14 have the elected officials giving their policy statements
15 and making comments.

16 And we have the first speaker, Susan Nissman
17 from Los Angeles County Board of Supervisors.

18 MS. NISSMAN: Good morning, Honorable Board,
19 Honorable Chairman. I'm Susan Nissman with Supervisor
20 Zev Yaroslavsky's office on behalf of the Los Angeles
21 County Board of Supervisors. The five Supervisors have
22 asked that I come before you today and read a letter
23 outlining their concerns for the Proposed Permit.

24 "Dear Honorable Board and Chairman
25 Mehranian:

1 "We are writing to urge you to postpone
2 adoption of a new Los Angeles County
3 National Pollutant Discharge Elimination
4 System Municipal Stormwater Permit,
5 currently being considered for
6 November 2012, and allow the submittal of
7 additional comments and written materials.

8 "The Permit is highly complex and the
9 time allowed for review and comment on the
10 draft Permit was insufficient for
11 stakeholders to provide adequate feedback,
12 given the proposed Permit's complexity and
13 length. Although significant progress has
14 been made to date, more time is needed to
15 draft/craft an attainable Permit that
16 incentivizes smart, innovative and
17 cost-effective solutions while protecting
18 the quality of water resources throughout
19 the County of Los Angeles. Sufficient time
20 is needed for a revised working draft of the
21 Permit to be provided to permittees and
22 stakeholders for review, comment, and
23 discussion with Regional Board staff prior
24 to the revised Permit being brought to the
25 Regional Board for adoption. This is the

1 most effective and efficient manner in which
2 to address issues and concerns from the
3 stakeholders.

4 "A postponement is also justified in
5 light of two pending proceedings with a
6 direct impact on this Permit: the State
7 Water Resources Control Board workshop on
8 the receiving water limitations provision,
9 scheduled for November 20th, 2012, and the
10 case in front of the U.S. Supreme Court,
11 Los Angeles County Flood Control District
12 versus the Natural Resources Defense
13 Council, scheduled to be heard on
14 December 4th, 2012.

15 "The County of Los Angeles, the
16 Los Angeles County Flood Control District,
17 and the cities within the County are
18 committed to protect and enhance the quality
19 of the County's water resources. We believe
20 a six-month postponement would provide the
21 time necessary to develop a measured and
22 balanced way forward.

23 "Very truly yours, Supervisor
24 Zev Yaroslavsky, Chairman of the Board, and
25 Gloria Molina, Mark Ridley-Thomas,

1 Don Knabe, Michael Antonovich."

2 I would like to also conclude by sharing an
3 excerpt from the Board's motion that initiated this
4 letter:

5 "The drafting of the Permit is a
6 significant opportunity to change and
7 accelerate traditional thinking about
8 stormwater management in ways that expand
9 the benefits to the public and the
10 environment by creating incentives for
11 permittees to collaborate and develop more
12 effective and efficient programs for
13 stormwater management. The next Permit is a
14 chance to help guide each permittee" --

15 MR. STRINGER: Finish your sentence.

16 MS. NISSMAN: Thank you. It was only one left.
17 -- "to guide each permittee toward a
18 comprehensive and universal program that
19 improves water quality, increases stormwater
20 reuse opportunities, and emphasizes
21 maximizing water supply benefits."

22 Thank you very much.

23 MS. MEHRANIAN: Thank you. The next speaker is
24 Lou LaMonte, City of Malibu.

25 MR. LA MONTE: Good morning. I'm Lou LaMonte, the

1 mayor of Malibu. I wanted to let you know that
2 Jim Thorsen, our City manager, and I just returned from
3 New Orleans where we accepted the Water Quality
4 Improvement Award from the Water Environment Federation.
5 This award was for our Legacy Park project and as you
6 know, the Water Environment Federation is one of the
7 largest and most respected water quality organizations in
8 the world. We are very proud to receive it.

9 Now, some of that credit goes to you because a
10 grant from you helped us get Legacy Park built, so we
11 wanted to thank you, and it begins to discuss our
12 partnership. In fact, Lisa Jackson, the administrator of
13 EPA, in her keynote speech said the best path to clean
14 water is partnership.

15 Protecting water quality is one of Malibu's top
16 priorities. We have spent tens of millions of dollars on
17 water quality over the past ten years; but like many
18 cities, we are just a part of a watershed where cities
19 and other public agencies are all responsible for
20 protecting our water quality. Thus, it is only possible
21 to achieve our goals when we all work in cooperation.

22 We need to have a regulatory program that
23 rewards effort, encourages participation, and forces the
24 partnerships that we have already created. Now, I am
25 concerned that the draft Permit does not yet do these

1 things.

2 One issue is language that seems to encourage
3 third-party lawsuits based on requirements that could be
4 impossible for us to meet. We have had our share of
5 these lawsuits. Having Malibu as a defendant seems to
6 generate more media coverage and I guess that encourages
7 more donations. We have won several and settled some.
8 The most recent was a settlement that included work that
9 we have already completed and work that we are already --
10 were committed to do, and it also included \$750,000 in
11 legal fees and that didn't include the City's fees.
12 Although that money might put some lawyer's kid through
13 college, it certainly didn't help clean our water.

14 This Board cannot let language be placed in the
15 Permit again that leaves cities open to these lawsuits.
16 The Permit must say that if the cities are complying in
17 good faith with the Permit obligations, implementing best
18 management practices, and identifying additional
19 measurable results, any issues that we call an adaptive
20 management or iterative program, then the City is in
21 compliance.

22 Some exceedances are out of the City's control
23 and they don't even come from stormwater, so the City
24 should not be vulnerable to lawsuits while it assesses a
25 problem and identifies the source and solution.

1 So please don't rush to adopt this Permit. Take
2 the time necessary to thoroughly vet this 500-page
3 permit. Work out all these issues and some others, like
4 a clear path to natural source exclusions.

5 Please consider all of the alternatives and
6 suggestions that you will hear about today. Take the
7 time to honor our partnership and work with us to create
8 a reasonable and achievable Permit. We have earned that
9 respect. Thank you.

10 MS. MEHRANIAN: Thank you.

11 Matt Kilroy, City Councilman, City of
12 Redondo Beach.

13 MR. KILROY: Good morning. Thank you for giving me
14 this opportunity to address the Board.

15 Redondo Beach considers the quality of water to
16 be of paramount importance. Being a beach city, it's
17 vital to our economic vitality and the quality of life in
18 the South Bay. We fully support the NPDES Permit
19 process, the goals and objectives, and I'd like to say I
20 support everything that the City of Malibu actually just
21 commented on also.

22 Right now, the City of Redondo Beach spends
23 about \$2 million a year in improving our water discharges
24 and eliminating discharges and cleaning the water going
25 into Santa Monica Bay. That's about 3 percent of our

1 General Fund budget, our discretionary spending. It is
2 something we are committed to doing. It is something we
3 are committed to improving on. We support the use of
4 best management practices as a way to show compliance.

5 We definitely -- I really want to echo the idea
6 that spending money on lawyers doesn't help improve water
7 quality. Spending money on lawsuits doesn't help improve
8 water quality. We want a clear path forward. We want to
9 know what we need to do and when we need to do it by and
10 we'll have that commitment to do it. There is nobody it
11 benefits more than a city that lives along the coast.

12 Our concern is that we don't have the funding
13 for it. Right now, we estimate that our costs will
14 double with implementation of the Permit as it is
15 presently drafted. We want to make sure that funding is
16 identified. The economic analysis said there was a lot
17 of support amongst families for clean water. Well, if
18 that's true, then we should have no problem making sure
19 that the initiative for the November ballot is passed and
20 we'll have that funding source.

21 If that initiative fails, if those funding
22 sources aren't identified, don't come through, then I
23 would contend that possibly that whole economic analysis
24 that was done was deeply flawed. That money is necessary
25 and is critical to implementing any kind of changes,

1 improvements in the TMDLs.

2 If that money doesn't come forward, we're
3 looking at additional severe cuts to City services.
4 We're talking about reductions of 10 percent of our
5 police force as an example -- not saying that that would
6 actually be where the cuts come from, but as an example
7 of how deeply that would cut a city of our size
8 \$2 million. I'd also suggest that possibly a de minimis
9 exemption be allowed. We are in part of a water group
10 that puts hardly any water into Machado Lake, but yet
11 we're going to have to develop a Watershed Management
12 Program.

13 So thank you for your considerations of these
14 issues and I hope you take the time to actually address
15 all of them.

16 MS. MEHRANIAN: Thank you.

17 Next speaker, D. Montgomery Lewis, City of
18 Bradbury.

19 MR. LEWIS: Good morning, Honorable Chair and members
20 of the Regional Water Board, and thank you for the
21 opportunity to speak to you today.

22 My name is Monty Lewis. I'm a City Council
23 member for the small residential community of the City of
24 Bradbury, located in the San Gabriel Valley.

25 Our community has real, serious, and significant

1 concerns about the implications of the draft Order as
2 currently proposed.

3 Please note for the record that the City of
4 Bradbury supports the comments that have been submitted
5 and are being presented to you by the Los Angeles Permit
6 group. My comments today are intended to provide you a
7 real example of the economic implications that this draft
8 Order will have on small cities in the L.A. River
9 Watershed.

10 As has been stated by others on multiple
11 occasions, given just the sheer magnitude of the
12 document, the City is requesting additional time to
13 review the more than 500 pages of the Permit. Further,
14 given that there is no Revised Tentative Order available
15 for review, nor has there been any response to permittee
16 comments to the draft Tentative Order, it seems
17 preemptive and inappropriate to move forward with a
18 two-day public hearing that will have such far-reaching
19 and enormous impacts on communities such as ours.

20 Bradbury supports the overall efforts of water
21 quality and environmental programs and we will continue
22 to do our community's part within our limited means. In
23 turn, we need the Board to understand the financial
24 constraints that our city and many others like ours are
25 under.

1 Some cities before you today are concerned over
2 priorities of funding, whether it's a fire truck or a
3 police officer that does not get funded to pay for
4 compliance with the draft Order. For Bradbury, the
5 reality is far more shocking. With this draft Order, you
6 are telling us not to exist. How can that be?

7 Looking at the estimated costs for compliance
8 with the proposed regulations, as opposed to the costs
9 associated with prior ones, and relying on the funding
10 formula adopted by the cities to pay for the L.A. River
11 Metals TMDL requirements, compliance with the Bacteria
12 TMDL requirement alone has an estimated cost to the City
13 of Bradbury of 1.4 million dollars. The City's General
14 Fund is \$800,000. That's 180 percent of our Annual Fund.
15 That is just impossible.

16 While we understand that no one wants to swim in
17 contaminated waters, the Board has to recognize the
18 significant costs to local cities as a result of the
19 virtually unattainable cleanup and monitoring
20 requirements. Balancing municipal budgets in this
21 economy has become a yearly struggle for most cities and
22 for those like Bradbury that rely strictly on property
23 tax, it's been impossible. As local elected officials,
24 we cannot keep asking residents to tax themselves to fund
25 never-ending regulations.

1 On page 40, the draft Order requires
2 municipalities to exercise their authority to secure
3 fiscal resources necessary to meet all the requirements
4 of the Permit. We are greatly limited in our ability to
5 raise funds for such expenditures. Further, this
6 provision may not be legal, as it appears to violate the
7 State Constitution, Article 16, Section 8.

8 Cities have limited amount of funds available
9 and limited resources under local control. While the
10 City does not believe the Board's intent is to bankrupt
11 cities, the singular truth is that if we implement many
12 of these TMDLs without further consideration -- the City
13 of Bradbury strongly recommends that the Board develop a
14 Permit and promote reasonable water quality solutions,
15 instead of an agenda that continues to push an
16 unreasonable burden to an unrealistic end. Thank you for
17 your consideration.

18 MS. MEHRANIAN: Sure.

19 Larry Forester, City of Signal Hill.

20 MR. FORESTER: Before I start, I have a signed copy
21 of the original and signed copies for the Board and
22 staff.

23 Good morning. I am Larry Forester, Council
24 member of the City of Signal Hill.

25 Chair and Board members, hello. I appreciate

1 the opportunity to talk on this reissuance of the
2 Los Angeles MS4.

3 First, we do not understand why municipalities
4 that are willing to bear the extra cost of having their
5 own permits are not allowed to do so. We filed a
6 separate ROWD in 2006 and have requested on numerous
7 occasions that the Board issue an individual permit to
8 the City of Signal Hill. We would prefer to be
9 responsible for our own actions, or inactions, and not
10 for other jurisdictions. Without a principal permittee,
11 each burden of -- without, each municipality will have to
12 submit its own annual report, which would put an extra
13 burden on Regional staff. We encourage your staff to
14 amend our ROD and will continue to work with them on
15 separate actions and request a tolling agreement.

16 The City also will continue to participate in
17 watershed activities and is willing to implement a
18 Comprehensive Monitoring Program to measure the
19 effectiveness of our water quality improvement efforts.
20 We will also continue to work with the City of
21 Long Beach, which was granted a separate permit in 1992
22 and has applied for reissuance of a separate permit.

23 We will continue to work together on
24 implementation of L.A. River TMDLs, L.A. Estuary Bacteria
25 TMDL, L.A. Cerritos Channel Metals TMDL, and Harbor Toxic

1 TMDL. However, just like the City of Long Beach, we feel
2 strongly that the most effective way for Signal Hill to
3 address a stormwater program is through its own
4 individual permit.

5 The City of Signal Hill shares all of the
6 permittees' concerns regarding receiving water limitation
7 currently in the working proposal as an unnecessary and
8 counterproductive liability for permittees. This
9 situation is compounded by the joint and several
10 liability language in the TMDLs that assigns joint
11 responsibility to groups of permittees when discharges
12 are or may be commingled in the regional stormwater
13 system prior to the discharge of the receiving waters of
14 the TMDL.

15 Making reasonable progress and improving water
16 quality is a major goal of stormwater permits. In its
17 precedential Order 99-05, the State Board believed it
18 practical and fair to extend to permittees the public
19 process of timely implementation of best management
20 practices and which has become known as the iterative
21 process.

22 Receiving water limitation language has been
23 added to stormwater permits since 1999. A point -- as
24 pointed out at the time in 2001, the Permit was not
25 totally consistent with 99-05. With the inclusion of 33

1 TMDLs, numeric limits and compliance standards into the
2 current Permit, the importance of receiving water
3 language is critical to the reasonable implication of the
4 Permit.

5 A recent Ninth Circuit Court of Appeals decision
6 has turned the receiving limitation language on its head,
7 with the Court stating that the current Permit does not
8 have the iterative process when carried to a logical
9 conclusion. Instant compliance and numeric limits is now
10 required for permittees --

11 MS. MEHRANIAN: Councilman, would you conclude,
12 please.

13 MR. FORESTER: No. You will let me finish.

14 The State Board has recognized the importance of
15 this language in deliberations of CalTrans' permit and we
16 would hope that you would recognize the same for us and
17 extend things to July 1, 2013.

18 MS. MEHRANIAN: Thank you.

19 MR. FORESTER: And I am slow for one reason, and that
20 is you put me in a situation here in front of this Board
21 in a temperature that has created my body to start
22 wanting to faint. I am living with HIV and AIDS and
23 thank you for subjecting me to that.

24 MS. MEHRANIAN: Thank you very much.

25 The next speaker is Adriana Figueroa,

1 representing Mayor Cheri Kelley, City of Norwalk.

2 MS. FIGUEROA: Thank you, Madam Chair, members of the
3 Board. Our mayor, Cheri Kelley, could not be here and
4 asked me to come here and read a letter to you, which
5 I've provided to your staff.

6 "I first want to thank the members of
7 the Board for the opportunity to comment on
8 this important regulation. The City of
9 Norwalk has a strong commitment to ensuring
10 that the quality of our water is high and
11 that our contribution to water pollution is
12 as limited as it can be.

13 "I am proud to tell you that the City
14 has implemented numerous BMPs throughout the
15 last several years. As an example,
16 Norwalk's street sweeping throughout the
17 City continues to be on a weekly basis. We
18 will continue to include stormwater
19 pollution prevention topics in our
20 environmental newsletter publication, on our
21 local public cable television station, and
22 in City Hall tours for our children. Our
23 City's shopping center revitalization
24 project included low impact development
25 technologies for stormwater pollution

1 control.

2 "Norwalk has a Stormwater Inspection
3 Program that we continue to operate. Every
4 year, NPDES inspections are conducted at
5 about 20 percent of the City's priority
6 sites. In the last two years, 160
7 industrial and commercial sites were
8 inspected -- close to 50 percent of the
9 inventory -- with only around 10 percent
10 requiring follow-up activities. I am proud
11 to tell you that all noncompliance issues
12 were corrected through the follow-up
13 inspections.

14 "Norwalk has also been actively
15 involved in the formation of the Coyote
16 Creek/San Gabriel Reach 1 Group, and working
17 together, we have made strides in improving
18 water quality through collaborative efforts
19 and through building relationships that will
20 allow us to continue to work together to
21 help achieve and maintain water quality
22 standards.

23 "The City of Norwalk has put in the
24 time, the effort, and the funds and we have
25 gotten results. It is for this reason that

1 I am deeply concerned about the Permit's
2 Receiving Water Limitations language, and
3 the potential imposition of liability on the
4 City on the basis of numeric exceedances of
5 water quality standards. With such a
6 standard, even a City that is fully
7 committed to water quality protection like
8 Norwalk can be the subject of notices of
9 violation, third-party lawsuits, and untold
10 amounts of financial liability. That is
11 simply not fair, and it is not sensible.

12 "Establishing liability for numeric
13 exceedances has proven to be
14 counterproductive, and that is evident in
15 the NRDC versus L.A. County case. Notice
16 for the lawsuit was originally provided to
17 the County back in 2007. After a trial
18 where no liability was found, and an appeal
19 where liability was only found for some
20 counts, the case is now in front of the
21 United States Supreme Court, who well may
22 invalidate the Ninth Circuit Court of
23 Appeals' liability finding. Millions of
24 dollars in litigation fees have been spent,
25 four-plus years have passed, and we still

1 don't know whether the County and the Flood
2 Control District are going to be held
3 legally responsible for measured numeric
4 exceedances.

5 "We are not against numeric standards,
6 but hinging permittee liability on achieving
7 them at all times just does not make sense
8 at this time. As a legal matter, it is now
9 clear that establishing legal liability for
10 permittees for numeric exceedances in the
11 County MS4 Permit is difficult at best."

12 You do have the letter and I have it for your
13 records, so --

14 MS. MEHRANIAN: Thank you. I appreciate it.

15 Please note that for efficiency and equity and
16 fairness, you know, we have to have the slots and the
17 time lines for them and, you know, we just have to stop
18 when the buzzer goes off. Thank you.

19 City of Covina, Walt Allen.

20 MR. ALLEN: Good morning, Madam Chair and Board
21 members. My name is Walter Allen. I am representing the
22 City of Covina and our City Council.

23 We've already submitted a written detailed
24 statement and I'm going to cut my comments short so I can
25 beat that bell, I hope.

1 At any rate, naturally, we're very much in
2 support of reducing stormwater pollution. That's a
3 given, and I think all of the cities here are in that
4 category. However, in keeping up with the obligation and
5 costs imposed by the subsequent permits with more
6 stringent requirements, it's become increasingly
7 difficult from a financial standpoint to meet the needs
8 of these permits.

9 Now with this latest proposal or tentative
10 proposal, the requirements are becoming almost
11 prohibitive. Redevelopment has been taken away from the
12 cities and the burden of running a city is tremendous
13 these days and right now Covina currently owns 82 of the
14 637 catch basins within our City limits and this is one
15 of the problems that we have.

16 Under the Proposed Permit, we would have to
17 install trash excluders in all Priority A catch basins,
18 whether the City owned them or not. That's a problem.
19 And I think the point I want to try to make this morning
20 is that money is the issue here and we need the Board to
21 consider working with the cities to try to find a more
22 flexible way economically to deal with the financial
23 requirements.

24 Now, I know there's A.B. 2554 that's in
25 progress, but what if it doesn't pass, pass? Now, one of

1 the other issues is some may say we can establish, you
2 know, put an issue on the ballot. They're not passing
3 too well. We just had one defeated on a simple lighting
4 district issue.

5 Some might say, You may want to -- let's get
6 some grants. Well, that's a problem, too, because
7 available grants come with resource requirements and,
8 furthermore, grants have competing priorities. So -- and
9 also, matching requirements, fund requirements,
10 short-term funds specifically exclude maintenance and
11 ongoing expenses.

12 Well, why not impose more regulatory fees and
13 impact fees? We are already taxing our businesses and
14 our residences with a number of fees and taxes. And we
15 ask that you really consider allowing us to have more
16 flexibility in dealing with the Permit.

17 Thank you, and I beat the bell.

18 MS. MEHRANIAN: Thank you.

19 Councilmember Danielle Soto, City of Pomona.

20 MS. SOTO: Thank you, Chair and Board. My name is
21 Danielle Soto, Councilmember for the City of Pomona. I'm
22 also the chair of the City's subcommittee for
23 environmental stewardship where our goal is to promote
24 environmental stewardship throughout the City, and I'm
25 here on behalf of our residents.

1 Just a little briefly on the City of Pomona.
2 We're the largest of the San Gabriel Valley cities and
3 sixth largest of L.A. County. We have about 149,000
4 residents and about 22 percent of our residents are below
5 poverty level, and we have about 4,500 businesses in the
6 city, mostly all small business. And we have a very
7 diverse population. We have a lot of youth due to our
8 central location to a lot of the universities and
9 colleges.

10 The City of Pomona is no stranger to green
11 accomplishments. We are very proud of what we've
12 achieved. Back in the 1950s, we developed a recycled
13 water partnership with L.A. County Sanitation District to
14 deliver a system that's still used today for recycled
15 water. Pomona, over our last six-month period, our staff
16 have gone into the schools in our cities -- in our city
17 and we've established rain barrels with the students and
18 taught them the importance of stormwater management.

19 Also, our Stewardship Committee has increased
20 our recycling capability. We have our Energy Action Plan
21 for greenhouse gas emissions and also have just purchased
22 an all-new CNG trash fleet, among other items that we
23 have done.

24 Most importantly is that I'd like to establish
25 that the City of Pomona is not a beach city. We are over

1 40 miles from the beaches and our youth most of the time
2 has not the ability to go to the beach. Our children --
3 our concern for our children is that our library doors
4 are barely open. Our community -- we're concerned with
5 that and we're also concerned with business retention and
6 growth, which we think that this Permit is a big issue
7 for.

8 The City of Pomona as well as the County and
9 State and nation have faced difficult times. With the
10 elimination of Redevelopment Agency that was our best
11 tool for redevelopment, we have outsourced many of our
12 core functions. We have been dealing with these issues
13 for the last four years. Our committee feels that this
14 Permit as written is unworkable for our City and is
15 already an issue for our cash-strapped general fund.

16 It is a fallacy to consider that cities have the
17 ability to raise funds. We currently have three tax
18 proposals on our November ballot. We are not confident
19 they are going to pass. It's not a guarantee and that is
20 just to maintain our cash flow in our already diminished
21 City services. This is subject to voter approval and it
22 can't be guaranteed. If we couldn't even find a million
23 dollars to keep our library open at 26 hours in June, how
24 are we going to find \$2 million to establish all these
25 catch basins throughout all our outlets?

1 Even the water quality initiative that you guys
2 are considering cannot be guaranteed to pass. We really
3 seriously would like you to consider that when you're
4 making this decision to keep in mind the big picture. I
5 ask this body to understand that your decision has a
6 ripple effect that extends beyond a simple permit.

7 Thank you.

8 MS. MEHRANIAN: Thank you.

9 The next speaker is Ralph Franklin,
10 Councilmember, City of Inglewood.

11 MR. FRANKLIN: Now good afternoon.

12 Ralph Franklin, City Councilmember, City of
13 Inglewood and also the chairman of the South Bay Cities
14 Council of Governments.

15 The watershed approach will generate better
16 solutions given the nature of -- given the natural flow
17 of water and high -- higher to lower elevations toward
18 the ocean. Challenges don't start and stop at individual
19 municipal boundaries. Tackling stormwater quality on a
20 watershed-by-watershed basis gives Permit requirements
21 and water quality solutions can be tailored to each
22 watershed. This enables us to prioritize our efforts in
23 each watershed to achieve better quality results.

24 We understand the Board must fulfill its legal
25 responsibilities by developing effective NPDES permits;

1 however, permits are challenged to comply by the
2 environment of finite resources, uncertain science, and
3 complex ecologies. The ability of both the regulator and
4 the regulated community to understand and empathize with
5 each other's objectives, challenges, and constraints
6 needs a more practical, feasible, and sustainable Permit.

7 Over the last two decades, water quality
8 regulations and corresponding Stormwater Permit
9 obligations have advanced rapidly and significantly while
10 compliance costs have gone up much faster than any
11 corresponding municipal revenues.

12 Water quality compliance costs compete for the
13 same General Revenue funds that we have for our public
14 safety, roads, parks, and other public revenues. You
15 heard earlier today that one of the cities also is facing
16 possibly insolvency.

17 The fiscal realities of municipal budget and
18 revenues must be considered in order for any Permit to be
19 achieved and sustainable over the short and long term
20 and, also, this continuing threat of litigation puts
21 municipalities in a difficult and counterproductive
22 position of trying to defend themselves from third-party
23 lawsuits instead of directing their limited resources to
24 water quality improvement.

25 The permittees respectfully request that this

1 Board adopt a Permit that is reasonable, economical,
2 achievable, and legally enforceable.

3 Thank you very much.

4 MS. MEHRANIAN: Thank you, Councilman.

5 Denis Bertone, City of San Dimas, Councilmember.

6 MR. BERTONE: Madam Chair, I haven't been sworn in.

7 (Whereupon the prospective witness was sworn)

8 MR. BERTONE: Thank you very much.

9 Good morning, Madam Chair and Board members. My
10 name is Dennis Bertone. I'm a member of the City Council
11 for the City of San Dimas, which has 33,000 residents,
12 approximately 15 square miles in the San Gabriel Valley.
13 I'm also on the governing board of the Rivers and
14 Mountains Conservancy, which is the San Gabriel River and
15 the Lower Los Angeles Rivers. I am not speaking on their
16 behalf, but as a Board member, I appreciate and know the
17 benefit and the absolute necessity to have clean water.
18 I'm very aware of that.

19 I personally approve of the way the Board is
20 championing pure and clean water; but because of the
21 fiscal problems our cities are facing, these requirements
22 need to be phased in over a time, and when I say "phased
23 in," I do not mean never because I do support what you
24 are aiming to do with a reasonable amount of time.

25 The fiscal effect of these requirements of the

1 City must be taken into consideration. San Dimas is
2 fiscally well off, but so far we have spent an average of
3 about half a million dollars on the goals that we're
4 trying to achieve and I think this is money well spent.
5 If this goes into effect, it will almost double this.
6 San Dimas, as I said, is well off, but we have a deficit
7 this year of \$200,000 and it would really be difficult.

8 I think what you need to do, personally, is you
9 need a program that is economically feasible for the
10 cities, and I think that's extremely important and based
11 on science. I think that this has to be phased in
12 slowly, but I think the Board is doing an excellent job.

13 I think we support what you're doing, but let's
14 make it reasonable. I think it'll be much more effective
15 if you have cooperation from the cities than if you have
16 lawsuits. And by going -- by phasing it in, you will get
17 cooperation, the cities will be part of this, and I think
18 you all know that when you have cooperation, things work
19 better and hopefully in the end we all reach the same
20 goal.

21 Thank you very much.

22 MS. MEHRANIAN: Thank you.

23 Mark Steres representing the City Council of the
24 City of La Canada Flintridge.

25 MR. STERES: Thank you. Good afternoon.

1 I'm Mark Steres. I'm the City Attorney of the
2 City of La Canada Flintridge and I'm here at the request
3 of the City Council members of La Canada Flintridge to
4 present this statement.

5 As has been and will be said over and over
6 again, all parties have the same goal: Improve and
7 maintain the water quality of our region's watersheds.
8 This process is long and difficult, but for good reason:
9 to produce a workable program to achieve the goal.

10 Extensive technical comments to the Tentative
11 Order have been made and submitted. Give the parties who
12 will be implementing the Order the real opportunity to
13 review the responses to comments, the real opportunity to
14 review the Revised Tentative Order, and the real
15 opportunity to provide oral comments at a future hearing
16 prior to this Board taking action.

17 La Canada Flintridge, like many of the
18 permittees, is a small city with a small budget. The
19 requirements of the Tentative Order are very expensive.
20 The high costs to be incurred by La Canada Flintridge
21 will have a severe impact on the City's ability to
22 maintain and improve its existing infrastructure and
23 programs. Please take the time to ensure each
24 requirement you mandate will achieve the goal to improve
25 water quality. Be prudent in your mandates.

1 For example, the requirement of permittees to
2 monitor: The equipment's expensive, installation's
3 expensive, maintenance and operation is expensive.
4 However, will the monitoring equipment actually improve
5 water quality? No.

6 Should money be spent by permittees on
7 improvements that actually improve water quality to
8 demonstrate compliance? If the Board wants to know
9 information, it should spend its own money to get the
10 information.

11 We request that the Board be prudent, mandate
12 judiciously, and only mandate requirements that produce
13 real, actual results.

14 Thank you.

15 MS. MEHRANIAN: Thank you.

16 Jack Hunter, City of Downey.

17 MR. HUNTER: Thank you, Madam Chair, members of the
18 Board. My name is John Hunter and I have been asked to
19 read this statement from Roger Brossmer, the mayor of
20 Downey, and you previously have been provided with copies
21 of this and I will also try to meet the three-minute
22 limit.

23 "First, I want to thank the Regional
24 Board for providing the City of Downey with
25 an opportunity to raise several issues

1 regarding the Tentative Order.

2 "As the Board is aware from
3 presentations and comments the City of
4 Downey has made on several previous
5 occasions, the City of Downey has always
6 taken an active role in NPDES issues. I
7 will restrict my comments to four primary
8 issues.

9 "First, the number of TMDLs the City is
10 facing has steadily risen and is now up to
11 seven: The L.A. River Trash TMDL, the L.A.
12 River Bacteria TMDL, the San Gabriel River
13 Metals TMDL, just to name a few. These
14 TMDLs require a level of expertise and cost
15 that is unprecedented.

16 "Second, the cost of the Tentative
17 Order, due to the increased number of
18 programs and new requirements, is
19 financially unachievable. The City of
20 Downey is located in three watersheds. The
21 cost of installation of just two outfall
22 monitoring stations in each watershed will
23 be about \$600,000.

24 "Thirdly, Downey's Low Impact
25 Development Program has been a prominent

1 feature of our efforts during the past five
2 years, which has been articulated in our
3 previous comments. With this level of
4 effort, we feel a BMP-based compliance
5 criteria should be available. It is of
6 critical importance that BMP-based
7 compliance be included in any Receiving
8 Water Limitation language to protect cities
9 with good programs from violations for the
10 random exceedances that will inevitably
11 occur.

12 "And finally, I would like to end on a
13 positive note. As you know, in 2006, the
14 City applied for a separate MS4 Permit. We
15 are looking forward to reviewing the
16 proposed Watershed Management Program as a
17 potentially less costly alternative when the
18 final version of the Tentative Order is
19 released for public review and a second
20 round of comments. At that time, we intend
21 to provide additional and more detailed
22 comments.

23 "Thank you for your consideration."

24 MS. MEHRANIAN: Thank you.

25 Frank Senteno, Public Works Director, City of

1 Hermosa Beach.

2 MR. SENTENO: Good afternoon, Madam Chair and Board
3 members. I am here to read into the record comments on
4 behalf of our mayor, Mr. Jeff Duclos.

5 "Hermosa Beach's residents are strongly
6 supportive of proactive environmental
7 measures and actions to protect water
8 quality and the environment.

9 City staff is innovative, progressive, and
10 strongly committed to protecting water
11 quality. The City has successfully utilized
12 Federal ARRA funding through the Clean Water
13 State Revolving Fund to implement two
14 award-winning water quality projects for the
15 benefit of improving water quality in the
16 Santa Monica Bay.

17 "Recently we learned that we were
18 successful in securing a grant from the
19 state's Strategic Growth Council to update
20 and integrate the City's General Plan and
21 Coastal Land Use Plan to create a
22 Comprehensive Blueprint for Sustainability
23 and a Low Carbon Future.

24 "The City Council of the City of
25 Hermosa Beach urges you not to adopt this

1 Permit until after the State Board Workshop
2 is held to consider modifications to the
3 standard Receiving Water Limitations
4 language in Municipal Stormwater Permits.
5 This language is of great importance to
6 municipalities because the U.S. Ninth
7 Circuit Court found in NRDC versus County of
8 L.A. that municipal permittees can be deemed
9 in violation of the stormwater permit due to
10 exceedances of water quality standards even
11 if they are acting in good faith to correct
12 those exceedances. This places
13 municipalities in an untenable and
14 vulnerable position. As this language is
15 critical to the draft Permit for L.A.
16 County, the Regional Board should defer
17 taking any action until after the State
18 Board opines on whether and how to modify
19 the language.

20 "Beyond the Receiving Water Limitations
21 issue, the 45-day review period provided for
22 the first complete draft of this 500-page
23 Permit was not a reasonable or sufficient
24 amount of time to fully review and digest
25 all the interrelated parts of this Permit,

1 to consider the implications on municipal
2 resources, and provide complete and
3 comprehensive comments. However, our staff,
4 in cooperation with the staffs of our sister
5 beach cities did their best to submit a
6 substantive set of comments given the
7 limited time allotted through a joint letter
8 with accompanying comments from the cities
9 of Manhattan Beach, Redondo Beach, and the
10 City of Torrance.

11 "We want to continue to work with your
12 staff to protect and restore the quality of
13 our valuable water resources in a manner
14 that is most effective and allows us to
15 prioritize water quality objectives for
16 optimal deployment of our limited municipal
17 resources. We urge you to give your staff
18 the time necessary to get this Permit right.

19 "The City of Hermosa Beach respectfully
20 requests that the Regional Board lengthen
21 the review period prior to adoption of the
22 Permit and provide a more reasonable
23 schedule to allow for the issuance of a
24 second draft of the Permit and comment
25 period and to consider the outcome of the

1 State Board Workshop on the Receiving Water
2 Limitation language.

3 "Sincerely, Jeff Duclos, Mayor."

4 MS. MEHRANIAN: Thank you.

5 Patricia Elkins, on behalf of Mayor Jim Dear.
6 She's here.

7 MS. ELKINS: Good morning. My name is Patricia
8 Elkins. I'll be reading a letter from the mayor of
9 Carson, Jim Dear. It was prepared on October 2nd, prior
10 to the letter or notice from the Regional Board received
11 yesterday at 3:43 p.m. We request that this letter be
12 placed in the public hearing for this record.

13 "Dear Ms. Mehranian:

14 "The City of Carson appreciates the
15 opportunity to comment on the proposed draft
16 Tentative Order for the renewal of the
17 Los Angeles County MS4 Permit. The City was
18 hoping to provide comment on a Revised
19 Tentative Order. According to City staff,
20 written comments were already made in
21 connection with the draft Tentative Order.
22 The expectation was that Regional Board
23 staff would consider those comments in
24 preparing the Revised Tentative Order. Now
25 we learn that the Revised Tentative Order

1 will not be made available until after the
2 October public hearings are held.

3 "This seems to put the horse before the
4 cart. It is the City's understanding that
5 the Los Angeles Regional Board has by custom
6 and practice issued Revised Tentative Orders
7 at least 30 days prior to conducting
8 adjudicative public hearings, for which the
9 October hearings are intended to serve. We
10 note that this was the case in the Regional
11 Board's adoption of the Ventura MS4 Permit
12 in 2010. We are also given to understand
13 that this was the case in the adoption of
14 the current MS4 Permit in 2001.

15 "Not only is the Revised Tentative
16 Order not available for comment, the
17 adjudicative hearing notice, with its
18 schedule of time allotted to commenters was
19 not issued within the 10-day notification
20 requirement under the Administrative
21 Procedures Act.

22 "The City, therefore, requests that the
23 Regional Board governing body postpone the
24 adjudicative hearing until staff has
25 released its Revised Tentative Order. It

1 makes no sense to repeat at the public
2 hearing that which has already been
3 submitted in writing to the Regional Board
4 staff.

5 "What we need is a response to those
6 comments so that we can comment on them at
7 the public hearing. The City is
8 particularly interested in knowing to what
9 extent Regional Board staff plans on
10 incorporating provisions of the recently
11 adopted CalTrans MS4 Permit. This is an
12 important issue not only for Carson but for
13 all municipal permittees. The CalTrans MS4
14 Permit contains protective features that are
15 not currently referenced in the draft Order,
16 features we believe must be incorporated in
17 all State-issued MS4 Permits in accordance
18 with Federal stormwater regulations and in
19 precedential State Board orders.

20 "Furthermore, we ask that you consider
21 delaying adoption of the Revised Tentative
22 Order for 180 days, as requested by the
23 County of Los Angeles. This will provide
24 ample time to revise the draft Order in
25 accordance with the State Board's CalTrans

1 MS4 Permit. It will also provide time for
2 the United States Supreme Court to decide
3 Los Angeles County Flood Control District
4 versus NRDC as it relates to where and how
5 compliance with water quality standards is
6 to be achieved. The Court is expected to
7 hear the case in early December.

8 "Once again, the City of Carson is
9 grateful for the opportunity to offer
10 comment on this extremely important matter."

11 We need a real permit, one that is realistic,
12 economically feasible, achievable and legal.

13 Thank you.

14 MS. MEHRANIAN: Thank you. We've completed this part
15 of the agenda, the elected officials, and we'll take a
16 break for one hour, which brings us to 1:35.

17 Thank you.

18 (Lunch recess from 12:35 p.m. to 1:40 p.m.)

19 MS. MEHRANIAN: So we're going to continue. I would
20 like to apologize to two elected officials whose cards
21 did not get here to me on time and we will give them a
22 chance to speak now.

23 Andrew Weissman, mayor of Culver City; probably
24 left.

25 John Dettle, City of Torrance.

1 MR. DETTLE: Thank you. I'd like to read into the
2 record a letter from our mayor, Frank Scotto.

3 "The City of Torrance is very concerned
4 about our ability to comply with the
5 proposed NPDES MS4 Permit. The City of
6 Torrance has gone through five years of
7 budget cutting and staff reductions and the
8 fiscal resources to comply with the proposed
9 MS4 NPDES Permit do not exist.

10 "The City of Torrance and our residents
11 support your efforts to improve water
12 quality, but we cannot support a Permit that
13 does not take into consideration our City's
14 natural resources or that could put cities
15 in immediate noncompliance due to the
16 Regional Board's reluctance to provide
17 Receiving Water Limitation language or our
18 Total Maximum Daily Load Compliance language
19 that provides an opportunity for compliance.

20 "There are a number of significant
21 issues in this Permit that will place cities
22 in immediate noncompliance or which are
23 impossible to achieve, even with unlimited
24 funding. They are as follows: Receiving
25 Water Limitations language that does not

1 provide permittees any opportunity to
2 improve water quality and come into
3 compliance once those limits are exceeded;
4 cities would be in immediate violation of a
5 Permit if any of these Receiving Water
6 Limitations water quality standards are
7 exceeded; notices of violations that carry
8 \$10,000 a day fines could be levied and the
9 City would be exposed to third-party
10 lawsuits; final Wasteload Allocations for
11 TMDLs that were established with no
12 knowledge, if and how they could be
13 achieved; and in the case of the
14 Santa Monica Bay Dry Weather Bacteria TMDL
15 set at zero even though all the data
16 collected to date indicates that limit is
17 impossible to achieve; submittal and
18 implementation schedules for Watershed
19 Management Programs and coordinated
20 monitoring programs that have been shown to
21 be impossible to meet.

22 "Torrance staff has prepared a
23 Stormwater Quality Master Plan to estimate
24 the fiscal impact on the City of Torrance
25 for existing and proposed TMDLs. According

1 to our plan, the cost to the City of
2 Torrance to implement projects is estimated
3 at 120 million dollars. The plan also
4 estimates costs for TMDL stormwater quality
5 monitoring going from our current \$100,000 a
6 year to a million dollars a year by 2018.

7 "The Board is pushing this Permit
8 through the process at an unprecedented
9 pace, resulting in little opportunity to
10 educate the general public on the fiscal
11 impacts of the Permit. Staff efforts to
12 negotiate a Permit with the Board staff to
13 address these issues have not been
14 successful.

15 "The City of Torrance urges the
16 Regional Board to postpone passage of a new
17 Permit until revisions are made to address
18 the concerns of the City of Torrance. The
19 Permit should not be adopted until Receiving
20 Water Limitation language is revised and
21 provisions are made to provide reasonable
22 schedules for preparing the Monitoring Plans
23 and the Integrated Implementation Plans.

24 "Respectfully submitted, Frank Scotto,
25 Mayor, City of Torrance."

1 MS. MEHRANIAN: Thank you.

2 MR. DETTLE: Thank you.

3 MS. MEHRANIAN: We are moving to -- we are finished
4 with elected officials and we are moving to U.S.
5 Environmental Protection Agency, John Kemmerer, for 15
6 minutes.

7 MR. KEMMERER: Good afternoon, Board members. My
8 name is John Kemmerer. I am the Associate Director of
9 the Water Division in EPA Region 9. I think most of you
10 know that EPA Region 9 covers the states of Arizona,
11 Nevada, Hawaii and California.

12 At EPA, we've been working very closely with
13 your staff over the past 18 months on the development of
14 this draft Permit. Renewal of the Permit is one of
15 our -- Region 9's largest water quality priorities. This
16 Permit is very important to us, given that it covers, as
17 you all know, you know, the second largest municipal
18 water supply in the United States where stormwater runoff
19 is the primary cause of water quality impairments; and
20 also importantly, as we see it, this Permit has some of
21 the most outdated provisions of any MS4 Permit in EPA
22 Region 9.

23 So really, it's a big priority for us to get
24 this renewed and we applaud the work that your staff have
25 been doing on this.

1 In our input on preparation of the revised
2 Permit, we've been looking primarily in two major areas:
3 First of all, consistency with the Federal Clean Water
4 Act and its implementing regulations and also consistency
5 with other permits that are being renewed in Region 9,
6 MS4 Permits. So we've been working across the state of
7 California, working with all the Regional Boards. And in
8 many areas, we're seeing that the draft Permit is largely
9 consistent with what you've done previously in the
10 Ventura Permit, as well as with other renewed MS4
11 Permits, especially those in the Central and Southern
12 California.

13 The Central Coast Regional Board, the Santa Ana
14 Regional Board, San Diego Regional Board have all renewed
15 MS4 Permits recently as you have with Ventura and we
16 think that all of these have many areas in common.

17 Some aspects of this draft Permit reflect
18 lessons learned in the implementation of MS4 Permits,
19 both here in California and across the country, and we
20 think they incorporate some very valuable and thoughtful
21 improvements over some of the recently renewed Permits.

22 And I just want to echo what Sam had said
23 earlier. I think your staff have implemented a very
24 extensive public participation process to involve the
25 permittees and other stakeholders, you know, going back

1 to of course that kickoff hearing last May of 2011. And
2 as you've heard in your staff report, there have been
3 several workshops and opportunities to review portions of
4 this Permit prior to the release of the draft Permit in
5 June. I mean, I know you've already heard and I'm sure
6 you're going to be hearing many more requests for
7 extensions of the schedule, but we really recommend that
8 you act to bring this Permit up to date with up-to-date
9 provisions as soon as possible, ideally at your upcoming
10 hearing on November 8th.

11 I'd like to provide our perspectives on several
12 noteworthy sections of the Permit.

13 You know, I recall this Board deliberating on
14 the renewal of the Ventura MS4 Permit five or six years
15 ago and specifically looking at the Low Impact
16 Development Provisions and at that point, this Board was
17 really charting new territory in putting LID Provisions
18 into the MS4 Permits. You know, you guys paved the
19 ground, I think, in a lot of ways for California and
20 nationally now there are 18 states as well as the
21 District of Columbia that have measurable retention
22 requirements in their Permit along the same lines as
23 what's being done across California and I really have to
24 say that the municipalities in L.A. County include
25 several national leaders in the implementation of low

1 impact development.

2 You know, the approaches that these
3 municipalities have taken include some of these local
4 ordinances requiring LID that are very stringent and
5 protective of water quality and implementation of some
6 very creative projects to retain stormwater and implement
7 LID. You know, in many ways we see that the work being
8 done by some of the municipalities here goes beyond what
9 is being contemplated in the draft Permit in the LID
10 Provisions.

11 We see that the draft Permit reflects lessons
12 learned since this Board adopted the Ventura Permit that
13 resulted in valuable improvements to the Permit's LID
14 Provisions.

15 We agree with the draft Permit's inclusion of
16 design specifications without relying on it to be a
17 developed technical guidance memorandum, as was done in
18 the Ventura Permit. We think there's been a lot of
19 lessons learned since Ventura and the specificity that's
20 included in this Permit's LID provisions.

21 We also support the flexibility for meeting some
22 of the retention requirements where there's an
23 opportunity for groundwater replenishment off-site and,
24 you know, we encourage the idea of doing some of these
25 off-site projects as long as they achieve the same water

1 quality benefits and there's, at a minimum, treatment
2 levels for the runoff from the projects site itself. And
3 the draft Permit's section laying out water quality
4 mitigation criteria we believe is a very positive
5 approach for ensuring that when off-site projects are
6 implemented to meet retention requirements, there's still
7 a safety net to ensure that runoff from the project site
8 does not impair water quality.

9 So I'm going to move now into nonstormwater
10 discharges. Your staff did a good overview of that and
11 we believe that the draft Permit takes an appropriate
12 approach for controlling nonstormwater discharges as
13 required by the Clean Water Act. The draft Permit's
14 provisions are consistent with the regulations EPA has
15 published, which describe examples of nonstormwater
16 discharges that must be addressed when they have been
17 identified as sources of pollutants.

18 The draft Permit's approach for conditionally
19 exempt nonstormwater discharges is an appropriate way to
20 address these regulatory requirements and the specificity
21 provided in there, there's a list of conditions and BMPs
22 that must be implemented for certain categories of
23 nonstormwater discharges, we believe is a very
24 constructive approach for specifying how the Clean Water
25 Act's effective prohibition of stormwater discharges can

1 be implemented.

2 Moving along to TMDLs, here in L.A. County, I
3 think it's important to mention that, you know, we've
4 seen here in L.A. County that TMDLs have already driven
5 substantive water quality improvements. You know, for
6 example, the TMDLs have been a primary impetus for some
7 of the activity such as the ordinances I mentioned
8 earlier in retrofit projects that have resulted in
9 decreasing loads to the Santa Monica Bay. In parts of
10 Santa Monica Bay, some of the proactive actions that the
11 municipalities have taken here to implement low impact
12 development and implementing low-flow diversions have
13 resulted in achieving the Dry Weather Bacteria TMDLs in
14 portions of Santa Monica Bay and we believe it's really
15 critical to improve clear and measurable approaches for
16 incorporating urban runoff wasteload allocations into
17 this Permit.

18 It's important to recognize that, you know, the
19 urban runoff is the primary cause of the impairments
20 addressed by most of these TMDLs and we support the draft
21 Permit's approach for incorporating TMDLs. As with other
22 provisions, the useful draft Permit has made useful
23 improvements to the TMDL provisions in the renewed
24 Ventura Permit that this Board adopted.

25 While the Ventura Permit and several other MS4

1 Permits renewed in the last few years do include
2 compliance with numeric wasteload allocations, the draft
3 L.A. Permit provides several improvements on how
4 wasteload allocations are incorporated and we support the
5 approach the draft Permit has used for implementing those
6 EPA-established TMDLs which don't include Implementation
7 Plans.

8 This approach provides for the preparation of
9 Watershed Management Plans with implementation schedules
10 to achieve applicable EPA-established wasteload
11 allocations. We think that's a good way to go and we
12 agree with the draft Permit's approach requiring the
13 achievement of numeric water quality based effluent
14 limits consistent with the final wasteload allocation.

15 We also support the draft Permit's approach for
16 interim limits based on the approved Watershed Management
17 Plans. I think it's important to recognize that the
18 Trash TMDLs have been appropriately incorporated into
19 this Permit via the, you know, approved specified control
20 measures and this is the one instance where a BMP-based
21 approach we believe is appropriate in this Permit for
22 achievement of final wasteload allocations.

23 The draft Permit's approach is consistent with
24 EPA's November 12th, 2010 guidance on incorporating TMDLs
25 into Stormwater Permits. If a BMP -- Renee went over

1 this a little bit, but if a BMP-based approach is used to
2 determine compliance with TMDLs, such an approach must --
3 such as the one that was done with the Trash TMDLs, the
4 EPA guidance going back to 2002 makes it clear that the
5 administrative record of the Permit must provide adequate
6 demonstration that those BMP-based approaches will be
7 sufficient to achieve those wasteload allocations, and we
8 don't see that in many cases except whereas the Trash
9 TMDL. That is one exception where that's been
10 demonstrated.

11 So the Regional Board's approach for certifying
12 full capture of trash removal activities achieves the
13 goals of that EPA guidance.

14 EPA's 2010 guidance memo also encourages
15 incorporating wasteload allocations as numeric limits to
16 create objective and accountable means for controlling
17 stormwater discharges.

18 So I'm going to move into Watershed Management
19 Plans and we believe that the inclusion of these
20 Watershed Management Plans provides a valuable structure
21 for achieving water quality improvements. For your
22 information, if you were not aware, a similar direction
23 is being taken in the new draft Permit that the San Diego
24 Regional Board is preparing, and we believe the approach
25 has the potential to provide flexibility for the

1 strategies permittees use to achieve compliance with the
2 Permit while maintaining clear and measurable milestones
3 for documenting compliance.

4 I want to mention then receiving water
5 limitations, which of course is a big topic of interest.
6 We support the inclusion. The way the draft Permit is
7 written on receiving water limitations is consistent with
8 State Board Resolution 9905 and the Clean Water Act as
9 interpreted by the Ninth Circuit in the Defenders of
10 Wildlife case, not the NRDC versus L.A. County case, but
11 a previous Ninth Circuit case which laid out compliance
12 with water quality standards as being something that
13 could be required of MS4s. So this language has been
14 incorporated in MS4 Permits across the state and we
15 believe the implementation of this specific provision
16 here in L.A. County will be improved by the draft
17 Permit's monitoring provisions which include both outfall
18 and receiving water monitoring, which is a big step
19 forward from the existing Permit and an approach
20 supported by EPA's stormwater regulations.

21 But as was discussed in today's staff report, we
22 understand that consideration is being given to a new
23 provision in the draft Permit's Watershed Management Plan
24 Section which would establish a mechanism for how
25 permittees restore water quality when receiving water

1 limits are exceeded but there's not a TMDL in place. And
2 we've been talking to your staff about this and while we
3 continue to support the draft Permit's approach, we look
4 forward to continuing to consult with your staff on this
5 possible alternative option.

6 Based on what we've heard so far from your staff
7 about the direction being taken on this, we believe an
8 acceptable alternative can be developed and we believe
9 your staff is on the right track to develop such an
10 alternative.

11 From our perspective, it will be critically
12 important for the Watershed Management Plans used as a
13 mechanism for water quality restoration to contain
14 enforceable milestones. These milestones must be based
15 on water quality measurements demonstrating that progress
16 is being made toward achieving those receiving water
17 limitations. If the Watershed Management Plans don't
18 provide quantifiable demonstration toward water quality
19 improvements and water quality restoration, the existing
20 receiving water limitation must apply.

21 So in each of the aspects of the draft Permit
22 I've described here and based on our review of the entire
23 draft Permit, we've concluded that the draft Permit
24 provisions do not exceed Federal requirements in the
25 Clean Water Act or its implementing regulations.

1 EPA's regulations emphasize the need to allow
2 maximum flexibility in MS4 permitting. EPA expects that
3 permitting requirements will contain a level of
4 specificity and details to implement the general
5 provisions that are found in the Federal regulations.
6 The draft Permit's requirements appropriately take local
7 circumstances into account, consistent with the Clean
8 Water Act and its implementing regulations. We disagree
9 with those who would characterize the draft Permit as
10 containing unfunded State mandates.

11 In conclusion, we are supportive of the draft
12 Permit which provides an important and really sorely
13 needed update to the regulatory approach for addressing
14 the water quality problems caused by urban runoff here in
15 L.A. County. We look forward to working with your staff
16 over the next month on any changes, and thank you for
17 providing me this opportunity to speak here.

18 MS. MEHRANIAN: We'll continue with our meeting.

19 Before we continue with our meeting, there's
20 some procedural things about cross-examination of parties
21 and I'd like for Jennifer to explain it.

22 MS. FORDYCE: Okay. I've been approached by at least
23 one designated party that they would like to
24 cross-examine another party to this proceeding, so I want
25 to just explain the process that the Board's going to

1 use.

2 So essentially, if any party wants to question
3 staff, they can do that, but they will do that during
4 their allocated time. Staff's not going anywhere.
5 They're going to be here at least until tomorrow.

6 If a party would like to cross-examine another
7 party, obviously the Board can't control whether the
8 party's going to stay or go and so what we are going to
9 do is at the conclusion of each party's presentation, the
10 Chair's going to ask whether any other party would like
11 to cross-examine that party and they can come up and then
12 cross-examine the party who just gave their presentation.

13 If you'd like to reserve time to cross-examine
14 another party, you need to keep an eye on the clock and
15 reserve adequate time and then you can be called up later
16 on and it comes out of your time. So it's --

17 MS. MEHRANIAN: Yeah. I just want to make sure
18 everybody knows that it comes out of your designated time
19 slot that you have.

20 MS. FORDYCE: So you have to reserve the proper
21 amount of time and then when you get called up again, you
22 have the remaining time left.

23 MS. MEHRANIAN: Okay. Thank you.

24 We will proceed to designated parties'
25 presentations.

1 L.A. Permit Group, on behalf of 62 designated
2 parties have one hour and 30 minutes.

3 MR. UNGER: We need just a quick moment for the court
4 reporters to switch.

5 (Pause in the proceedings)

6 (Whereupon Katrina Woyjeck, CSR No. 13603
7 reported the remainder of the proceedings)

8 MS. MEHRANIAN: Please begin. We're ready.

9 MS. MALONEY: Good afternoon, Madam Chair and board
10 members. I'm Heather Maloney, Chair of the LA Permit
11 Group. First off, I want to thank you for the
12 opportunity to provide comments today and also for
13 extending the hearing from the September date to
14 accommodate our elected officials. We really do
15 appreciate that.

16 Currently, the LA Permit Group is comprised of 62
17 Los Angeles cities. The comments presented here today
18 specifically represent the consensus of those cities
19 listed on the slide. The tentative permit is focused on
20 the appeal of achieving great strides towards water
21 quality. We, too, want to see water quality
22 improvements.

23 However, it needs to be accomplished in a way that
24 does come at the detriment to other vital local services
25 and is truly practically implementable (sic), and it is

1 imperative that the permit is developed in a way that
2 the permittees have a chance to comply with it. We're
3 asking you to recognize what's actually in the realm of
4 municipal control within the resources that are
5 available to us.

6 Cities have a limited amount of funds that are under
7 our control. Any additional funds needed for the
8 stormwater permit or TMDL compliance have to come from
9 increased new stormwater fees. New fees for storm
10 water are regulated under Prop 218. Therefore, it would
11 require a public vote, so this is not necessarily under
12 our direct control.

13 More specifically, the MCMs, in addition to the work
14 needed to fully achieve some of the TMDLs, goes beyond
15 our resources. We understand that the intent is to move
16 the permit forward, but you're asking us to march into
17 uncertainty. We all understand that you have to have
18 the means to get to an end, but there has been no
19 analysis to determine if the permittees actually have
20 the means to accomplish the end.

21 The costs are too great. Therefore, it is not
22 realistic to believe that permittees will have a chance
23 of permit compliance. Mr. Unger made a claim in his
24 opening remarks today stating that the proposed permit
25 is less costly than the current permit.

1 This is simply not true, and there has been no
2 evidence presented to support this claim. It is vital
3 that the cost for stormwater regulations and TMDLs be
4 carefully considered. This point is highlighted in the
5 March 2012 memo from the Office of Management and Budget
6 that stated to the heads of executive departments and
7 agencies including the EPA, which clarified the
8 Presidential Executive Order 13563. This order requires
9 that agencies take into account the cost of cumulative
10 regulations.

11 This is -- this is what we're request requesting that
12 our permit actually reflect. Mr. Unger claimed that the
13 burden of TMDL implementation costs don't fall 100
14 percent on permittees. We recognize that we are not the
15 only parties that receive wasteload allocations under
16 TMDLs.

17 However, we want to clarify when we talk about TMDL
18 costs, we're specifically talking about the portion of
19 responsibilities assigned directly to the permittees.
20 And Mitch from your staff -- and I apologize, I don't
21 have your last name -- but he provided a host of
22 information about permitted -- about the permit costs in
23 his presentation.

24 First of all, all the information presented
25 represents analysis based on our existing permit. There

1 was no data presented representing the proposed permit
2 which we estimate will increase costs significantly.
3 You heard from many cities today, they're estimating two
4 or more times the cost of their existing -- that they're
5 paying out for their existing permits.

6 Furthermore, the costs did not address TMDLs. We
7 have 33 new TMDLs being integrated into this permit in
8 addition to the other permit provisions. None of these
9 were addressed, and therefore we still feel the economic
10 analysis presented is insufficient. In fact, the LA
11 County Funding Initiative has been working with an
12 average amount of \$52 per household.

13 Now, we're a long ways from actually realizing any
14 kind of fee initiative being passed, and we're very
15 hopeful that it does, but we're a long ways from having
16 that even be close to reality.

17 But the point is is that they're working with \$52 per
18 household. The slides that Mitch presented in his
19 presentation were talking about 17 to 18 dollars per
20 household. I mean, we're -- even the NGOs have --
21 several environmental groups have acknowledged that the
22 \$52 per household won't get us to where we need to be in
23 this permit.

24 So we really encourage you to take a real hard look
25 at those economic analysis because we just don't have

1 the resources to comply with it, even if the funding
2 initiative does go through.

3 Our comment letter -- in our comment letter, we
4 stated that more time was needed in this process. We
5 asked for more time -- when we asked for more time, we
6 have done this to encourage that due process is
7 provided. The tentative order is the first time we have
8 seen the permit in its entirety. We acted in good faith
9 to provide the comments in a short amount of time.
10 However, this is not being reciprocated. We still have
11 not seen response to comments.

12 While we understand a new MS4 permit is long overdue,
13 we do not understand why the regional board would want
14 to rush such a landmark decision. It is in everyone's
15 best interest to keep the permitting process as open and
16 as transparent as possible.

17 We also want to note that the draft order contains a
18 number of errors and inconsistencies. This isn't
19 surprising, given the sheer magnitude of the draft
20 document. This is just one of our basis for our
21 multiple requests for more time to smooth out all the
22 technical details within the permit.

23 We respectfully request the following revised
24 schedule to ensure adequate review time for the permit
25 and to address the several remaining key issues in the

1 tentative draft:

2 Following this meeting, a release of an administrative
3 working draft. This will allow time to resolve the
4 remaining fundamental permit issues in a constructive
5 non-adjudicative environment;

6 Ninety days later, release a revised tentative order.
7 This will provide time for the US Supreme Court to
8 decide the County's challenge against NRDC as well as
9 for the State to address the receding water limitations
10 language; sixty days following the release of the
11 revised tentative, schedule an adoption hearing.

12 The permit effect in this state should be no sooner
13 than July 1, 2013. Cities are currently in the middle
14 of their fiscal year budgets and resources have already
15 been allocated to programs and contract obligations.
16 Such large-scale resource allocations demanded by the
17 permit need to be conducted through a formal budget
18 planning process.

19 This is consistent with what was allowed for in the
20 Caltrans permit. Cities, just like the State, need to
21 be able to go through a formal budget process to
22 allocate such significant resources.

23 The way we see it, we all have a choice to make that
24 will inevitably shape the final permit. Do we want to
25 continue down the destructive path of our past riddled

1 with litigation, or do we want to take a stand and
2 demand we interact changes?

3 We have the opportunity right now in this room to
4 determine the course of our future. The LA Permit Group
5 was formed because we desire collaborative relationship
6 with the regional board and other stakeholders. But
7 collaboration takes trust. We see this as the only way
8 that water quality will truly be achieved in this
9 region.

10 We're committed, but in order to be -- for this to be
11 probable, there's still many key aspects of the permit
12 that need to be revised. Due to the limited time we
13 have to speak today, our presentation will just really
14 be highlighting some our key provisional aspects of the
15 permit. We do hope that you all took the time to read
16 our comment letter. We spent a great deal of time in
17 providing very detailed comments.

18 From here, I'm going to hand it over to John Dettle
19 to talk about monitoring and watershed planning.

20 MR. DETTLE: Thank you, Heather. John Dettle, City
21 of Torrance. First, I'd like to thank the Board for
22 this opportunity to discuss the monitoring and the
23 watershed programs.

24 LA Permit Group supports the Board's efforts to
25 include watershed-based coordinated integrated

1 monitoring plans as the most cost-effective approach to
2 addressing the multiple TMDLs and pollutants regulated
3 within each watershed.

4 There are, however, several issues with the programs
5 that are inefficient and would keep the permittees out
6 of compliance with the proposed permit. Regarding
7 receiving water monitoring, receiving water monitoring
8 should be consistent with SWAMP protocols, including the
9 requirement that ambient monitoring be conducted two
10 days following a storm event.

11 Currently, the receiving water monitoring is proposed
12 to be conducted during the storm events. Conducting
13 monitoring during the storm event does not assess the
14 actual receiving water quality consistent with SWAMP
15 protocols which were used as a basis for the 303(d)
16 listing.

17 This requirement is designed to keep us out of
18 compliance with the receiving water limitations because
19 we know that the pollutant loading is the highest during
20 a storm event and does not reflect the ambient water
21 quality.

22 The focus and scope of non stormwater monitoring
23 should be to help the permittees identify elicited
24 discharges and not for assessing the multitudes of
25 objectives listed in the monitoring and reporting

1 program. We believe the focus should be on tracking
2 discharges into the MS4 and not from the MS4 that are
3 either permitted or elicited.

4 The focus on end-of-the-pipe non stormwater quality
5 monitoring does not help track down elicited dischargers,
6 but would put the permittees out of compliance with the
7 permit for either permitted discharges or from elicited
8 discharges. Flows should be used to track down the
9 source of the discharge, and then water quality
10 monitoring at that point of discharge could be used to
11 determine pollutant loading into the MS4.

12 Regarding regional studies that are required of each
13 permittee, they should be the responsibility of a
14 regional agency. The LA Permit Group recommends that
15 these studies should be conducted by the regional board.
16 To support this effort, the permit needs to establish a
17 mechanism for permittees to participate in the studies.

18 It is a duplication of efforts and a waste of
19 resources even at the watershed level to have, like,
20 separate -- 11 separate regional studies when we just
21 need one. Toxicity monitoring should be limited to the
22 receiving water first to determine where this expensive
23 monitoring is required.

24 Again, this could be a duplication of efforts and a
25 waste of resources, and we don't even know if a problem

1 exists. The Department of Pesticide Regulations has
2 severely limited the use of pyrethroid-based pesticides
3 which calls into question the need for toxicity
4 monitoring.

5 And finally, should a study be necessary, the
6 regional board should be the lead agency for the
7 mechanism for permittees to participate. The LA Permit
8 Group introduced the concept of the coordinated
9 integrated monitoring plan by watershed, but we know
10 that 12 months to prepare a coordinated integrative
11 monitoring plan is simply not possible. We know this
12 from our experience preparing implementation plans to
13 address even a single TMDL.

14 It takes at least 12 months to process a memorandum
15 and agreement with multiple agencies like Caltrans and
16 the County. Then it takes another 12 months to prepare
17 the plan and then nine months to solicit the proposals,
18 award the contracts, and permit them. This is three
19 months to issue the RFPs, award the contract, then it
20 can take up to six months to get the permits from the
21 County Flood Control District to enter their facilities.

22 We know from real life experience with coordinated
23 TMDLs limitations that it's not possible to meet the
24 schedule proposed in the permit. Therefore, this
25 condition will keep us out of compliance.

1 I'd like to talk to the watershed management program.
2 The LA Permit Group supports the regional board's
3 approach to address high priority water quality issues
4 by the development and implementation of watershed
5 management programs. This is the right approach.

6 The working proposal supports flexibility by
7 providing sufficient detail to guide the development of
8 the watershed plans without being overly prescriptive,
9 but there are still conditions that make it impossible
10 to comply with the permit. The proposed watershed
11 monitoring plans and the watershed management plans
12 should be designed to work together.

13 The monitoring programs should be directly integrated
14 into the watershed management program to provide the
15 guidance for BMP placement, BMP design, and then BMP
16 evaluation. The watershed management program should
17 also include options for multiple benefit and/or
18 streambed restoration projects that provide a more
19 rigorous ecosystem health, but may not ultimately attain
20 TMDLs.

21 Projects with multiple benefits, such as Habitat
22 Restoration, are preferred by the State granting agencies
23 and environmental groups, but they may cause spikes in
24 bacteria and nutrient loading, for example. Wetland
25 projects attract wildlife that may contribute to dry

1 weather bacteria exceedances, and nutrient loading may
2 happen when the plants of the wetlands are harvested.

3 Strict wasteload allocation enforcement on these
4 projects would prohibit the permittees from including
5 these multiple benefit habitat restoration projects in
6 our watershed management programs. Adequate time is not
7 provided to develop the watershed management programs.
8 The plans need to be based on monitoring data to provide
9 that reasonable assurance that is required in the
10 permit.

11 We know from experience that it takes at least 12
12 months to process a memorandum agreement with multiple
13 agencies, and we know that takes 24 months to prepare a
14 computer model and report. I know this is a fact
15 because the city of Torrance has prepared one of these
16 plans, and even with an expedited schedule, it took us
17 24 months to complete the model and report. And that
18 was just for one city.

19 The permittees are continuing with their -- if the
20 permittees are continuing with our minimal control
21 measures and the TMDL implementation plans, then we
22 don't see why this schedule would -- needed to be
23 included in the permit. Please note that the schedule
24 that I've proposed is coordinated with the monitoring
25 plan because it has at least one full season of rain

1 data to be used to calibrate those models.

2 The LA Permit Group is not asking for a free ride.
3 While the watershed monitoring and management plans are
4 prepared, we only ask that we be provided the time to do
5 those memorandums agreements and the watershed
6 modeling. To this end, the LA Permit Group recommends
7 the permit clarify compliance while developing watershed
8 management plans. We recommend that the permittees
9 shall continue implementing existing stormwater quality
10 management plans, the permittees shall continue existing
11 TMDL implementation plans, and the permittees shall
12 continue existing TMDL monitoring.

13 Regarding the proposed annual watershed assessment
14 and reporting, without sufficient data, the annual
15 watershed assessments are a waste of resource. Projects
16 can take up to five years to fund and complete. Many
17 seasons of rain data are needed before and after a BMP
18 project is installed to assess it.

19 Our recommendation is to require annual progress
20 reporting and then have those watershed assessments
21 every five years. Finally, the TMDLs were developed
22 with no reasonable assurance that the final wasteload
23 allocations could be achieved.

24 Technical ability and financial resources for
25 complying with water quality standards need to be

1 included in the watershed management programs. If a
2 watershed management plan shows that it is not
3 technically feasible or that it's cost prohibitive to
4 comply with the final wasteload allocation, then the
5 Board will need to address that with the permittees.

6 Clarification should also be added to acknowledge
7 that some pollutants are outside of permittees'
8 authority of control. Natural resources, permitted
9 sources, and upstream contributions are all beyond the
10 permittees' authority to control, yet can cause water
11 quality exceedances in receiving water bodies.

12 Currently the permit is written so that permittees
13 are liable for non stormwater discharges exempted by
14 the permit and discharges permitted by the regional
15 board unless we can provide source specific monitoring.

16 And to me, that means that all the permitted
17 discharges, natural resources, and exempted discharges,
18 and elicited discharges would need to be continuously
19 monitored at their source in order for us to show that
20 we were still in compliance.

21 A simple flow nexus between a natural upstream or
22 permitted discharge and an exceedance at the end of the
23 pipe should be sufficient to demonstrate compliance.

24 And now I'd like to turn the presentation over to
25 Joe Bellamo.

1 MR. BELLAMO: Good afternoon. I'm Joe Bellamo for
2 the cities of Westlake Village and Agoura Hills
3 presenting on behalf of LA Permit Group for the core
4 programs and reporting.

5 On July 23rd, 2012, the LA Permit Group submitted
6 over 150 comments and concerns on the draft tentative
7 order. Since no response to our comments, nor a revised
8 tentative draft was released prior to this hearing and
9 the limited amount of time to present at this hearing,
10 we respectfully request the ability to comment during
11 the next hearing on any provision that may or may not be
12 changed in the revised tentative order.

13 Furthermore, we request ample time to review the
14 revised tentative order to ensure our comments and
15 concerns have been addressed to any new content in
16 revised tentative order. This process should not be
17 rushed.

18 The LA Permit Group has worked extremely hard to
19 focus our comments from the various cities to make your
20 staff's job easier. We ask that you take each of our
21 comments as important as if they were presented here
22 today. The LA Permit Group supports the language in
23 provision 6E1 as it provides the permittee the ability
24 to work with watershed partners and the regional board
25 staff on custom measures and BMPs that best suit the

1 needs of the watershed.

2 We ask that the permit ultimately establish criteria
3 that will be used to support any modification to part 6D
4 minimum control measures. For clarification, the terms
5 interim -- I'm sorry "adapted management approach" and
6 "interim approach" be defined as equivalent and be used
7 interchangeably.

8 Provision 61B1 requires that majority of the MCMs
9 begin within 30 days unless otherwise noted in the
10 order. There are a number of new and enhanced
11 provisions, and it is fair to say that there is going to
12 be a transition time period between the time when this
13 permit becomes effective and when the transition between
14 municipal -- and the ability to modify the current
15 stormwater management in compliance with the new permit
16 provisions.

17 The same time consideration should be given to the
18 time required to customize programs. The LA Permit
19 Group requests the regional board provide a revised
20 timeline for invitation and (inaudible) of MCM
21 requirements.

22 Estimating the cost of this permit, not the prior
23 permit, specific to the MCM portion is not only difficult
24 with the amount of time given to us during this permit
25 development process, but impossible until we first

1 evaluate our needs in our watershed management plan and
2 therefore begin 6C -- part 6C.

3 Second, understand the criteria in which MCMS can be
4 modified; and lastly, determine implementation
5 strategies and timelines. However, we understand one
6 fact: This permit represents a huge escalation and
7 effort, and therefore a huge escalation in cost placed
8 on already cash-strapped municipal water quality
9 programs.

10 This permit -- with this permit, municipalities are
11 being requested to accept. To accept a number of
12 contentious issues with the bottom line that more
13 effort, more money is needed. One such contentious
14 issue is the shifting of State responsibility to the MS4
15 permittee.

16 These new responsibilities have significant financial
17 impact on the permittees. For example, for plan
18 reviews, inspection times, monitoring, reporting, and
19 enforcement. An example of where the tentative order
20 shifts the responsibility or actually exceeds the
21 requirements of the State general construction permit is
22 found in provision 6D7.

23 One, maintaining a database that overlaps the State's
24 smart database. Asking the permittees to collect data
25 adds unnecessary time and expense with no benefit to

1 water quality. Requiring the quantification of soil
2 loss is redundant with the State's general construction
3 permit and adds additional costs to the MS4 permittee.

4 Inspections are increased by 200 percent and are
5 redundant since the State is responsible for
6 implementation of its own MPDS permit program,
7 particularly in light of the fact that it collects a fee
8 for implementation.

9 Examples of shifting responsibility can also be found
10 in non stormwater discharge, and industrial commercial
11 facility inspection programs. Our request is that those
12 elements that shift the State's responsibility be
13 eliminated from the MCMs from this permit and the MCMs
14 be coordinated with State and Federal requirements with
15 particular attention to the general construction permit,
16 the general industrial permit, and the content of non
17 stormwater discharge permits issued by this regional
18 board.

19 While the LA Permit Group has concerns and need for
20 clarification with other MCMs, we find the new
21 development MCMs the most challenging and unsupportable.
22 The new development provisions are difficult to follow,
23 and the BMP selection hierarchy is confusing and at
24 times in conflict.

25 We have provided significant comments on these

1 provisions, but suffice to say that the LA Permit Group
2 believes that these provisions need total revamping. In
3 light the fact that many of our municipal agencies rely
4 on development and redevelopment, this is of critical
5 importance to us that we don't prevent the ability of
6 developers to come and work in this area. It's things
7 like the six issues I'm about to present on are things
8 that would prevent that -- such activity.

9 Provision 66 -- I'm sorry. D6C1 on page 70 requires
10 the developer to retain stormwater quality design
11 volume as calculated by the three quarter inch storm or
12 85th percentile twenty-four hour storm, whichever is
13 greater. We take exception to this requirement to
14 select the largest calculated volume.

15 In all the permits today in California, these two
16 design criteria are just the equivalent. We recommend
17 that a tentative order be modified to specify these are
18 criterias are equivalent.

19 Number two, the alternative compliance option for
20 offsite mitigation. The draft order goes into great
21 detail discussing the alternative compliance option for
22 full onsite retention of the design storm volume.

23 The alternative option takes the form of an offsite
24 mitigation project as currently structured is highly
25 unlikely that anyone will offer this alternative

1 compliance option.

2 Probably the biggest hurdle for the developers to
3 overcome, if they choose to pursue offsite mitigation,
4 is a requirement that they must treat the project site
5 runoff to the levels identified in table 11. This
6 combined with the requirement, offset mitigation
7 projects must be equivalent in pollutant load reductions
8 as the original project site equates to the developer
9 moving essentially twice as much of the pollutant load
10 as if he were to accomplish on the project site. This
11 is inherently unfair.

12 We would recommend that the developer -- that
13 developer be required to remove only the pollutant load
14 that would have been removed at the project site, and if
15 the mitigation site cannot meet the load reduction, that
16 the developer can implement treatment controls at the
17 project site for the remaining differential. Such an
18 approach is fair. Such an approach would be readily
19 acceptable by the development community.

20 Number three, treatment control performance
21 benchmarks. The concept of establishing benchmarks for
22 post-construction BMPs was initially developed in the
23 2009 Ventura MS4 permit. However, there is a
24 significant difference between these permits.

25 The Ventura permit requires the developer first

1 determine the pollutants of concern then uses this
2 pollutant matrix as the basis for selecting a top
3 performing BMP.

4 The LA MS4 permit has no such determination
5 pollutants of concern for the development project.
6 Instead, post-construction BMP's must be all benchmarked
7 as established in table 11. Unfortunately, no one
8 traditional construction BMP is capable of meeting all
9 the benchmarks, and thus the developer will not be able
10 to select a feasible BMP.

11 We recommend that provision 6D6C41A, page 74, be
12 modified so that the selection of post-construction
13 BPM's is consist with the Ventura permit and is based on
14 the developed sites pollutants of concern and
15 corresponding top BMPs that can meet table 11
16 benchmarks.

17 Hydro modification. The LA Permit Group thinks this
18 is premature to change the hydro modification criteria.
19 In our current order, 2001 order, permittees are
20 required to develop numeric criteria for peak flow
21 control. Based on the results of the peak flow impact
22 study, we believe it is more constructive to keep with
23 the previous developed hydro modification criteria and
24 not revise the interim until the final criteria has been
25 developed by the State.

1 If it change now and one change later, it just adds
2 confusion to the development process, it creates
3 additional work, or a limited or nonexistent water
4 quality benefit.

5 In the interest of time, I'm going to skip over five,
6 which is BMP specificity and guidance and BMP -- six is
7 BMP tracking and inspection, but I'd like to close with
8 this last slide. This is a slide taken from workshops,
9 several workshops ago. And unfortunately, the four
10 bullet points there still remain true today.

11 This tentative order still needs to provide the
12 requirements and allow the permittees the flexibility to
13 implement them. It needs to provide the time necessary
14 to comply with the requirements. The requirements
15 should be based on a clear nexus to water quality
16 benefits and consider the cost of complying.

17 The LA Permit Group's presentation will be continued
18 with Heather Mirenda on TMDLs and receiving water
19 allocations. Thank you.

20 MS. MIRENDA: Good afternoon. Heather Mirenda with
21 the city of Santa Clarita. Thank you so much for
22 letting us speak today. I'm going to talk a little bit
23 about receiving water limitation language and then we'll
24 be introducing a few more folks.

25 So essentially what we're asking for is for you to

1 revise the receiving water limitation language. We've
2 asked for this in every single comment letter and every
3 single workshop that we've had in every discussion.

4 The Permit Group and the cities have asked the
5 receiving water language to be revised, and we would
6 like to have -- and we continue to ask for a revision of
7 that language.

8 As you know and it's been stated many times here
9 today, in 2001 we had a version of language and we had
10 an interpretation of what that language said, that did
11 not require strict compliance with numeric standards.

12 In 2011, the interpretation of that language changed.
13 The language that we're talking about today is the
14 current language that was still from 2001. Strict
15 compliance with this standard is just not possible. It
16 is not physically possible in the world of stormwater
17 as we've talked -- as many people have said the
18 variability in other ways things that -- in our
19 presentation.

20 So we are encouraged by the fact that the state board
21 is going to hold a hearing on this on November 20th of
22 next month. You know, it's going to be -- it speaks to
23 the importance and the critical nature of this language
24 that it is of statewide importance, and so we need a
25 better description of how our standards will be

1 determined.

2 So the draft permit allows compliance through -- with
3 receiving water limitations through a TMDL process. As
4 you can see from this quote here from this draft permit
5 that the problem with it as we have discussed and your
6 staff has brought up, is it only applies to pollutants
7 that have TMDLs. There's a lot of pollutants out there
8 that don't have TMDLs, as Renee's presentation described.

9 There's some pollutants here that we've talked about.
10 There's many that have been listed in the fact sheet on
11 page F10 -- or table F10 on pages F17 and F134. Some
12 are -- of those items aren't even in the 303(d) list.
13 So that's a problem.

14 There's a lot of pollutants that we don't have a TMDL
15 for to give us coverage under the receiving water
16 limitation language. We simply can't comply immediately
17 with something that we find as a one off or a one year
18 process. We need time to find sources; we need time to
19 develop a strategy; we time to design an implement
20 control measures.

21 And the current receiving water limitation language
22 as written in the permit would require strict compliance
23 immediately. It would put us in a position where we
24 cannot comply the -- pretty much the day after this
25 permit is issued. I don't think that's fair; that's

1 what you meant.

2 It's been interpreted by the court to require strict
3 compliance with a fining of cause or contribute as a
4 permit violation. Receiving water exceedances in
5 conjunction with the exceedance in the outfall for the
6 same pollutant could be construed as cause or
7 contribute.

8 Analysis of mass emissions monitoring results and
9 outflow monitoring results in lots of different places
10 around Southern California have shown that there are
11 pollutants, runoffs, different types of pollutants in
12 all different kinds of variations, but they also, many
13 times, occur together.

14 So we need a process because stormwater is variable
15 by nature, and permittees are going to be out of
16 compliance if we don't have this change. And that's why
17 we need a process. The proposed language right now
18 exposes us to enforcement and third party action even if
19 we're taking active measures to try to solve the
20 problem. We're still in liability.

21 This has happened over and over again throughout the
22 state of California, and it's just simply not fair. It
23 completely adverts the prioritization of TMDLs or any
24 kind of prioritization that we would have when we're
25 talking about an adapted management process or watershed

1 management plans.

2 You know, we talk about how great these watershed
3 management plans are going to be, but the bottom line is
4 if we have a watershed management plan and we have a
5 pollutant that's not in there, it completely -- we have
6 to stop focusing on watershed management plan and focus
7 on a one off pollutant that we just happen to find from
8 outflow monitoring.

9 It doesn't make sense. That's not effective. It
10 doesn't prioritize anything. It doesn't help -- it
11 definitely doesn't help the overall water quality of
12 watershed. And further, it's counterproductive because
13 then we get in a position where we have to defend
14 ourselves instead of focusing time and resources on
15 actually, you know, protecting water.

16 So what we're asking for is for you to adopt the
17 CASQA approach. The receiving water limitation language
18 that has been provided to staff, provided to the state
19 board, please incorporate that language into this
20 permit.

21 Once the State Water Resources Control Board has
22 developed a statewide standard, we can reopen it again
23 and change it, but it's not fair to ask us to accept
24 this liability for however many years it takes the state
25 board to prepare a statewide standard. It's just simply

1 not right.

2 You know, we want, you know, adaptive management. We
3 want to address TMDLs and non TMDLs pollutants through
4 an adaptive management process, and we'll talk about
5 final wasteload allocations further in our
6 presentation, but please help us to prioritize these
7 things in a logical way so that we're not wasting
8 resources trying to chase one off.

9 So this is another proposal. You know, we need to
10 have an addition to the watershed management programs to
11 allow us to prevent non TMDL pollutants for, you know,
12 taking us off the trail of a prioritized approach to
13 solving our water quality problems. And we also would
14 like to have modifications about adaptive management in
15 part 6CA, 6CA2, and 6C -- 6B2. Sorry. I'm not a lawyer,
16 clearly.

17 To that end, I'd like to -- I'd like to introduce
18 Lauren. She is an attorney with Jaken and Hogan and
19 represents many cities and would like to talk about
20 city of Malibu experience. Thank you.

21 MS. LANGER: Thank you. Good afternoon. As Heather
22 mentioned, I'm Lauren Langer with the law firm of
23 Jenkins & Hogin. Our firm represents nine cities that
24 are covered by this permit, and one of which is the city
25 of Malibu.

1 So the permit group asked me to speak to you for just
2 a few minutes about the Clean Water Act lawsuit that was
3 filed against the city of Malibu to provide you with a
4 tangible example of how cities are vulnerable to
5 lawsuits and why the language in the permit must be
6 precise.

7 In the last round of permit negotiations, there was
8 concern over whether the cities would be vulnerable to
9 third party lawsuits based on RWL language and in
10 January 30th, 2002, letter from the regional board, the
11 board illustrated the collective understanding that a
12 violation of the permit would only occur when a
13 municipality fails to engage in a good faith effort to
14 implement the iterative process and to correct harm.

15 As long as the permittee is engaged in good faith
16 effort, the letter said the permittee would be in
17 compliance. Well, this interpretation didn't matter,
18 and the city of Malibu was hit with a lawsuit from the
19 NRDC and Baykeeper, now the Waterkeeper, in 2008 in
20 which the city was charged with violating the permit
21 based on exceedances at Malibu Creek and Surfrider Beach,
22 and failure to comply with other permit requirements.

23 Now, there were politics and a lot of other factors
24 involved in that lawsuit that may have led up to it, but
25 what matters for purposes of this hearing is that we're

1 talking about a lawsuit filed against a city that was
2 acting in good faith.

3 The city was spending millions of dollars to build,
4 as you've heard before, a stormwater treatment facility
5 and to then build Legacy Park, the city's award-winning
6 stormwater retention and treatment park and to
7 participate in numerous studies to understand the
8 complex hydrology of the creek, the lagoon, and the bay.

9 So this is a city that was engaged and participating
10 and making water quality a top priority. Now, these are
11 complex lawsuits and involve incredibly complicated legal
12 issues, and they cost a tremendous amount of money to
13 defend.

14 Now, there's a risk when a city is faced with this
15 type of lawsuit that the city would divert all resources
16 away from their water quality projects and programs and
17 focus all of their money on defending the lawsuit. But
18 with Malibu having already started down the path, the
19 city defended the lawsuit while continuing to design and
20 build its treatment and retention continue with its
21 commitment to protect the water.

22 It continued with its studies to identify sources of
23 pollutants because in the end, the city knew that these
24 projects would make a difference. After five years of
25 litigation, the city managed to negotiate a resolution to

1 the case that is consistent with its long-range water
2 quality plan.

3 But in the end, the city spent \$2 million and
4 thousands of hours of staff time defending this lawsuit.
5 Now, wouldn't that time and money have been better spent
6 on water quality projects and programs? Another
7 interesting element to that case is that a number of
8 studies have recently identified and confirmed that some
9 bacteria and nutrients come from natural sources such as
10 kelp, algae, bird waste, and geological factors.

11 These studies, which the city has presented to you
12 many times during the bacteria TMDL reconsideration this
13 summer and their request for natural source exclusion
14 include the -- is BICKY 2212(B) widespread 2009 and Nema
15 Moora in 2011, just to name a few.

16 Based on these studies, we know that some exceedances
17 are out of the city's control and don't even come from
18 their stormwater systems. So here you have a city with
19 treatment facilities in place, exceedances outside of its
20 control, spending millions to defend a lawsuit.

21 The point is that a city should not be vulnerable to
22 a lawsuit while it assesses a problem and identifies a
23 source and solution. As you've heard, it takes a lot of
24 time to identify sources and design and implement
25 control measures if the problem is within the city's

1 control and to see if those measures are working.

2 So a successful permit must allow for an adaptive
3 management process to take place without the threat of a
4 lawsuit. So how do we do this? We learn from the 9th
5 circuit decision in NRDC Baykeeper versus LA County,
6 which was a separate case that the permit must
7 explicitly say that the city is in compliance with the
8 permit. If it's complying in good faith with its
9 obligations, implementing BMPs that are set out in the
10 permit and its plans, and identifying measures to
11 resolve any issues.

12 We know this was a flaw in the last permit, and it
13 needs to be fixed. Without the language that Heather
14 suggested earlier, the permit creates a disincentive to
15 comply and maximize BMPs. Why should cities spend money
16 on compliance if they're going to be sued anyway?
17 Cities that are doing the right thing should not be
18 vulnerable to lawsuits while engaging in adaptive
19 management.

20 This has to be a partnership. If you want the cities
21 to be all in, you have to be all in with them. You can
22 revise the language as Heather suggested or postpone
23 adoption for six months to flush out all of these
24 alternatives that have been before you today and hear
25 what the water board has to say at its workshop.

1 Either way, you should create incentives for cities
2 to do everything they can to prevent stormwater
3 pollution and prevent what happened in Malibu.

4 Thank you. Next, Ashli Desai will talk to you about
5 TMDLs.

6 MS. DESAI: Thank you. Madam Chair, members of the
7 Board, thank you for the opportunity to talk to you
8 today. My name is Ashli Desai. I'm a lawyer with Larry
9 Walker & Associates, and I was asked to come speak as
10 someone who's been extensively involved with TMDL
11 development comment and review throughout the LA region,
12 including working with your staff and USEPA staff in the
13 development of the successful stakeholder developed
14 TMDLs for the Coyotes Creek watershed. So I was
15 actually one of the primary authors on five TMDLs in
16 this region.

17 I'm here today to talk about one primary concern with
18 the way in which the TMDLs were incorporated into the
19 permit. As you've heard several times, there's 33 TMDLs
20 that are going into this permit for first time. And the
21 permit lays out a clear compliance structure for all of
22 those TMDLs.

23 For interim wasteload allocations and EPA TMDLs,
24 there's ability to implement TMDLs using best management
25 practices defined in a watershed management program and

1 be in compliance with this permit. But for some reason,
2 that compliance option is not included for final
3 wasteload allocations when they were in a state-adopted
4 TMDL.

5 In those cases, the only way to demonstrate compliance
6 with this permit was by having measurable water quality
7 data compared to a number. And for the rest of this
8 presentation, I'm going to talk -- we're going to talk
9 about that, meaning numeric effluent limitations as we
10 talk about it. And we're very concerned that this
11 option has been left out.

12 As you've heard from many people's -- speak today, the
13 watershed management program is something that everybody
14 is talking about to provide flexibility to provide the
15 options for compliance to provide a cost-effective way
16 to meet all of these requirements. And so we feel that
17 it really needs to be included as an option for
18 compliance with the final wasteload allocations.

19 We also don't understand why it would be an option
20 for interim wasteload allocations and EPA TMDLs and not
21 for these other TMDLs, and we're requesting that that
22 apply to all the TMDLs including the ones that have
23 final compliance deadlines that were prior to the
24 adoption of this permit, within the permit term, and
25 after the permit term. So it applies to all of that.

1 This presentation is going to cover a number of
2 technical and regulatory reasons why we think this is
3 appropriate to have this request.

4 We're going to start with Brian Currier, who's a
5 member of the State Board's Blue Ribbon Panel, who found
6 that numeric effluent limits are not feasible for MS4s
7 followed by Dr. Mitchel Mysliwec, who's also from LWA,
8 who's an associate engineer with expertise in water
9 analysis to explain why adaptive management is important
10 for implementing these TMDLs and how the reasonable
11 assurance program that's been provided in the permit can
12 provide a mechanism to demonstrate that best management
13 practices can meet the wasteload allocations.

14 We're also -- and then I will come back up and talk
15 to you about why numeric effluent limits are not
16 required, you have discretion on this issue, and how
17 these are not really consistent with many of the
18 assumptions of the TMDLs when they were adopted and how
19 the -- the analysis of whether it was actually feasible
20 to achieve these numbers was not done, nor did any
21 analysis with the TMDLs consider whether the control
22 maximum percent practical of pollutants.

23 So now I'm going to turn this over to Brian Currier.

24 MR. CURRIER: Madam Chair, members of the Board.
25 Thank you. My name is Brian Currier, and I'm here to

1 talk to you today about the conclusions that the panel
2 considering numeric effluent limits made regarding the
3 MS4 program.

4 Just a little background, the panel was formed with
5 national experts throughout the country and of the ten
6 that were requested, eight were able to participate on
7 our panel. And then after we concluded our work, I even
8 heard from an NGO that I guess the members were vetted
9 through the stakeholders, but I wasn't part of that
10 vetting process.

11 I'm going to review what our charge was in
12 particular, and it is: Is it technically feasible to
13 establish numeric effluent limitations or some other
14 quantifiable limit -- and that's my emphasis there --
15 for inclusion in stormwater permits; how would such
16 limitations or criteria be established; and what
17 information and data would be required.

18 Now, the State Board wanted us to be practical in
19 that determination, and so we'll review some criteria --
20 here. And they gave us four criteria to look at. I'm a
21 little aggressive at advancing slides.

22 The first was that ability to -- of the State Water
23 Board to establish the appropriate objectives,
24 limitations, or criteria. The second, how compliance
25 determinations would be made; the ability of the

1 dischargers and inspectors to monitor for that
2 compliance; and then for us to consider technical and
3 financial abilities as well.

4 What we looked at was a bunch of water quality data.
5 We considered the international BMP, and that's a
6 database mostly of our post-construction treatment BMPs;
7 the national stormwater quality database, which is just
8 MS4 discharges from a variety of watersheds. We looked
9 at the local data. We had the advantage of having three
10 panelists actually from California with some knowledge
11 of local data.

12 And then we looked at factors that affects discharge
13 quality; that being climate, land use, region, BMPs
14 employed level of program implementation. We looked for
15 things that we suspected weren't even there, but for due
16 process, we looked at them. The data wasn't always
17 parsed out conveniently.

18 To skip to our conclusion for the MS4 program, is was
19 that numeric effluent limits were infeasible for the MS4
20 program. And a couple of reasons was the high
21 variability and that the BMP studies that we were
22 looking at there's no guarantee that the conditions they
23 were tested were similar to the ones for which and NEL
24 would be developed.

25 On the high variability, there's two issues among

1 many that I wanted to review. And one is that each
2 watershed really has a mix of just a suite of BMPs as we
3 talked about minimum measures today and
4 post-construction BMPs, and it really decreases the
5 predictability of effluent --

6 And also what's unique about the MS4 program is it's
7 an open system. The watershed has activities in it
8 outside the control of the municipality. We've seen in
9 even the most robust of BMPs for stormwater, the
10 post-construction treatment BMPs, they're affected. If
11 you had an accidental spill or even an illegal dumping
12 of a dissolved constitute, those are going to have an
13 impact on the discharge quality of those BMPs.

14 So wanting to do something with the data because we
15 were largely a group of scientists and engineers, we
16 said, "Well, what can we do that's practical?" And we
17 developed this action level.

18 And to quote from the report, an action level is a
19 level at which most all could agree that some action
20 should be taken, whether that's investigation up into a
21 watershed for what the cause was. Was it a transient
22 cause; was it something that the municipalities could
23 follow up on?

24 But this wasn't meeting the ultimate goal of some
25 other quantifiable limit given that NELs were not

1 feasible. So we took another step and came up with what
2 we felt would be a quantifiable limit. And that is
3 compliance with the design criteria and maintenance plan
4 and schedule would constitute that kind of compliance.
5 And to board/staff credit here, that's what I observed
6 in the -- as one of the interim TMDL compliance methods
7 and I think that was already talked about this morning,
8 specifically language that says the design and
9 maintenance of BMPs to treat stormwater runoff from the
10 85 percentile of twenty-four hour storm.

11 So going back to the criteria of success here and to
12 kind of give ourselves a grade for this quantifiable
13 limit. The first was the ability to establish the
14 criteria. And, you know, grading myself here at the
15 panel, I'm going to say yes, you know, we can establish
16 design criteria and maintenance plans.

17 And then so the second follows. It's can
18 compliance -- how would compliance determinations be
19 made? Well, we've described how that can happen with
20 establishing maintenance criteria. But these are
21 limited to our post-construction type BMPs. And then of
22 course the ability of dischargers to inspect and
23 monitor. It's fairly straightforward for
24 post-construction BMP.

25 And then technical and financial ability, just merely

1 because it's an outcome of an existing process to review
2 BMP design and then to get out there and verify that
3 that's actually what happened. We felt that as new
4 development comes along and those post-constructive BMPs
5 are put into place, that that would be a feasible
6 activity.

7 So just to summarize for you, we came to the
8 conclusion that NELs are infeasible for the MS4, but
9 that verifying BMP design and maintenance is a
10 quantifiable limit. Thank you.

11 MR. MYSLIWIEC: Good afternoon, Madam Chair, members
12 of the Board. I'm here to talk about TMDL development
13 and reasonable assurance plans. I'm Mitchel Mysliwec
14 and I work with Larry Walker & Associates.

15 So what is a TMDL? It's federal requirement to
16 address pollutants in a water body or you consider
17 agricultural discharge, urban runoff, wastewater, open
18 space storm flows. You consider all those sources, how
19 they might get into a water body to determine the
20 maximum amount of a pollutant from each one of those
21 sources so the discharge of the water body will meet the
22 water quality objectives. Typically done with data and
23 models and regulatory processes, stakeholder groups.

24 So what is a reasonable assurance analysis? It's a
25 permit provision in the current permit and it's a

1 compliance option for the stakeholders to meet the
2 interim limits of TMDLs. Go ahead and we look at the
3 urban runoff and storm flows, look at all the watershed
4 wide actions that we can do to control those pollutants,
5 placing BMPs here, there, everywhere in the watershed to
6 control urban and stormwater runoff so that we meet the
7 wasteload allocations in the TMDLs.

8 And what we're looking for in this discussion is to
9 have this compliance option also apply to final waste
10 load allocation. So I'm a modeler. This is my job. I
11 worked on the modeling for the TMDLs that Ashli
12 referenced. So I think it's a critical key component of
13 all this stuff.

14 But if we step back and think about it, you know,
15 what really happens is it rains. It rains on urban
16 areas and runoff goes into storm drains into receiving
17 waters. It might rain on agriculture into receiving
18 waters open space, whatever, whatever have you.

19 Those are all actual real physical processes. Every
20 storm is a little different. It rains a little bit
21 harder, a little bit less, a little bit more for a
22 longer duration whatever, but they all happen. They're
23 real things.

24 And what we have to do in the modeling world, either
25 a TMDL development scenario or a reasonable assurance

1 scenario, is to select a good appropriate model. You
2 know, somehow choose the right equations to use so that
3 we do a very good job representing what actually
4 physically happens in the environment.

5 And we can do those things. We developed TMDLs. We
6 know that we have the tools that work to do that. And
7 by extension, the reasonable assurance plan is just a
8 little bit more nuanced of the same thing.

9 So just to quickly talk about variability and how
10 that might creep in. Sam Unger mentioned earlier
11 variability exists in the analysis, and so there is a
12 wasteload allocation defined in a TMDL.

13 However, there is variability there, and it is
14 addressed through special studies that might be in the
15 TMDL or re-openers provisions that are added to the TMDL
16 to address the uncertainty.

17 I just made a quick graphic here to say that, you
18 know, you define a number -- I drew a little bell curve
19 saying that so the real number is probably somewhere in
20 that bell curve. And now if you look at a reasonable
21 assurance analysis, you're doing all the same things as
22 a TMDL wasteload allocation development.

23 And you're adding on a BMP and how the BMP's going to
24 change that load of the pollutant to the water body.
25 And because there's extra variability here, I drew the

1 bell curve a little bit wider just to exemplify the fact
2 that we come up with a number at the end of the day of
3 what we think we're going to attain.

4 And that's the reasonable assurance. We're
5 reasonably sure we are going to attain the wasteload
6 allocation in the TMDL. But we can't guarantee it. We
7 use the best information, the best tools to get the best
8 results we can.

9 Really quickly, I want to step through again to
10 highlight that a TMDL development is very similar to a
11 reasonable assurance analysis. We all consider
12 wasteload information and put data on and on and on.
13 And essentially, the BMP information is the new bit to
14 reasonable assurance analysis.

15 So now for the reasonable assurance analysis, the BMP
16 selection is the -- perhaps the new little piece. And
17 so here there's a -- to me, pretty graphic -- where you
18 have a nice representation of the loading from the
19 environment. So up there in the upper left hand corner,
20 it's precipitation on the bottom and load of copper,
21 just as an example.

22 For low storm, small storms, you have a low load
23 coming off the watershed. Higher storms, you get a much
24 more variable load. It just depends on the duration of
25 the storm, how intense it is, when it happened in

1 relation to the last storm, all those kind of things.

2 All that information puts into the model so that we
3 can select BMPs to place throughout the watershed, size
4 them appropriately so that we can beat the wasteload
5 allocation. In the real world, the BMPs are going to be
6 a little more variable. The same BMP placed over here
7 on this corner is going to behave a little bit different
8 than a BMP placed over on some adjacent corner, but
9 similar, similar responses.

10 And in the graphic on the bottom right hand corner,
11 we're saying so in the case of, like, an infiltration
12 BMP, for small storms you might get 100 percent capture
13 in infiltration and as the storms get bigger, they --
14 you have some overtopping and it just depends on the
15 ratio and magnitude. Every storm is different.

16 This also brings up a point where we have to
17 respectfully disagree with the regional board staff.
18 Earlier today, we heard that it's not possible to do this
19 type of analysis and give a reasonable assurance that we
20 will meet the wasteload allocations.

21 You know, on the one hand, that was a statement and
22 then the next statement from the regional board was, "so
23 we need to find more effluent limits." But then I would
24 contend that this is the process that any municipality
25 would go through to address TMDLs. There is no other

1 process. This is state of the art. Take the modeling,
2 everything that's known about TMDLs and make the best
3 appropriate choice.

4 And if this isn't good enough to -- to give you a
5 reasonable assured answer, then you can't say that
6 effluent limits are feasible because you can't
7 demonstrate in any way that you can't actually meet the
8 limits. And then again to add a little bit more of the
9 variability, we make a plan today, these are for BMPs
10 we're going to put in the ground over the next 5, 10,
11 20 years, whatever. We have to make assumptions about
12 stuff like great (inaudible) development, population
13 growth, land use, pattern changes, all those kind of
14 things. They all change over time.

15 So we may have a very good, solid plan today and as we
16 progress in the future, we just have to adapt the plan
17 as the conditions in the watershed do change. So in
18 summary, you know, the very clear message is that there
19 is variability in the watershed, and that leads to the
20 need for adaptability in the permit compliance.

21 And so then the last thing I'd like to say here is
22 that the adaptive management process is built in to both
23 the TMDL and the reasonable assurance. And the TMDL --
24 we have special studies and re-openers and most TMDLs
25 specifically address the need for adaptive management

1 through time.

2 And the reasonable assurance analysis informs the
3 adaptive management process and by refining the model
4 and BMP effectiveness as time goes on, we learn more.
5 Sam Unger, this morning, said that there's watershed,
6 you know, wasteload allocations are watershed scale
7 numbers.

8 Reasonable assurance analysis gives you a watershed
9 scale plan. BMPs are here, there, everywhere. They go
10 hand-in-hand and it's an apple-to-apple comparison
11 instead of trying (inaudible) just point by point by
12 point.

13 And with that I'll turn it back over to Ashli.

14 MS. DESAI: Hi again. My name is Ashli Desai. Now
15 I'm going to talk a little bit about some of the
16 regulatory concerns that we have and the reasons why we
17 think it's important to include this compliance option
18 for the final wasteload allocations.

19 In the permit fact sheet, there was discussion of the
20 need for the numeric effluent limits based on guidance
21 from USEPA in 2010 memo, and we have a lot of concerns
22 with this reasoning, primarily because it does not
23 require the use of numeric effluent limits.

24 And there's a lot of other guidance out there that
25 says you don't have to use numeric effluent limits, so

1 this is a discretionary choice -- policy choice. And
2 the 2010 memo is currently under review and is actually
3 no longer even available on the EPA's website for
4 someone to look at to see the basis for this guidance.

5 So I want to start by talking about what this memo
6 said, and I think the key thing to say here is that the
7 wasteload allocation should, were feasible, be translated
8 into numeric effluent limits and applicable stormwater
9 permits.

10 And I think you've just heard from two technical
11 speakers that there's been a state board determination
12 that it's not feasible at this point to include numeric
13 effluent limits. And the permit fact sheet does not
14 provide any demonstration or technical information that
15 says that it is feasible.

16 There's nothing that's refuted at this point and
17 there is a difference between being able to calculate a
18 number and put it into a permit and it actually being
19 feasible, technically and economically feasible to
20 implement. And that analysis has not been done.
21 There's not been a demonstration.

22 But it's feasible to have a numeric effluent limit at
23 this point. I think the other thing that's important is
24 that when this memo came out, it was -- there was a lot
25 of concern about the information that was provided and

1 so EPA issued a request for comments on that memo.

2 And in that comment response it said -- this request
3 for comments they said they did not anticipate the end
4 of pipe limits would be used frequently and that the
5 numeric effluent limits could be broadly defined and
6 include surrogates such as stormwater volume, or as
7 Mr. Carrier explained, a quantifiable limit.

8 So quantifiable limits could include things like
9 maintenance and BMP requirements that are in a watershed
10 management program. And finally, this is intended as
11 guidance. It does not include legally binding
12 requirements. There is a lot -- the Clean Water Act
13 doesn't require this. The EPA guidance doesn't require
14 this, and most of the recently adopted MS4 permits in
15 California allow for compliance using BMP-based methods.

16 BMO approaches are consistent with the 2002 EPA memo
17 that was written, and it's allowed for under the 2010
18 EPA memo. So there's not a reason that you have to
19 include numeric effluent limits or exclude the option
20 for BMP-based compliance.

21 I think the other thing to note that is that both EPA
22 and regional board staff today have talked about the
23 success of the TMDL programs even though these TMDLs
24 have not been put into a permit. So there's not a
25 reason have you to put a number in to make people

1 implement these TMDLs. They're working towards doing
2 this right now, and it's been successful.

3 The next thing I want to talk about is consistency
4 with TMDL assumptions. You heard the regional board
5 staff say that they felt that they were required to put
6 in the TMDLs to be consistent -- the wasteload
7 allocation and the effluent limits to be consistent with
8 the TMDLs.

9 However, I would argue that many of these TMDLs were
10 adopted under the presumption that compliance would be
11 determined through BMP implementation, not numeric
12 effluent limits. And some of these TMDLs specifically
13 allow for BMP-based compliance and that option was
14 excluded from the permit conditions. An example of that
15 is the Los Angeles River TMDL.

16 There's an allowance for BMP-based compliance in that
17 TMDL, and that has been removed and is not included in
18 the permit conditions. Here's some examples of language
19 that is in the administrative record for the TMDLs. In
20 the San Gabriel River metals response to comments, it
21 was stated the TMDL will not result in application of
22 end-of-pipe effluent numeric limits for the
23 municipalities. The TMDL supports the use of an
24 iterative BMP approach.

25 In the staff report for the Los Angeles River

1 nutrient TMDL, it says the compliance alternative is an
2 iterative approach consistent with the November 22nd,
3 2002, memorandum, which is the 2002 EPA memorandum I
4 mentioned earlier.

5 For -- in Basin Plan amendments for the Los Angeles
6 River metals, the San Gabriel River metals, and the
7 Ballona Creek/Estuary toxics TMDL, the Basin Plan
8 amended states a phased implementation approach using a
9 combination of non structural and structural BMPs may be
10 used to achieve compliance with the stormwater wasteload
11 allocations.

12 This is what everybody envisioned. This is what
13 people have been implementing is this BMP-based
14 approach. And as Mr. Unger mentioned this morning, this
15 watershed management program is a process that really
16 allows us to bring rigor to the BMP-based compliance
17 approach, and we're just asking you to allow that to be
18 used for all of the TMDLs that you're incorporating into
19 this permit.

20 The trash TMDLs are a really good example of this
21 BMO-based compliance approach. It defines a
22 quantifiable limit and it provided regulatory certainty
23 for the dischargers. They know if they put in the BMPs
24 they're in compliance. And as a result implementation
25 has really proceeded successfully. So we're asking for

1 that same process to apply to other TMDLs.

2 And just as a final note, I think I wanted to say
3 that the TMDLs -- there's sometimes this presumption
4 that the TMDL staff reports and the analysis that was
5 done for implementation really thought about all of
6 these things. And I think, in general, they did not go
7 through and do an analysis of the technical and economic
8 feasibility of achieving numeric wasteload allocations
9 and numeric effluent limits by the dates established in
10 the TMDL compliance schedules.

11 There's a lot of discussion about what BMPs you can
12 use. There's a lot of discussions about costs, but
13 based on my review of these staff reports, there's no
14 analysis that went through and said, yes, given the
15 resources available to these agencies and the
16 variability that we've discussed, that you can actually
17 achieve these TMDL numbers all of the time under all
18 conditions.

19 And I think the other important point is that the
20 staff reports did not go through any sort of analysis to
21 determine whether or not these TMDLs could be achieved
22 through the control of pollutants to the maximum extent
23 practicable.

24 So just in summary, I think that we wanted to really
25 highlight that, you know, given all of the factors that

1 we've been discussing, all the technical and economic
2 feasibility associated with numeric effluent limits, and
3 it's really important and the need to provide this
4 adaptive management to address changing conditions to
5 address things that are unknown about the watershed or
6 things that might change in the future, final wasteload
7 allocation should be allowed to be expressed as a
8 BMP-based approach.

9 We really feel that the reasonable assurance program
10 that has been laid out provides a mechanism to address
11 the concerns that you need to justify the BMPs can meet
12 the wasteload allocations, the permit provides that
13 structure. That analysis is going to be done so when
14 there's an approved watershed management program, you
15 have that justification to say that you can achieve
16 compliance through the BMPs.

17 So there's no reason now to say you have to meet
18 numbers when you know that the process you've laid out
19 is going to provide you with the justification. You
20 have the discretion to allow BMP-based compliance, and
21 we're asking you to do. And we feel that BMP-based
22 compliance would really be much more consistent with the
23 presumptions that were -- and the assumptions that were
24 made when the TMDLs were adopted.

25 And it will allow the time for the implementation

1 analysis to be done to see whether or not you can meet
2 numbers, which was not done during the TMDL adoptions and
3 whether or not the control of pollutants to the maximum
4 percent practicable will occur.

5 So just in summary we're asking for one change to --
6 in the TMDL section which is to add the language from
7 compliance option in part 6ED2D14 under the interim
8 wasteload allocations page 113 of the permit to page 14
9 under the wasteload allocations and a number 4 for
10 E2 -- part 6E2E1-4.

11 And at this point, I'm going to turn it over to
12 Heather Miranda to for some closing comments.

13 MS. MIRENDA: Hello again. So our presentation
14 represents the consensus of 62 cities. Those who work
15 in the profession of stormwater, who serve the public
16 and environment, who enforce stormwater rules, work
17 hard and long hours, as you do.

18 We sit and wait on Christmas morning to investigate a
19 suspected illegal dumper; wake from our beds at
20 2:00 a.m. to respond to emergency spills; are verbally
21 attacked -- physically attacked sometimes -- when
22 performing our duty to protect water quality.

23 Yet with all these problems, we persist because we
24 continue to believe that clean water is important to the
25 future. In the long race to improve water quality, most

1 of us have done our best. There are still miles to go,
2 but we have made progress.

3 Water quality is better. People are beginning to
4 understand the abstract concept "stormwater." Santa
5 Clara nutrients team is off the 303(d) list, and there
6 was no dry weather exceedance in our watershed this year.

7 Over 80 percent of the beaches are getting A's and
8 B's. Thousands of tons of trash are cleaned up,
9 removed, prevented. Permittees have spent over \$2
10 billion to implement the current requirements. In
11 fiscal year 10/11, permittees spent approximately \$340
12 million on the current requirements.

13 These efforts to continue to improve as we speak. We
14 should all give ourselves credit for just how much has
15 been accomplished. It takes nothing away from the long
16 road ahead, but acknowledging how far we have come may
17 help lighten the load.

18 We ask that this new permit give credit for the hard
19 work that these efforts already require, and incentives
20 for the hard work future permit requirements will
21 continue to build on. Don't punish everyone for a few
22 bad actors or for some unknown pollutant sources.

23 Reduce the toxic environment that breeds distrust,
24 frustration, and wastes resources. Approving a permit
25 we can't comply with just continues that toxic

1 environment. The LA Permit Group has been trying to
2 foster this new route, this better way with
3 collaboration, prioritization, communication, problem
4 solving, trust restored in each other.

5 We see a future where Los Angeles is approving ground
6 for fostering success, not a setup for permittees to
7 fail. Years of the old way have riddled and eroded this
8 process, and yet we persist. There is an easy question
9 to answer here. Where do we want to be at the end of
10 this race? Of course the answer is at the end of the
11 race, we want clean water.

12 The real questions, the harder questions to answer
13 are how fast can we run the race? Will there be
14 replenishment along the way? Are we being encouraged
15 from the sidelines or being harassed? These are
16 questions that your leadership can answer so that we can
17 all cross the finish line.

18 Tearing each other down, trying to damage the
19 runners, making sure that we never actually pass any
20 finish line because we're exhausted by the pace and the
21 line is set so far. These are the policies and the
22 tactics of the past.

23 There are a few in this effort who thrive on that
24 conflict, who enjoy watching everyone tear each other
25 apart and even benefit from them, who will encourage you

1 to use your leadership position attack them. We're not
2 asking you to do that. We're asking you to have a
3 reasonable expectation at the pace we can run.

4 We're asking you to encourage and protect those
5 cities working hard to get to the end point of clean
6 water. Every presenter, government agency, staff is
7 stating why you must follow their path, why the laws
8 say that you must make this decision in their favor.

9 And the truth is that you are the leaders. This is
10 your decision. The dogmas of the quiet past are
11 inadequate to the stormy present. The occasion is piled
12 high with the difficulty and we must rise with the
13 occasion. As our case is new, so we must think anew and
14 act anew.

15 A wise leader spoke these words in a time of
16 division: "You can decide to maintain the dogmas of the
17 past where resources were wasted in legal fights and not
18 invested in clean water, or you can lead us to a new
19 path and get to the finish line." If you want the
20 cities to be all in, you have to be all in, too.

21 And we respectfully request our extra 16 minutes and
22 52 seconds for cross-examination at the end of our
23 presentation. Thank you very much.

24 MS. MEHRANIAN: Jennifer, do you have
25 cross-examination now?

1 MS. FORDYCE: Is there any party that would like to
2 cross-examine the LA Permit Group?

3 MR. FLEISCHLI: Yes, there is. I'm Steve Fleischli,
4 F-l-e-i-s-c-h-l-i, with NRDC. We would like to
5 cross-examine Miss Mirenda, Mr. Dettle, and Mr. Currier
6 in that order please.

7 MS. FORDYCE: And those people, please come up.

8 MR. FLEISCHLI: While they're coming up, good
9 afternoon, Madam Chair, members of the Board.

10 MS. MEHRANIAN: How much time do you think you need?

11 MR. FLEISCHLI: I don't know how much time they're
12 going to take. If you can sort of --

13 MS. MEHRANIAN: No, I think we're going to use that.

14 MR. FLEISCHLI: I'm probably going to be about 10, 15
15 minutes.

16 MS. MEHRANIAN: Okay.

17 MS. FORDYCE: Start the clock at one hour, and we'll
18 see how much is left.

19 MS. MEHRANIAN: So we'll give you 40 minutes if
20 that's okay.

21 MS. FORDYCE: I'm sorry. She is entitled to have
22 legal counsel with her, so if you'd like an attorney to
23 stand next to you.

24 MS. MIRENDA: I don't have legal counsel. I don't
25 have an attorney. So, I'm not an attorney -- so anything

1 in my presentation that relates to, you know, the law
2 is -- I'm going to have to probably respond in writing
3 at a future time.

4 MS. MEHRANIAN: Can everybody hear her?

5 MR. UNGER: You have to speak up.

6 MS. FORDYCE: Tell him to stand next to her.

7 MR. UNGER: You can either stand or sit.

8 MR. FLEISCHLI: For the lady, I will do it. For the
9 gentlemen, I will not.

10 MS. MIRENDA: Look at this; we're working together.
11 Look at this cooperation.

12 MR. FLEISCHLI: It's a new day in LA.

13 MS. MEHRANIAN: Please begin.

14 MR. FLEISCHLI: All right. Thank you very much.

15

16 EXAMINATION OF MS. MIRENDA

17 MR. FLEISCHLI: So you just said that if there's any
18 legal questions I had, notwithstanding your testimony on
19 the law, that you wouldn't be qualified to answer those;
20 is that correct?

21 MS. MIRENDA: Yeah.

22 MR. FLEISCHLI: Okay. Can I ask then that we strike
23 her legal testimony because it's not relevant? It's not
24 her opinion.

25 MS. MIRENDA: Whoa, whoa, whoa, whoa.

1 MS. FORDYCE: Which legal testimony are you referring
2 to?

3 MR. FLEISCHLI: How about I'll go through the
4 questions, and then if she says that's --

5 MS. MIRENDA: Well, if you're going to strike that,
6 then we respectfully request to be able to reread my
7 entire presentation by a lawyer and have the additional
8 time to able to do that, but I'm not a lawyer.

9 MR. FLEISCHLI: All right. So --

10 MS. MEHRANIAN: Overruled.

11 MR. FLEISCHLI: It was your testimony and your
12 concern that the cities you represent would be in
13 immediate noncompliance with the permit once it's
14 adopted; is that correct?

15 MS. MIRENDA: Some of the cities in the LA Permit
16 Group. That could be the case, yes, and the county.

17 MR. FLEISCHLI: You also said that in light of the
18 9th Circuit's ruling, it appeared that cities would be
19 in noncompliance once this permit is adopted; is that
20 correct?

21 MS. MIRENDA: That could be the -- that could be the
22 case, yes.

23 MR. FLEISCHLI: Okay. Are you familiar with part 2.3
24 of the permit?

25 MS. MIRENDA: I don't have the permit in front of me.

1 MR. FLEISCHLI: I'll give it to you right here. This
2 is the current permit, part 2.3.

3 MS. MIRENDA: Am I going to be given the opportunity
4 and time to actually read this section?

5 MR. FLEISCHLI: I just -- the highlighted section you
6 can read out loud now, if you'd like.

7 MS. MIRENDA: "Upon a determination by either the
8 permittee or the regional board that discharges are
9 causing or contributing to an exceedance of an applicable
10 water quality standard, permittees shall promptly notify
11 and thereafter submit a receiving water limitation
12 compliance report."

13 MR. FLEISCHLI: And how many cities do you represent
14 here today?

15 MS. MIRENDA: The LA Permit Group represent the
16 consensus, not -- we're not legal representative of all
17 of the cities in LA County. We represent a consensus
18 process of 62 cities and our presentation represents
19 that consensus.

20 MR. FLEISCHLI: And do you know if any of those 62
21 cities have ever made a determination under this part
22 2.3 that they are contributing to exceedance of receiving
23 water limits?

24 MS. MIRENDA: I'm not responsible for making sure
25 that those 62 cities are in compliance, so.

1 MR. FLEISCHLI: I -- that's not what I asked you. I
2 asked you: Do you know if any of them have made a
3 determination that they contribute to exceedance of water
4 quality standards?

5 MS. MIRENDA: I'm not sure.

6 MR. FLEISCHLI: Okay. You work for the city of Santa
7 Clarita; right?

8 MS. MIRENDA: (No audible response)

9 MR. FLEISCHLI: Do you know if the city of Santa
10 Clarita has ever made a determination under part 2.3 of
11 the permit that it's contributing to exceedance of water
12 quality standards?

13 MS. MIRENDA: I don't believe that we've ever -- the
14 city of Santa Clarita has ever done for the stormwater
15 permit, but I've only been there since 2001, so I've
16 never had to do a compliance report.

17 MR. FLEISCHLI: So not since 2001, to your knowledge,
18 they have not made that determination?

19 MS. MIRENDA: In the limited scope that I can work
20 on, yeah.

21 MR. FLEISCHLI: Does the city of Santa Clarita sample
22 stormwater outfalls?

23 MS. MIRENDA: No.

24 MR. FLEISCHLI: Okay. Does the city of Santa Clarita
25 sample receiving waters?

1 MS. MIRENDA: We depend on the LA County mass
2 emissions monitoring as required in our current 4
3 permit.

4 MR. FLEISCHLI: Does the city of Santa Clarita itself
5 sample any stormwater, outfalls, receiving water?

6 MS. MIRENDA: We sample dischargers. So if we see
7 somebody discharging a swimming pool for example, we'll
8 sample it to make sure it meets water quality standards.

9 MR. FLEISCHLI: Thank you.

10

11 EXAMINATION OF MR. DETTLE

12 MR. FLEISCHLI: Mr. Dettle. I'll stay seated. You
13 work with the city of Torrance; is that correct?

14 MR. DETTLE: Yes.

15 MR. FLEISCHLI: How long have you been there?

16 MR. DETTLE: I've been there about 13 years.

17 MR. FLEISCHLI: You -- what receiving water sampling
18 does the city of Torrance do?

19 MR. DETTLE: We do not do any receiving water
20 sampling.

21 MR. FLEISCHLI: Okay. Does the city of Torrance
22 sample any outfalls?

23 MR. DETTLE: Yes.

24 MR. FLEISCHLI: Yes? Where are those?

25 MR. DETTLE: Our city outfalls at our city

1 boundaries.

2 MR. FLEISCHLI: Do you know how many there are?

3 MR. DETTLE: No.

4 MR. FLEISCHLI: Are those -- those are all stormwater
5 outfalls?

6 MR. DETTLE: Yes.

7 MR. FLEISCHLI: Like the Horondo drain?

8 MR. DETTLE: No. These are city and county drains
9 that cross our city boundary.

10 MR. FLEISCHLI: Okay. So inside the system you
11 sample, inside the drain, as opposed to -- maybe you can
12 define -- what do you define as an outfall?

13 MR. DETTLE: Outfalls are defined as either the storm
14 drains that exit your city boundary or those that go
15 into a receiving water body or a channel.

16 MR. FLEISCHLI: Okay. So in terms of outfalls that
17 discharge into a channel, do you sample those?

18 MR. DETTLE: Not yet.

19 MR. FLEISCHLI: Okay. What about if they go directly
20 into a receiving water?

21 MR. DETTLE: Nope.

22 MR. FLEISCHLI: Okay. Has the city of Torrance in
23 the last 12 years ever made a determination under part
24 2.3 of the permit that it is contributing to exceedance of
25 water quality standards?

1 MR. DETTLE: I don't recall.

2 MR. FLEISCHLI: Okay. Thank you. You also testified
3 earlier today that monitoring should occur two days
4 after a storm?

5 MR. DETTLE: Yes.

6 MR. FLEISCHLI: Yes. Why was that?

7 MR. DETTLE: What that does is during a storm event,
8 that's when you're getting that first flush and you're
9 getting everything that's being washed right out to the
10 receiving water body, so the receiving water body in
11 ambient condition is one where it's already been fused
12 and settled out.

13 So if you're taking that monitoring right during the
14 storm event, then you're getting it at the utmost peak.
15 So you need a couple days for things to return to
16 ambient conditions.

17 MR. FLEISCHLI: Okay. And -- and if you wait those
18 two days, isn't it true that you wouldn't be able to
19 detect the first flush of pollutants off the stormwater
20 system?

21 MR. DETTLE: Well, as I understand, the monitoring
22 programs for TMDLs also have outflow monitoring. So you
23 would be able to detect the outflow monitoring.

24 MR. FLEISCHLI: So you're not suggesting that we wait
25 two days for outfall monitoring to be conducted --

1 MR. DETTLE: I did not.

2 MR. FLEISCHLI: -- you're only saying for receiving
3 waters to be conducted?

4 MR. DETTLE: Correct.

5 MR. FLEISCHLI: Okay. And again, Torrance does not
6 sample outfalls?

7 MR. DETTLE: Not yet.

8 MR. FLEISCHLI: All right.

9 MR. DETTLE: Well, we do, as I said, our outfalls,
10 Meshado Lake.

11 MR. FLEISCHLI: But not to receiving waters and not
12 to channels?

13 MR. DETTLE: Not yet.

14 MR. FLEISCHLI: Okay. Thank you. No further
15 questions. No, not you. Brian.

16 MS. MIRENDA: No, I know.

17 MR. FLEISCHLI: Yeah, you're not -- you -- I have no
18 questions for her.

19 MS. MIRENDA: No, I have -- I want to amend my answer
20 because my colleague reminded me of something that
21 happened in 2003 where we did do outflow monitoring.
22 And I had forgotten and I want to be clear for the
23 record.

24

25 FURTHER EXAMINATION OF MS. MIRENDA

1 MR. FLEISCHLI: Okay. So is it your testimony that
2 in 2003 you conducted outflow monitoring?

3 MS. MIRENDA: Yeah. We received a 13267 letter from
4 the regional water quality control board. There was
5 SWAMP monitoring that was done in our river that showed
6 an exceedance of diazinon.

7 And so after with meeting with Jonathan Bishop, we
8 were allowed to have a time -- an iterative process to
9 be able to address those exceedances. We monitored many
10 outfalls. I can't remember the exact number. I think
11 20 along with Los Angeles County, and then we proceeded
12 to spend 50 to 100 thousand dollars to do an outreach
13 program at all of our local stores and work with all of
14 our pesticide applicators to do outreach and education.

15 We wrote letters to everybody. Everyone thought it
16 was a dumper, a single dumper, but it ended up being
17 just a neighborhood that was overzealous in its ant
18 killer use and over-watering.

19 MR. FLEISCHLI: Okay.

20 MS. MIRENDA: And after we completed about six
21 month's worth of our best management practices, we had a
22 96 percent reduction, which is (inaudible) level.
23 Submitted that to the regional board and the matter was
24 closed. We never got a response, but we submitted --

25 MR. FLEISCHLI: Can I ask that -- she's answered the

1 question, and so that we don't waste more of our time,
2 we move on. So --

3 MS. MIRENDA: Are you sure?

4 MR. FLEISCHLI: Your testimony is -- you can see how
5 we've really turned a new page here. Your testimony is
6 that in 2003 you sampled for diazinon --

7 MS. MIRENDA: The bare bones.

8 MR. FLEISCHLI: A number of (inaudible).

9 MS. MIRENDA: (No audible response)

10 MR. FLEISCHLI: Okay. Thank you.

11

12 EXAMINATION OF MR. CURRIER

13 MR. FLEISCHLI: Hello, Mr. Currier.

14 MR. CURRIER: Hello, Mr. Fleischli.

15 MR. FLEISCHLI: You are on the Blue Ribbon Panel to
16 talk about the feasibility of numeric effluent limits
17 for stormwater?

18 MR. CURRIER: Yes.

19 MR. FLEISCHLI: Did that panel consider the
20 feasibility of numeric effluent limits for non stormwater
21 or dry weather discharge from the MS4s?

22 MR. CURRIER: We did not, to my recollection.

23 MR. FLEISCHLI: Did that panel consider the
24 feasibility of developing numeric limits where TMDLs had
25 been developed?

1 MR. CURRIER: They -- there was a discussion on TMDLs
2 and the development of NELs from the watershed
3 perspective. I think we called them water quality based
4 effluent limitations.

5 MR. FLEISCHLI: But not with regard to TMDLs?

6 MR. CURRIER: With -- well, with both. If I -- could
7 I take a second and maybe explain it a little? Okay.
8 I'll try to be brief.

9 The discussion within the panel, as I recall, is that
10 where it was a water quality based effluent limit, it
11 would be expressed as a TMDL. And the processes to
12 assure that it was technically and -- feasible would --
13 are already defined within that TMSL process, so we
14 didn't touch it.

15 And instead, if you remember the flow chart in the
16 report, it says if you're in this TMDL scenario, design
17 your BMPs toward that end -- and then we reiterate
18 this -- and inspect the BMPs for purposes of compliance.

19 MR. FLEISCHLI: So where are TMDLs -- you didn't
20 consider, though, where a TMDL has already been
21 developed, whether it would be feasible to then adopt a
22 numeric effluent limit based on that TMDL; it was more
23 about whether it was feasible to develop a TMDL in the
24 first instance?

25 MR. CURRIER: Neither. And it was -- we assumed that

1 a TMDL will be developed. We didn't challenge that it
2 was -- we didn't challenge whether it was feasible or
3 not to development the TMDL. We assumed that they would
4 happen.

5 MR. FLEISCHLI: Would you agree that you could define
6 a numeric effluent limit as a quantifiable level of
7 acceptable exceedance of a standard? For example, you can
8 exceed a bacteria standard on a certain number of days
9 as opposed to setting --

10 MR. CURRIER: That is a method to select a number, I
11 agree.

12 MR. FLEISCHLI: And that's feasible?

13 MR. CURRIER: I cannot say it's feasible.

14 MR. FLEISCHLI: Did the panel look at that?

15 MR. CURRIER: The panel did consider that.

16 MR. FLEISCHLI: And did they determine that it was?

17 MR. CURRIER: They determined that it was infeasible.

18 MR. FLEISCHLI: For --

19 MR. CURRIER: The municipal program.

20 MR. FLEISCHLI: For a quantifiable level of exceedance?

21 MR. CURRIER: What are -- explain a little.

22 MR. FLEISCHLI: Like a number of days where you would
23 exceed the standard as opposed to you cannot exceed 1.3
24 milligrams per liter. Instead, you would say you can
25 exceed this standard on four days to address the

1 variability issue.

2 MR. CURRIER: There -- okay. So there was -- in the
3 panel's report, there were at least two. I think there
4 was three methods to developing as NEL. One was the
5 consensus-based report where it was oh, aha, everyone's
6 agreeing that this -- this number --

7 Well, you know what? I have to pause here because I
8 might be thinking of action levels. Can you restate the
9 question?

10 MR. FLEISCHLI: Would you agree that it is feasible
11 to define a numeric effluent limit as a quantifiable
12 level of exceedance?

13 MR. CURRIER: Not for the MS4 program. And I believe
14 that's consistent with the panel's report.

15 MR. FLEISCHLI: What about defining it as a
16 quantifiable retention amount? Amount of water you
17 could retain?

18 MR. CURRIER: The question of water retention was
19 addressed as a method within the report, and we didn't
20 address how we would describe that as a quantifiable
21 numeric effluent limit.

22 MR. FLEISCHLI: So you didn't answer the question.
23 In the -- in the panel, the panel did not address that
24 question?

25 MR. CURRIER: Not in the context of a limit.

1 MR. FLEISCHLI: Thank you. No further questions.

2 MS. FORDYCE: Is there any other party that would
3 like to cross-examine the LA Permit Group? I think you
4 can go on to the City of Agoura Hills. I think they're
5 next.

6 MS. MEHRANIAN: You have five minutes.

7 MR. BELLAMO: Thank you. The city of Agoura Hills
8 respectfully -- well, they'd like to thank you all for
9 the time to speak. In light of the fact that no
10 response to comments or revised tentative order has been
11 released, they have no comments at this time. Thank
12 you.

13 MS. MEHRANIAN: Malibu. Five minutes.

14 MR. THORSEN: Thank you. Good afternoon, Madam
15 Mayor -- or Madam Chair --

16 MS. MEHRANIAN: Thank you.

17 MR. THORSEN: -- members of the Board. I was just
18 thinking that last process we could use that at our
19 counsel meetings. I think that would definitely limit
20 comment from the public.

21 I'd like to start with this slide, and I know you've
22 seen it before, and I hope EPA won't mind I stole it off
23 their website. But it reminds that us that sound
24 science is going to take us to clean waters. And that's
25 something we should always remember.

1 Let's see if I can -- the city supports clean water
2 and a healthy environment. And over the last ten years
3 we have spent as a city over \$70 million on that
4 commitment. We have done award-winning projects, and
5 we've helped protect our beaches, and for our visitors s
6 who use them.

7 As you can see on this slide, this -- our expenditure
8 equals about \$1,500 per year per household. And I'll
9 talk a little bit more about the expenditures a little
10 bit later. Our -- we have three water treatment
11 facilities in our city. I think we're the only city not
12 in LA county or actually in the state and maybe even in
13 the country that has three stormwater treatment
14 facilities. One was built by the county and two by the
15 city.

16 It treats up to three and a half million gallons per
17 day. We're bio-filtration projects that will treat or
18 eliminate runoff from ten major storm drains, and of
19 course there's Legacy Park. While we were winning our
20 eighth award in New Orleans, we were notified that we
21 won won our ninth award. So we're very proud of that
22 project. It helps eliminate runoff and reduce bacteria
23 into the creek from 330 acres of watershed.

24 It's not moving forward. There we go. We also do a
25 lot of public outreach and education as well as clean

1 water initiatives. And I won't spend much time, but we
2 have some of the most stringent land development
3 regulations, some of the more stringent wastewater
4 regulations, and we have implemented a whole department
5 on environmental and sustainability. The city is
6 serious about cleaning water.

7 So let's get back to cost estimates. You've heard
8 from other cities that they're concerned. Back in 2002,
9 the regional board identified it was going to cost \$1.52
10 per household to treat dry weather bacteria. We're
11 spending about 1,000 times that amount over the last ten
12 years. And if my estimates are right from the staff
13 today, it was about \$17, so we can expect about \$17,000
14 per year, per household in Malibu.

15 That's quite a bit. We need to revise the permit
16 details, and I think you've heard a lot about that again
17 already today, so I'm not going to talk about the 500
18 page permit in the limited time to review, but we do
19 have some timing issues. We are concerned about the
20 legal exposure that's going to be put into this permit,
21 and we'd like to see it revised.

22 As it's been identified, we had over \$2 million spent
23 in the last couple of years from the Baykeeper NRD's
24 lawsuit. We've wasted thousands of hours of staff time.
25 We want, in this permit, the tools to succeed. We want

1 to be your partner, and it's already been mentioned: We
2 need to partner together in order to make things work
3 properly.

4 The receiving waters language, it needs to reflect
5 that there's natural sources out there. And I showed
6 these two next slides at the TMDL hearing, but this is
7 an example of Paradise Cove, which is Ramirez Creek. And
8 it's a developed -- or undeveloped watershed about 85
9 percent undeveloped.

10 We built a stormwater treatment plant and test the
11 water before it comes into the treatment plant, which is
12 93 percent exceeds requirements. We test it right when
13 it leaves our treatment plant and with the faulty
14 equipment on rare occasions, we have a couple of minor
15 hiccups.

16 But literally five feet from where we discharge,
17 we're already exceeding water limitations in the
18 bacteria criteria. We can't meet it because of natural
19 sources.

20 Here's Leo Carrillo. You've seen this before, too,
21 the referenced watershed. Almost 50 percent of the time
22 the referenced watershed does not meet the bacteria
23 TMDLs. We've go to do a better way -- we have to have a
24 better way to solve these problems.

25 Let us do integrations. We think working together we

1 can resolve these. And that's it.

2 MS. MEHRANIAN: Thank you.

3 MS. FORDYCE: I was going to ask whether anyone
4 wanted to cross-examine Mr. Thorsen, but I think the
5 answer's yes.

6 MR. FLEISCHLI: Yes. It will be quick. Mr. Thorsen
7 against Steve Fleischli.

8

9

EXAMINATION OF MR. THORSEN

10 MR. FLEISCHLI: Mr. Thorsen, you testified that the
11 city of Malibu spent --

12 MS. MEHRANIAN: Can you hold?

13 MR. FLEISCHLI: Sorry.

14 MR. UNGER: We're good.

15 MS. MEHRANIAN: Go ahead.

16 MR. FLEISCHLI: Okay. Thanks you. Mr. Thorsen, you
17 testified that the city of Malibu spent approximately
18 \$70 million on water quality project in the city; is
19 that correct?

20 MR. THORSEN: That is correct.

21 MR. FLEISCHLI: Now, can you tell us what percentage
22 of that or what dollar amount of that came from state
23 and federal funds?

24 MR. THORSEN: A large sampling of that -- those funds
25 came from various donations from residents, state --

1 state donations, grants, and a variety of sources.

2 MR. FLEISCHLI: How many in particular from state
3 grants? Do you know?

4 MR. THORSEN: I don't know offhand.

5 MR. FLEISCHLI: Do you know, for the Legacy Park
6 project how much they gave?

7 MR. THORSEN: It's a variety of sources. I don't
8 have those numbers in front of me.

9 MR. FLEISCHLI: You don't know, from the state, how
10 much you got?

11 MR. THORSEN: No, not offhand. We have it down, but
12 I don't have it with me.

13 MR. FLEISCHLI: Significant portion?

14 MR. THORSEN: A large portion.

15 MR. FLEISCHLI: Thank you.

16 MR. THORSEN: Of taxpayer money, yes.

17 MR. FLEISCHLI: Thank you.

18 MS. MEHRANIAN: City of Monrovia, you have
19 15 minutes.

20 MS. LILE: Good afternoon. My name is Laurie Lile.
21 I'm the city manager for the city of Monrovia. First, I
22 would like to thank the Board for the opportunity to
23 speak at today's hearing.

24 I do appreciate your willingness to reschedule the
25 September hearing to accommodate the many of us that

1 were previously scheduled to attend the California
2 City's Conference last month.

3 First, I would like to ask a question. I believe we
4 have 15 minutes, and I show five. Thanks you very much.

5 As you are aware, the city of Monrovia has been
6 participating in the permit development through the LA
7 Permit Group. We share the values of the LA Permit
8 Group, which include to promote constructive
9 collaboration and problem solving between the cities and
10 the Los Angeles Regional Water Quality Control Board;

11 Also that the new NPDES permit integrate protection
12 of water quality in a cost-effective and science-based
13 manner; and finally that the permit allow the limited
14 municipal resources to be focused on implementation of
15 water quality protection activities that are efficient,
16 effective, and sustainable.

17 Since the first LA County MS4 permit was issued,
18 Monrovia has worked due diligently to comply with the
19 permit is dedicated to reducing stormwater pollution.
20 However, compliance costs have gone up much faster than
21 any corresponding municipal revenues.

22 Resources for compliance costs compete for the same
23 general fund revenues that we need for public safety,
24 roads, parks, and other services provided by
25 municipalities. Balancing municipal budgets in

1 California has become very difficult, as you've heard
2 from the previous speakers.

3 Some cities are even facing insolvency as the staff
4 Bradbury, I believe it was the mayor of Bradbury
5 testified this morning. The city of Monrovia will do
6 what we can, but the fiscal realities of the city must
7 be considered in order for this permit to be achievable
8 and sustainable over the short and long term.

9 While we appreciate the efforts of staff and the
10 board thus far to work with us regarding our comments,
11 we've still had some significant progress with the
12 various aspects of this process. First off, that
13 includes the time that the permittees were given to
14 evaluate the 500 page permit and in addition to the
15 TMDLs.

16 Given the volume of this document and all the
17 documentation that went with it, the 45 days that were
18 provided were insufficient. Furthermore, the city --
19 giving the city a mere 15 minutes to provide additional
20 comments and ask and answer questions does not remedy
21 that problem.

22 The cities originally asked for a longer period to
23 work with Board. We requested 180-day comment period
24 followed by the development of a working proposal that
25 would take into account the fully-formed opinions of the

1 permittees, but we were denied.

2 In the past, it has taken roughly two years to develop
3 permits that were considerably shorter, less technical,
4 and did not involve TMDLs. Now this permit is being
5 jammed through in less than a year, and given the
6 unprecedented speed, the quality of the permit is bound
7 to suffer, as is the ability and the right of the
8 permittees to give sufficient input, not just to improve
9 our position, but to make the permit better.

10 We're seeking additional adequate review and comment
11 time to ensure that the permit is one that works. Given
12 the realities of what permittees are actually able to
13 accomplish especially in major recession.

14 And who will ultimately suffer from an unrealistic,
15 unduly harsh permit? It's not the regional board or its
16 staff or the NGOs, but us, the permittees. We're the
17 ones who will bear the brunt of the permit that will
18 have such -- we have such a small role in shaping, one
19 that puts us in a decidedly tenuous situation regarding
20 compliance and potential liability even with our good
21 faith efforts.

22 The city of Monrovia, as is the case with all
23 permittees, has a decidedly limited ability to control
24 millions of citizens, acres on acres of non impervious
25 cover, thousands of miles of storm drain, and for each

1 permittee 87 other permittees which where all
2 independent jurisdictions.

3 We want to do our best and we are willing, as we've
4 always been, to implement best management practices, but
5 there's only so much we can actually realistically do.
6 In the past, the permittees were led to believe that if
7 we simply complied with iterative approach to continue
8 to work on the implementation and development of best
9 management practices, that we would not face NOVs and
10 third party liability.

11 Now we face the imposition of TMDLs with no
12 implementation plans that may, according to the letter
13 of the law, be immediately applicable, numeric standards
14 that may not be achievable, and an open-ended liability
15 for failure to achieve standards, many of which we know
16 for a fact are not currently achieved because they are
17 the subject of TMDLs.

18 After the NRDC case and versus the LA County, cities
19 may face litigation. With litigation comes the high
20 cost of lawyers or numeric exceedance that we may or may
21 not be responsible for. Even with the high cost of
22 legal dispense, if we win such a lawsuit, we lose.

23 And when our already limited resources must be
24 diverted away to pay legal defenses, resources that
25 could otherwise be committed to improving water quality

1 are lost. Beyond even this, litigated solutions are
2 often inflexible, overly simplistic, and unable to adapt
3 to evolving water quality data, challenges, and science.

4 Ladies and gentlemen of the Board, I'm here today to
5 tell that you the permittees are not the enemies of
6 achieving water quality goals, but we are the bearers of
7 the weight and responsibility of achieving them.

8 Municipalities want to see water quality improved. We
9 do not want to avoid responsibility for taking steps to
10 achieve these goals, but we also want some assurance of
11 reasonable realistic modes of compliance.

12 But instead of bringing this to the table as partners
13 in discussion and partners in our mutual request of
14 improving water quality, we are treated as enemies. Our
15 mayor and the Board's legally mandated representative
16 from municipal government, Mary Ann Lutz, was forced to
17 recuse herself from this hearing.

18 Let me first state for the record that the city
19 objects to this improper and unjustified forced recusal,
20 and on behalf of the city and all municipal permittees,
21 we assert that we've been unfairly and unduly prejudiced
22 by this decision.

23 And what is the rational ex parte communications? I
24 wonder have any of you had any conversations with any
25 interested parties about the permit at some point? I

1 venture to guess, for at least a few of you, that may be
2 the case. If you have, I ask: Does that make you
3 biased? Mary Ann Lutz is and has always been
4 evenhanded, objective, and fair. What has transpired is
5 an entirely unjustified insult to her and a slap in the
6 face to all 87 municipal permittees here today. It was
7 wrong, plain and simple, and it sends the wrong message.

8 While we're on the subject of objections, the city
9 also objects to the procedure set out for these
10 hearings. As set forth in the document circulated last
11 week, we are to have a two-day hearing now to discuss
12 the permit as it is without the benefit of seeing any
13 responses to our written comments and changes to the
14 permit that may have resulted from them.

15 Furthermore, we ask that a decision on the permit be
16 delayed until after the State Water Resources Control
17 Board's November 20th workshop on the same problematic
18 receiving water body limitations language we have in the
19 permit.

20 At the very least, we ask that you consider applying
21 the opener as was discussed this morning. Instead of
22 noticing a new hearing, the next hearing is to occur at
23 one of the myriad of other items on a regularly scheduled
24 board meeting. Instead of being able to make further
25 comments on the entire permit, we are limited to making

1 comments only on those aspects of the permit that will
2 have changed.

3 First off, the fact that the permit may be changed is
4 an unforeseen waste based on prior comments might make
5 some of the comments here today a complete waste. At
6 the next meeting we will lose the ability to comment on
7 things in the permit that may have not have changed, but
8 even if the words on the page don't change, the
9 circumstances surrounding them might.

10 So not being able to comment arbitrarily robs us of
11 our ability to meaningfully comment on the entire
12 permit. It's not only unfair, it's contrary to the
13 requirements of state law and the rights of the
14 permittees. The city is happy to take steps to further
15 improve water quality, but strict numeric standards and
16 a rigid receiving water limitation provision will just
17 not be achievable 100 percent the time.

18 It's not fair or right to hold the city to things
19 that are beyond our capability and control. We can do
20 our best to patrol the streets, educate the public, and
21 place conditions on permits, but at the end of the day,
22 we cannot control each and every action of our
23 residents, visitors, and neighboring jurisdictions.

24 To hold us with such strict black and white standards
25 will result in injustices. We agree clear standards for

1 compliance and accountability need to be present in the
2 permit, the positive actions that cities are taking
3 should be recognized, and those acting in good faith to
4 implement their watershed management plans should not be
5 punished, but rather have the ability to adapt their
6 program to any patterns in water quality.

7 Thank you for the opportunity to present our concerns
8 and objections, and I request that the remaining
9 6 minutes and 53 seconds be reserved for questions or
10 cross-examination. Thank you very much.

11 MS. FORDYCE: Does anyone want to cross-examine
12 Monrovia?

13 MS. MEHRANIAN: We're moving on. Santa Monica -- no.
14 No, I'm sorry. Norwalk. You have 15 minutes.

15 MR. BRADY: Good afternoon, Ms. Chairman, members of
16 the Board. In light of the letter from the mayor of
17 Norwalk we earlier received, we respectfully request
18 that 15 minutes be reserved for cross-examination and
19 rebuttal questions at the end of the presentations.
20 Thank you.

21 MS. MEHRANIAN: City of Santa Monica, ten minutes.

22 MR. KUBANI: Good afternoon, Chair Mehranian and
23 Board members. My name is Dean Kubani. I'm the
24 director of the City of Santa Monica's office of
25 sustainability in the environment.

1 As you know, Santa Monica has a long history of
2 proactively addressing water quality issues, and we are
3 very supportive of a strong stormwater discharge permit
4 and of compliance with permit through the watershed
5 management program.

6 We have just two requests that with we'd like to
7 make. Both of these were noted by your staff and their
8 presentations earlier today, so I will be very brief.

9 First, as written, the permit identifies
10 implementation of an approved watershed management
11 program as compliance with the interim TMDL water
12 quality based effluent limitations and/or receiving
13 water limitations.

14 The City of Santa Monica requests that water board
15 add a provision to section 6C of the permit that
16 identifies implementation of approved watershed
17 management program as compliance with non TMDL water
18 quality standards such as the 303(d) list, the Basin
19 Plan, ocean plan, California toxics rule, and others.

20 Second, upon review of section 6B and attachment E of
21 the draft permit, the cities determined that the
22 potential cause for implementing monitoring and
23 reporting plan as written may be several hundred
24 thousand dollars a year, and we feel that each dollar
25 spent on monitoring is a dollar spent less on treating

1 pollutants.

2 Because of this, the city requests some flexibility
3 in -- regarding the monitoring of all the outfalls and
4 drainage areas. We would like to reduce the number of
5 locations where monitoring is required by not
6 duplicating monitoring efforts at outfalls and drainage
7 locations with similar land uses.

8 A similar argument could be made for receiving water
9 monitoring locations. With this approach, there would
10 be a substantial cost-savings to us while still
11 generating and maintaining representative monitoring
12 data we feel. Also with regard to monitoring, the city
13 respectfully requests the water board to develop and
14 provide a monitoring and reporting guidance document.

15 We feel that this document would help to provide a
16 road map to all permittees on how to best develop and
17 implement the monitoring and reporting program and would
18 ensure consistency on a regional basis.

19 It is clear from the staff presentation this morning
20 that these concerns have already been heard by staff and
21 we expect that they will be addressed in the revised
22 draft of the permit, so we thank you for that.

23 The city of Santa Monica appreciates this opportunity
24 to participate in the formation of this permit, and we
25 look forward to continuing our partnership with the EPA,

1 with the regional board, with the co-permittees, and the
2 environmental community in addressing stormwater
3 quality in the region. Thanks very much.

4 MS. MEHRANIAN: Thank you. Questions for him?
5 Cross-examinations? No? Thank you. We're moving on to
6 Vernon, and you have 15 minutes.

7 MR. WILSON: Good afternoon, Madam Chair, Vice Chair,
8 and Board members. I'm Kevin Wilson with the City of
9 Vernon. I'm the director of community services for the
10 city. The city of Vernon appreciates this opportunity
11 to comment on such a challenging, critical issue.

12 This past Tuesday, I made a presentation on the draft
13 MS4 permit to our counsel. They were alarmed to hear
14 about the potential impacts this permit will have on our
15 community. The city of Vernon, if you don't know, is
16 located approximately five miles southeast of downtown
17 Los Angeles. We're directly in the center of the county
18 of Los Angeles. The Los Angeles River bisects our
19 community.

20 The city was created as an industrial city. It was
21 founded in 1905. It has 5.2 square miles and drains
22 exclusively to the Los Angeles River. The city of
23 Vernon prides itself on providing jobs to the local
24 community and is a business hub to the region. Vernon
25 is home to quite a few name brands such as Sarah Lee

1 Bakery, Gavina Coffee, 7 for All Mankind Jeans, Farmer
2 Johns, Owens-Brockway Glass Bottle Manufacturing, to
3 name a few.

4 The city of Vernon prides itself in providing jobs to
5 the region, and we hope to be able to continue to do
6 that for the next hundred years. During the tenure of
7 the current permit, the City of Vernon has been working
8 with both federal and state agencies to improve the
9 environment.

10 This slide provides some examples of those partnering
11 that we have done in the past couple years. We believe
12 that the City of Vernon is the most regulated city in
13 Los Angeles County given the number of inspections
14 performed by the city environmental health department,
15 fire department, public works department, LA County
16 sanitation district, HOD, and federal agencies, such as
17 USDA.

18 During the tenure of the current permit -- I'm sorry.
19 In terms of public outreach and business assistant, the
20 City of Vernon has provided educational and
21 environmental compliance workshops to businesses. We
22 support a used oil recycling program and offer free
23 stainless steel catch basin markers to businesses be
24 placed on their catch basins warning that anything they
25 dump will go directly to the ocean.

1 These listed environmental activities above -- or on
2 the slide above go above and beyond the minimum
3 requirement of the current municipal stormwater permit.
4 We have installed connector pipe screens and automatic
5 retractable screens on almost all of our catch basins,
6 thus putting Vernon well ahead of the compliance
7 schedule.

8 Our commercial industrial inspection program includes
9 inspections of businesses that are in addition to the
10 facilities requiring inspection under the current
11 permit. The result: Almost all businesses are inspected
12 to identify a risk of stormwater pollution.

13 The message that we'd like relay is that contrary to
14 some -- of what some may believe, the City of Vernon,
15 like many partner cities in this region, has been and
16 will continue to expand significant efforts towards a
17 sustainable and environmentally responsible future.

18 The municipal stormwater permit is not the only MSP
19 permit you will find our city. As this slide indicates,
20 there are more than just a few MPS permits in the city.
21 These identify point sources discharged into the city's
22 drainage system. However, none of the MPS permits
23 regulates the same levels as what is being proposed by
24 this MS4 permit.

25 The tentative permit does not provide a compliance

1 standard that is consistent with other national
2 pollutants discharge (inaudible) permits located
3 statewide or within Los Angeles County. For example,
4 the general construction and industrial permits are not
5 held to the same maximum exempt practical standard as a
6 municipal stormwater permit, nor do they contain
7 numeric effluent limits as what is being proposed in the
8 tentative municipal stormwater permit.

9 To that extent, the current Caltrans permit does not
10 contain numeric effluent limits. An exceedance of
11 benchmark values in any of these permits would only
12 trigger the permittee to reevaluate their BMPs and
13 improve on them. The exceedance would not and cannot
14 create a violation of their permit.

15 However, as their discharge inevitably flows onto
16 city right of way, the city will not be afforded the same
17 leniency. The city will now own the discharge and
18 likely the violation knows that will result from it.
19 Where is the equality and fairness in the tentative
20 municipal stormwater permit?

21 Contrary to what the tentative permit assumes,
22 municipalities do not control and have a legal authority
23 over everything possible in the source of stormwater
24 pollution. We cannot control aerial deposition; we
25 cannot sterilize the buildings, streets, landscape, and

1 stormwater systems -- storm drain systems.

2 Neither can we control or sterilize a railroad,
3 school districts, the homeless, wildlife, or pretend
4 that we can catch every single discharge to the storm
5 drain system. We insist that the regional board revise
6 the tentative and for them to establish a compliance
7 standard that is consistent with not more stringent than
8 other current MPS permits established statewide and
9 within Los Angeles County.

10 The tentative municipal permit should provide
11 permittees fair and equal opportunity to achieve
12 compliance. The tentative permit proposes to establish
13 total maximum daily loads, wasteload allocations of
14 numeric effluent limits. It appears that regional board
15 staff has ignored the November 12, 2010, USEPA-issued
16 revision to a November 22, 2002, memorandum in which it
17 has affirmed the appropriateness of an iterative BMP
18 approach for improving stormwater management over time.

19 Regional board staff has also ignored the June 19,
20 2006, report by the Blue Ribbon Panel assembled by the
21 state water resources board to address the feasibility
22 of including numeric effluent limits as part of the NPDES
23 municipal, industrial, and construction stormwater
24 permits.

25 The Blue Ribbon Panel concluded that numeric effluent

1 limits are not feasible at this time. We insist that
2 the wasteload allocations be translated to water
3 quality based effluent limitations expressed as best
4 management practices and implementation of BMPs will
5 place the permittees into compliance with the WLA.

6 The state of municipalities with respect to financial
7 situation is such that numeric effluent limits would
8 thrust the permittees into further financial peril.

9 With many cities now going through unprecedented
10 cutbacks, it is imperative that the regional board be
11 sensitive to financial consequences and redraft the
12 tentative permit to hold permittees accountable to those
13 regulations that are financial feasible.

14 It's been estimated that just one TMDL may cost the
15 city up to \$2.5 million per year. This would force the
16 city to eliminate at least 30 positions. This would
17 more than likely affect public safety, public works, and
18 environmental services staff.

19 Given this, the city would not have sufficient staff
20 to to implement the permit. The city is already running
21 on fumes. In 2010, the city reduced staff and contracts
22 due to budget constrains. The city's currently -- the
23 city's general fund has projected a \$12 million deficit.

24 On September 18th, the City of Vernon held a special
25 election in an attempt to create new revenue to

1 alleviate part of the \$12 million budget deficit.
2 Unfortunately for the city, the voters responded
3 unfavorably. Without an additional source of revenue
4 for our general funding, a much larger amount of city
5 employees will be unemployed and the quality of the city
6 services will be further impaired,.

7 The city has already made significant cuts. For
8 example, the Vernon Health Department, one of only four
9 in LA -- only four in the state is operating with 40
10 less field staff.

11 The tentative permit neglects economic feasibility
12 and financial responsibility. We request that the
13 regional board acknowledge the realistic crisis that all
14 agencies are facing. The permit requirement should be
15 economically feasible and sustainable.

16 It's irresponsible to compel permittees to comply
17 with numeric effluent limits at all costs and without
18 any consideration of these storm events, magnitude, or
19 duration. Maximum extent practicable, as currently
20 defined, is not possible and may result in litigation
21 and wasted resources without any public benefit.

22 The cities recommends that an interactive adaptive
23 management process be adopted. This process of
24 implementing, evaluating, revising, or adding new BMPs
25 which seeks compliance over time with water quality

1 standards is the only viable way to move forward in
2 improving water quality in the region.

3 The City of Vernon spent countless hours drafting
4 comments that were submitted to the regional board by
5 the deadline of July 23rd. Today's time would have been
6 better spent to respond to the written comments
7 submitted to you in July and providing a forum for
8 permittees to ask staff questions.

9 At this time, we feel it's appropriate to defer the
10 adoption of the -- adoption hearing by 180 days. Two
11 pending items that have significant relevance to this
12 permit are the upcoming receiving water limitations
13 language workshop scheduled for November and the US
14 Supreme Court case regarding the County NRDC lawsuit.

15 We'd like to close by requesting, since the city has
16 been allotted only 15 minutes, that the Board review our
17 July 23rd, 2012, comment letter. There are many more
18 specific details in that letter. We hope that the Board
19 understands how critical this permit will be to our
20 city's sustainability. Thank you for your time.

21 MS. MEHRANIAN: Thank you. Moving on to Westlake
22 Village for three minutes and then we'll take a break --
23 a five-minute break. Can you hear me? We're moving on
24 to Westlake Village and then we'll take a five-minute
25 break.

1 MR. BELLAMO: LA City thanks you -- sorry. Westlake
2 Village thanks you for your time, and for the time given
3 to us, but we'd like to hold it until the end for
4 rebuttal and cross-examination. Thank you.

5 MS. MEHRANIAN: So we can take the break now? We
6 have a five-minute break. Be back by 4:15.

7 (Recess)

8 MS. MEHRANIAN: Go ahead. We're ready.

9 MR. TAHIR: First of all, I want to thank you so much
10 for granting me 30 minutes today. As some of you may or
11 may not know know, I had requested time a few weeks ago,
12 more than 30 minutes. For some reason, that request had
13 gotten lost.

14 Fortunately, yesterday I was notified that I was to
15 be given 30 minutes today. Now I don't feel like the
16 bad little boy nobody invites to parties. So thank you
17 very much. So today -- oh, by the way, my name is Ray
18 Tahir, and I represent these cities on stormwater
19 matter.

20 MS. FORDYCE: Mr. Tahir, can you actually read them
21 into the record, please?

22 MR. TAHIR: Sorry?

23 MS. FORDYCE: Can you please read the cities into the
24 record?

25 MR. TAHIR: Oh, I'm sorry. Let me back this up.

1 Baldwin Park, Compton, Duarte, Claremont, Gardena,
2 Irwindale, San Fernando, South El Monte, and West
3 Covina.

4 Okay. Two basic discussion points. One concerns the
5 adjudicated hearing and the other one requests that
6 this -- that the permit be postponed for 180 days. The
7 tentative order should not be the object of an
8 adjudicated hearing on a draft order until the regional
9 board staff has responded to previously submitted
10 comments in writing.

11 The revised permit should not be issued until staff
12 provides a compliance cost estimate, especially regarding
13 TMDLs; until staff corrects ambiguities and explains
14 unclear revisions in the draft order.

15 Until staff incorporates into the revised order the
16 protective features that are contained in the Caltrans
17 MS4 permit, which was adopted last week, and until the
18 State Board conducts its receiving water limitations
19 language workshop, which is scheduled in November and
20 that was something that was mentioned a couple times
21 earlier;

22 And until the US Supreme Court decides the LA County
23 Flood Control District versus NRDC, which was mentioned
24 earlier also will occur sometime early in December. The
25 regional board released the first draft order too late

1 in this game. Staff released a complete draft order in
2 June and gave stakeholders 45 days to review and comment
3 by July 23rd.

4 Bear in mind that this is a 500 permit-long document.
5 This is an unprecedented permit in terms of length and
6 complexity. I should point out that historically, the
7 regional board staff has provided considerably more time
8 to review and complete a draft order.

9 The Ventura permit complete draft was released almost
10 three years prior to it being adopted in 2010, and that
11 is well within the memories of Sam Unger and Aybar
12 Ridgeway. The draft order for the current permit was
13 issued a year -- I'm talking about the current permit
14 that adopted in 2001 -- was issued a year before the
15 final -- probably a little bit later than a year after
16 the final order was adopted in 2001.

17 Remember that, Ms. Diamond? We had more time to
18 review the process, more time to provide input and
19 comment. Other regional boards also provide at least a
20 year between the time the draft order is issued and when
21 a final order is adopted. Why?

22 Because permits are expensive, controversial, legal,
23 and complicated. Therefore, the permit renewal process
24 must be patient, open, and transparent, which has not
25 been the case here.

1 The adjudicative hearing is premature, despite what
2 Miss Fordyce said. An adjudicative proceeding should
3 not be -- should not be heard until a final draft order
4 has been prepared. You can't base it on a draft order
5 or the first cut of a permit.

6 Staff should not argue the point if it's legal to
7 hold an adjudicative hearing prior to the issue of a
8 revised or final draft order, but rather argue whether it
9 is right and in keeping with past practice and custom.
10 Staff needs to respond to stakeholders' comments first
11 and in writing, as it has done in the past with the
12 garbage TMDLs and the Ventura permit and the current MS4
13 permit.

14 One of the purposes of the adjudicative hearing is to
15 ask staff questions about the order. These questions
16 have already been raised, but not responded to. The ball
17 is in staff's court. It should respond to those
18 comments; otherwise, the process becomes redundant
19 without serving any real purpose.

20 It also raises the question once staff provides
21 comments, hopefully written one, will it use them to
22 revise the draft order and will it call for another
23 adjudicative hearing and will a revised order trigger
24 another 45-day review and comment period?

25 This process is unusual; goofy in fact. Staff

1 indicated that written comments would be made available
2 after the adjudicative hearing. This is backwards.
3 Permittees can't ask staff questions or cross-examine
4 staff without seeing a written response to the comments
5 picked at the draft tentative order. And there are tons
6 of comments. Tons of them.

7 Comments have to be seen, not just heard or else how
8 can you know what to ask? What are we commenting on? A
9 revision we've not seen? How do we know what the costs
10 will be in the final analysis without seeing the final
11 order? It undermines the purpose of an adaptive
12 proceeding, which is to present information to the Board
13 so that it can decide a proposed rule with as much
14 information available to it as possible.

15 But the tentative order is not final, so the
16 adjudicative proceeding is premature. We should wait
17 until the final order is ready to hold an adjudicative
18 hearing.

19 Okay. Now let's talk cost issues. Back in May at
20 the USC workshop in response to Board Member Camacho's
21 question about compliance costs, staff was unable to
22 provide a dollar amount. Staff's response, per Renee
23 Purdy, is that permittees have no difficulty paying for
24 permit costs based on annual reports.

25 Renee did not answer the question which was pegged to

1 the proposed new permit. Not the existing one, the new
2 permit that proposed to include TMDLs. The budgets in
3 the annual reports -- and I'll show you an example of
4 one in a second -- do not contain TMDL compliance costs
5 so it looks like those cities will have to comply with
6 the trash TMDL. So and the aggregate -- they are not
7 representative costs, the budget costs that were
8 reported on the annual reports.

9 Here's an annual report -- a recent annual report.
10 You'll see that, as it relates to total expenditures, to
11 comply with the stormwater quality management plan,
12 program rather, we're talking about oh, a little over --
13 we're close to \$600,000. That's without TMDLs.

14 So how much will it cost to implement the tentative
15 order if adopted today? Well, cities in the Los Angeles
16 River, San Gabriel River, and Dominguez Channel
17 compliance cost is estimated to be about oh, \$500,000
18 per square mile per year over a 20-year period. And
19 this is based on the LA River bacteria TMDL provided by
20 regional board staff. I think it was pegged at
21 \$5.6 billion over a 22-year period. This is like two
22 years ago.

23 If cities in these watersheds are tied to -- and if
24 cities in these watersheds are also tied to the cleaning
25 up of the Los Angeles and Long Beach harbors, the cost

1 would be another half a million dollars per year.
2 Actually, closer to \$600,000, but I rounded it off to
3 500,000. \$500,000 per square mile, per year over a
4 10-year period. And this is based on Dominguez Channel
5 Harbor's toxics TMDL estimated costs of \$1.1 billion
6 over a 10-year period.

7 So for a city two square miles in area, the TMDL
8 compliance cost would be \$2 million per year over a
9 20-year period. For the harbor's remediation end of it,
10 another \$2 million over a 10-year period would be
11 required. Clearly this would result in a serious
12 reduction in programs and services and could place a
13 city at risk for bankruptcy.

14 One of my cities, by the way, the City of Compton is
15 teetering on bankruptcy as we speak. And there's no
16 funding available. And even if the water quality
17 initiative fee were to be adopted, it would not be
18 enough. And the County of Los Angeles will speak to
19 that later. And if staff disagrees with this estimate,
20 the cost estimates provided here, then it should provide
21 its own estimate. We'd love to see it.

22 Now, costs can be significantly lowered if the
23 tentative order mirrors, essentially, elements of the
24 Caltrans MS4 permit, which was adopted last week; by
25 changing the compliance point from the receiving

1 water -- unless water quality standards are already met
2 there -- to the outfall and the discharges from it as is
3 the case with the Caltrans permit, allowing only BMP
4 WQBELS -- not numeric WQBELS -- as called for in the
5 tentative order. There's no justification for numeric
6 WQBELS, by the way. This was touched on several times
7 by earlier presenters;

8 Eliminating compliance of wet weather TMDL numeric
9 targets in receiving waters -- rivers, lakes and
10 oceans -- and clearly recognizing the iterative process,
11 which is, let's see what works, let's give it our best
12 effort, which applies to meeting water quality standards
13 in receiving water. And again, this is per Caltrans MS4
14 permit; and prohibiting non stormwater discharges to
15 the MS4, not from it or through it.

16 Okay. So here's a little comparison between the
17 tentative order and the Caltrans MS4 permit. A proposed
18 tentative order compliance with numeric water quality
19 based effluent limitations and/or receiving water
20 limitations is required for compliance.

21 I don't understand what that means and/or is it, you
22 know, one or the other or is it both? The tentative
23 order conditionally establishes an iterative process for
24 an adaptive -- what they also refer to as adaptive
25 natural process. That's only if you participate in a

1 watershed management plan.

2 And then the non stormwater discharge prohibition --
3 I don't know, unless it was changed. I wasn't paying
4 close attention. I -- I thought it said that the --
5 based on staff's comments that the non stormwater
6 discharges is prohibited to the MS4 in previous
7 iterations.

8 Staff indicated that the non stormwater discharge
9 prohibition would be through -- from and through the MS4
10 which exceeds federal requirements. And there's a --
11 under the current permit a draft order, there's a
12 requirement for compliance with wet weather TMDLs.

13 Caltrans permit, on other side, allows compliance
14 with BMP WQBELS. That's because the state board
15 recognized that -- and this is on the -- based a couple
16 of presidential orders adopted by the state board that
17 numeric effluent limitations are infeasible. And that's
18 something that was addressed earlier.

19 The Caltrans permit also determines compliance
20 through the implementation of stormwater quality
21 management plan. The implementation that -- the plans
22 that contain WQBEL BMPs. It also contains an
23 unconditional application of the iterative process
24 (inaudible) process, basically.

25 And the non stormwater discharge prohibition is

1 limited to the MS4, and there is no compliance with wet
2 weather TMDLs, which I'll talk about in a moment. Costs
3 can be significantly lowered if the tentative order
4 mirrors essential elements of a Caltrans MS4 permit.
5 And this is a duplicate. Sorry.

6 What I'd like to show you, and I've presented this
7 information before, federal regulations establish the
8 discharge from the outfall as the place where compliance
9 is determined by taking a sample of the flow that is
10 coming out of the outfall. It does not require
11 compliance in the receiving water. And there is a
12 reason for that.

13 The receiving water is not part of the MS4. It's not
14 part of the municipal separate storm sewer system. The
15 MS4 ends and the discharge at outfall -- in the
16 discharge. Not in the receiving water, but from the
17 outfall.

18 The tentative order appears to establish two
19 compliance points without explaining the mechanics of
20 how compliance is actually to be achieved by either one
21 of them. I should also point out -- this is not covered
22 under the Caltrans MS4 permit -- that there is no
23 reference to ambient monitoring in this permit. It
24 defers to the TMDLs which call for ambient monitoring.

25 But guess what? The definition of ambient monitoring

1 does not include wet weather monitoring because they're
2 mutually exclusive. Ambient monitoring means monitoring
3 during normal conditions. That is, when it's dry prior
4 to the mixing of dischargers from outfall. It doesn't
5 mean monitoring when it rains.

6 You know why? That's the worse possible time to take
7 the sample to determine compliance because in the first
8 six hours of the storm event, you have the highest
9 concentration of pollutants. So you'll never pass. If
10 compliance is determined by monitoring from a storm
11 event in -- especially in a raging receiving water,
12 flood control check -- it will never pass. It is like
13 taking a physical when you have the flu. You're never
14 ever going to pass.

15 Beyond that, this board, staff rather, has not
16 indicated anywhere what the legal authority is for
17 requiring compliance with a wet weather standard. So
18 are ambient. Water quality standards are ambient
19 standards. CTR is an ambient standard and not a wet
20 weather one. That's a very important distinction to
21 keep in mind.

22 Okay. Now, there's need for clarification.
23 Comments were submitted to staff asking for
24 clarification regarding ambiguous or unclear
25 requirements in the draft order. It's not clear if

1 staff intends to respond to them in writing or just
2 respond to them verbally.

3 For example, according to the LA River Metals TMDL,
4 cities in the reach of the Rio Hondo are subject to its
5 TMDL requirements, but the Clean Water Act, Section 303,
6 which is a list that determines what water bodies will
7 subject TMDLs. It does not identify this reach as being
8 impaired for metals, so it really shouldn't be subject
9 for a metals TMDL.

10 Another example. The draft order calls for a
11 compliance of TMDL numeric targets and numeric WQBELS
12 and/or receiving water limitations as mentioned a moment
13 ago. So are permittees supposed to comply with one or
14 the other or both and if some why? What's the rationale?
15 What's the legal justification?

16 So our recommendation is hold off on adopting a final
17 order until staff provides an estimate of how much the
18 permit or TMDL compliance costs will be and how
19 permittees will pay for it. There needs to be a
20 demonstration that ambiguities and conflicts in the
21 tentative order have been resolved. Example, compliance
22 with WQBELS and/or receiving water limitations or
23 compliance the (inaudible) levels in TMDLs.

24 The permit refers to complying with MALs, action
25 levels which was discussed earlier a consultant for

1 Larry Walker & Associates, and also mentions compliance
2 with TMDLs. So which ones do you comply with? Which one
3 do you comply with? Do you comply with both and if so,
4 why? That will really jack up monitoring costs. It's
5 got to be one or the other. And if it is, you know,
6 there's got to be information that will enable a
7 permittee to select the most appropriate compliance
8 option.

9 That's not being done because we haven't had a lot of
10 discussion on it. Further, staff has incorporated some
11 elements that are recently adopted Caltrans from that --
12 should adopt -- I'm sorry. Staff should incorporate
13 essential elements of the recently-adopted Caltrans MS4
14 permit, which is the template for all MS4 permits.

15 Now, Miss Spivy-Weber from the State Board, who was
16 here earlier had urged this board to harmonize the draft
17 order now being considered with a Caltrans MS4 permit.
18 I think, in a nice way, she is saying you guys need to
19 copy it. And there's a reason for that.

20 The State Board -- the State Board has superior
21 jurisdiction over the regional board. It issued the
22 permit in this particular instance. It is actually
23 articulating State policy on MS4 permit requirements,
24 particularly those that are mandated under federal law
25 and are explained in USEPA federal guidance. So it

1 makes sense to follow that permit.

2 As a matter of fact, if it comes down having to
3 petition this draft order or the final order, the
4 argument's going to be this order does not comply with
5 the Caltrans MS4 permit and the body that adopted the
6 Caltrans permit is going to be the body that's going to
7 operate in an adjudicative capacity. So it's not likely
8 they're going moonwalk on their own permit. Makes
9 sense; right?

10 So anyway, please take that into consideration.
11 Furthermore, take into account that the State board is
12 going to be convening a receiving water limitation
13 workshop and is going recommend standardized language
14 for the MS4 permits. By the way, the Caltrans MS4
15 permit contains a re-opener clause to address a change
16 in receiving water limitation language.

17 Receiving water limitation language contained in the
18 draft permit is just hokey. I mean, it's like you have
19 to comply with everything including unspecified federal
20 regulations and federal statutes. Perhaps even circa.

21 We don't know. We don't know because we've never
22 gotten responses to those questions. This is something
23 we really need to know. And we should also wait until
24 the US Supreme Court decides the LA County Flood Control
25 versus NRDC.

1 For those of you who are not familiar with this
2 particular case, the Supreme Court is going to decide --
3 well, it's going to affirm that the compliance point for
4 MS4 permits relative to water quality standards and is
5 in the discharge at the outfall. That was established
6 by the 9th Circuit. And NRDC versus LA County Flood
7 Control District. The problem with that decision is the
8 9th Circuit got confused between outfall and receiving
9 water.

10 It concluded that the harden portions of the LA and
11 San Gabriel River are basically extensions of the MS4.
12 That is incorrect and the Supreme Court is going to
13 resolve it. Absolutely sure that they are. Otherwise,
14 they wouldn't have taken it up. They wouldn't have
15 taken this issue up.

16 Okay. So questions to staff. The questions
17 regarding the draft order have already been posed to
18 staff. Please respond that to them in writing. Request
19 the regional board; please direct staff to answering
20 them in writing before the next public hearing,
21 adjudicative or not. Also, why has it rushed the permit
22 renewal process? Is it out of administrative
23 convenience, avoid some controversy, lack of experience
24 in writing permits, or what?

25 Why didn't staff begin the process sooner? They had

1 a lot of time. Let's adopt a new permit properly in
2 keeping with federal and state board precedential
3 orders. To do otherwise would compel cities (inaudible)
4 follow administrative petition with the state board, in
5 which case the permit could be returned to staff for
6 correction anyway. You know, let's deal with the
7 problem now, not later on. It will come back.

8 And we already talked about the LA -- the Supreme
9 Court review of LA County Flood versus NRDC. By the
10 way, once this decision is rendered and we have an
11 adopted permit, that permit is probably going to have
12 to -- is going to have to be reopened to comport with
13 the Supreme Court's decision.

14 So let's wait. There's no rush. There really isn't.
15 The Board can afford to wait for 180 days, by which time
16 the Supreme Court will decide case. Now, the Long Beach
17 permit, which was adopted in 1999, is more overdue than
18 the LA permit. It should have been reissued in 2004.
19 It's eight years old. Same deal with the Caltrans
20 permit, which was recently adopted. And whereas the Long
21 Beach and the Caltrans permits are eight years overdue,
22 the LA permit is really only six years overdue. So hey,
23 what's the rush? Come on. What's the rush? We've got
24 time.

25 MS. MEHRANIAN: Proceed, please.

1 MR. TAHIR: Sorry?

2 MS. MEHRANIAN: You only have a little time.

3 Proceed.

4 MR. TAHIR: You can go ahead and laugh. It's okay.

5 I've got eight minutes. Sorry. Sorry. Hey, I'm almost
6 done, but -- I think I am done.

7 The permit renewal process has not been transparent.
8 I got to get to the transparency issue because it has
9 not been transparent, Sam, as it has been in the past.
10 Releasing a complete draft order a year prior to the
11 projected adoption date should have been the case.
12 Staff avoided the cost-impact question by Ms. Camacho.
13 Staff has been unwilling to respond to requests for
14 clarifying unclear conflicting and ambiguous draft order
15 requirements.

16 I don't know what that was. Okay. Now, I'm pretty
17 much done, but I've got seven minutes left and I would
18 like to use a couple of those minutes to -- I hate to
19 use the term "cross-examine." I just want to ask staff
20 a couple of questions and it will only take about two or
21 three minutes. So I can do that later or do it now.

22 MS. MEHRANIAN: You should do it now.

23 MR. TAHIR: Ms. Fordyce, what do you think?

24 MS. FORDYCE: Yeah, you should do it now.

25 MR. TAHIR: Do it now?

1 MS. MEHRANIAN: Yes.

2 MR. TAHIR: All right. Okay. There's got to be some
3 levity in this process. Okay. WQBELS are required when
4 an exceedance of a water quality standard is detected at
5 the outfall. When did the regional board determine that
6 the WQBELS are needed based on outfall monitoring data
7 revealing exceedances of TMDLs?

8 I need to point out the water quality-based effluent
9 limitation applies only to discharges at the outfall.
10 Okay. E in WQBELS stands for "effluent." Effluent
11 applies to the discharge from the outfall. Doesn't
12 apply to the receiving water.

13 So you can't set a WQBEL unless you detect an
14 exceedance. That hasn't happened yet. I don't think.
15 But the regional board may have some data that proves
16 otherwise. If so, can it share that data with us?
17 When, on what dates, and for what pollutants were
18 exceedances detected by way of outfall monitoring?

19 Now, how does staff define ambient in ambient
20 monitoring? Ambient in this context --

21 MS. MEHRANIAN: Do you want one question asked, or do
22 you want to answer it --

23 MR. TAHIR: Oh, do you want them concurrently or just
24 one at a time?

25 MS. MEHRANIAN: One at a time. Do you want to

1 answer, Sam, and then --

2 MR. UNGER: I think we're going to have Renee answer
3 the first one.

4 MR. TAHIR: Ah, Renee.

5

6 EXAMINATIONS OF RENEE PURDY AND DEBBIE SMITH

7 MS. PURDY: This is Renee Purdy. I'm chief the
8 regional program section at the regional board. And so
9 with regard to your first question on the water quality
10 based effluent limitations, the way that the regional
11 board determined that it was necessary to establish
12 water quality based effluent limitations for MS4
13 discharges was based on the TMDL development that was
14 done.

15 It is true that there has not been outfall monitoring
16 done at a number of the MS4 outfalls, as you know, and
17 that's being included in this permit. However, there
18 are a number of ways by which you can determine
19 reasonable potential, and one of those is by looking at
20 TMDL wasteload allocations that have been established.

21 That is, TMDL wasteload allocations were established
22 based on modeling approaches and other quantitative
23 approaches that showed that MS4 discharges did have a
24 reasonable potential to cause or contribute to
25 exceedences of water quality standards and therefore

1 water quality based effluent limitations were necessary.

2 MR. TAHIR: So you haven't -- you haven't done any
3 outfall monitoring to determine if an exceedence had
4 occurred based on outfall monitoring is the answer;
5 right?

6 MS. PURDY: Outfall monitoring has not been done.
7 However, there are --

8 MR. TAHIR: Okay.

9 MS. PURDY: -- other methods to determine.

10 MR. TAHIR: That's all I needed to know. Thank you.

11 MR. STRINGER: I think, sir, with all due respect to
12 our staff, we'd like to hear the full answer to your
13 question so that we have the benefit of hearing them.

14 MR. TAHIR: I'm sorry. I'm sorry. Please proceed.

15 MR. STRINGER: Renee, could you finish because I
16 didn't hear what you said at the end there.

17 MS. PURDY: Okay. I just was reiterating that there
18 are other methods for determining what we refer to as
19 reasonable potential. And where it's found that there
20 is reasonable potential for a discharge to cause or
21 contribute to an exceedence of a water quality standard
22 in the receiving water, the the permit needs to include
23 water quality based effluent limitations to address that
24 for that discharge.

25 MR. TAHIR: But that's staff's conclusion --

1 MS. MEHRANIAN: I did not -- yeah, I did not hear
2 your response. Could you just say what you said?

3 MR. TAHIR: The reasonable potential that you
4 reference has -- I mean, I -- I can't find any reference
5 inside the law. I couldn't even find any reference to
6 it in the MPDS permit binders handbook. I mean, there
7 is a reasonable potential analysis that has to be
8 conducted; right? And that's -- that's done based on
9 outfall monitoring. But what you're coming up with,
10 Renee, is basically something that you invented.

11 MS. PURDY: I think it's very clear in the MPDS
12 permit manual --

13 MS. MEHRANIAN: Okay.

14 MS. PURDY: -- that if there is a wasteload
15 allocation from a TMDL, that it's necessary to have a
16 water quality based effluent limitation for that
17 discharge.

18 MR. TAHIR: Yeah, but you've got to determine if
19 you've exceeded that wasteload allocation. That hasn't
20 been done. That's my point, but I understand where
21 you're going.

22 MS. MEHRANIAN: Please go to your second question.

23 MR. TAHIR: Now, how does staff define ambient in
24 ambient monitoring? As I mentioned earlier, in several
25 TMDLs there's a reference to ambient monitoring. As a

1 matter of fact, for the LA River metals TMDL, an ambient
2 monitoring plant has to be submitted.

3 That's -- unfortunately, that has been interpreted --
4 ambient has been interpreted to mean wet weather
5 monitoring as suggested earlier. Wet weather monitoring
6 and ambient monitoring are mutually exclusive.

7 So how -- how does the regional board define ambient
8 monitoring? What is its definition of ambient
9 monitoring and what is it based on?

10 MS. SMITH: I think Renee and I may both weigh in on
11 this question, but ambient monitoring --

12 MR. UNGER: Speak up.

13 MS. SMITH: Yeah, ambient monitoring is typically
14 done outside the context of the permit monitoring. You
15 know, you have outfall monitoring in the permit --

16 MR. TAHIR: That's true.

17 MS. SMITH: -- and you have receiving water
18 monitoring in a permit, both of them working together to
19 determine compliance. Ambient monitoring is typically
20 used when you're going out to look at a snapshot of a
21 waterbody to see, you know, to see -- look at trends,
22 look at the state of that waterbody that --

23 MR. TAHIR: That's right.

24 MS. SMITH: -- at that moment in time, those types of
25 things. That's generally how it's used.

1 MR. TAHIR: Unfortunately, it's been interpreted to
2 have a compliance impact because the compliance
3 requirement for the LA and the bacteria TMDL is for a
4 wet weather standard, which is not an ambient standard.
5 There is nothing -- we could find nothing in federal law
6 that requires compliance with wet weather standard in
7 the receiving water. Once again, the receiving water is
8 not part of the MS4, so it's outside the scope of the
9 MS4 permit.

10 MS. MEHRANIAN: Okay. Mr. Tahir, I think we should
11 ask the question and have the answer and then, you
12 know --

13 MR. TAHIR: I agree.

14 MS. MEHRANIAN: -- the discussion can happen after.

15 MR. TAHIR: Yes, ma'am. You're absolutely right.

16 MS. MEHRANIAN: Did you get your response?

17 MR. TAHIR: I did. And --

18 MS. MEHRANIAN: I know you might not be satisfied,
19 but I just want to make sure --

20 MR. TAHIR: No.

21 MS. MEHRANIAN: -- you received a response.

22 MR. TAHIR: They don't have a definition in the
23 answer, but thank you. I got an answer.

24 MS. SMITH: I do have one thing to that as well. I
25 think you've got -- take an ambient sample in the time

1 that the waterbody's impaired and list it --

2 MR. TAHIR: That's why you have a --

3 MS. SMITH: So it obviously could show a comparison.

4 MR. TAHIR: That's true, but that's why you have a
5 surface water ambient monitoring program. They're the
6 ones who are responsible for doing that. They're the
7 ones responsible for assessing the health of receiving
8 water. Matter of fact, this is all came about as a
9 result of legislation adopted by the State a couple
10 years ago.

11 So the question is: Why do permittees have to do
12 ambient monitoring when it's already being done?

13 MS. MEHRANIAN: Okay. Thank you.

14 MR. TAHIR: Thank you very much. I appreciate your
15 time.

16 MS. MEHRANIAN: Any questions -- if you want to --

17 MS. FORDYCE: Do you have more answers?

18 MS. PURDY: May I -- may I add something to that?
19 Because what I want to say in response -- I think it is
20 in response to your question -- which is that the
21 permit -- the tentative order does not require ambient
22 monitoring. It requires receiving water monitoring and
23 the point of monitoring in an MPDS permit in the
24 receiving water is intended to look at the impacts of
25 the discharges regulated by that permit on the receiving

1 water.

2 And so it would be inappropriate to have ambient
3 monitoring. The purpose of the receiving water
4 monitoring in the permit is to actually look at the
5 language between the discharge quality and the quality
6 in the receiving waters to see what impacts that
7 discharge might be having on the receiving water.

8 MR. TAHIR: Oh, I agree with you.

9 MS. MEHRANIAN: Time's up. We can't -- yeah. Are
10 you guys done, the staff, with answering?

11 MS. FORDYCE: Yes.

12 MR. UNGER: Yes, we are.

13 MS. MEHRANIAN: Thank you, Mr. Tahir.

14 MR. TAHIR: Thank you very much. Thank you for your
15 responses, staff. I appreciate it.

16 MS. MEHRANIAN: City of Signal Hill for 15 minutes.

17 MS. FORDYCE: I'm sorry. Did anyone want to
18 cross-examine Mr. Tahir?

19 MR. WATSON: Good afternoon, Chair Mehranian and
20 members of the Board. My name is Richard Watson. I
21 will be speaking today on behalf of the City of Signal
22 Hill and will tag-team with Steve Myrter, director of
23 Public Works.

24 I will be discussing some of the technical concerns
25 that the City has identified with the tentative order.

1 I will be discussing -- excuse me. I will be discussing
2 concerns the City has related to the cost to implement
3 the new permit, based on the tentative order and our
4 concerns and suggestions regarding a proposed monitoring
5 program. I will also discuss our concerns related to
6 the prohibition and receiving water limitations
7 language, the expression of wasteload allocations for
8 TMDLs, the watershed management program, and the design
9 storm issue.

10 The tentative order, as written, would be exceedingly
11 extensive and disruptive. The City of Signal Hill, like
12 all other cities in the state, suffered a significant
13 financial blow with the loss of the redevelopment agency
14 funding. The City -- Signal Hill's redevelopment agency
15 hit -- actually budgeted over \$800,000 for this fiscal
16 year to begin to address five TMDLs that impact the
17 city.

18 The city is only 2.2 square miles. The City was, of
19 course, counting on those monies and without the plan
20 redevelopment agency expenditures, the City budgeted
21 another \$869,000 from the general fund for this year.
22 That amount already staggering for a city of only 2.2
23 square miles and 11,000 people does not even cover the
24 full TMDL implementation cost.

25 TMDL -- Signal Hill's estimated stormwater budget to

1 fully address permit requirements and TMDL
2 implementation in the next several years is
3 approximately \$1.6 million per year. And with general
4 funds, this cannot keep up with those demands. The City
5 will have to make some choices.

6 This line summarizes the fiscal year 2012/2013 budget
7 for the City of Signal Hill for the environmental
8 program that -- you will notice that the difference
9 between 2011/2012 is approximately \$211,000, which is a
10 32 percent increase in one year, and the per capita cost
11 is about \$78 dollars per person, which would be what? I
12 guess \$185 if you made it a household cost, assuming 2.5
13 people per household.

14 The new permit, we think, should really become
15 effective July 1, 2013, with the beginning of the next
16 fiscal year. That comment was made earlier by some -- I
17 think the Permit Group, and it would be consistent with
18 what the state board did for Caltrans and would help the
19 municipalities plan for the great expenditures they're
20 going to have under this permit.

21 This particular slide shows the budget for 2023 and
22 the different categories that come up in the 869,000.
23 One of the groups I want to look at is that group.
24 These are some of the technical studies that the City of
25 Signal Hill has been undertaking. The City has

1 demonstrated regional leadership by implementing and
2 enforcing the MS4 permit and has either led the charge
3 or actively participated in groups that have developed
4 these technical studies.

5 The \$427,000 for Signal Hill's portion of these
6 studies represents the largest component of the City's
7 proposed 2013 environmental program budget. And you
8 will notice their list for several TMDLs up there.
9 Those are just the beginning costs, just sort of the
10 beginning planning costs. They don't really include
11 much engineering and they definitely don't include
12 construction. When you get to that, we're talking about
13 tens of millions of dollars.

14 The City used -- excuse me. The City used KLI Kinetic
15 Laboratories as a consultant to evaluate the proposed
16 monitoring program in this tentative order. And there's
17 a letter that was submitted by the City attached in the
18 city comments, and I would urge members of the Board to
19 take a look at that.

20 KLI concluded that the monitoring program would be
21 extremely costly and could not increase the likelihood
22 of meeting Clean Water Act goals. The proposed wet
23 weather stormwater outfall monitoring that has been
24 discussed the toxicity testing requirements in
25 attachment E to the tentative order are two of the most

1 expensive elements of the proposed permit. Both of
2 these would drastically increase the cost. In addition,
3 KLI noted the toxicity identification evaluation or TIE
4 requirements would add substantial costs without really
5 providing useful information to the City.

6 The requests that regional board staff be instructed
7 to really meet with KLI and other monitoring firms to
8 improve the monitoring component. We were encouraged by
9 the staff's recommendation this morning for opportunity
10 for permittees to submit customized monitoring programs,
11 and we'll be interested to see those in the next
12 iteration permit.

13 The receiving water limitation language in the
14 tentative order is not fully consistent with the
15 language in State Board Order 99-05, and this is
16 critical. It creates a liability -- potentially
17 liability for the cities. There's a quote up there and
18 I'll read it of what 99-05 says.

19 "Permittees shall comply with discharge.

20 prohibitions and receiving water limitations through
21 timely implementation of control measures and other
22 actions to reduce pollutants in the discharges."

23 This language is what we've discussed as the
24 iterative process. However, in this tentative order,
25 the iterative process language is only included in the

1 receiving water limitations section. It should be in
2 the discharge prohibition section. And additionally,
3 within the receiving water limitation language, the
4 order should clearly state that the iterative process
5 language also applies to the cause and contribute
6 prohibition that's contained within the receiving water
7 limitations language. That is one of the problems with
8 the existing permit and this one.

9 The City agrees that permit requirements have to be
10 consistent with the assumption and the requirements of
11 WLAs and TMDLs. However, the regulations do not require
12 that this consistency be numeric. The EPA guidance
13 memos in both 2002 and 2010 clearly allow WQBELS in
14 permits to be expressed in the form of BMPs.

15 The City appreciates the staff's efforts to encourage
16 and facilitate the watershed approach. Doing so
17 supports collaboration, allows permittees to focus on
18 highest compliance priorities, and the City of Signal
19 Hill has really taken a leadership in this -- this
20 effort.

21 The City organized the 40 cities, the County, and
22 Caltrans looking at the monitoring requirements and
23 special studies for the LA River's TMDL, also organized
24 the cities in Group One -- jurisdiction Group One and
25 the LA River's Metals TMDL and the Los Cerritos Channels

1 TMDL.

2 One of the things we think this permit should really
3 do is specifically encourage regional solutions and
4 regional BMPs. We also request that -- that -- lost my
5 note. I'll go from there. That the permit be
6 structured to use the 85th percentile 24 hour storm
7 event as for both design and enforcement of water
8 quality standards.

9 The County, during this last year, has really built on
10 the work we had several years ago with the design storm
11 task force, and they present some pretty compelling
12 arguments that we should use the 85th percentile 24 hour
13 storm. Specifying this storm, I think, would help cities
14 believe that their investment in BMPs are valuable.

15 Now I'd like to turn it over to Steve. First, one
16 thing. It's really time now to adopt a design storm.
17 Thank you.

18 MR. MYRTER: Good afternoon, Madam Chair and members
19 of the Board. I'm Steve Myrter, the public works
20 director for the City of Signal Hill, and I will be
21 presenting the portion of the permit.

22 We were -- as we've stated in the past year, City of
23 Signal Hill is requesting an individual MS4 permit, and
24 this presentation is going to summarize the presentation
25 I gave to you earlier this year.

1 Of course we view this request as an opportunity for
2 the Board to work with a small community that's taken
3 seriously the responsibility to improve water quality
4 while addressing our unique circumstances. Other cities
5 have grouped together for their own reasons, and we
6 respect their decision. We hope that our decision is
7 respected as well.

8 Signal Hill submitted an ROWD application back in
9 June to 2006. And the executive officer at that time
10 replied to Signal Hill stating that it was "'proposing
11 some positive changes.'" And that staff 'looked forward
12 to working out these details with your staff during the
13 MS4 Permit reapplication process.'"

14 Absent any response from the Board, Signal Hill
15 continued to worked to design and implement new programs
16 to ensure compliance with our application for our
17 individual permit. One example: Signal Hill is at
18 90 percent trash reduction in the LA River at this
19 point, and the TMDL only requires 70 percent this year.
20 So we're -- this is one example of our successes.

21 You've seen this slide before. Just to summarize, we
22 are a small community. We have a couple unique
23 features. First of all, we're surrounded by Long Beach,
24 which makes us very unique in this county. We have the
25 Newport Inglewood fault line running right through our

1 city, which gives us some very unique geology or
2 geography -- geology I should say.

3 Surface drainage to both the LA River and Los Cerritos
4 Channel; 85 years of oil production and exploration;
5 and we are currently also producing oil in our city
6 within our boundaries about a million barrels a year
7 annually. This is a three dimensional topography map
8 and what it shows is how the Newport Inglewood fault,
9 which is the red line running right through the middle
10 of our city has created a ridge, and this creates a
11 situation where runoff either goes to the north or the
12 south of our City, and over and off from outside our
13 jurisdiction of our city because of this particular type
14 of topography. And we also have a retention structure
15 that collects almost half our flow as well.

16 This picture speaks for itself. We're known for our
17 oil production from the '20s and on into this day. This
18 has left a legacy of contaminated (inaudible) we're
19 still dealing with today. Because of this, the actual
20 Los Angeles County Sanitation District actually created
21 a special boundary for us to serve our city. It's
22 District 29. It's out of the city boundary, which is
23 unique. There's no other county -- no other city in the
24 county that has that. Again it was partly created to
25 deal with the oil legacy.

1 Another example of our topography, our boundary's in
2 yellow. It just shows elevation changes. This is
3 something on both the City's oil legacy and unique
4 geology, creates a need for an individual MS4 permit,
5 and individually tailored stormwater programs. Of
6 course we have decades of oil production and
7 contamination. As a result, stormwater leaves our
8 boundaries, drains into Los Angeles/Los Cerritos
9 Channels through Long Beach.

10 The regional board planning on issuing an individual
11 permit to the City of Long Beach. The individual permit
12 will be more responsive to the unique issues confronting
13 Signal Hill. Since the 2006 letter from the Board, City
14 Counsel directed preparation for the stormwater quality
15 master plan. Signal Hill has installed eight trash
16 units in our major retention structure, one of the first
17 of its kind, and we have installed 134 catch basins,
18 screens for trash TMDL.

19 We've implemented SUSMP, LID, installed CDS units on
20 dozens of our developments. National Academy of Science
21 has recognized one of our facilities as a leader in
22 terms of its -- its effectiveness. And continuing, our
23 city has submitted a monitoring plan with our ROWD back
24 in 2006. The City has budgeted monitoring program and
25 installation of two samplers in our budget this year for

1 this new permit coming up. We've anticipated those
2 costs.

3 The City is designing a wet weather diversion program
4 for LA River and bacteria TMDL. We've feel that's a
5 critical project to meet that TMDL. We will continue to
6 be a leader. If a new individual permit is issued, we
7 will continue to be a leader in the county. Of course
8 these are the TMDLs we are either participating in or
9 leading in.

10 Signal Hill does not choose to be included in the
11 systemwide permit. The City has unique legacy issues,
12 unique facilities, unique topography which requires
13 specific programs. The City is proposing a robust
14 monitoring program. The City does not want a "top down,"
15 "one-size-fits-all" systemwide permit being proposed.

16 The City looks forward to working with the Board, the
17 City of Long Beach, and the Flood Control District in a
18 collaborative process to obtain our individual permit.

19 And with that, I want to thank you for this
20 opportunity, and that concludes my report.

21 MS. MEHRANIAN: Thank you. Claremont, 15 minutes.

22 MR. MONET: Good evening Madam Chair, members of the
23 Board. My name's Andre Monet. I'm appearing on behalf
24 of the City of Claremont. We've heard a lot today about
25 the various very complex issues with this permit and I

1 think I'm glad to say that we just have one discrete
2 issue, or at least I have one discreet issue to talk
3 about.

4 As you are probably aware, as I know you're aware,
5 that portions of the City of Claremont and the City of
6 Pomona that are within the jurisdiction of the Los
7 Angeles Regional Board drain to the Santa Ana River
8 watershed, and specifically the middle of the Santa Ana
9 River watershed. And the Santa Ana Regional Board, who
10 was has the majority of the jurisdiction over that
11 particular watershed, it has issued a bacteria TMDL for
12 the middle of Santa Ana River and Claremont and as well
13 as the City of Pomona both have been named on that TMDL.

14 And the City of Claremont, in particular, is very
15 concerned with how that TMDL has been incorporated into
16 this draft permit, and basically the wasteload
17 allocation -- numeric wasteload allocation from the
18 Santa Ana Regional Board's TMDL has been incorporated in
19 this region's draft permit as a water quality based
20 effluent limitation -- numeric effluent limitation.

21 And the concern is that Claremont has within that
22 particular one that it's entirely inconsistent with the
23 way that the Santa Ana Regional Board is treating that
24 TMDL. And two, that the regional board -- this regional
25 board is adopting and incorporating the TMDL that it

1 hasn't developed itself.

2 And so a little background on the -- on the Santa Ana
3 River TMDL is that it was adopted in 2005 and has a
4 compliance timeline of 2015 for dry weather and 2025 for
5 wet weather. And what's critically important about it
6 is it incorporated its own implementation plan, and that
7 implementation plan was a BMP based plan. And so it
8 relied specifically on source evaluation to start and
9 was recently incorporated with the Riverside County and
10 San Bernardino County municipal stormwater permits. It
11 has a comprehensive bacteria reduction plan now that is
12 the water quality based effluent limitation.

13 And so again, contrast that with hardened numeric
14 effluent limit that's been incorporated in this permit.
15 And the City of Claremont obviously has concerns about
16 that because of this treatment and because of its
17 efforts to participate in the Santa Ana Regional Board's
18 TMDL efforts, but also because of the issues of this
19 board adopting this TMDL or at least incorporating the
20 numeric effluent limits for the wasteload allocation
21 TMDL into this permit.

22 So to resolve this situation, we've been in contact
23 with your staff as well as the staff of the Santa Ana
24 Regional Board, and we believe we have a solution under
25 which the Santa Ana Regional Board would regulate

1 discharges of bacteria to the Santa Ana watershed, and
2 we have a support having spoken to the counsel for the
3 Santa Ana Regional Board recently as well as Santa Ana
4 Regional Board staff. We believe we have their support
5 and enter into an agreement under Water Code Section
6 13228 that would allow for that kind of regulation.

7 We are working your staff and hopefully we have their
8 support to go in that direction as well. We need more
9 time obviously to work that out. So our request for this
10 board is that we remove the wasteload allocation and the
11 numeric effluent limit that's been applied to the City
12 of Claremont based on that middle Santa Ana River
13 bacteria TMDL, remove that from this permit and allow us
14 to continue to your work with your staff to continue to
15 develop (inaudible). Thank you.

16 ME. MEHRANIAN: Thank you. We have City of Pomona
17 for 15 minutes.

18 MR. GRIGSBY: Good evening, Chair and Board members.
19 We appreciate the time you've spent listening to the
20 testimony today. My name is Darryl Grigsby. I'm the
21 public works director of the city of Pomona.

22 You heard earlier today from our council member
23 Danielle Soto. In the interest of time and the in depth
24 testimony that the other cities have given and the LA
25 Permit Group, a lot of the individual concerns that the

1 City of Pomona has that were articulated in our
2 July 23rd letter, we concur, of course, with items of
3 the LA Permit Group relative to particular issues.

4 I won't go through those details, but I will just hit
5 on a few items that are particular to the City of
6 Pomona. And I understand I have 15 minutes, and
7 whatever time I have left, I guess I'll give to the LA
8 Permit Group should they need it for cross-examination
9 at another time.

10 I just wanted to discuss a couple issues related to
11 process, and this goes back hours ago. We talked about
12 this open and transparent process, but I just wanted to
13 comment on some of the statements that were made earlier
14 because I've been holding it in since 8:00 a.m. this
15 morning and I feel compelled to talk about it.

16 There were statements made to the Board from counsel
17 and staff about the process being open and transparent.
18 And if I were a staff member and was doing my best, I
19 would probably make that same claim if in my heart of
20 hearts that was what I was trying to do. However, I
21 would only offer that an open and transparent process
22 should be judged by the customer ultimately and not by
23 those who are implementing it.

24 I mean, it would be sort of ironic if everybody who
25 put on a process is open and transparent and those who

1 were supposed to benefit from it felt it wasn't. And I
2 can just tell you, from the City of Pomona's perspective,
3 the process was not open and transparent.

4 The second process issue I wanted to issue was
5 regarding the departure of Mary Ann Lutz. And I'm not
6 familiar with all the details of it, but all I will say
7 is that my perspective of people being assigned to
8 boards, they represent a particular interest based on
9 certain classification category and asked to represent
10 that interest and also, at the same time, to transcend
11 that and represent the good of the whole.

12 And that's why you have boards that are made up of
13 different representatives and classifications. And in
14 this case, by not having a person who is from a municipal
15 government, I just find it a bit ironic that the permit
16 holders of these permits will be cities and yet the
17 person who was representing that category is no longer
18 here. For whatever reason that's the case, it just
19 strikes me as somewhat odd.

20 And secondly, in terms of the City of Pomona's
21 interests since we are as far east as we are on the
22 eastern border of the county, when you walk a few feet
23 east in Pomona, you're in San Bernardino County. And it
24 just strikes me as a bit troubling that when you look at
25 the makeup of the residents and the remaining members of

1 the Board, the most easternmost city is Los Angeles.
2 And even Monrovia, when we're in Pomona, we see Monrovia
3 as being twenty miles to the east.

4 And so I just feel the preponderance of west side
5 interests does not have to me enough of a resemblance of
6 Pomona in location of geography. That's just an
7 observation I would make about the process.

8 The one other thing, there's -- there's particular
9 issues that I did want to mention but I won't in detail,
10 but there are only just two of them. Again, support the
11 comments that the LA permit group made and the other
12 interest that we have was articulated by the City of
13 Claremont.

14 And that is, as he articularly pointed out,
15 Claremont and Pomona are about half and half in the San
16 Gabriel River and also the middle fork of the Santa Ana.
17 And -- and a proactive fashion, the City of Pomona and
18 Claremont have been working together to develop a
19 destination agreement whereby, as he pointed out, region
20 eight would regulate the actions of both Pomona and
21 Claremont as it relates to the middle of the Santa Ana
22 River.

23 And so we would just ask the Board to strongly
24 consider that as we feel a blanket overlay that takes
25 place in the LA County wouldn't suffice for the

1 particular conditions on that river. So we would urge
2 the Board to do that.

3 And then the last point I wanted to make is relative
4 to economic considerations. And this is a point I feel
5 strongly about because you, your staff, and the EPA have
6 told you today that this does not constitute an unfunded
7 mandate. And I guess regardless of the detailed meaning
8 of that term, as a public works director who has to
9 implement any program that the counsel directs,
10 regardless of whether you call it an unfunded mandate or
11 not, my thought is if I'm directed to do an activity and
12 I have no more money to do it, then that constitutes an
13 unfunded mandate regardless of whether or not a person
14 from the EPA or staff says -- it says otherwise.

15 Particularly next July and every July following in
16 the foreseeable future, when we're cutting our budget,
17 including handing out layoff notices, closing our
18 library, there will be nobody from the EPA or the
19 regional board to put in context that this was or was
20 not an unfunded mandate. That's something that the city
21 will have to bear alone.

22 Councilmember Soto mentioned that sooner or later,
23 that is, that economists and our bond rating agencies
24 have said that Pomona is one of those California cities
25 that is most likely to go bankrupt, which is something

1 that we take seriously because since a neighbor 20 miles
2 to the east of us, San Bernardino, already has. And if
3 you look at the demographics relative to cash reserve
4 and income of the population, we have a lot of
5 similarities with the city of San Bernardino. So we
6 take seriously the possibility of bankruptcy.

7 And in recognition of that, in the last couple of
8 years, the city has cut 200 staff, closed fire stations,
9 reduced benefits, frozen salaries, cut our library hours
10 down to 20 hours, which it is right now, per week, and
11 every employee is on a ten percent furlough. And all
12 those actions are still not enough as next year we still
13 face a \$5 million deficit.

14 We have three tax measures on the November ballot
15 and those are only to avoid future additional reductions
16 and not to even restore anything left. So I just say
17 all that to say that all the talk about whether it is an
18 unfunded or funded mandate or not, the reality is for a
19 city like Pomona with the demographics and cash reserves
20 that we have and the choices that people have to make,
21 it is certainly something that we cannot afford as of --
22 as of this point in terms of many of the details in the
23 permit.

24 So for example, if I were asked to implement the
25 things that I know would be on Pomona's plate relative

1 to this permit right now, the recommendation that I'd
2 have to make to our city council is their choice is they
3 can turn off 7,000 of our streetlights or stop watering
4 28 of our parks or they can stop maintaining city
5 buildings and police cars, or they can do some of the
6 things that are in this permit.

7 Those really are the harsh realities of that
8 situation, so regardless of what the chart said about
9 willingness to pay and regardless of what other have to
10 say about unfunded mandates, those are the realities of
11 the situation that we face right now.

12 And so with that, I just wanted to conclude by saying
13 that we do have, as Councilmember Soto -- she's
14 mentioned she's the chair of our environmental
15 stewardship committee, and I would say per capita, the
16 city has done quite a bit in terms of its desire to
17 implement a green strategy. I believe per employee, per
18 dollar, we've done quite a bit to do that. And I won't
19 go through the list of things that we have done, but
20 they are significant I believe.

21 But I do want the Board to strongly consider the
22 economic realties that cities like Pomona face because I
23 don't believe we are alone. Those are real choices that
24 we have to make. And in fact, I would say as of last
25 July, had we not reduced the library rate on 20 hours or

1 closed the fire stations as we did, the city would be
2 going through bankruptcy right now.

3 And so those are the real situations and choices
4 that we do not minimize. We do hold strongly our
5 environmental ethic, but as Councilmember Soto pointed
6 out, we are 40 miles from the beach and 25 percent of
7 our residents are below the poverty line, which is
8 \$42,000 for a family of four and this is -- in addition
9 to being a public works director in the city of Pomona,
10 I also live there. And I know what kind of struggles
11 that the people have.

12 And so it just strikes me as somewhat troubling when
13 there's an emphasis by people who have access to
14 decision makers and attorneys and other levels of power
15 and things like that, when they have access to those
16 things, they push for a level of financial commitment
17 from people who don't have that same access and who
18 won't be enjoying some of the same benefits.

19 So I just -- I just would encourage you to consider
20 the real demographic and the situation that many of the
21 people who reside in the City of Pomona in terms of
22 where they live and how they live, what their issues are
23 and the struggles that they have. Just as the public
24 works director and as Councilmember Soto stated from
25 her role as council member, those are the real choices

1 we have to make.

2 So we would just ask you to consider those and I
3 don't want you to take any of those comments that say
4 that we're not seriously concerned about the environment,
5 because we are. And I can take you on a tour to show
6 you evidence of that. But thank you for your time and
7 attention.

8 MS. MEHRANIAN: Thank you. Are there minutes-- can
9 he give his minutes to the LA group back here?

10 MS. FORDYCE: It's within the Board's discretion.
11 It's not automatic.

12 MS. MEHRANIAN: How much was left?

13 MS. FORDYCE: Five minutes.

14 MS. MEHRANIAN: Yeah, I think we should give it to
15 the LA Group later. We have two more testimonies, one
16 from Los Angeles County Flood Control District that
17 requested an hour and a half, which you're using only
18 one hour, right? Right now and then later on saving
19 the half hour for later.

20 And after that, we'll have Mr. Gold who cannot come
21 back tomorrow being the last testimony for today. At
22 6:30 they're turning off the air conditioning -- so at
23 6:00. I'm sorry. So we're going to be a half hour
24 without the air. I just didn't -- where did everybody
25 go?

1 MS. EGOSCUE: For purposes of the record, my name is
2 Tracy Egoscue. I will give you a card in just one
3 moment. I just want to clarify the time. It is our
4 intention to only use an hour and to reserve 30 minutes.
5 That is our intention. We would like you not to hold us
6 strictly to that.

7 MS. MEHRANIAN: Okay.

8 MS. EGOSCUE: Thank you.

9 MS. MEHRANIAN: Very good. Thank you.

10 MS. FARBER: Thank you. Good evening. Thank you
11 Chair Mehranian and Board members. I'm Gail Farber.
12 I'm the director -- public works director for the
13 Los Angeles County Department of Public Works. In that
14 capacity, I also serve as chief engineer of the County
15 Flood District.

16 I want to thank you for this opportunity to -- to
17 present today. I'll be brief and then turn it over to
18 staff. The comments that we will be delivering for you
19 are in support and also supplement the comments provided
20 by member -- board of supervisors read into the record
21 this morning. And on behalf of the County of Los
22 Angeles, the Department of Public Works, and the County
23 Flood Control District, we're here to share in the
24 Board's mission of preserving and enhancing the quality
25 of the region's water quality resources.

1 The Flood Control District and the County have
2 demonstrated our commitment -- continued commitment to
3 improve the quality of surface waters throughout the
4 County was the Irwin process with our stakeholders.
5 It -- the Irwin process, as you know, has been an
6 uncompromising approach to manage water resources
7 through a collaborative and sustainable approach, a
8 multi-benefit approach.

9 In addition, as you're aware, the County and -- and
10 the Flood Control District has proposed a clean water,
11 clean beaches measure that's vital for a sustainable
12 funding source if we are to fund and actually carry out
13 all these regional Irwin efforts towards water quality.

14 And while the County Flood Control District and the
15 County staff have been working with the regional board
16 staff since May 2001 to renew the permit, the key --
17 there are key issues that remain unresolved that must be
18 addressed in order to develop optimum solutions that are
19 mutually agreeable to all our stakeholders.

20 However, I think as many people commented, this
21 process and the allowed time for comments on this draft
22 permit have not been transparent and are insufficient
23 for all our stakeholders to provide adequate feedback
24 especially in light of the permit's complexity and its
25 length.

1 The drafting of the permit is a significant
2 opportunity to change and to accelerate traditional
3 thinking about stormwater management in ways that
4 expand benefits to the public and the environment by
5 creating incentives for permittees to collaborate and
6 act in a more integrated, interdependent, and a regional
7 approach to managing our stormwater quality and water
8 resources in the region.

9 So the next permit is a chance to help guide each
10 permittee toward comprehensive and regional watershed
11 program that improves our water quality, increases
12 stormwater reuse opportunities, and emphasizes maximizing
13 water supply benefits.

14 This really is also a leadership opportunity for all
15 of us to work together to develop a creative and
16 innovative and collaborative model for not only the
17 County, but for the rest of the state and other states
18 that's going to serve as a progressive and modern
19 example for integrative collaborative and sustainable
20 water resource management and account ability.

21 So I'm here before you to ask that we take this time
22 to get it right. And our collective success, I believe,
23 depends on this. I'm now going to use the rest of our
24 time to turn it over to public works staff and Gary
25 Hildebrand's staff to deliver the rest of the

1 presentation. Thank you.

2 MR. HILDEBRAND: Thank you, Gail. Good evening,
3 Chair Mehranian, Board members. My name is Gary
4 Hildebrand, and I'm assistant deputy director with the
5 LA County Department of Public Works here on behalf of
6 the Flood Control District and Los Angeles County.

7 The County and District have invested significant
8 resources over the years to protect and improve water
9 quality. We have met the requirements in the current
10 permit and in many instances have taken voluntary
11 actions over and above permit requirements to improve
12 water quality.

13 During our presentation today, we will talk you
14 through the highlights of those efforts from the last
15 ten years and discuss an alternative multi-benefit
16 approach for moving forward. Including myself, the
17 others involved in the presentation today will be Miss
18 Tracy Egoscue, legal counsel for the County and the
19 District, along with Mark Lombos, an engineer with the
20 County. Now I'll turn it over to Tracy.

21 MS. EGOSCUE: Good afternoon, Chair Mehranian,
22 members of the Board. My name is Tracy Egoscue of
23 Egoscue Law Group. And I'm here today on behalf of Los
24 Angeles County and the Flood Control District.

25 The County and Flood Control District would like to

1 thank the regional board staff for their time and
2 efforts developing a draft permit for this board to
3 consider. As is reflected in our comment letter
4 submitted to this board, the County and Flood Control
5 District has several issues with the current tentative,
6 and we suggested an alternative approach, which we would
7 like to have reflected in a new revised tentative and
8 which we will also briefly discuss today.

9 Before we discuss the merits of the alternative
10 approach, as Gary said, he is going to discuss the
11 County and Flood Control District's water quality
12 program and the absolute extraordinary efforts that have
13 resulted in water quality benefits throughout the
14 region.

15 At the outset, please note for the record that we
16 would like to reserve any remaining time, which we expect
17 to be around 30 minutes, for any necessary rebuttal or
18 cross-examination. Thank you. I will now turn it over
19 to Gary.

20 MR. HILDEBRAND: Thank you, Tracy. What I'd like to
21 do first is a retrospective look back at the last ten
22 years and present to you the key proactive efforts
23 implemented by the County and the Flood Control
24 District. There has been significant progress made with
25 many of the programs, activities, and projects going

1 beyond the minimum requirements of the permit.

2 Over the years, there's been growing interest and
3 recognition of the benefit of low impact development to
4 water quality. Recognizing the benefits, the county
5 board of supervisors adopting an LID ordinance that
6 became effective January 2009. Various stakeholders
7 from private industry and environmental organizations
8 were involved in the development of the ordinance and
9 subsequent technical guidance manual including the NRDC,
10 Heal the Bay, the building industry, and Newhall Land
11 and Farming.

12 The LID ordinance applies to both private
13 development and public development improvement projects.
14 The County currently requires new development and
15 redevelopment projects to include LID elements. To date,
16 over 370 projects have incorporated features such as
17 porous pavement, bio-retention, infiltration basins,
18 cisterns, vegetated swills.

19 The county LID ordinance has been a model; it's been
20 adopted by a number of other cities throughout the
21 county including La Mirada, Artesia, Irwindale,
22 Commerce, and Rolling Hills Estates. To further our LID
23 efforts, in June 2011, the County developed green
24 infrastructure guidelines for the design and operation
25 of road and flood projects.

1 The negative impacts of plastic bags on our flood
2 control system and receiving waters is a major issue.
3 In November 2010, the county board of supervisors adopted
4 an ordinance to prohibit the distribution of plastic
5 bags in county and incorporated areas. Los Angeles
6 County is among the first municipalities in LA County to
7 have adopted such a ban. The ordinance became effective
8 in July 2011 and is reducing a major source in trash in
9 receiving waters and it's become a model for other
10 cities to use. Several cities have followed and adopted
11 similar bans including the city of LA this past year.

12 The plastic bag ordinance has been a great success.
13 As you can see, over 2.2 million plastic bags are no
14 longer used in county and incorporated areas. There has
15 been a significant drop in paper bag use also. Over
16 all, we estimate a 95 percent reduction of single-use
17 carryout bags from the information that we have
18 collected.

19 To further our proactive voluntary efforts, the
20 county board of supervisors has also banned Styrofoam
21 food containers at all county operations. This includes
22 county facilities, county offices, county-managed
23 concessions, and county food and beverage suppliers at
24 county permitted and sponsored events. This is other
25 successful method for reducing a source of trash.

1 We are also exploring ways to expand this effort for
2 an even larger impact. In addition, we have recommended
3 to the board of supervisors that it pursue a Styrofoam
4 prohibition statewide and partner with industry to
5 develop and promote a program for litter reduction.

6 Now, I would like to turn your attention to source
7 control. Studies have shown that copper in brake pads
8 is a major source of stormwater pollution. In fact, the
9 vast majority of copper in stormwater is from vehicle
10 brake pads. However, most of the copper in the
11 stormwater is in its dissolved form and not attached
12 particles.

13 Traditional BMPs cannot very effectively remove
14 dissolved copper. This left the county and
15 municipalities with no real cost-effective options at
16 the local level to deal with this issue. Therefore,
17 the county along with other municipalities, public and
18 private organizations, through consortium known as the
19 Brake Pad Partnership, pursued state legislation to
20 reduce copper content of brake pads.

21 SB346 was successfully signed into law in
22 September 2010. This law requires the reduction of
23 copper in brake pads over 15 years with meeting that
24 deadline by January 1st, 2025. This is a true example
25 of effective source control over a successful

1 collaboration of industry, environmental groups,
2 stormwater management entities, and regulators.

3 Another of the efforts undertaken by the County as
4 part of our improvements to infrastructure, the County
5 has rehabilitated 127 miles of sanitary source
6 throughout the county and incorporated area. This
7 includes all 11 sewer lines in Marina del Rey. This
8 results in reduced sanitary sewer leaks, which could
9 impact storm drains and receiving waters.

10 The County and the Flood Control District have also
11 implemented an award winning public education program.
12 The program is highly collaborative and has included
13 partners such as schools, Caltrans, Heal the Bay, Treat
14 People, and involved numerous media outlets. The
15 program consistently exceeds the permit requirement of
16 thirty-five million media impressions annually,
17 reaching as high as 632 million annual impressions.
18 The program elements have included public service
19 announcements, billboards, radio spots, video, print
20 ads, outdoor bulletins used motor oil recycling, and
21 sponsoring of community events.

22 This is an example of some of the educational
23 elements that have been utilized at part of the program
24 through our motor oil program and environmental
25 education in the schools.

1 Moving on to our water quality monitoring program.
2 We realize that monitoring is a crucial part of a
3 stormwater program. It is used to characterize pollutant
4 loads and levels, find sources, and where to target
5 water quality measures.

6 We have initiated a pilot program to expand and
7 enhance the monitoring beyond what's required in the
8 permit. This program includes a modification of five
9 existing mass emissions stations and six new
10 installations of tributary monitoring sites in five
11 watersheds. The improvements will allow realtime
12 monitoring of basic parameters such as temperature, pH,
13 turbidity, dissolved oxygen, and flow.

14 The system will provide realtime monitoring of each
15 station to ensure optimum operation. We began this
16 planning for these improvements back in '09 and expect
17 them to be operational by 2013. The County has also
18 been proactive in funding scientific studies to better
19 assess pollutant sources and runoff.

20 In 2007, the County funded a study at a cost of
21 \$1 million to identify the source of bacteria at the
22 mouths of the our Ramirez and Escondido Creeks. The
23 scope of the project was cooperatively developed with
24 many stakeholders including the regional board, Heal the
25 Bay, the City of Malibu, SQUIRT, and others. Results of

1 the study concluded that county incorporated sources in
2 each creek were not a source of bacteria, and the
3 investigation has not revealed any anthropogenic
4 sources.

5 Several years ago as we saw the -- the rapid
6 adoption of numerous TMDLs throughout the County, we
7 realized there's a need for a state-of-the-art computer
8 model tailored to Los Angeles County that can be used
9 for stormwater management and BMP planning. At a cost
10 of \$2 million, the Flood Control District voluntarily
11 spearheaded the development of a state-of-the-art
12 computer model. It is based and built on previous
13 models utilized by USEPA in the development of TMDLs.

14 This model simulates the hydrology and hydraulics
15 of the watersheds within LA County and calculates
16 pollutant loadings in the watersheds. It's also able to
17 identify the timing, number, and size of BMPs needed to
18 reduce pollutants. This model has been recognized
19 nationally and has been presented at numerous national
20 conferences including ASCE, APWA, and many other
21 technical conferences.

22 The model itself was developed with input from a
23 technical advisory committee that included the Santa
24 Monica Bay Restoration Commission, the Rivers and
25 Mountains Conservancy, USEPA, and regional board staff

1 along with representatives from a number of cities. The
2 model has been used successfully in developing TMDL
3 implementation plans such as the plan for the LA River
4 Metals TMDL.

5 As part of its participation in the model
6 development, EPA contributed 100,000 for pilot analysis
7 of three-square mile watershed. EPA has been very
8 pleased with the results of the model and has actively
9 promoted it as an effective tool for TMDL planning and
10 implementation.

11 One of the first efforts the model was used for was
12 to identify an appropriate design storm or use in BMP
13 planning and design. The design storm is an important
14 concept in stormwater management. This concept
15 involved the edification of a storm of specific size and
16 intensity for use in the design of stormwater controls
17 not only to achieve stormwater quality stand orders, but
18 also balance costs along with pollutant removal
19 efficiency.

20 In 2005, the regional board convened a wet weather
21 task force comprised of key stakeholders to address the
22 most important issues related to achieving water quality
23 standards during wet weather. One of those being the
24 development of a design storm standard for water
25 quality. Unfortunately, the wet weather task force was

1 not able to complete its work to identify a design storm
2 due to funding issues.

3 In turn, the Flood Control District agreed to take on
4 the task and work with its technical advisory committee
5 utilized for the model to identify an appropriate design
6 storm. The results of that analysis is on the slide
7 before you. The graph plots the total cost of BMPs
8 needed throughout LA County to comply with all the TMDLs
9 expected in the new permit against various size storm
10 events.

11 As can be seen, the most optimum storm size is the
12 85th percentile storm event. In other words, this size
13 storm would provide for treatment on average 85 percent
14 of the storm events that occur in the county in the
15 typical season. Next, I would like to discuss some of
16 the structural BMPs that have been implemented by the
17 County and the Flood Control District over the length of
18 the permit.

19 In order to reduce the bacteria levels in Santa
20 Monica Bay due to dry weather flows from storm drains,
21 the Flood Control District evaluated its storm drains to
22 identify those that would be benefit from the
23 installation of a low-flow diversion. Over the years,
24 the Flood Control District has constructed 20 low flow
25 diversions throughout the Santa Monica Bay.

1 The additional 15 low flow diversions have been
2 built and are operated by the various cities in the bay.
3 The Flood Control District is strongly committed to
4 continue the operation of its low flow diversions and
5 has spent over \$25 million during the last ten years on
6 the design, construction, and operation of the low flow
7 diversions.

8 Moving to the Long Beach area. Beyond Santa Monica
9 Bay, the Flood Control District has worked with the city
10 of Long Beach on three low flow diversions with the deal
11 with water quality concerns in the Alamitos Bay. Two of
12 these are operated by the city and one by the Flood
13 Control District. Further, the Flood Control District,
14 in February 2012, completed a major project to relieve a
15 regional flooding issue in Long Beach. At a cost of
16 \$36 million, the Termino Avenue Drain Project

17 Included the redirection of a major portion of storm
18 flows away from the Colorado Lagoon to improve lagoon
19 water quality. In cooperation with the City of Los
20 Angeles, the project also included the installation of
21 catch basin screens and filters and a low flow diversion
22 on an existing storm drain which drains into Colorado
23 Lagoon.

24 So basically how does a low flow diversion work?
25 Well, basically the dry weather flows in the storm drain

1 are diverted out of the drain through the construction
2 of berms or some other device in the drain to redirect
3 those flows out of the drain into a trash well where
4 trash and debris is captured prior to a low flow
5 diversion pump in a pump well, which then in turn pumps
6 that flow into the sanitary sewer.

7 So how successful have we been with the low flow
8 diversions? Well over the past six years, there's been
9 a dramatic decrease in bacteria exceedences at locations
10 served by a low flow diversion. Heal the Bay's recent
11 report card cites water quality improvement projects
12 such as new storm drain infrastructure, local diversion
13 improvements and the Marie Canyon treatment facility
14 which we'll discuss in a few moments, as having
15 contributed to having drastically improved grades.

16 According to the recent 2012 end of summer beach
17 report card from Heal the Bay, 87 percent of LA County
18 beaches and 94 percent of Santa Monica Bay beaches
19 received an A or B grade. As mentioned earlier, the
20 Flood Control District is committed to continued
21 operation of its low flow diversions. We are
22 continuously looking for ways to improve the operation
23 and efficiency of these diversions.

24 We have recently implemented a pilot program into
25 install telemetry system to improve the operational

1 monitoring at the low flow diversions and to increase
2 their operational efficiency. This project has been
3 successful and we have plans to expand that to many
4 additional sites.

5 One flood control storm drain identified as having
6 dry weather water quality issues is located at Marie
7 Canyon in Malibu near the -- near Pepperdine University.
8 Unfortunately, there is no sanitary sewer system in this
9 area so the traditional low flow diversion would not
10 work.

11 Therefore, the Flood Control District elected to
12 install a UV treatment system to treat dry weather
13 flows. This is a very complex state-of-the-art system
14 which had not been used under such conditions in the
15 past. Operating this plant has been a true learning
16 process for us over the years. The tributary watershed
17 burned shortly after installation of the treatment
18 system and -- resulting in high tributary levels, which
19 severely affected the plant's operation. Also, pumping
20 capacity had to be adjusted as a better understanding of
21 the dry weather flow pattern emerged over the succeeding
22 years of operation.

23 To date, the Flood Control District has spent
24 1.3 million on the installation and over \$600,000 on ONM
25 at this particular location alone. The system is now

1 fully operational and we are happy to report that this
2 beach received an A grade in Heal the Bay's recent end
3 of summer report card.

4 The implementation of trash TMDLs has been successful
5 and is routinely pointed to as a model for success.

6 This TMDL is the first to use a BMP-based approach to
7 demonstrate compliance with water quality standards.

8 The Flood Control District took its lead to design,
9 evaluate, and certify catch basin retrofit devices that
10 are now used by municipalities throughout LA County.

11 This BMP approach lets engineers design smart
12 solutions to improve water quality and demonstrate
13 compliance. The County is well ahead of schedule in
14 installation of retrofit devices and catch basins in
15 various watersheds. Within the LA River watershed, the
16 target in the TMDL is 70 percent compliance by
17 October 2012. We are already over 80 percent in
18 compliance.

19 For Ballona Creek, the requirement is an 80 percent
20 reduction, and we're already close to 90 percent in that
21 watershed. Malibu Creek, the first milestone of the
22 TMDL is a 20 percent reduction in trash load by
23 July 2013. We have already retrofitted almost
24 70 percent of the catch basins within that watershed in
25 the County and corporate area.

1 Lastly, the Flood Control District is also a member
2 of the State Water Board's trash policy -- trash public
3 advisory group, which is working on statewide policy for
4 trash control in waters of the state. Much of the
5 policy is being based on the highly successful approach
6 taken by the LA Region trash TMDLs.

7 I would now like to return the presentation back to
8 Tracy.

9 MS. EGOSCUE: Our community has been asking for a
10 path towards compliance that prioritizes multi-benefit
11 projects. The County of Los Angeles and the Flood
12 Control District has been leaders in the development of
13 a holistic approach to address water quality, and in
14 turn, we have taken this opportunity with this permit to
15 request an alternative for compliance being incorporated
16 into this permit.

17 This alternative will incentivize permittees to
18 participate in multi-benefit projects. As you will see
19 shortly, these projects are very expensive and require
20 extensive collaboration with many agencies including
21 cities and perhaps agencies that are not permittees of
22 this permit, and these projects take time.

23 Like your board, the County and the Flood Control
24 District firmly believe in multi-benefit projects. They
25 improve water quality and benefit residents -- and look

1 at me. There we go; I've finally caught up (indicating
2 slide) -- in many other ways. These multi-benefit
3 projects alleviate flooding; they serve to replenish and
4 conserve local water supply; they create open space and
5 recreational opportunities for everyone in our community
6 all throughout the community; they create wildlife
7 habitat; they are sustainable, and they foster
8 collaboration, which is perhaps the most important.

9 To describe an example of a volunteer proactive
10 project that illustrates this alternative approach, I
11 will turn the presentation over to Mark Lombos from the
12 Department of Public Works. Mark is the project manager
13 for the Sun Valley watershed. Mark.

14 MR. LOMBOS: Good evening, Chair Mehranian and
15 members of the Board. My name is Mark Lombos, and I'm
16 here to provide you with information on the Sun Valley
17 watershed management plan.

18 To give you some background, Sun Valley is a
19 4.4-square-mile watershed located in the San Fernando
20 Valley in the City of Los Angeles. The watershed is
21 highly developed and features many industrial areas used
22 for auto dismantling facilities and gravel winding.

23 As a tributary of the LA River, runoff pollutants
24 generated from this area eventually makes its way to the
25 LA River. Historically, the area suffers from a variety

1 of watershed health issues such as flooding, poor
2 stormwater quality, lack of open and recreational space,
3 and lack of natural habitat.

4 In the late 1990s, the Flood Control District began
5 a new approach to stormwater management for this area.
6 Rather than address the stormwater problem through a
7 traditional storm drain, the Flood Control District led
8 an effort to address all the watershed issues using a
9 multi-benefit approach.

10 This led to the formation of the Sun Valley
11 Stakeholders Group, a group comprised of agencies,
12 residents, environmental groups, and local businesses
13 that have a stake in the area. This group has been
14 meeting quarterly to address watershed issues since
15 1998.

16 This also led to the development of the Sun Valley
17 Management Plan. The plan provided a description of the
18 existing watershed conditions and identified
19 opportunities including 18 private projects for storm
20 water management using the multi-benefit approach. It
21 continues to serve as a planning document for the area
22 with a focus on flood protection, water quality, storm
23 water capture for conservation and reuse, habitat
24 restoration, and recreational opportunities.

25 The successful development of the Sun Valley

1 Watershed Management Plan was dependent on the strong
2 collaboration with the Sun Valley Stakeholder Group over
3 the course of three years. Work on the plant started in
4 2001, and it was adopted by the County of Los Angeles
5 Board of Supervisors in June 2004.

6 The management plan identified opportunities in
7 commercial and residential areas for distributed best
8 management practices. These are smaller scale projects
9 that address stormwater capture at a parcel level.
10 This coincided with the council for watershed health's
11 efforts to do a pilot green streak through their water
12 augmentation study.

13 The Elmer Avenue retrofit was completed in 2010 with
14 the Council For Watershed Health in collaboration with
15 Tree People, the City of Los Angeles, and several
16 agencies and groups. This project is an example of
17 efforts spearheaded by agencies and organizations that
18 share in the vision of the Sun Valley Management Plan.

19 The project comprised of move improvements on
20 private properties using LIDs. The concrete surfaces
21 were replaced by permeable papers, smart controllers and
22 drip variation systems were installed, rain panels were
23 provided, and large lawn areas were replaced by
24 drought-tolerant landscaping.

25 Infiltration trenches were constructed along Elmer

1 Avenue. Catch basins will capture runoff from the
2 street and convey them to the trenches for groundwater
3 recharge. Bio soils were also constructed alongside
4 walks to capture excess runoff from the private
5 properties for passive infiltration.

6 The Council for Watershed Health and its partners
7 provided extended public outreach as part of this
8 project. They also hosted workshops to educate
9 residents on maintenance of LIDs. The management plan
10 identified pilot projects for centralized best
11 management practices. These are larger-scale projects
12 that address stormwater capture at a regional level.

13 To date, the Flood Control District has completed two
14 projects, Tuxford Green and the Sun Valley Park Drain
15 and Infiltration System. Tuxford Green was constructed
16 in 2007 by the Flood Control District in partnership
17 with the city of Los Angeles bureau of sanitation. The
18 project was comprised of a storm drain on San Fernando
19 Road and Tuxford Street to alleviate flooding at the
20 intersection.

21 A pocket park featuring drought-tolerant landscaping
22 and a cistern adjacent to the storm drain that stores
23 runoff for use to irrigate the pocket park. The
24 construction cost for the project was four million. The
25 Sun Valley park drain and infiltration system was

1 constructed in 2006 by the Flood Control District in
2 partnership with the City of Los Angeles Bureau of
3 Sanitation, Department of Recreation and Parks, and Tree
4 People.

5 The project was comprised of a storm drain to capture
6 stormwater runoff from the surrounding 21-acre
7 residential area and convey them to water quality
8 treatment system for removal of pollutants from the
9 runoff. The treated runoff then flows into two
10 underground infiltration basins for groundwater
11 recharge. All of these project elements are underground
12 so there's no impact to the park's uses and operations.
13 Also, swills were installed throughout the park to
14 capture runoff from the surrounding streets for passive
15 infiltration.

16 These are photos of elements that WUR constructed as
17 part of this project. Starting from the lower left and
18 going clockwise, these are two hydrodynamic separators
19 that were installed as part of the water quality
20 treatment system. These devices are used to remove
21 trash, sediment, metals, oil, and grease from the storm
22 water runoff.

23 At key locations throughout the park, we stop by the
24 swills for passive infiltration. We also incorporated
25 interpretive signage to explain the best management

1 practices implemented at the park. Through our Prop 12
2 grant obtained by Tree People, we were able to enhance
3 the parks recreational amenities. This resulted in
4 improved play fields and new bleachers and field lights.

5 The photo on the lower right -- the lower rights are
6 the infiltration basins located underneath the
7 playfields that are used for groundwater recharge.

8 Since its construction, on average we have captured,
9 treated, and infiltrated 20-acre feet of water per year.

10 That's equivalent to supplying water to forty
11 families of four for one year. The construction cost
12 for this project was seven million. The next phase is
13 to provide connectivity to the two completed projects
14 through a new storm drain system at the Strathem
15 Wetlands Park. This is a project that the Flood Control
16 District is currently working on and our project partner
17 is the City of Los Angeles and the Sun Valley Watershed
18 Stakeholder Group.

19 This is the final project concept for the Strathem
20 Wetlands Park. The project will feature a storm drain
21 to capture runoff from a 929-acre tributary area and
22 store it into the detention pocket. This is
23 pollutant-layered runoff that would have otherwise ended
24 up in the streets and ultimately to the LA River. Flows
25 from the detention pond will then be pumped to the

1 wetlands for natural treatment and removal of pollutants
2 such as sediments, metals, and pollutants.

3 The wetlands will also provide a habitat for plants
4 and small animals. The treated water will then be
5 pumped to existing infiltration basins at Sun Valley
6 Park for groundwater recharge. Based on our
7 simulation, we are expecting on average a ground water
8 recharge of 590 acre feet of water per year. That's
9 equivalent to providing water to 1,180 families of four
10 for a year.

11 A project will also provide 15 acres of new
12 recreational and open space. Through the course of this
13 project, we have conducted significant outreach to the
14 community. In April 2011, we hosted a workshop where
15 residents had an opportunity to draw and cut and paste
16 amenities they want to see in the park and then present
17 our ideas to small groups.

18 We then incorporated the community's need for more
19 walking trails, picnic areas, basketball and tennis
20 courts, and an outdoor classroom in this project. We
21 also just completed a community meeting last week where
22 we solicited input from residents and teachers from the
23 local schools as to ideas and themes they want to see in
24 the educational and interpretive signage.

25 The input we have received from the community has

1 been valuable as we work in the design of this project.
2 This is a graphic rendering of the Strathem Wetlands
3 Park. And this is a cost summary of the projects for
4 which the Flood Control District was the lead. By the
5 time the Strathem Wetlands Park project is completed,
6 the total costs of projects implemented in the Sun
7 Valley Watershed will be seventy-seven million.

8 We have also implemented other multi-benefit projects
9 throughout LA County. The Jamaica Scap wetlands
10 located in the city of Long Beach adjacent to the LA
11 River. It was constructed in 2006 by the Flood Control
12 District in partnership with the rivers and mountains
13 conservancy and the California State Coastal
14 Conservancy.

15 The project converted an existing flood control
16 detention basin into multi-benefit wetlands. The
17 project provides a natural treatment of stormwater
18 runoff by removing metals, nutrients, and fecal chloroform
19 and it provides an opportunity for groundwater recharge.
20 Since construction, the wetlands has become a habitat
21 for plants and small animals, and it provides an open
22 space and passive recreation such as walkways and bike
23 paths that's accessible to the public. The cost of the
24 project was seven million.

25 The Tujunga Wash green way and stream bed restoration

1 is located in the Valley Glen community in the city of
2 Los Angeles. Phase one of the project was constructed
3 in 2006 and it utilized right of way adjacent to Tujunga
4 Wash to create a green way and natural stream and
5 habitat. This project was a collaborative effort
6 between the Flood Control District the County of Los
7 Angeles, the Department of Water Resources the Santa
8 Monica Mountains Conservancy, Mountains Recreation and
9 Conservation Authority.

10 The project provides a natural treatment of storm
11 water runoff that is diverted from the Tujunga wash to
12 the stream. Groundwater recharge of approximately
13 380 acre feet per year -- that's equivalent to supplying
14 water to 760 families of four for a year. The stream
15 bed and surrounding landscaping has created habitat for
16 plants and small animals and over all the area has
17 provided new space and opportunities for passive
18 recreation that is accessible to the public.

19 The construction costs for phase one was nine
20 million. Phase two of the project, which was an extension
21 of the green way, was a collaborative effort between the
22 US Army Corps of engineers and the Flood Control District.
23 That project was just completed last month at a cost of
24 seven million.

25 I will now turn the presentation back to Tracy.

1 MS. EGOSCUE: To conclude, we have presented this
2 alternative approach to the Board with the hopes that we
3 will be given the opportunity to work with the staff and
4 all the stakeholders to revise the tentative permit.

5 This alternative approach will incentivize
6 cooperation and smart solution to water quality issues
7 that will be an environmentally beneficial solution with
8 the best use of limited resources. This alternative
9 will provide for an integrated water management program.
10 With revisions, this permit could become a model for
11 visionary stormwater management.

12 For the record, we have not used even close to our
13 hour and a half. We have I think 52 minutes and
14 16 minutes if you stop it right now. Thank you.

15 MS. MEHRANIAN: And we're done for now. Okay.

16 MS. FORDYCE: I was just going to ask whether anybody
17 wanted to cross-examine the LA County-- okay.

18 MS. MEHRANIAN: They said no. Okay. Mark Gold, I
19 believe, is here? Yes.

20 MR. UNGER: Can I just clarify for the Board? In our
21 order of agenda, the next group that would be speaking
22 is the Environmental Community. They have graciously
23 allowed us to reschedule them for tomorrow morning, first
24 thing. Except, however, one key speaker, Dr. Mark Gold
25 is not going to be available.

1 The rest of the Environmental Community will be here
2 to represent themselves. So we -- we're asking that the
3 chair -- and she's accepted to take Mark's testimony at
4 this time, and then we'll continue tomorrow with the
5 Environmental Community.

6 MS. GLICKFELD: May I ask a question or two? I
7 don't know whether Karen is still here or not. But have
8 they -- this is to say have they submitted anything? I
9 don't understand what their alternative proposal is at
10 all. It doesn't-- I don't understand why it's not
11 allowed within the watershed management proposals
12 they're making. It would be very good if we had
13 something to see.

14 MS. MEHRANIAN: Isn't this one of the questions that
15 you brought up?

16 MS. GLICKFELD: It is, but I'm -- you know, I'm a
17 little bit concerned that they've had all this time and
18 they never said what they wanted to do.

19 MS. MEHRANIAN: I think they will discuss --

20 MR. UNGER: Yeah, I think we'll be-- well go ahead.
21 Yeah. Can I?

22 MS. GLICKFELD: He doesn't need -- they don't need to
23 finish now, but I do think that it would be good to--
24 for them to have-- to use some of their reserved time

25 MS. MEHRANIAN: Reserve it for tomorrow?

1 MS. GLICKFELD: Tomorrow.

2 MS. EGOSCUE: Sure.

3 MS. GLICKFELD: For that purpose. Yeah.

4 MS. EGOSCUE: Thank you, Board member Glickfeld.

5 Just to clarify, what exactly is the request of the
6 County and the Flood Control District for tomorrow?

7 MS. GLICKFELD: Yes, that's what I'd like you to do
8 tomorrow is clarify and expand on exactly what you're
9 asking for that is not currently in the permit.

10 MS. EGOSCUE: So would alternative language be
11 appropriate in sections?

12 MS. MEHRANIAN: However -- whatever --

13 MR. UNGER: Yes. That -- that -- that could be an
14 explanation or just the framework.

15 MS EGOSCUE: Thank you very much.

16 MS. FORDYCE: I'm sorry. I think just before
17 Mr. Gold started talking --

18 DR. GOLD: Dr. Gold.

19 MS. FORDYCE: Dr. Gold. I'm sorry. And since he
20 won't be here tomorrow, if any parties would like to
21 cross-examine Mr. Gold when he's finished, they should
22 do so today.

23 MS. MEHRANIAN: Very good.

24 Okay. Thank you.

25 MS. MEHRANIAN: Dr. Gold?

1 (Discussion off the record)

2 MS. MEHRANIAN: We're going to start.

3 MS. CROSSON: Good afternoon. Good evening. My name
4 is Liz Crosson. I'm the executive director for Los
5 Angeles Water Keeper. And as you know, Los Angeles
6 Water Keeper, NRDC, and Heal the Bay have about an hour
7 and a half total.

8 So thank you for accommodating us this afternoon
9 since Mark is unable -- Dr. Gold is unable to make it
10 tomorrow. We really appreciate the opportunity to ask
11 him some questions as he is one of our expert witnesses.

12

13 EXAMINATION OF DR. GOLD

14 BY MS. CROSSON:

15 Q So could you please introduce yourself?

16 A Yes. My name's Dr. Mark Gold.

17 Q And what is your educational background,
18 Dr. Gold?

19 A I have a bachelors and masters in biology from
20 UCLA and a doctorate in environmental science and
21 engineering, also from UCLA.

22 Q And where do you work now?

23 A I currently work at UCLA, but I'm not here
24 representing the university in any way, shape, or form
25 today.

1 Q And are you a paid consultant here today?

2 A No; I'm here on my own time.

3 Q So could you talk briefly about your experience
4 relighted to water quality in Los Angeles?

5 A You don't have the time, but in relation to storm
6 water, I have worked on every single stormwater permit
7 in this region except for this one. And so that
8 started with the 1990 MS4 and of course the last one, if
9 I recall correctly, is 11 years ago for this region, for
10 the County of Los Angeles, which was 2,001; so I worked
11 on that one as well as well Ventura County.

12 Q Thank you. So we-- we've heard today, most
13 recently from the County, that there's mechanisms, such
14 as dry weather diversions that have played a part in
15 helping to decrease dry weather runoff. Are you
16 familiar with mechanisms for addressing dry weather run
17 off?

18 A Very much so.

19 Q And can you give an example?

20 A Been -- I worked very, very closely when I was
21 president and executive director of Heal the Bay with
22 the state legislature and helping to create the Clean
23 Beach Initiative and many of the Clean Beach Initiative
24 projects have gone to dry weather runoff diversions to
25 take polluted runoff off of our most polluted beaches

1 during the dry weather months, mostly during the summer,
2 and put them into the sewer system where they get
3 treated at a sewage treatment plant. The first major
4 one I was involved in was the Pico Canyon one way back
5 in, like, 1992.

6 Q And so would you agree that bacteria SKED ENGSS
7 at beaches in Santa Monica Bay in particular have been
8 decreased as a result of these types of projects?

9 A Very much so during the summer months. The dry
10 weather runoff diversions have been quite successful in
11 improving beach water quality.

12 Q And on what do you base that opinion?

13 A Well, one of the other things that I had the
14 opportunity to work on in Heal the Bay was-- I was the
15 creator of their beach report card, which grades beaches
16 really since 1990 on-- in the Los Angeles County area
17 and now it's the entire west -- west coast. And even the
18 most recent beach report card which came out in 2012,
19 just a few months ago, there were huge improvements in
20 dry weather roughly for the dry weather months. Roughly
21 82 percent of those beaches got A's and B's during dry
22 weather. The five-year average was around seventy-five
23 percent A's and B's. So we've definitely seen a lot of
24 improvement at dry weather on reducing Pico Canyon
25 bacteria on the beaches on -- over the years.

1 Q So it sounds like there has been improvement.
2 Would you say that the problem when it comes to summer
3 dry weather is -- and bacteria -- salt??

4 A No, I wouldn't say it's salt, but I would say
5 that there are a lot of tremendous success stories that
6 are along with it. There's been a great deal more
7 problem in areas where you can't do dry weather
8 diversions. Obviously, in the areas where you don't
9 have sewers, it gets a lot tougher since that's the most
10 reliable solution. Package plants do a decent job,
11 but as we've seen in the Malibu area, can be pretty
12 spotty on water quality. Maria Canyon's a perfect
13 example of that.

14 Q Thank you. So -- so since this permit addresses
15 both dry weather runoff and stormwater in fact the
16 majority of this permit addresses stormwater, in your
17 opinion, have we seen similar results in the abatement
18 of stormwater when it comes to bacteria exceedances at
19 our beaches?

20 A Absolutely not and there haven't been the same
21 amount of resources that have gone towards solving the
22 dry weather runoff problem. On the Clean Beach
23 Initiative, the hundred million dollars that have been
24 spent have been spent on solving dry weather runoff
25 problems and so in the County, as you heard earlier --

1 there's 20 or so dry weather runoff diversions.
2 There's about 30 in the LA County area overall.
3 They're dry weather so you really haven't seen the same
4 level expenditure of resources on the wet weather side
5 and that's most clearly demonstrated when you look at
6 the beach report card in the wet weather grades where
7 40 -- just this last year, 49 of the beaches received F's
8 in wet weather and 17 percent received C's and D's. So
9 you see it's a dramatic difference than what you see
10 during dry weather.

11 Q And so you've mentioned a couple reasons. Are
12 there other reasons why you think this might be the
13 case?

14 A Yeah. Oh, the focus has been on dry weather. My
15 own personal, professional opinion in regards to this is
16 that because there's been enough work on WHAP, the health
17 risks are of swimming in runoff contaminated water
18 during dry weather, there's been a concerted focus
19 because people care about public health.

20 Q Okay. Thank you. Can you-- can you speak to the
21 amount of public agency funding to permittees for storm
22 water improvement projects and your involvement in those
23 types of processes?

24 A Yes. I can give a gross overview. I've been
25 involved in a number of those efforts. On the statewide

1 basis, you've had some of the water bonds, and you've
2 heard earlier from one of the, I think it was the County,
3 that you have the Irwin process, and so roughly a
4 hundred million dollars is coming to the Los Angeles
5 County area for implementation.

6 Prior to that, there were a number of other
7 different efforts where a significant amount of funds
8 came to help out on projects have been very, very involved
9 with the City of Los Angeles in Prop O's sitting on
10 their Citizen's Oversight and Advisory Committee.

11 That, of course, is a \$500 million program and
12 we've seen over a hundred million dollars of those funds
13 go towards cleaning up beaches. As an example, the
14 Penmark project is about twenty-five million, Temescal's
15 twenty. Westchester and LA airport is another 32 million.
16 They have year-round dry weather diversion -- I mean,
17 year-round dry weather runoff diversions will probably
18 be another forty million overall. And then, not just
19 bacteria, we see in Prop O roughly \$78 million to implement
20 the trash TMDLs, all the various different ones with 36,000
21 screens and 10,000 plus inSTERTs. So there's been a lot
22 of effort in that regard, but the good news, like I said
23 before, is that the State Water Resources Control Board
24 has provided tens of millions of dollars to deal with
25 these runoff issues here in the Los Angeles area.

1 Q And are there other stakeholders that have been
2 involved to help this type of funding forward?

3 A Yes. You would not have seen this sort of effort
4 without a huge element of collaboration from local
5 government, state government, Franklin environmental
6 engineering community, as well as the environmental
7 community in trying to make this all happen. I think a
8 perfect example of that is in the city of Santa Monica
9 where I was actually the chair of the Measure B
10 committee to actually pass that measure, which is
11 \$2.3 million per year for the city of Santa Monica on
12 stormwater and they actually did it in a 218 climate.
13 It's possible. It's just hard.

14 Q Can you speak to a few of the types of projects
15 that are funded under these measures?

16 A Yes. I think I referred to a few of them already
17 on beaches and trash, but some of the more exciting big
18 picture projects in the City of Los Angeles are Echo
19 Park Lake, and also Machado Lake is an extraordinary
20 project; \$117 million project that's occurring in the
21 southern part of the city. The south LA treatment wet
22 land is another really strong project. Really doing
23 these multi-benefit sorts of projects that you've heard
24 so much about has been a big approach there. And in
25 Santa Monica, one of the ones that I've been very proud

1 of Heal the Bay's effort working with, in this case,
2 UCLA Jen Jay as well as with the City of Santa Monica
3 extensively was a very difficult problem trying to
4 improve water quality at Santa Monica Pier, which was a
5 very long term, iterative approach in doing everything
6 from originally dealing with the birds, but then finding
7 out, okay, we had a storm drain problem underneath; you
8 need to replace the storm drain.

9 It was a very complicated -- I don't bore you with
10 it, but the end result is the water quality at Santa Monica
11 Pier is the best it's been in 20 plus years. So it shows
12 that even the most difficult of problems can be solved if
13 there's a concerted, collaborative effort in trying to
14 solve the problem.

15 Q Thank you. Are you familiar with any further
16 efforts to finance stormwater controls in LA County
17 future?

18 A Yes. There's the Clean Beaches, Clean Water
19 Initiative, which we hope will finally get on the ballot
20 in 2013. This is something that has been discussed for
21 well over six years at this point. And I remember
22 vividly just as a matter of fact where, you know, it was
23 controversial that Santa Monica went with Measure B on
24 their own because the County was ready to go with theirs
25 and here we are and still haven't moved forward and--

1 and we're almost in 2013.

2 With that being said, I'm involved in that. I
3 sit on the steering committee. I've worked with the
4 County and the City of Los Angeles personally on this,
5 volunteering my own time, because I can't think of
6 anything more important for not only the future of water
7 quality within the region, but really hugely important
8 for our water supply and flood control and all these other
9 multi-benefits, so hopefully that will move forward next
10 year.

11 It's about a \$250 million to \$280 million measure
12 on -- and annually, which is -- you know, you see the
13 difference that it's made in those cities where they've
14 actually moved forward with funding measures and,
15 obviously, it's long overdue here.

16 Q So this was mentioned by another presenter or two
17 earlier today, but can you just repeat who would
18 actually receive funding through that initiative?

19 A Yes; it would be the cities within Los Angeles--
20 basically would be the permittees. Right? So it would
21 be the County and the cities, so all the permittees to
22 help them to not only comply with this permit, but
23 hopefully look at this and move well beyond just permit
24 compliance and helping solve our water problems
25 regionally in an integrated manner.

1 MS. CROSSON: Okay. I don't have any further
2 questions. Thank you.

3 MR. UNGER: Chair Mehranian?

4 MS. MEHRANIAN: Yes?

5 MR. UNGER: Before we adjourn the meeting for this
6 evening, it may be appropriate to ask if any of the
7 parties wish to cross-examine Dr. Gold at this point
8 since he won't be available tomorrow.

9 MS. MEHRANIAN: Sure. Anyone in the audience that
10 wants to -- or the parties. I'm sorry -- that wants
11 to cross-examine Dr. Gold?

12 MS. FORDYCE: The parties with reserved time.

13 MS. MEHRANIAN: Right. With reserved time.

14 MS. MALONEY: On behalf of the LA Permit Group,
15 we're going to have Mack Walker from Larry Walker and
16 Associates ask a question.

17 DR. GOLD: Attorney Mack Walker.

18 MR. WALKER: Yeah. I'm not an attorney. I have not
19 taken the oath so I guess I can ask for a lie, I guess,
20 but no. I need to take the oath, if you don't mind.

21 MS. FORDYCE: You don't need to take the oath; just
22 ask questions.

23 MR. WALKER: Oh, I don't?

24 MS. FORDYCE: But Alex, can you put 16 minutes and
25 52 seconds on the clock?

1 MR. UNGER: Will you be using 22 minutes, do you
2 believe?

3 MR. WALKER: Oh, no, no. Okay. Thank you.

4

5 FURTHER CROSS-EXAMINATION OF DR. GOLD

6 MR. WALKER: This is a little strange for me to be
7 asking Mark.

8 MS. MEHRANIAN: Mention your name, please.

9 MR. WALKER: I'm sorry. I'm Mack Walker with Larry
10 Walker and Associates.

11 BY MR. WALKER:

12 Q And -- so Mark, is it fair to say that addressing
13 wet weather bacteria, is it more difficult technically
14 and likely a more expensive challenge than dry weather?

15 A Absolutely.

16 Q Okay. All right. If you were a public works
17 director and you had to prioritize your resources, your
18 limited resources, would you put it into your dry
19 weather issues or in your wet weather issues?

20 A Is this where I get to give my pension reform
21 talk for all those cities that we're talking about?

22 Q Well--

23 A Well, if you're only giving me those two
24 choices -- yeah, well, believe me. It's tempting
25 considering what we've heard earlier in the day. In

1 wet weather versus dry weather, I think what I would say
2 is that, you know, 22 years into this thing; right? I
3 mean, we're not talking about overnight; right? So
4 22 years into this, I can tell you I used to sit on --
5 and you know this very well -- I sat on the federal budget
6 committee for urban wet weather for EPA in the '90s and
7 in the Clinton administration.

8 Not very successful effort. And even at that
9 time there was discussion saying, yeah, dry weather,
10 public health, those are a higher priority, but you know,
11 wet weather is clearly what this is about as well and
12 if you're looking at some of the crime water quality
13 problems, it's not a matter of sequential choice.

14 It's a matter of 22 years in and we've -- we've
15 only been dealing with dry -- dry weather effectively
16 -- doesn't mean there aren't some success stories for
17 individual projects -- but as a whole and we're long
18 overdue in the standpoint of dealing with wet weather.
19 So from that perspective as public works director, I
20 probably would have done exactly what Craig Perkins
21 did at Santa Monica and Don Flora in 218 when --
22 long ago.

23 Q So that was kind of a yes answer to prioritizing
24 dry weather over wet weather at least with limited
25 resources and to start, you know, start looking at--

1 A Well, but to clarify to say that, yeah, I
2 wouldn't prioritize that in the nineties, but here we
3 are now in 2012, I wouldn't make that choice. It's a
4 choice right now that, at this point, it's not a matter
5 of either/or. In the '90s, I would have made the
6 choice of dry weather first, but it's 22 years in.

7 MR. WALKER: Okay. That's fine.

8 MS. MEHRANIAN: That's it?

9 DR. GOLD: Anyone else?

10

11 MS. MEHRANIAN: We're going to go through tomorrow's
12 schedule and we'll see these. Go on, Sam.

13 MR. UNGER: I just wanted to -- if people are here
14 and general members of the public are coming tomorrow,
15 I think the Board's choice is to continue with the
16 environmental coalition of testimony tomorrow morning
17 first, and then we'll take public comments after that.
18 So if you know people who may be coming -- I mean, they
19 may get started -- the original projected time is 9:01.

20 MS. FORDYCE: And just to go through how much time
21 people have left, you guys can keep it for your records
22 and talk tonight. So LA Permit Group has 19 minutes
23 and 23 seconds; Monrovia has six minutes and 53 seconds;
24 Norwalk has 15 minutes; Westlake Village, three minutes;
25 Los Angeles County and Los Angeles Flood Control District,

1 52 minutes and 16 seconds; Heal the Bay, NRDC, and
2 LA Water Keeper, sixty-five minutes.

3 MS. MEHRANIAN: That concludes-- thank you. Meeting
4 is adjourned. We'll meet tomorrow.

5 (Meeting adjourned at 6:22 p.m.)
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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

MARIA MEHRANIAN, CHAIRPERSON

In the Matter of the)
Regional Board)
Public Meeting/Hearing)
_____)

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Friday, October 5, 2012

Reported by:

MARCENA M. MUNGUIA,

CSR No. 10420

-and-

KATRINA WOYJECK,

CSR No. 13603

Job No.:

B8831WQLA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

MARIA MEHRANIAN, CHAIRPERSON

In the Matter of the)
Regional Board)
Public Meeting/Hearing)
_____)

TRANSCRIPT OF PROCEEDINGS, taken at
Metropolitan Water District of Southern
California, Board Room, 700 North Alameda
Street, Los Angeles, California, commencing
at 9:10 a.m. on Friday, October 5, 2012, heard
before the LOS ANGELES REGIONAL WATER QUALITY
CONTROL BOARD, reported by MARCENA M. MUNGUIA,
CSR No. 10420, and KATRINA WOYJECK, CSR No.
13603, Certified Shorthand Reporters in and
for the State of California.

APPEARANCES :

CHAIRPERSON: Maria Mehranian

VICE CHAIR: Charles Stringer

BOARD MEMBERS: Maria Camacho
Francine Diamond
Madelyn Glickfeld
Irma Munoz
Larry Yee

EXECUTIVE OFFICER: Samuel Unger

BOARD STAFF: Jennifer Fordyce
Nichole Johnson
Frances McChesney
Deborah Smith
Ronji Moffett

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1 Los Angeles, California, Friday, October 5, 2012

2 9:10 a.m.

3

4

5 MS. MEHRANIAN: Good morning. We are continuing our
6 public hearing on MS4 and we will start with the Pledge
7 of Allegiance.

8 Board Member Diamond, will you please lead us.

9 MS. DIAMOND: Please stand.

10 (Pledge of Allegiance)

11 MS. MEHRANIAN: Thank you. We continue yesterday's
12 agenda and we have an hour and a half for the
13 environmental community presenting, Heal the Bay, NRDC,
14 L.A. Waterkeeper -- can you hear me?

15 UNIDENTIFIED SPEAKER: No. Turn your mic on.

16 MS. MEHRANIAN: It's on. Can you hear me better?

17 UNIDENTIFIED SPEAKER: No. Maybe raise the volume.

18 MR. UNGER: We need the volume up.

19 MS. MEHRANIAN: Is this better? Yeah. Okay.

20 We're continuing our public hearing on MS4, and
21 on the agenda we have the environmental community and the
22 presenters will be Heal the Bay, NRDC, and L.A.
23 Waterkeeper. We have an hour and a half for the
24 testimony.

25 MS. FORDYCE: Actually, based on time from yesterday,

1 we have 65 minutes remaining.

2 MS. MEHRANIAN: 65 minutes?

3 MR. UNGER: Yeah, 'cause they used time for their
4 cross.

5 MS. MEHRANIAN: Thank you very much.

6 You want to start, Heal the Bay? Who's going to
7 start?

8 MS. CROSSON: I am. We're waiting for the
9 PowerPoint. Thank you.

10 MR. UNGER: Just for people who were not here
11 yesterday, they need to --

12 MS. MEHRANIAN: For those of you who have not taken
13 the oath, please stand.

14 (Whereupon all prospective witnesses were
15 collectively sworn)

16 MS. CROSSON: Good morning, chair and members of the
17 Board. My name is Liz Crosson. I'm the Executive
18 Director and an attorney with Los Angeles Waterkeeper.

19 Thank you for the opportunity to speak before
20 you today and thank you to your staff for the many, many
21 months of hard work that have gone into this process
22 before the hearing today.

23 Los Angeles Waterkeeper, Heal the Bay, and NRDC
24 have prepared a joint presentation representative of our
25 individual missions and our thousands of members

1 collectively throughout Los Angeles that live and work in
2 many of the cities that you have already heard from
3 yesterday.

4 Our members support and empower our
5 organizations to work towards ensuring clean water and I
6 want to start the discussion today by reminding us all
7 why we are here.

8 We have heard a day's worth of testimony
9 yesterday about the challenges our municipalities face
10 with regards to this permit, we've heard about how much
11 it may or may not cost to implement this permit, and
12 we've heard about who sued who and what that means for
13 the future. But what we haven't heard much about is the
14 50 to 60 million people who use our beaches every year,
15 those that swim, surf and enjoy what it is that brings
16 most of us to live where we live today.

17 We also haven't heard about the potential of
18 bringing back the California steelhead to our rivers and
19 creeks once toxic metals are abated and are not poisoning
20 our communities.

21 We didn't talk about the thousands of people
22 that jumped at the chance to kayak and bird-watch in the
23 Los Angeles River when they had the opportunity, a river
24 that really tells the history of Los Angeles and is an
25 example of what we -- of our potential for the future.

1 I want to at this point just briefly say that
2 it's really important that you as Board members approve
3 this permit in November as planned. This has been a long
4 process. This permit, as you know, is six years overdue.
5 Your staff has pointed out that 18 months of work have
6 gone into what you have before you today. We've had
7 numerous Board workshops, staff workshops. We've had
8 working drafts. We've commented on those drafts. This
9 draft before you is not a first cut. So I urge you to
10 move forward in November and adopt this permit, and the
11 50 to 60 million people that swim in our beaches and the
12 10 million people that live and work in Los Angeles along
13 our waterways would say the same.

14 This permit is one of the most important
15 decisions that you as Board members will ever make.
16 Stormwater is the number one source of pollution in our
17 beaches and in our waterways and before you is the
18 opportunity to use the tools the Clean Water Act provides
19 and requires to really change what's happening with water
20 in our region.

21 L.A. Waterkeeper and Heal the Bay and NRDC have
22 long been involved in these issues before you, before the
23 State Board, and before EPA and even the courts. We have
24 long been a voice for the people and environments that
25 want to protect our waterways and ensure clean water in

1 our communities.

2 During much of this time, we have supported your
3 efforts and the efforts of your staff. Our organizations
4 were intimately involved in the development of the
5 current Permit in 2001. We also intervened on your
6 behalf when that Permit was challenged. We defended the
7 Board's authority to promulgate water quality standards
8 to protect L.A.'s waterways when it was unsuccessfully
9 challenged in court and we again defended your action to
10 include important Bacteria TMDL limits at our beaches to
11 protect the public.

12 Our groups have spent many, many precious
13 resources in order to support you and your staff to work
14 towards clean water. It is our goal, like yours, to meet
15 and maintain water quality standards and to ensure that
16 our beneficial uses are protected.

17 The draft Permit before you today appropriately
18 preserves or improves some of the requirements that we
19 find in the 2001 Permit. However, we do see several
20 improvements that we've suggested in our comments and in
21 our testimony today, improvements that will ensure both
22 the legality and the effectiveness of this Permit and we
23 believe that many of the failures that we've experienced
24 over the last decade in reaching our water quality goals
25 can and should be addressed through this Permit renewal.

1 With the incorporation of TMDLs, improved
2 accountability, and an improved Monitoring Program, this
3 Permit provides a means for permittees to identify the
4 sources of pollution and quickly address them. Success
5 will require the full engagement of you, your staff, and
6 all of us, all of the stakeholders, in order to ensure
7 that we can track and ensure compliance and meet those
8 beneficial uses.

9 As you will hear, we do support many of the
10 provisions in the Permit you have before you. Here's an
11 overview of our presentation. We'll quickly go through
12 our proposal and the current state of Los Angeles
13 waterways. We do have a couple of experts that will come
14 up and present some testimony on some key issues. We
15 will discuss the legal framework and some of the key
16 provisions of the Permit, including LID, TMDLs,
17 monitoring and reporting, and then we will have some
18 remaining time reserved for cross-examination and
19 rebuttal.

20 Our proposal is actually quite simple, although
21 it is laid out in 50 pages of comments, but I think that
22 the gist of it is that we have -- our number one priority
23 is that we maintain water quality standards, that you
24 retain the language and the receiving water limitations
25 as is and as has been in the Permit for over a decade.

1 Water quality standards are the purpose of the Clean
2 Water Act and they are the purpose of this Permit, so we
3 urge you to ensure compliance.

4 TMDLs, as you know, are incorporated in this
5 Permit and should be consistent with the assumptions of
6 the wasteload allocations in each of those TMDLs, and one
7 key issue we'll discuss is making sure that any
8 compliance schedules associated with TMDLs are lawful.

9 For low impact development, we support much of
10 what you have done and put into this Permit. We want to
11 make sure that permittees retain stormwater with no
12 discharge to waters unless infeasible.

13 Public participation is always something that is
14 critically important, as transparency is something that
15 is key to the Clean Water Act and our processes and we
16 want to make sure that any future actions include public
17 participation and Board oversight.

18 Lastly, monitoring is something that is
19 critically important to ensure the success of this Permit
20 and we agree with your staff's proposal to require both
21 receiving water monitoring and outfall monitoring for all
22 the constituents currently monitored as well as TMDLs and
23 toxicity.

24 Quickly, the current state of our L.A. waterways
25 really shows why this is so important, why this decision

1 before you is so incredibly important. Our waterways are
2 in a dire state. The permitting -- or the monitoring
3 that is currently required under the Permit demonstrates
4 that. The mass emission stations regularly show
5 exceedences of many constituents, water quality
6 standards. In fact, since 2003 we have seen 1,105
7 exceedences in some of our major waterways.

8 Third parties have also collected data that
9 demonstrates the current state of our waterways. Heal
10 the Bay has collected data. Malibu Creek and Compton
11 Creek also shows regular exceedences of water quality
12 standards. In the Los Angeles River, Friends of the L.A.
13 River has been collecting data showing that water quality
14 standards for key constituents continue to be exceeded in
15 that river.

16 Los Angeles Waterkeeper collects data in
17 Ballona Creek and Malibu beaches from storm drains that
18 demonstrates that polluted water is leaving the MS4 and
19 entering our waterways at high levels for bacteria and
20 high constituents.

21 I'm sure you're all familiar with this map
22 (indicating). The current state of our waterways is
23 nowhere better demonstrated than the 303(d) list which
24 shows the numerous waterways that are listed as impaired
25 all over our region.

1 Bacteria is an issue that we talk about quite
2 frequently because of the public health implications and
3 here you can see since 2006, at our beaches we've had
4 3,834 exceedences of bacteria at our beaches. This is of
5 course important because of the severe public health
6 impacts that those bacteria exceedences can cause, and at
7 this point I'd like to call up Dr. Jenny Jay to answer a
8 few questions about this issue.

9
10 JENNIFER JAY, Ph.D.,
11 called as a Witness, and having been previously duly
12 sworn, was examined and testified as follows:

13
14 DIRECT EXAMINATION

15 BY MS. CROSSON:

16 Q Good morning.

17 A Good morning.

18 Q Can you introduce yourself, please.

19 A My name is Jennifer Jay.

20 Q And can you briefly describe your educational
21 background.

22 A Yes. I did my bachelor's, master's, and Ph.D.
23 at the Massachusetts Institute of Technology. I then
24 spent a year at the Harvard School of Public Health and
25 Environmental Microbiology and then went back to MIT for

1 another postdoctoral year.

2 Q And focusing on your professional appointments,
3 where do you work today, Dr. Jay?

4 A UCLA.

5 Q And what do you do there?

6 A I'm an associate professor in civil and
7 environmental engineering. I've taught courses in
8 applied environmental microbiology, aquatic chemistry,
9 chemical fate and transport, and environmental
10 applications of geochemical modeling. I run a research
11 program at the intersection of environmental biology and
12 aquatic chemistry.

13 Q And what is your understanding of the extent of
14 urban runoff in Los Angeles?

15 A That Santa Monica Bay still receives significant
16 year-round inputs of urban runoff.

17 Q And what types of constituents are contained in
18 urban runoff in L.A.?

19 A Urban runoff in L.A. can contain elevated levels
20 of many types of contaminants, including fecal indicator
21 bacteria or FIB, oils and greases, heavy metals, volatile
22 organic compounds, and viruses.

23 Q Are you aware of any studies indicating that
24 urban runoff is contributing to bacterial pollution in
25 Santa Monica Bay?

1 A Yes, I am.

2 Q And can you speak to one of those studies?

3 A Yes. Noble, et al., in 2006, did a study of
4 Ballona Creek. They studied over six-hour periods six
5 different main-stem sites and four different tributaries.
6 They found that fecal indicator bacteria were high and
7 ubiquitous throughout the system. They also observed
8 human-specific bacteroidales at 86 percent of the samples
9 and they found the presence of enterovirus in 39 percent
10 of the samples.

11 Q And what is your particular experience studying
12 FIB or fecal indicator bacteria?

13 A One of my lab's recent studies is a study of
14 Santa Monica Creek. We looked at fecal indicator
15 bacteria throughout the creek system and found that the
16 levels were ubiquitous and high. We studied 20 days, 17
17 dry days and three wet days. We observed 100 percent
18 exceedence in all samples for both FIB during wet
19 weather, and our exceedence rates for dry weather were
20 73 percent for E. coli and 83 percent for enterococcus.

21 Q And have you formed an opinion about whether
22 these exceedences of water quality standards for fecal
23 indicator bacteria from the MS4 are injurious to public
24 health?

25 A Yes, I have.

1 Q And what have you concluded?

2 A I believe that levels of fecal indicator
3 bacteria both state water quality limits can indicate the
4 presence of pathogens which are indeed injurious to human
5 health.

6 Q And on what do you base that conclusion?

7 A I base that conclusion on many factors,
8 including epidemiology studies, monitoring data, posting
9 data, and my own research.

10 Q Can you tell us exactly what are fecal indicator
11 bacteria?

12 A Yes. Fecal indicator bacteria are
13 microorganisms that reside in the digestive tract of
14 warm-blooded animals.

15 Q And are there other types of fecal indicator
16 bacteria that scientists and engineers measure?

17 A So scientists and engineers use -- most commonly
18 use E. coli and enterococci total coliform as fecal
19 indicator bacteria.

20 Q So why do we measure these instead of measuring
21 fecal pathogens directly?

22 A It turns out there's not really a good way to
23 measure fecal pathogens directly, partly because there's
24 a huge diversity of the type of pathogens that are
25 present in fecal matter. It's just not practical,

1 whereas FIB, the indicator bacteria, are easy to measure
2 and very prevalent. They're present at high numbers in
3 fecal matter, so it can be a good way to indicate the
4 presence of fecal pathogens.

5 Q Is there a relationship between FIB and human
6 illness?

7 A Yes.

8 Q And how do you know?

9 A Well, there are many studies showing --
10 documenting a relationship, a direct-response
11 relationship, between fecal indicator bacteria levels and
12 disease and illness.

13 Q Can you speak to one of those epidemiological
14 studies in Los Angeles?

15 A Yes. There -- specifically in the Santa Monica
16 Bay, there was a very interesting study by Hale, et al.,
17 published in 1999. The study had over 11,000
18 participants and it had a unique component to it in that
19 they weren't just comparing swimmers to nonswimmers.
20 They actually recorded the location of swimming.

21 Q And where did that take place?

22 A That took place at three beaches in Santa Monica
23 Bay: Santa Monica Beach at Ashland, Will Rogers Beach at
24 Santa Monica Canyon and Malibu Beach, Surfrider.

25 Q Can you summarize Dr. Hale's findings?

1 A Yes. There were three major findings to the
2 study. The first study is that the risk of illness was
3 increased for those swimming closest to the storm drain.

4 What the authors did was they compared the
5 incidence of illness to swimming at the storm drain and
6 near the storm drain and compared that to the risk of
7 illness observed far from the storm drain; and what they
8 observed was an increase risk of illness, or they call
9 that a relative risk greater than one for highly credible
10 gastrointestinal illness one and two, eye discharge, ear
11 discharge, stomach pain, fever and chills and significant
12 respiratory disease.

13 Q And what was the second finding in that?

14 A The second finding is that swimming in levels
15 with elevated levels of fecal indicator bacteria also
16 were associated with increased risk of illness.

17 Q Is there a third finding?

18 A Yes. The third finding is that risk of illness
19 was also increased in waters where enterovirus was
20 detected.

21 Q So what conclusions do you draw from this study?

22 A The conclusion to be drawn from these data is
23 that swimming in waters with elevated levels of fecal
24 indicator bacteria, even from urban runoff, can result in
25 increased risk of illness.

1 Q Are you familiar with the Basin Plan water
2 quality standards for bacteria?

3 A Yes.

4 Q And can you compare the levels used in the Hale
5 study to determine illness and those in the Basin Plan
6 that are set for water quality standards?

7 A Yes. The levels are very similar. In fact,
8 that's why the authors of the Hale, et al. study chose
9 those levels so that their data could be used to evaluate
10 whether swimming in waters with FIB above those standards
11 was injurious to health. So the standards match up
12 almost exactly.

13 Q So in that case, what is the consequence for
14 human health when there's an exceedence of bacteria
15 limits, in your opinion?

16 A That swimming in waters with exceedences can --
17 we might expect the same symptoms observed in the Hale
18 study.

19 Q Thank you.

20 Dr. Jay, yesterday we heard a little bit about
21 FIB being sourced to wildlife like birds and other
22 nonhuman sources. Are you aware of any evidence
23 indicating that urban runoff in stormwater is a source of
24 human pathogenic viruses; that is, those originating from
25 humans and those that make humans sick.

1 A Yes. My lab has detected human-specific
2 bacteroidales in stormwater in Santa Monica Creek.

3 Also, the Noble, et al. study that I mentioned
4 earlier saw 86 percent of the samples with human-specific
5 bacteroidales and 39 percent with human enterovirus.

6 Also Sunny Jiang's lab has documented human
7 viruses in stormwater in many, many studies.

8 Q So what is your opinion on the presence of
9 human-influence contamination in coastal waters resulting
10 from urban runoff in stormwater?

11 A That there is some human contamination in the
12 urban runoff and that it can be injurious to human
13 health.

14 Q I just have a couple more questions.

15 Are you aware of any studies analyzing the
16 illnesses and related costs associated with Southern
17 California beaches?

18 A Yes. Researchers Given, Pendleton and Boehm
19 published a study where they used models to predict the
20 total numbers of illnesses and the associated costs in
21 Southern California.

22 Q And what did that study conclude?

23 A Well, they applied the two most widely used dose
24 response curve, which is the K inflation and the belly
25 models for incidence of illness. They combined that with

1 beach attendance data and water quality data to estimate
2 between half a million and a million cases of
3 gastrointestinal illness, depending on which curve was
4 applied, which dose was applied.

5 Q Did the estimators estimate the costs associated
6 with this number of illnesses?

7 A They used a conservative estimate for cost per
8 illness and they came up with a range between 14 million
9 and 35 million dollars per year. That estimate did not
10 include what you would be willing to pay to not get sick,
11 which of course makes the number much larger.

12 Q Thank you, Dr. Jay. I have no further
13 questions.

14 MS. CROSSON: At this point, I'd like to introduce my
15 colleague Kirsten James from Heal the Bay.

16 MS. JAMES: Good morning. My name is Kirsten James
17 and I'm with Heal the Bay.

18 So not only does poor water quality in our
19 region lead to public health impacts as you just heard
20 from Dr. Jay, but also there are public health
21 consequences for consumers of fish. In fact, Heal the
22 Bay's Pure Angler Outreach Program has found that there
23 are thousands of subsistence fishermen in L.A. County who
24 rely on these contaminated fish for food for themselves
25 and for their families.

1 This map reflects the 2009 OEHHA updated
2 Regional Consumption Advisory for areas of Southern
3 California and as you can see by the red zone and the
4 yellow zone, our waters in L.A. County are significantly
5 impaired.

6 This chart is taken directly from EPA's
7 Santa Monica Bay DDT and PCBs TMDL and this just further
8 demonstrates the point that beneficial uses are impacted
9 off our coast. The colored cells indicate instances
10 where fish tissue concentrations are above respected
11 guidelines on the matter; and as the TMDL recognizes, the
12 MS4 is a responsible party to this TMDL.

13 So these examples show that public health is at
14 risk and aquatic life is impacted by our region's poor
15 water quality.

16 Another beneficial use that your Board is
17 charged with ensuring is marine habitat and wildlife
18 habitat; however, studies and observation clearly show
19 that aquatic life is not being adequately protected. We
20 find on International Coast Cleanup Day that marine
21 mammals, birds, fish, reptiles, amphibians and
22 invertebrates are entangled by trash, including plastics.
23 We also find repeated studies of the impacts to
24 threatened and endangered species by trash and plastics
25 making their way into our waterways.

1 Trash is a worldwide issue, including here in
2 our Santa Monica Bay.

3 In sum, as you have heard so far in our
4 presentation and expert testimony, poor water quality in
5 our region is impairing many beneficial uses and we need
6 a strong Permit to keep us on track for protecting these
7 uses.

8 Now I'm going to shift the discussion to focus
9 on costs associated with not implementing this Permit.
10 Economic discussions of stormwater and urban runoff
11 management programs tend to focus on the costs incurred
12 by municipalities, as you heard yesterday. However, it
13 is also critical to consider the costs of impairment;
14 in other words, the negative impact of pollution on the
15 economy and the positive impact of improved water
16 quality, and these elements were missing from yesterday's
17 discussion completely.

18 As you already heard from Dr. Jay, there are
19 substantial public health costs associated with poor
20 beach water quality. In addition, California's ocean
21 economy is at stake. California has the largest ocean
22 economy in the U.S., ranking number one overall for both
23 employment and gross state product. Local beachgoers in
24 California spend as much as 9.5 billion annually and the
25 nonmarket values associated with beach-going in

1 California may be as high as 5.8 billion dollars
2 annually. The ocean economy is at risk with poor water
3 quality.

4 Beach closures also are a drain on our economy.
5 Stormwater runoff in L.A. County's coastal waters caused
6 or contributed to thousands of days of beach closures or
7 advisories. In fact, L.A. County reported over 2400
8 total closing or advisory days in 2011 and we think that
9 this number is underreported.

10 A study interestingly found that water quality
11 in Long Beach, which is graded at a C grade in their
12 study, to our healthier standards at Huntington Beach,
13 for example, which is graded as a B grade, would create
14 8.8 million in economic benefits over a ten-year period.

15 So as we can see, beach closures lead to lower
16 revenues in beach communities and truly impact the
17 economy.

18 As noted by the Regional Board in their Fact
19 Sheet and also in the conversation yesterday, we find
20 that reported costs of compliance for the same program
21 element can vary widely from permittee to permittee, and
22 often by a wide margin that is not easily explained.

23 Staff mentioned that there was inconsistent
24 reporting in the presentation and that only some fraction
25 of the costs of what is reported are actually truly what

1 is spent on stormwater mitigation.

2 Here, we have an example of this inflation. We
3 see an example with the Trash TMDL where in one paper
4 L.A. County reported that it could cost over a billion
5 dollars to comply with the Trash TMDL; but interestingly
6 enough, in that same paper there was a footnote that
7 said, Well, actually, it could cost less than a million.
8 So we see that inflation there in that example.

9 Also, to that same end with the Trash TMDL, we
10 see that the Gateway Region was awarded 10 million from
11 State Fund federal funding and they said that everyone
12 will be in compliance. So this is just an example of the
13 overinflation of costs that we're seeing.

14 As Dr. Gold alluded to yesterday, we've seen
15 significant funds go into stormwater mitigation here in
16 Los Angeles County. In fact, just in this chart alone,
17 which is included in the Permit Fact Sheet, we see that
18 there's over 640 million dollars that have gone into
19 local stormwater mitigation and it's really important to
20 note that these efforts were supported strongly by the
21 NGO community and it is, I think, fair to say it would
22 not have moved forward without the NGO community support.
23 And you don't just have to take our word for it. I will
24 mention that the California Travel Association gave Heal
25 the Bay their Annual Tourism Stewardship Award here in

1 June for our efforts to clean up our beaches.

2 In sum, there are significant costs associated
3 with not having a strong Permit that cleans up water
4 quality. There also appears to be inflated costs by some
5 permittees and also there have been significant State and
6 environmental community support to address stormwater
7 mitigation.

8 And with that, I will turn the presentation over
9 to Steve Fleischli.

10 MR. FLEISCHLI: Thank you, Kirsten.

11 Before -- before we continue with our
12 presentation on the legal matters and the low impact
13 development, I'd like to take our time and cross-examine
14 staff with some questions I have.

15 In particular, I'd like to start with
16 Renee Purdy, if that's all right.

17

18

RENEE PURDY,

19

called as a Witness, and having been previously duly
20 sworn, was examined and testified as follows:

21

22

CROSS-EXAMINATION

23

BY MR. FLEISCHLI:

24

Q Renee, how long have you worked at the Regional
25 Board?

1 A I've worked at the Regional Board for -- let's
2 see -- I believe about 13 years, since June 1999.

3 Q How long have you been working on stormwater
4 issues?

5 A I've been working on stormwater issues as the
6 Regional Programs Section chief since -- it's hard to
7 remember. I believe it's been since 2008. Probably
8 2008.

9 Q Okay. And before that, what did you do?

10 A Before that, I was the Basin Planning
11 Coordinator for the Regional Board and so I worked on
12 the -- all of the water quality standards, updates for
13 the Board.

14 Q Okay. Thank you.

15 Do you know, have the dischargers ever provided
16 a map to the Regional Board of the MS4 system?

17 A Yes, they have. The Los Angeles County Flood
18 Control District has provided us with a GIS layer that
19 shows their MS4 network.

20 Q And does that just show the L.A. County portion
21 of the network or does it show all 84 municipalities plus
22 the County and the Flood Control District?

23 A I believe that it does include some parts of the
24 network that are owned or operated by other permittees
25 but not a complete picture of the entire network.

1 Q Okay. And does that map and GIS identify the
2 major outfalls in the system?

3 A It does not identify all of the major outfalls,
4 no.

5 Q And does it identify ownership for all of the
6 major outfalls?

7 A I do not believe so.

8 Q Okay. Thank you.

9 Does it identify and have you ever been provided
10 or have you ever been provided a map of retention basins,
11 detention basins, or major infiltration devices in the
12 region?

13 A We have a map of some of those from the L.A.
14 County Flood Control District, but again, it's not a
15 comprehensive map, to my knowledge.

16 Q Okay. Thank you.

17 Is it your understanding that the current Permit
18 requires compliance with water quality standards?

19 A Yes.

20 Q And is it your understanding that there is no
21 safe harbor in part two of the current Permit?

22 A Yes. That's my understanding.

23 Q And this is the fourth iteration of this Permit,
24 right, that we're discussing today?

25 A Yes.

1 Q And over the course of the last 22 years, has
2 the Permit ever been challenged by municipalities?

3 A Yes.

4 Q Has the Permit ever been challenged by the
5 environmental community?

6 A I don't believe so.

7 Q Thank you.

8 We talked a little bit about and you talked a
9 little bit yesterday about impairments in Los Angeles
10 County, water quality impairments. I believe you
11 testified that many, if not most, of the waterbodies in
12 Los Angeles are impaired. Is that correct?

13 A I don't believe that was part of my testimony
14 yesterday.

15 Q Okay. Was that part of Sam's? Sorry. I'll ask
16 Sam later.

17 Do you know, is Santa Monica Bay on the impaired
18 waters list?

19 A Yes, it is.

20 Q Is the Los Angeles River?

21 A Yes.

22 Q Is the San Gabriel River?

23 A Yes.

24 Q Malibu Creek?

25 A Yes.

1 Q Ballona Creek?

2 A Yes.

3 Q Okay. What is the largest source of impairments
4 in Los Angeles County?

5 A I would say the largest source of those water
6 quality impairments is stormwater and nonstormwater
7 discharges.

8 Q From the MS4?

9 A Yes.

10 Q Thank you. Does the current Permit require
11 permittees to effectively prohibit nonstormwater
12 discharges?

13 A It does.

14 Q Are there currently impairments, as you seem to
15 have alluded to, that are due to nonstormwater runoff?

16 A Yes.

17 Q Has the Regional Board ever imposed a monetary
18 fine against cities for violating the MS4's nonstormwater
19 provisions?

20 A I -- not in the time that I've been involved in
21 the Stormwater Program.

22 Q You mentioned impairment in Santa Monica Bay.
23 What are the deadlines in the dry-weather TMDLs for
24 Santa Monica Bay beaches?

25 A The deadline for compliance with the summer

1 dry-weather wasteload allocations was 2006 and for the
2 winter dry weather wasteload allocations was 2009, and
3 wet-weather is -- you only asked about --

4 Q And you're familiar with the bacteria standards
5 in the Basin Plan?

6 A Yes, I am.

7 Q And those are designed to protect public health;
8 is that right?

9 A They are.

10 Q And do those distinguish between human pathogens
11 and animal pathogenic viruses?

12 A No, they do not.

13 Q And is it fair to say that swimming in waters
14 that exceed those standards present a public health risk?

15 A Yes.

16 Q And are those Basin Plan standards for bacteria
17 being exceeded in Santa Monica Bay beaches right now?

18 A They are.

19 Q And to your knowledge, has the Regional Board
20 ever imposed a fine on a municipality for polluted runoff
21 that presents a risk to human health?

22 A I don't know that I am able to answer that
23 question.

24 Q Let's go back to TMDLs. Yesterday we heard a
25 bunch -- a lot of testimony about the feasibility of

1 numerical limits in permits. Do any of the TMDLs
2 developed by the Regional Board include numeric wasteload
3 allocations for stormwater?

4 A They do.

5 Q Do you know which ones?

6 A I would say all that have identified MS4
7 discharges as a source of the pollutants include numeric
8 wasteload allocations.

9 Q Okay. So it's pretty standard for TMDL
10 wasteload allocations to be expressed in a numeric form?

11 A Yes.

12 Q And when incorporating those TMDL wasteload
13 allocations into the Permit, did you include any of those
14 as numeric effluent limits?

15 A Yes, we did.

16 Q Which ones?

17 A In the case of the 33 TMDLs, we included numeric
18 wasteload -- or water quality based effluent limitations
19 for all of those TMDLs.

20 Q So you were able to take the numeric wasteload
21 allocations and convert those to numeric limits in the
22 proposed Permit; is that right?

23 A Yes.

24 Q I'd like to give you a Guidance Document from
25 EPA for 2010 I think as part of the record (indicating).

1 Are you familiar with that document?

2 A Yes, I am.

3 Q Would you read the highlighted section at the
4 top of page three?

5 A "EPA recommends that NPDES permitting
6 authorities use numeric effluent limitations
7 where feasible, as these types of effluent
8 limitations create objective and accountable
9 means for controlling stormwater
10 discharges."

11 Q So given the conversions that you mentioned,
12 would you say that in the context of this Permit, it was
13 feasible to translate the wasteload allocations into
14 water quality based effluent limits in this Permit?

15 A Yes.

16 Q Is it true that part of the reason that this
17 Permit is six years overdue is because of the limited
18 staff resources?

19 A I would say that is one reason.

20 Q In your slide presentation from yesterday, the
21 last slide on page eight talked about a process that you
22 were considering for Watershed Management Plans. Do you
23 have that in front of you or --

24 A Slide eight?

25 Q The last slide on page eight. And in that

1 slide, is it correct to say that there are at least four
2 separate reviews that would be required by the Regional
3 Board staff over the period of the next five years under
4 this Permit?

5 A I'm sorry. Could you please tell me which --
6 could you give me the title of the slide?

7 Q Yes. It's WMP time line.

8 A Oh, oh, okay. Yes, that's correct.

9 Q So there's -- a draft is one; is that correct?

10 A Yes.

11 Q A final; is that correct?

12 A Yes.

13 Q And then there will be a first evaluation
14 submittal for review?

15 A Correct.

16 Q And then there'll be a second evaluation
17 submittal for review?

18 A Correct.

19 Q And all of that review will be to aid in
20 determining whether or not the plans provide reasonable
21 assurance that water quality standards will be achieved?

22 A That is correct.

23 Q Did staff review and approve the TMDL
24 Implementation Plans that were submitted by the
25 municipalities?

1 A Staff reviewed and commented on those
2 Implementation Plans.

3 Q And despite your review of the TMDL
4 Implementation Plans, we still have violations of water
5 quality standards for those constituents where there are
6 plans; is that correct?

7 A That is correct. They have not been fully
8 implemented.

9 MR. FLEISCHLI: Thank you. I have no further
10 questions for Ms. Purdy.

11 I'd like to ask Mr. Unger a couple questions.

12

13

SAMUEL UNGER,

14 called as a Witness, and having been previously duly
15 sworn, was examined and testified as follows:

16

17

CROSS-EXAMINATION

18

BY MR. FLEISCHLI:

19

20 Q Mr. Unger, you're the Executive Officer of the
21 Regional Board; correct?

21

22 A Yes.

22

23 Q And prior to that, what was your role?

23

24 A I was the Assistant Executive Officer for the
25 Groundwater Division.

25

Q And prior to that?

1 A Prior to that, I was Section Chief of the
2 Regional Programs Section.

3 Q Okay. And were you involved in enforcement
4 previously as well?

5 A Yes, I was, as a water resources control
6 engineer.

7 Q Okay. Thank you.

8 To your knowledge, has the Regional Board ever
9 imposed a fine on a municipality for violating water
10 quality standards?

11 A An Administrative Civil Liability complaint was
12 issued against the Los Angeles County Flood Control
13 District. I can't recall -- I think it was 19- -- excuse
14 me -- 2008, for exceedences in Marina del Rey due to
15 operational issues at the Boone-Olive low flow diversion.

16 Q And what came of that Administrative Civil
17 Liability?

18 A We discussed the remedies with the County and
19 the Flood Control District and they implemented those
20 remedies.

21 Q Other than that, are there any other instances
22 where the Regional Board has imposed an ACL on a
23 permittee?

24 A Not to my knowledge.

25 Q Okay. Yesterday you testified that it was your

1 opinion that the Watershed Management Program and BMP
2 approach has been more effective than an enforcement
3 approach; is that correct?

4 A Yes.

5 MR. FLEISCHLI: Okay. Thank you. I have no further
6 questions.

7 Now I'd like to introduce Noah Garrison to talk
8 about the legal framework.

9 MR. GARRISON: Good morning, Madam Chair, members of
10 the Board. My name is Noah Garrison. I'm an attorney
11 with the Natural Resources Defense Council and you've
12 heard a lot from my colleagues Kirsten James and
13 Liz Crosson about the reason we're here and the critical
14 importance to this region that this Permit imposes in
15 protecting our waters and public health against the
16 pollution from stormwater runoff, and you've heard a bit
17 from Mr. Fleischli now and Ms. Purdy and Mr. Unger about
18 some of the actual conditions that the Permit imposes.

19 What I'd like to do is -- excuse me -- turn to
20 the legal framework that not only authorizes but actually
21 compels this Board to take action to protect the public
22 health and to protect our water resources.

23 Now, the Clean Water Act sets as its goal to
24 restore and maintain the physical, chemical, and
25 biological integrity of the nation's waters and the

1 greatest threats to these waters, as you've heard, is
2 stormwater runoff and nonstormwater discharges.

3 Giving a bit of background, the way the Clean
4 Water Act works is the State must designate uses for each
5 waterbody and then establish or adopt water quality
6 standards in order to ensure protection of those uses.
7 Water quality standards prevent water quality from
8 falling below scientifically derived acceptable levels.
9 These are designed specifically to protect health,
10 aquatic environment and other resources. And so by
11 definition, when these standards aren't being met, then
12 public health is not being protected and aquatic life is
13 not being protected.

14 Importantly, NPDES permits such as the one
15 that's before you for consideration today must have
16 effluent limitations or requirements in place sufficient
17 to meet water quality standards and so the Tentative
18 Order in requiring that discharges are prohibited from
19 contributing or causing exceedences of water quality
20 standards is absolutely consistent with what's required
21 by the Clean Water Act.

22 Now going back, because of the absolutely
23 critical threat that stormwater runoff poses to public
24 health specifically, in 2001 this Board determined,
25 rightfully so, that discharges from the MS4 are not

1 permitted to contribute to water quality standard
2 exceedences or violations of water quality standards, and
3 your decision was supported by the State Board, it was
4 supported by EPA, and it's been upheld by the courts time
5 and time again in California.

6 You heard a lot yesterday about a Ninth Circuit
7 decision in NRDC versus L.A. County that supposedly
8 created an entirely new interpretation of the Permit and
9 its requirement to meet water quality standards and
10 completely changed the landscape and that only now after
11 this case are permittees liable for a violation of water
12 quality standards or are they held to meet this standard;
13 that somehow this case has entirely changed the way the
14 Permit is interpreted.

15 I would submit that this case is an absolute red
16 herring. It changed absolutely nothing. There is
17 nothing new about the interpretation. All this did was
18 uphold interpretations by California courts that are at
19 least six years old.

20 This is a decision from a California State court
21 in 2005. They said that the Regional Board "included
22 Parts 2.1 and 2.2," which are the requirements to meet
23 water quality standards, "without a safe harbor." In
24 other words, there's no condition of the Permit where
25 implementing BMPs or practices or some sort of plan will

1 deem you in compliance even if water quality standard
2 violations are occurring. That's 2005.

3 So the Ninth Circuit when it said that there's
4 no such safe harbor in this Permit, all it did was uphold
5 an earlier ruling. There was nothing new about this
6 decision. It didn't change anything. The permittees
7 were already required to meet water quality standards and
8 they had been for 12 years since this Permit was adopted
9 and everybody knew at least since 2006 when the Court
10 decided -- it was 2005 or 2006 when the courts in
11 California held that permittees were liable to meet water
12 quality standards and, in fact, the permittees knew this.
13 They absolutely knew it.

14 This is a brief from the City of Arcadia and
15 several other cities in that 2005 case on appeal where it
16 says, "It is impossible for permittees to strictly comply
17 with Part 2 of the Permit; they would be in violation of
18 Parts 2.1 and 2.2 of the Permit from its effective date."

19 If that language sounds familiar, that's what
20 you heard all day yesterday. In the Ninth Circuit case
21 from 2011, but it's from 2006. There's nothing new about
22 this. In fact, if we go back to 2001 when this Permit
23 was last adopted, 12 years ago, Ray Tahir, who spoke
24 yesterday on behalf of many cities, said, "The proposed
25 RWL language is unacceptable because it would place

1 cities into instant noncompliance."

2 Not only did they know they were required to
3 meet water quality standards, but they effectively
4 admitted here that they weren't meeting them. They told
5 you they were not in compliance with the Permit. It has
6 been 12 years that they have been noncompliance with this
7 Permit. It is time for them to make these standards and
8 maybe the fact that they know that is why they've sued
9 you so often over these particular requirements. They
10 sued you when the Permit first came out over the water
11 quality standards. When that didn't work, they appealed.
12 They then sued against the water quality standards
13 themselves. They attempted to invalidate the water
14 quality standards and claim that they can't be applied to
15 stormwater. They sued the Permit as an unfunded mandate
16 and claimed that you weren't allowed to apply these
17 standards to their discharges, and they brought it up
18 again in the Ninth Circuit case.

19 This is their fifth or sixth bite at the apple
20 on this issue alone, let alone that they've sued you on
21 TMDLs and other issues on the Permit, but this isn't
22 collaboration. This certainly isn't doing anything to
23 protect our water or clean up our waterways. This is a
24 sustained, consistent attack against this Board's efforts
25 to do that, this Board's efforts to protect water quality

1 and protect public health, and they've sued over and over
2 again, and it's not collaborating with you at this point.

3 So aside from that issue, this Board has been
4 consistent in its support for the water quality standard
5 provision. At least as recently as 2010 in the
6 California court, the Regional Board said in its brief
7 that "the plain meaning of these provisions is clear:
8 They prohibit discharges that cause or contribute to a
9 violation of water quality standards."

10 The Clean Water Act also says that you must
11 continue doing this. The Clean Water's anti-backsliding
12 provisions state that conditions or requirements in a new
13 Permit must be at least as stringent as in the prior
14 Permit. So the fact that you required compliance with
15 the water quality standard in your prior Permit in 2001
16 means that you must continue those standards. You aren't
17 authorized under the Clean Water Act to implement a safe
18 harbor that would potentially weaken this requirement and
19 provide a way out.

20 Similarly, the Clean Water Act's
21 anti-degradation standards state that you're not allowed
22 to allow water quality to be weakened or to be worsened;
23 and by letting the permittees state, "Well, we're going
24 to focus on TMDLs and these one off or occasional
25 violations that contribute to waters that may be

1 pristine, we're not going to focus on those," this Board
2 can't do that. You have to protect these waters that
3 have high water quality and make sure that they don't
4 suddenly become impaired and then require a TMDL.

5 So how do we get there? That's one of the
6 questions that comes up is how do we meet these
7 requirements? And one of the ways we can implement
8 practices to help meet water quality standards and to
9 certainly help protect our waters is through the use of
10 low impact development.

11 Low impact development effectively makes use of
12 the natural hydrology of the site, the natural features
13 to try and retain water on-site before it can pick up
14 pollutants and discharge into the MS4 system or enter the
15 MS4 system and discharge into our waterways.

16 And just very quickly, the basic setup is that
17 under natural conditions, only about 10 percent of
18 rainfall will form as runoff. The rest of it soaks into
19 the ground or evaporates; but when we start developing
20 the landscape, you've completely flipped that paradigm so
21 that 10 percent of it is retained and either infiltrates
22 or evaporates and 90 percent of it forms a runoff and
23 picks up pollutants and carries them to our receiving
24 waters, and we need to alter that landscape. We need to
25 make sure that the water is retained on-site.

1 What I'm going to do is turn to Dr. Richard
2 Horner, who's going to talk a little bit about low impact
3 development practices and how they apply to the Permit
4 and how they can be used.

5
6 RICHARD HORNER, Ph.D.,
7 called as a Witness, and having been previously duly
8 sworn, was examined and testified as follows:

9
10 DIRECT EXAMINATION

11 BY MR. GARRISON:

12 Q Good morning, if you could please introduce
13 yourself.

14 A Good morning. My name is Richard Horner.

15 Q And can you briefly describe your educational
16 background.

17 A I received my Ph.D. from the University of
18 Washington, Department of Civil and Environmental
19 Engineering, in 1978. That followed Bachelor's and
20 Master's of Science in mechanical engineering from the
21 University of Pennsylvania.

22 Q Can you discuss your academic appointments?

23 A I returned to the University of Washington Civil
24 and Environmental Engineering in 1981 on the faculty, got
25 appointments subsequently adjunct in Landscape

1 Architecture Department, Center for Horticulture. I
2 continued in that respect for 12 years until 1993 when I
3 went half-time and consulted for the remainder of my time
4 until 2011 when I took an emeritus appointment at the
5 university and I'm continuing to consult.

6 Q Have you participated in any research groups or
7 committees that are relevant to stormwater or urban
8 runoff?

9 A Yes. I was a member of the National Academy of
10 Science Natural Resource Council's committee on reducing
11 the stormwater contributions to water pollution, and this
12 panel was the first ever appointed by the National
13 Academy on the subject of stormwater. Its broad goals
14 were to better understand the linkages between stormwater
15 and the water pollution, to define the state of the
16 science of stormwater management and to advance the
17 policy recommendations to EPA on the municipal and
18 industrial and construction permitting. The committee
19 issued its final report in 2008.

20 Q And how were you nominated or elected to serve
21 on this committee?

22 A The committee consisted of 14 nationally
23 recognized experts. I was chosen from a group of about a
24 hundred initial nominees and the final selections were
25 made on the basis of qualifications and demonstrated

1 objectivity in conducting one's practice in the field.

2 Q And Dr. Horner, can you talk a little bit about
3 the benefits of LID practices that would contain runoff
4 at its source?

5 A Yes. LID practices convey benefits in both
6 water quality and water quantity control. In the area of
7 quantity, the change in circumstances as land develops
8 from low to a high level of impervious surface converts
9 what had been water lost to the atmosphere or to the
10 ground into surface runoff.

11 Low impact development attempts to reverse the
12 clock hydrologically and the most important attribute of
13 an urban area hydrologically is an impervious surface and
14 the low impact development takes the natural capability
15 of soil and vegetation to reduce the amount of surface
16 runoff and return it to what it was, and that is
17 infiltration and evapotranspiration.

18 And the benefits of that are that floods are
19 prevented, are reduced, with water being held on-site.
20 Even if streams don't overflow their banks, putting less
21 water down the stream at a slower rate reduces the
22 erosive damage on the stream channel, its habitat and its
23 biology.

24 The water held on-site has an opportunity to
25 infiltrate the groundwater and replenish supplies there;

1 and from the aspect of water quality, there are benefits
2 to reducing the concentrations of pollutants,
3 concentration being the amount of pollutant measured in a
4 water sample; and most importantly, reducing the total
5 mass loadings of pollutants. That is, the total
6 quantities passing into a waterbody over an extended
7 period of time, and that is a function of both the
8 reduction of volume and a reduction of concentration.

9 Q And this Permit imposes retention requirements
10 that achieve the benefits you just talked about. Can you
11 talk about what are some of the drawbacks about using a
12 biofiltration process, for example, with an underdrain
13 that results in discharge rather than retention?

14 A Well, on the right, you see an underdrain in the
15 center of the picture below the soil bed that's missing
16 on the left picture and that underdrain is perforated.
17 It picks up percolating runoff and discharges it on the
18 surface. There would be some water storage for a time in
19 the soil and treatment by the soil and vegetation when
20 the water is in contact with it; but the benefit in
21 putting an underdrain, the benefit to water retention is
22 reduced by roughly a third to a half, as shown by some
23 research studies mostly in eastern North America.

24 If you have a liner here, which is frequently
25 another element put into systems, that benefit is reduced

1 by about two-thirds. There's still some water retention
2 and water loss by evapotranspiration and there's still
3 some treatment, as I pointed out, but that water that's
4 discharging through the underdrain is still carrying
5 pollutants; and discharging from a biofiltration is -- is
6 less effective particularly for certain classes of
7 pollutants such as nitrogen, phosphorus, and bacterial
8 contamination.

9 The -- in my opinion, an underdrain should only
10 be placed in such a bioretention unit for a good reason,
11 where it's legitimately impossible or unwise to
12 infiltrate water, and the Permit should be -- as you
13 clarified that, can be modified accordingly.

14 Q Dr. Horner, I'd like to talk a little bit about
15 the costs of implementing LID practices development. Are
16 you aware of any research that discusses project costs
17 for LID?

18 A There are many studies. EPA compiled a number
19 of them in 2007 and concluded in the vast majority of
20 cases, there are significant savings in using LID
21 practices compared to conventional ones, ranging from 15
22 to as much as 80 percent; and that is because of less
23 site grading requirements, less structural elements such
24 as pipe and concrete and so on.

25 And just a couple of examples among the many in

1 that compilation, Seattle's street-side bioretention,
2 which I've worked on, costs per block about \$100,000 less
3 than traditional curb and gutter and piped drainage
4 system.

5 Portland's residential roof-down spout
6 disconnection program cost 8.5 million, but it will save
7 many times that in storage infrastructure to prevent
8 combined sewer overflows.

9 Q Thank you, Dr. Horner.

10 I'd actually like to turn to a different topic
11 here. Did you hear the testimony of Brian Curry
12 yesterday regarding numeric effluent limitations or NELs?

13 A Yes, I did.

14 Q And do you agree with Mr. Curry's opinion that
15 NELs are infeasible to develop for stormwater?

16 A I'm afraid I don't agree.

17 Q And what kind of NELs, in your opinion, could
18 feasibly be developed?

19 A Well, there are many types of NELs that could be
20 developed. For example, one could develop NELs related
21 to retention or recovery of beneficial use.

22 An example would be the returns of spawning
23 steelhead to a stream, a minimum number per year.
24 Another kind of NEL would be adopting a targeted
25 pollutant concentration level to sustain a beneficial

1 use.

2 Again using the steelhead example, copper is a
3 particular contaminant that's disruptive to the life
4 cycle of an anadromous fish and putting a limit on the
5 amount that those fish could be exposed to is another
6 kind of limit.

7 Other limits would be in the area of retaining a
8 minimum amount of stormwater from the sub watershed.
9 That would stimulate projects like Sun Valley that you
10 saw yesterday.

11 MR. GARRISON: Thank you, Dr. Horner. I have no
12 further questions.

13 So we have, with relationship to the LID
14 provisions of the Permit, we have a couple of specific
15 requests. I'm going to focus on two of them just with
16 you right now, the first one being you heard yesterday
17 that some of the permittees stated that off-site
18 mitigation projects should not trigger a requirement that
19 any new development -- also perform treatment on-site for
20 the new development; that new development goes in with no
21 treatment and you could then perform off-site mitigation
22 to take care of your requirement and we would submit, as
23 EPA pointed to as well, that the Clean Water Act does not
24 allow this. A new development must have minimal
25 treatment levels.

1 The Bellflower decision by the State Board -- I
2 think it's Order 2001-15, I believe, but Bellflower holds
3 that there has to be minimal treatment on-site. So any
4 off-site mitigation treatment is going to have to require
5 minimum treatment.

6 Second, the sizing thresholds in the current
7 currently state in order for these permits to apply, a
8 site has to consist of a full one acre of development and
9 additionally result in creation of 10,000 square feet of
10 impervious surface and this is completely out of line
11 with other California permits.

12 The proper standard would be only to require the
13 10,000 square feet of impervious surface is required or
14 even 5,000 square feet of impervious surface is required,
15 but not require this additional standard that the site
16 has to be at least an acre for the provision to apply.
17 It should apply to much smaller sizes of development.

18 Finally, I would note that the LID requirement
19 has what's called a local ordinance equivalence that
20 allows for a permittee to submit their own plan for the
21 Executive Officer to then sign off on this as meeting the
22 Permit requirements, and this actually occurs repeatedly
23 throughout the Permit. There are any number of areas
24 where the permittee can effectively design their own
25 provisions and then submit them and then the Executive

1 Officer can sign off on these.

2 The largest of these and the most problematic is
3 the Watershed Management Plans themselves. They require
4 only Executive Officer approval. As you heard today from
5 Ms. Purdy, the permittees haven't even submitted a
6 complete map of the system with outfalls, which is a
7 requirement, a basic application requirement, let alone
8 what would be required for these incredibly detailed and
9 lengthy Watershed Management plans.

10 Any plan like this that's going to come before
11 -- that's going to be submitted must have a period of
12 public notice and comment and must come before this Board
13 for hearing. This is replacing critical provisions of
14 the Permit and the Clean Water Act requires that -- and
15 the Ninth Circuit has found that any kind of management
16 program that is designed by the permittee must in every
17 instance be subject to meaningful review by the
18 appropriate regulating entity.

19 In that case, this is this Board. It must have
20 public comment and the Board must review it and hold a
21 public hearing on anything that requires a substantive
22 change of that Permit.

23 With that, I'd like to turn it back over to
24 Liz Crosson and Kirsten James.

25 MS. CROSSON: Thank you, Noah.

1 Briefly on TMDLs, you've heard a lot about our
2 concerns when it comes to water quality limits and
3 compliance with water quality standards. TMDLs are the
4 means for us to get there. So many of our waterways are
5 impaired that we need TMDLs to bring back our waterways
6 to a state where they protect beneficial uses and NPDES
7 permits must be consistent with the assumptions of
8 wasteload allocations.

9 We do support the staff's inclusion of numeric
10 final limitations when it comes to being consistent with
11 wasteload allocations. As you heard yesterday, EPA also
12 supports that approach and so we urge you to keep that in
13 the Permit.

14 We also believe that you should include numeric
15 when it comes to interim limits. There has to be a way
16 to measurably track progress. We need to be able to tell
17 whether the steps that are being taken towards that final
18 compliance date are actually making a difference, and the
19 way to do that is to include numerics as interim limits.

20 Lastly on TMDLs, several compliance schedules --
21 or most of the TMDLs actually have compliance schedules
22 in the Permit as it stands. These need to be legal
23 compliance schedules. There are strict regulations as to
24 how compliance schedules can be incorporated into an
25 NPDES Permit. They must lead to compliance as soon as

1 possible, according to the CFR.

2 Many of our TMDLs delay compliance for over 20
3 years. They also must include interim deadlines if they
4 are longer than a year. Those interim deadlines require
5 reports and milestones up to the final compliance date.
6 Many of our TMDLs do not include these interim deadlines.
7 Some of our most important ones, some of the Bacteria
8 TMDLs, do not include interim deadlines or they don't
9 include the interim reporting that they're required to
10 include.

11 Lastly, compliance schedules must be authorized.
12 For CTR pollutants -- that is, metals -- there is a
13 ten-year maximum on compliance schedules. In the Inland
14 Surface Water Plan as well as regulations, we know that
15 no schedule can be established for CTR pollutants after
16 May 18th, 2010. You need to address this issue. This is
17 a major issue because so many of our Metals TMDLs
18 actually extend way beyond 15, 20, 25 years.

19 And we know from advice from our State Board
20 chief counsel that that is their interpretation as well,
21 that all compliance schedules must terminate on or before
22 2010, consistent with the CTR.

23 I'll pass it on to Kirsten James.

24 MS. JAMES: Kirsten James with Heal the Bay.

25 Finally, we want to finish up by talking about

1 the Monitoring Reporting Program.

2 The Clean Water Act requires that a permittee
3 undertake a self-monitoring program sufficient to
4 determine compliance with its NPDES Permit. So that is
5 the filter that we all need to use when evaluating the
6 proposed program.

7 We support many elements of the proposed plan;
8 however, we propose several critical changes to ensure
9 that the goals of the Clean Water Act and the Monitoring
10 and Reporting Program are met. Also of note in response
11 to the request for a more customized program from the
12 cities, we support efficiencies in these programs. We
13 don't ask for duplication; however, we think under the
14 current proposal that still can be done and we need to
15 see those minimum specific requirements in the Permit so
16 we can ensure that we get the critical monitoring that is
17 needed to assess compliance and look at trends and all
18 the other goals of a Monitoring Program.

19 So this map is up just to give you a perspective
20 of the watersheds we're dealing with and the size of the
21 watersheds we're dealing with. Also, please note the
22 mass emission stations which are the circles at the
23 bottom of the watersheds.

24 Focusing on receiving water, what we have up
25 here in red (indicating) are the additions that we're

1 asking for. The current mass emission stations
2 monitoring locations should be maintained as is to assess
3 compliance and trends over time. Currently as proposed
4 in the Monitoring Plan there's the option that these
5 might not continue. Also, we want to see the current
6 parameters included in the current Permit in this next
7 Order. There's no logic to removing those parameters.

8 Further, as far as additional locations, as I
9 mentioned, we have these large watersheds that we're
10 dealing with, 51-mile river stretch for the L.A. River,
11 and we need to see some more receiving water monitoring
12 so we can just understand what's going on more and it's
13 helpful for source tracking and such. Existing auto
14 samplers that many of the dischargers have can help make
15 this a relatively easy transition.

16 Also, with outfall monitoring, we ask that the
17 outfall monitoring results be compared to water quality
18 standards and not the proposed weak action levels.

19 Here we see a proposal which includes staff's
20 proposal of 641 micrograms per liter for zinc, which is
21 based on the 25th percentile data, whereas the water
22 quality standard, as you see, is much more protective and
23 even in fact the Ventura performance standard is much
24 more protective because that's based on the median
25 performance. So as you can see, this is really

1 disproportionate and we ask that the discharge be
2 compared to water quality standards and that that trigger
3 the action and that median performance values should be
4 used for developing treatment BMP performance standards
5 in addition, as was done in Ventura.

6 As far as beaches, we have one request. We
7 agree that the coordinating Monitoring Plan should be
8 incorporated into the Permit, but we also ask that this
9 Permit specify the frequency of monitoring, which is
10 consistent with the current Permit.

11 And finally, on toxicity monitoring, we strongly
12 support aquatic toxicity monitoring in both dry and wet
13 weather in receiving water and outfalls. However, the
14 proposal requires outfall monitoring only once per year
15 and requires an out to outfall monitoring entirely if
16 toxicity monitoring is not found in the receiving water
17 for two years. As you know, toxicity can be very
18 fleeting and a once-per-year sampling regime will likely
19 not capture toxic discharge. In order to ensure that the
20 toxic discharge is identified, the Regional Board should
21 require outfall monitoring for toxicity at specified
22 locations four times per year at a minimum at the same
23 time that the receiving monitoring location is sampled.

24 So this concludes our remarks on the Monitoring
25 Program and I will now turn it over to Liz Crosson to

1 conclude our proposal.

2 MS. CROSSON: Thank you.

3 So I just would like to reiterate again that
4 this is one of the most important decisions that you as
5 Board members will ever make. This Permit affects anyone
6 who lives, works, and visits Los Angeles, and this is not
7 just a beach city issue. This is an issue for everyone
8 in Los Angeles. It's an issue for our communities. It's
9 for all of our inland waterways. This is something that
10 will be important for generations to come and you have a
11 real opportunity here to move a good Permit forward to be
12 something that can be even better when it comes to
13 results in stormwater and pollution in our beaches and
14 waterways.

15 So I just want to reiterate our proposal. We do
16 agree with much of what staff has done here and we
17 compliment them on the long hours and many months of work
18 that they've put forth. We do think it's imperative that
19 water quality standards remain to be required. It's
20 required by the law, it's required by your charge, and
21 it's also the only way that we're going to get to the
22 success that we want to see in our waterways.

23 TMDLs are going to be a great way to do that.
24 They create a pathway for us to reach compliance with
25 water quality standards, but we need to make sure that we

1 have numerics in place so that we can track compliance
2 and we can get to that final day, to that final wasteload
3 allocation that will indeed protect beneficial uses in
4 the long run.

5 LID is what we need in order to get there. This
6 is a great solution that has been proven to be effective.
7 We've heard about the feasibility and the affordability
8 of LID provisions and we support many of what you've
9 proposed with a few additions.

10 Monitoring has to be required in the way that
11 has been proposed. We need to be able to ensure that we
12 can track our compliance, we can source, we can find the
13 sources of pollution and address those quickly; and of
14 course we want to be involved every step of the way, as
15 does every stakeholder, so public participation is of the
16 utmost importance. All future actions should include
17 public participation and your oversight.

18 Again, I want to thank you for the opportunity
19 for us to present our proposal and our thoughts and our
20 expert witnesses. Thank you very much for all your work.

21 MS. MEHRANIAN: Thank you.

22 If any of the parties would like to
23 cross-examine the presenters, the organizations and the
24 parties -- okay. Seeing none, we move on.

25 We'll go to the section that is all other

1 parties.

2 MR. UNGER: Yes. Madam Chair, if I may, there are
3 two people from the public who have time commitments and
4 at your discretion, we can take the three minutes each
5 for these two people and then we can move to --

6 MS. MEHRANIAN: Before we go to the other parties?

7 MR. UNGER: Before we go to the other parties, yes.
8 If you like, I can bring those two up.

9 MS. MEHRANIAN: Three minutes each.

10 MR. UNGER: Three minutes each, yes.

11 MS. MEHRANIAN: Andy Lipkis, Tree People. You have
12 three minutes.

13 MR. LIPKIS: Do I have a clock?

14 MS. MEHRANIAN: Yes. You have a timer. You have
15 three minutes.

16 MR. LIPKIS: Thank you. I'm going to start when --
17 okay. Great.

18 Good morning. My name is Andy Lipkis. I'm
19 founder and president of Tree People, a 39-year-old local
20 organization that focuses on engaging our communities and
21 taking personal responsibility for the quality of the
22 environment and taking action to help make it sustainable
23 and healthy.

24 It's a pleasure to be with you this morning. By
25 the way, Tree People has about 15,000 members spread

1 throughout the region, 10,000 annual volunteers who are
2 working in partnership with many of the organizations
3 here and you to improve the quality of life here.

4 It's a pleasure to get to talk to you this
5 morning and I'm going to focus on the benefits of LID,
6 low impact development, because introducing that and the
7 key function it plays now is actually an economic driver.
8 The complaints you've heard have been from cities who are
9 saying this is an onerous burden, but they're looking at
10 it just from the perspective of water quality.

11 Low impact development actually represents water
12 supply, flood protection, and other saving opportunities
13 for cities and counties that implement this as a whole.

14 You heard a lot yesterday about the Sun Valley
15 Watershed Project. Tree People has been a key player
16 with that since the beginning.

17 I want to point out a couple of examples. That
18 was going to be a 50 million-dollar storm drain.
19 Instead, it's a 200 million-dollar project that was
20 approved because of 300 million dollars in payback and
21 savings to the City and the County of L.A.

22 Example, 182 million dollars of water put back
23 in the ground that was going to be thrown away. That's a
24 huge payback.

25 A 30 million-dollar savings over 30 years to the

1 City of Los Angeles for not hauling green waste off-site
2 because the green waste is now being used as a watershed
3 LID component to help filter and infiltrate the water.

4 These kinds of savings are part of this big
5 picture. Back when you introduced the higher standards
6 in the last Permit, you changed the game so water
7 agencies, flood control agencies, and others could come
8 to the table and start co-investing. The opportunity
9 that you have before you is to set a standard that will
10 begin making much more solid investments.

11 Just last week, the Governor signed a bill
12 authorizing, allowing harvesting rainwater in cisterns.
13 That's never been done before. That's a key piece of the
14 LID system now enabled. These opportunities are all
15 coming on-line and it's very important to see that you
16 are a part of the very big picture, so setting this
17 Permit will change the game and we urge you to go for it.

18 And I'm sort of throwing away my notes because I
19 think the economic feasibility case really has to be
20 made.

21 Back in early 2000, we came to this Board -- a
22 few of you were members -- and presented you the evidence
23 on economic feasibility as we started retrofitting houses
24 in South Los Angeles and around L.A. It literally did
25 change the game when you stepped up and included those

1 components of LID in the Permit. This is essential now
2 and it's important that you set the standard for the
3 region so all the cities and adjacent areas will actually
4 link to yours and be consistent and the public won't be
5 confused and other agencies can actually sync up with
6 you.

7 I just want to quickly say that we support the
8 proposal for on-site capture, not off-site. On-site is
9 the preferred. That's where you get the benefits.

10 The threshold that you've set in this Permit,
11 though, is too high. I'll second what Noah Garrison
12 stated that it should be held at the 10,000 square foot,
13 not triggered by an acre.

14 MS. MEHRANIAN: Thank you.

15 Marcus Eriksen?

16 MR. ERIKSEN: Good morning. My name is Marcus
17 Eriksen. I'm the Executive Director of the 5 Gyres
18 Institute.

19 I've had the privilege of studying plastic
20 pollution in the world's oceans. In the last few years,
21 we've sailed about 30,000 miles in all the five
22 subtropical gyres, North Pacific, North Atlantic, South
23 Pacific and Indian Ocean and found the world is
24 plasticized.

25 What the plastic does out in the sea, as many of

1 you know, there are containment issues, ingestion issues,
2 it's a navigational hazard, it washes up on beaches
3 around the world, causing a loss in tourism funding.

4 But I want to focus on what happens when you go
5 upstream because we're based here in Los Angeles and I've
6 had a chance to look at the impact of plastics, what's
7 washing down our watersheds. By going up to my knees in
8 the L.A. River, Ballona Creek, San Gabriel River looking
9 at plastics that float and also what sinks.

10 So look at what floats. Monitoring the plastic
11 trash going down this County in this watershed for three
12 days, two dry days and one stormy day, we found an
13 average of about 2.3 billion particles of plastic washed
14 down this watershed in those three days, considering all
15 the water that flowed off our streets and rivers out to
16 sea.

17 How about what sinks? If you look at what
18 sinks -- and I had a chance to go into these rivers also
19 and dig up sediment in three rivers -- Ballona Creek
20 again, San Gabriel, L.A. River. We found that on average
21 about 480 grams of plastic per cubic meter of sediment.

22 So these are huge impacts or huge amounts of
23 plastic, what floats and sinks, washing down our streets
24 out to sea.

25 But the impacts locally are equal to what's

1 happening out in the world: entanglements, ingestion.
2 Whenever I go out into the field here locally and I find
3 animals, for example, one bird, a storm petrel we found
4 on one of the beaches here in Santa Monica. We took it
5 back to our lab, opened up its stomach, and found one
6 piece of plastic film. It could have been from a plastic
7 bag or Ziploc bag, but the whole point is even locally we
8 have these impacts.

9 What I strongly urge from you, having seen this
10 issue globally and then going upstream to our local
11 watershed, is that we need a strong Permit that
12 implements these numeric limits on what flows off our
13 streets to the sea.

14 Thank you very much.

15 MS. MEHRANIAN: Thank you. We're moving on to the
16 other parties section of the testimony and we start with
17 Shahram Kharaghani at City of Los Angeles.

18 MR. KHARAGHANI: Good morning, Chair Mehranian, Board
19 members. My name is Shahram Kharaghani and I am
20 representing the City of L.A. I have been granted three
21 more minutes from County of Los Angeles because the
22 statement that I'm supposed to read will take five
23 minutes. The County has given me three more minutes, so
24 I have six minutes.

25 MS. MEHRANIAN: Okay.

1 MR. KHARAGHANI: The City of Los Angeles Bureau of
2 Sanitation Watershed Protection Division appreciates the
3 opportunity to provide these comments to your Board.

4 We would like to thank the Regional Board and
5 Regional Board staff for the process that has provided
6 the opportunity for substantial engagement and input for
7 all stakeholders. In particular, we would like to thank
8 Mr. Sam Unger, Ms. Deb Smith, Ms. Renee Purdy and
9 Mr. Ivar Ridgeway for the significant time the staff have
10 dedicated to meeting with us to listen to us, to listen
11 to our ideas, and to work in good faith to develop
12 solutions and approaches that meet our mutual goal of
13 protecting water quality.

14 At the start of the Permit reissuance process,
15 there were many challenges that needed to be addressed,
16 least of which was how to structure the Permit. The
17 Tentative Order provides an opportunity that not only
18 successfully addresses the Permit structure but also
19 focuses on an important and necessary evolution in the
20 management of the stormwater, the Watershed Management
21 Program.

22 The City of Los Angeles strongly supports the
23 Watershed Management Program, as they provide the
24 following benefits: It focuses resources on highest
25 priorities in the watershed, consistent with the recent

1 guidance from USEPA; deals with all the TMDLs in a
2 comprehensive manner with an integrated, green,
3 multi-benefit project as opposed to one TMDL at a time,
4 and you are fully aware that those multi-benefit projects
5 augment the water supply as well as habitat, green space,
6 and other things; addresses the Receiving Water
7 Limitations Section with its metaphor of three buckets
8 pollutant waterbody combination in an effective,
9 consistent and sensible manner.

10 It provides an efficient, effective approach for
11 addressing water quality standards and objectives. It
12 encourages the various MS4 permittees to collaborate and
13 work together. After all, this is the watershed and we
14 are all in it. It provides customization program
15 elements to make the focus the protection of beneficial
16 uses in the receiving water. It provides consistency
17 with numerous TMDL Implementation Plans that this water
18 quality issues at the watershed scale; and when
19 Countywide funding measure based on the result of that is
20 approved by property owners in the spring of 2013, it
21 would complement the funding framework required for the
22 Watershed Management Plan.

23 For a Watershed Management Program approach to
24 be successfully implemented, various components of the
25 Permit must be tweaked in order to support that concept

1 with flexibility and customization and focusing on
2 watershed-wide priorities.

3 In our written comment letter, the City of
4 Los Angeles identified several aspects of the Tentative
5 Order that modification would require to incentivize and
6 support the Watershed Management Plan, including how to
7 address the receiving water limitations and the
8 Monitoring and Reporting Program.

9 Based upon presentations given yesterday by
10 Mr. Unger, Ms. Renee Purdy, and Ivar, the City of
11 Los Angeles appreciates and strongly supports the efforts
12 of the Board staff, that they consider our requests and
13 we fully support their revisions that Renee provided
14 yesterday.

15 There are a couple of specific modifications
16 needed in the Monitoring Program that are technical in
17 nature dealing with composite versus grab samples during
18 dry weather and toxicity monitoring that is very complex,
19 but those can be dealt with in alternative technical
20 approaches that would effectively and efficiently inform
21 the implementation of BMPs.

22 Lastly, there should be some acknowledgment in
23 the Permit pending the outcome of the Countywide funding
24 measure to reprioritize and update our plans through
25 discussion with you and your Board.

1 In summary, the Watershed Management Program
2 approach is fundamental to the structure of the Permit
3 and provides for the necessary and important shift in the
4 management of stormwater. We support the proposed
5 revision to the Tentative Order and that will ensure the
6 Watershed Management Plan and its companion, flexible
7 watershed-wide integrated monitoring and reporting, would
8 focus our resources and our efforts on protecting water
9 quality.

10 As always, we appreciate the effort of Regional
11 Board and Regional Board staff and we look forward to
12 continuing to work with you on this very important issue.

13 Thank you.

14 MS. MEHRANIAN: Thank you.

15 MS. GLICKFELD: Thank you. Could Mr. Kharaghani stay
16 until the Board --

17 MS. MEHRANIAN: Are you going to stay?

18 MS. GLICKFELD: Could you ask him to stay for Board
19 questions.

20 MR. KHARAGHANI: Yes. I will be here.

21 MS. MEHRANIAN: John Hunter, City of South Gate.

22 MR. MC CULLOUGH: Hello. My name is Cameron
23 McCullough. I'm speaking for John Hunter and I'll be
24 speaking -- I'll be reading a letter from George Troxcil,
25 City Manager for the City of South Gate. Okay.

1 "The purpose of this letter is to
2 provide comments regarding the tentative MS4
3 Permit. But first, I believe there is a
4 perception that cities are not actively
5 taking steps to improve the quality of
6 stormwater runoff. This perception is not
7 correct, as South Gate has continued its
8 effort to reduce pollutants in stormwater
9 runoff."

10 So the first picture.

11 "Although two industrial commercial
12 facility inspection cycles of the Permit
13 expired in 2006, South Gate has continued
14 its inspection program by combining it with
15 the Industrial Waste Program. Last year,
16 over 200 inspections were here. Here, for
17 example, is a photo taken ten days ago.
18 This business will be receiving a Notice of
19 Violation.

20 "Thanks to a grant, 684 out of 797
21 full-capture inserts have now been installed
22 in City and Flood Control catch basins to
23 prevent trash from entering the Los Angeles
24 River."

25 There's pictures of the inserts.

1 "What we have here may just look like a
2 standard catch basin, but it is actually one
3 of several biofiltration devices that were
4 installed along a major roadway that has
5 30,000 vehicles pass through every day. The
6 City obtained a second grant for this
7 project.

8 "What we have here is low impact
9 development. This is a vegetative swale
10 with curb cut-outs that was required by the
11 City for a private development. South Gate
12 has already adopted a Low Impact Development
13 Ordinance that is stricter than the SUSMP
14 requirements of both the current and
15 tentative Permit.

16 "And here we have a large infiltration
17 system being installed under a parking lot.

18 "With that brief background, I hope it
19 is clear that South Gate is working hard to
20 meet the MS4 Permit requirements; however,
21 the City is more than a little concerned
22 with the scope of the Tentative Permit. I
23 will limit my comments to just two items.

24 "First, our projections show the
25 proposed Outfall Monitoring Program could

1 cost \$400,000 in the first year for
2 installation of monitoring equipment, and we
3 simply don't have those funds available.

4 "Secondly, despite the serious effort
5 South Gate is making, the wording of the
6 receiving waters limitations could place
7 South Gate in jeopardy of litigation
8 immediately upon the effective date of the
9 MS4 Permit. I know there is a workshop
10 scheduled for November, but these
11 negotiations take time and South Gate
12 requests that cities with demonstrable
13 efforts be allowed to continue to
14 demonstrate compliance based on BMP
15 implementation efforts rather than strict
16 numeric limits.

17 "Thank you in advance for your
18 consideration.

19 "Sincerely, George Troxcil, City
20 Manager."

21 Thank you.

22 MS. MEHRANIAN: Thank you.

23 James Ranells, City of La Verne. Not here?

24 We will move on to the next and come back.

25 Sharon Perlstein, City of West Hollywood.

1 Can you hear me?

2 Sharon Perlstein, City of West Hollywood. No?

3 James Ranells, City of La Verne. No?

4 Kathleen McGowan, City of Manhattan Beach.

5 MS. MC GOWAN: Good morning. My name is

6 Kathleen McGowan. I'm a consultant for the City of

7 Manhattan Beach and I've been asked to read a letter to

8 you from the City Manager.

9 "Madam Chair and members of the Board:

10 "The City of Manhattan Beach is

11 committed to protecting and improving water

12 quality and to working with your staff to

13 achieve that objective. As a coastal city

14 focused on surfing and beach-oriented

15 recreational activity, maintaining high

16 water quality is very important to our

17 residents and City officials.

18 "Notable accomplishments of our

19 Stormwater Program during this past fiscal

20 year include:

21 "The City of Manhattan Beach prevailed

22 in its effort to ban plastic bags through a

23 unanimous California Supreme Court decision

24 in its favor against a challenge by the Save

25 the Plastic Bag Coalition.

1 "The City Council approved an ordinance
2 expanding the areas where outdoor smoking is
3 prohibited to include the Strand walkway
4 adjacent to the beach and the Valley/Ardmore
5 Greenbelt. Previously the Council had
6 prohibited smoking on the beach, the pier,
7 and at recreational facilities such as parks
8 and so forth.

9 "The City has completed design of the
10 Greenbelt Infiltration Trench Project being
11 funded in part by a grant from Prop 84
12 Santa Monica Bay Restoration Commission.
13 This project will intercept and infiltrate
14 dry weather and wet weather low flows from
15 existing storm drains to effectively
16 retrofit 55 acres of fully developed
17 residential area.

18 "The City Council of the City of
19 Manhattan Beach urges you not to adopt this
20 Permit until the State Board workshop is
21 held in November to consider modifications
22 to the standard receiving water limitations
23 language in municipal stormwater permits.
24 As discussed previously, this language is of
25 central importance because of the

1 Ninth Circuit court decision that found that
2 municipal permittees can be deemed in
3 violation of the Stormwater Permit due to
4 exceedences of water quality standards even
5 if they are acting in good faith to improve
6 their stormwater programs to correct those
7 exceedences. While we understand the
8 importance of achieving water quality
9 standards, the means by which they can be
10 achieved is not straightforward and to
11 penalize municipalities while they are
12 working toward finding a solution is
13 counterproductive.

14 "The 45-day period provided for the
15 review of the complete draft of this
16 500-page Permit was not sufficient for our
17 staff to fully review and consider the
18 implications. However our staff in
19 cooperation with the staffs of our sister
20 cities did submit a significant list of
21 comments given the time allotted through a
22 joint letter co-signed with the City of
23 Redondo Beach. The City of Manhattan Beach
24 respectfully requests that the Regional
25 Board lengthen the review period prior to

1 adoption of the Permit and provide a
2 reasonable schedule to allow the issuance of
3 a second draft of the Permit and comment
4 period in order to provide time to resolve
5 outstanding issues that will no doubt become
6 evident upon review of the second draft.

7 "We want to continue to work with your
8 staff to protect and restore the quality of
9 our valuable water resources and will not
10 cease in that effort during Permit
11 negotiations.

12 "Sincerely, David Carmany, City
13 Manager."

14 MS. MEHRANIAN: Thank you.

15 Jerry Burke, City of Glendora.

16 John Dettle, City of Torrance?

17 MR. BURKE: Good morning, Madam Chair, members of the
18 Board. My name is Jerry Burke. I'm the City Engineer
19 with the City of Glendora and we would just ask that the
20 Board not adopt a Permit which would set cities up for
21 failure. Now that we finally have the over-500-page
22 draft of the Permit, we would just ask that that 180-day
23 additional period be granted so that we could work
24 together with the Board staff and with the cities to come
25 up with a Permit that works for your agency, for the

1 cities, and ultimately the over 9 million residents of
2 our County who are hardworking, tax-paying, and they pay
3 our salaries, and we owe it to them to continue to work
4 together to get a Permit that works for both of us.

5 Thank you for listening.

6 MS. MEHRANIAN: Thank you.

7 John Dettle, City of Torrance. No?

8 Conner Everts, Southern California Watershed
9 Alliance.

10 MR. UNGER: Excuse me. He's not a party. He should
11 be in public forum. He's in public forum. Sorry.

12 MS. MEHRANIAN: And I have Michael Shay after, City
13 of Redondo Beach.

14 MR. UNGER: Sorry.

15 MS. MEHRANIAN: Michael Shay, City of Redondo Beach.
16 Not here?

17 MR. UNGER: No. He's here.

18 MR. SHAY: Good morning. My name is Mike Shay, with
19 the City of Redondo Beach, Principal Civil Engineer.

20 I really just have one topic I'd like to address
21 and it's dealing with the monitoring for the Santa Monica
22 Bay Bacteria TMDL. I addressed this at the reopener
23 where there was actually two programs that have been
24 implemented as part of that TMDL and one is the
25 current -- in the current Permit, which has a Shoreline

1 Monitoring Program. The other one is the TMDL Monitoring
2 Plan which was developed by all the agencies within the
3 watershed that drains to the Santa Monica Bay.

4 We find there are some inconsistencies and
5 overlapping provisions between the two programs. One of
6 the things is that the requirements of the coordinated
7 Shoreline Monitoring Program was to have weekly sampling
8 on Monday, while the Permit has this little more
9 convoluted provision which talks about having
10 five-days-a-week sampling requirements on some of the
11 sites and some weekly sampling, and then it had another
12 provision which had a couple of other sites where they
13 had five-days-a-week monitoring. Again, this four-day
14 plan which all the agencies accepted was weekly and we
15 have now some sites, about 10 of the 18, that are done
16 under Permit are being monitored five days a week.

17 The criteria shown here in highlight where they
18 said it's five days a week if the water quality is worse
19 than reference beach, but if you look at this next chart,
20 this is an analysis of all the data that was presented as
21 part of the reopener where it shows how many exceedences
22 were occurring during the summertime dry weather, and the
23 yellow ones are all the sites that are being monitored
24 five days a week now and the green are because of a
25 condition where the two coordinated Shoreline Monitoring

1 Plan was being monitored by one agency in some sites and
2 another agency on other sites. There's some green ones
3 that are being monitored two days a week. As you can
4 see, the orange area is the reference beach, which has a
5 10 percent exceedence rate.

6 Specifically, our concern in Redondo Beach is
7 there are two sites, 5-2 and 6-1, that are far below the
8 reference beach, yet they're designated as a
9 five-day-a-week Monitoring Program. We think that's not
10 fair under the provisions that now in the Permit are
11 required to have no exceedences. There's no provision
12 for a percentage of the sample you take. So there's a
13 potential for sites that are being monitored for five
14 days a week to actually have five times more potential
15 liability than sites that are being monitored weekly and
16 there are numerous sites that are being monitored weekly
17 worse than the reference beach. We think that is not
18 consistent with the Permit and we think we should be able
19 to change that.

20 What we recommend is that you
21 incorporate this -- we find that incorporating that
22 Permit into -- and again, you're going to have some
23 times that are going to be -- let me go on to my
24 recommendations.

25 I want to eliminate that Shoreline Monitoring

1 Program and only incorporate the coordinated Shoreline
2 Monitoring Permit into the MS4 until the Watershed
3 Monitoring Programs can be developed. At that point, we
4 can make the changes that are necessary and we can
5 incorporate whatever we want at that point, but you
6 should eliminate any Shoreline Monitoring that is
7 required under the existing Permit in the new Permit.

8 MS. MEHRANIAN: Okay. Thanks for your testimony.

9 We're going to take a ten-minute break. When we
10 come back, we have public comments of about two hours.

11 Am I right?

12 MR. UNGER: Yes, that's right.

13 MS. MEHRANIAN: And then the building industry and
14 then we have the staff responses and then we have the
15 Board questions.

16 MR. UNGER: Right, with one other provision that some
17 of the parties from yesterday reserved some of their time
18 and so --

19 MS. MEHRANIAN: And that will come --

20 MR. UNGER: We can do that right after the break if
21 you like. We can ask them if they'll be using their
22 time.

23 MS. MEHRANIAN: And if they're not, then we go to the
24 public comments, the three-minute ones.

25 MR. UNGER: Public comments.

1 (Recess)

2 MS. MEHRANIAN: Please take your seats.

3 Please, we are going to start with public
4 comments.

5 We have Susan Reyes from Senator Ed Hernandez's
6 office.

7 Please know that each speaker gets three
8 minutes, but it's very important that if somebody -- if
9 you're going to repeat something that we already know and
10 has been said and mentioned, please do not. We're trying
11 to shave as much time as we can so we can get to Board
12 discussions a little later on. The time is really
13 valuable here today, so if you can say -- if you know
14 things have been shared, please do not repeat.

15 And I know that you did not take the oath;
16 correct?

17 MS. REYES: Yeah, I need to do that.

18 (Whereupon the prospective speaker was sworn)

19 MS. REYES: Good morning, Madam Chair and members of
20 the Board. I am here on behalf of Senator Dr. Ed
21 Hernandez, who represents a number of the permittees or
22 cities in Los Angeles County. You should have received
23 the letter that I gave to Ronji, two letters --

24 MS. MEHRANIAN: Yes.

25 MS. REYES: -- one addressed to you and one addressed

1 to the State Board.

2 And I'm here to present this jointly authored
3 letter by Senator Bob Huff, Senator Roderick Wright, and
4 Senator Dr. Ed Hernandez that addresses some of the
5 concerns cities have in regards to the Tentative Order of
6 the MS4 Permit.

7 Senator Hernandez understands that you are all
8 tasked with creating a regulatory framework that complies
9 with Federal stormwater regulations while also taking
10 into consideration the very diverse needs and concerns of
11 the more than 80 permittees in Los Angeles County.

12 Please take the time to read carefully -- read
13 the letter carefully, as it outlines many of the concerns
14 cities have brought to our attention, and I'm just going
15 to highlight a few.

16 The first is cost. Please don't set cities up
17 to failure. Make it reasonably attainable for them to
18 meet compliance standards.

19 There is some concern with the dual compliance
20 standard of wet and dry weather wasteload allocations in
21 the receiving water. In addition, we need a clear
22 definition of wet weather numeric targets and how they
23 will be used. Taking a sample during the first few hours
24 of a storm event is like measuring a diabetic's glucose
25 right after he or she eats. It's not an accurate reading

1 for monitoring purposes.

2 Cities need more time to comment on the MS4
3 Permit draft and develop a strategic plan for compliance.

4 The State Water Resources Control Board is
5 currently adopting the CalTrans and Phase II MS4 permits.
6 It would make sense for Regional Board to work with State
7 Board to provide statewide consistency in the permits.

8 The three Senators also wrote a letter to the
9 State Board to address these concerns and you should have
10 a copy of that.

11 And finally, the U.S. Supreme Court will soon
12 take up for review the L.A. County Flood Control District
13 versus NRDC case. Wouldn't it make more sense to wait
14 and see what the Court rules so the MS4 Permit is in line
15 with what the Court mandates?

16 The Senator asks that you take this information
17 into consideration when you take action on this matter
18 next month. We understand this is a highly technical,
19 complex process and your decision will impact the
20 cities -- our cities for the next 20 years, if not more.

21 Thank you for your time and consideration.

22 MS. MEHRANIAN: Thank you.

23 We are moving on with students from APEX
24 High School and we are getting Nina, Karmen, Juan, and
25 Rafael, and the teacher is Ralph Gomez. Please come up.

1 MR. GOMEZ: Good evening, Board.

2 My name is Ralph Gomez. I am the teacher at
3 APEX Academy High School. It is located in Hollywood,
4 about a mile away from Hollywood High School. So it's
5 called Apex Academy, A-P-E-X, and here are my students.

6 Some of them unfortunately are tardy from the
7 break, as usual, but my students wanted to come up and
8 talk about some of the water issues. Four of them are
9 going to come up and give their little speeches. All
10 right. Most of them are mad because they are like, Why
11 only four? But we've got to get back to school.

12 MS. MEHRANIAN: Okay. Go ahead.

13 MR. ARRIAGA: Good morning, Board members. My name
14 is Juan Carlos Arriaga and I'm here today as an
15 environmental science student to ask the Regional Board
16 to include strong protections in the Municipal Stormwater
17 Permit.

18 In my eleventh grade, I had the opportunity to
19 participate in L.A. River Cleanup and it was very
20 upsetting to see all the pollution in such a beautiful
21 ecosystem. I'm afraid that in the future, our children
22 will not be able to enjoy the beach as we do today or to
23 admire the L.A. River. We only have one planet and we
24 must take care of it. Thank you.

25 MR. MKRTCHYAN: Good morning. My name is Rafael

1 Mkrtychyan and I attend APEX Academy.

2 MS. MEHRANIAN: You can straighten the mic.

3 MR. MKRTCHYAN: Okay. I was very concerned as a
4 student to find out all of the wrong we're doing to the
5 planet. We only have one planet.

6 There are simple yet necessary solutions that we
7 can take. I know they're not as cheap as people think;
8 but if we make these changes, our future might be a
9 little brighter. If we do not make these changes, there
10 might not be a future to look forward to. I do support
11 the storm drain -- the City storm drain -- I don't know
12 how you call it --

13 MS. MEHRANIAN: Permit?

14 MR. MKRTCHYAN: -- Permit, and if this is passed,
15 this will help our water become much cleaner and I
16 learned that when it rains, the water goes down into the
17 ground and it collects underneath. If the water is not
18 clean, we might not be able to use it in the future. So
19 I believe if this is passed, then we will have cleaner
20 water to use in the future.

21 As a personal encounter, I attended the L.A.
22 River Cleanup in 2011 and I was shocked at how much trash
23 we found. We found half-buried shopping carts. I found
24 a construction cone and it was upsetting because all of
25 this left behind is horrible and just destroys the

1 ecosystem around us. By putting the Storm Permit, we are
2 one step closer towards a brighter future and cleaner
3 water.

4 Thank you.

5 MS. VASQUEZ: Good morning. I am an APEX student as
6 well and I think that I support the strong storm drain
7 Permit because, I mean, that's our water. We use that.
8 We live here and, I mean, why would we want to live in a
9 world where we have no clean water? There are many wars
10 going on in other countries because of clean water and
11 now that I think that we have it here, why would we, you
12 know, pollute it where in other countries, you know, that
13 water is, you know, gold or even worth more? Why would
14 we, you know, pollute it and, you know, waste it when
15 other countries are in desperate need of it?

16 And, I mean, like we have to protect what we
17 have because if we ruin this water, if we contaminate it
18 with chemicals and solid waste, trash, I mean, we're not
19 going to -- what are we going to do? I mean, humans can
20 live without food, but we can't live without water.
21 Water is a necessity for everyone and, I mean, we need
22 it. And by passing this Permit, we will be one step
23 closer to having drinkable -- more, you know, reserving
24 that water to saving that water so, you know, future
25 generations can use it.

1 I mean, the beach -- the beach is a beautiful
2 place. People all over L.A. have memories of going to
3 the beach and, you know, going with their parents as
4 little kids and we need to conserve those ecosystems. I
5 mean, the ocean is what we depend on. We get both
6 economical resources from it as well as biological. I
7 mean, we upset the ecosystem and directly or indirectly
8 we will be affected by it in the future.

9 So I support that strong storm -- storm drain
10 Permit. Thank you.

11 MS. AVETISYAN: Hello. Good morning. My name is
12 Nina Avetisyan and I am here today as an A.P.
13 environmental student from APEX Academy High School.

14 My concern today is the MS4 forum. Growing up
15 in such a beautiful city like L.A., I consider it a
16 privilege because we live right next to the beach and,
17 like, it's very beautiful; but beyond this beautiful
18 city, there is something that's not so beautiful, which
19 is all the trash that is here in our city.

20 The trash, sadly, is not all properly thrown
21 away and ends up on the street of my community and this
22 trash finds its way into our oceans and beaches and this
23 affects me because I'm a beachgoer so I enjoy my time at
24 the beach, but what I don't enjoy is seeing that there is
25 trash either in the water -- in the water or next to me

1 and that bothers me because even though I try cleaning as
2 much as I can, you can't clean the beach by yourself or
3 with a group of students. So this filth ends up going
4 into the ocean and the ocean is contaminated with all of
5 this bacteria that shouldn't be there in the first place
6 and that ends up into our marine life and our -- the
7 fishes start to eat that, and when we did this thing in
8 biology --

9 MS. MEHRANIAN: Close your statement.

10 MS. AVETISYAN: Yeah. I want to see a difference and
11 I support the strong Stormwater Permit. Thank you.

12 MR. GOMEZ: Thank you, Board.

13 MS. MEHRANIAN: Sure. Thank you. Thank you for your
14 testimonies.

15 MS. CAMACHO: Can I just say one thing?

16 MS. MEHRANIAN: Ms. Camacho.

17 MS. CAMACHO: Can I just say one thing?

18 MS. MEHRANIAN: Yes. One of the Board members wants
19 to --

20 MS. CAMACHO: I just wanted to thank you for coming
21 and taking the time to come here with your students. I
22 think it's really important that the younger generations,
23 if you will, are involved with everything and anything
24 that we do. So I really appreciate you taking that time
25 to bring your students here and educate them on the

1 matters in front of us. So I really appreciate it.

2 Thank you.

3 MR. GOMEZ: Thank you, too. And it's getting really,
4 really difficult to do things like this because of budget
5 cuts and that's why we have them -- that's why we have to
6 go back. That's actually true. I have to go back
7 because I don't have coverage for the whole day. Thank
8 you for letting us go and speak early for you. Thank
9 you.

10 MR. YEE: I also want to acknowledge the courage and
11 leadership of your students and I just wonder how many of
12 you students are going to be sitting up here someday.
13 Thank you.

14 UNIDENTIFIED SPEAKER: We'll think about that.

15 MS. MEHRANIAN: Good luck.

16 We'll continue with the public hearing. We have
17 Holly Schroeder from BIA and please -- I'm going to call
18 the next person and if you can come to the front and wait
19 for your turn, it's Mark Ryavec, president of Venice
20 Stakeholders Association.

21 MR. UNGER: They have 15 minutes.

22 MS. MEHRANIAN: Yeah. The BIA has 15 minutes and
23 then the next speaker, we'll call you again, but please
24 be ready to come up.

25 MS. SCHROEDER: Good morning, Madam Chair, members of

1 the Board. Thank you for your time today and thank you
2 for your continued attention and endurance during this
3 very long and detailed hearing.

4 We are very interested in the outcome of these
5 proceedings. We know that the planning and development
6 requirements, you've heard a lot about them, they're one
7 of many issues that are under consideration today.

8 We believe it's important that the Permit is
9 crafted to be appropriate and practicable for Los Angeles
10 County. We have and will continue to work with your
11 staff and the cities on this Permit and I want to state
12 that we agree that the tentative Permit presents all of
13 the issues that the L.A. Permit Group and that
14 Los Angeles County presented, including specifically the
15 testimony presented by Joe Bellomo on behalf of the group
16 regarding the technical and policy issues created by the
17 current requirements of the planning and development
18 minimum control measures.

19 We want to underscore the concerns of all
20 permittees regarding the third-party citizen suit
21 liability created by the proposed receiving water
22 limitation provisions. I also want to note that the Blue
23 Ribbon Panel Report presents uncontroverted expert
24 technical information that end-of-pipe numeric effluent
25 limits are not feasible for municipal discharges.

1 The BIA has and will continue to work with your
2 staff specifically on the planning and development
3 requirements, which are on pages 66 to 82 of your Permit.
4 We're not opposed to the imposition of low impact
5 development requirements and we've worked hard with the
6 Ventura program on implementation of Ventura's Permit for
7 the new development provisions, and they're -- and we've
8 worked with the City and the County of Los Angeles as
9 they've adopted their Low Impact Development Ordinances.
10 But the planning and development requirements in the
11 tentative draft don't work well for implementation of LID
12 as currently written and we hope a revised draft will
13 address many of our concerns.

14 While we recognize that the Permit draws on the
15 Ventura Permit as a precedent, it's important that these
16 provisions recognize the significant differences between
17 L.A. and Ventura Counties, especially in terms of
18 development patterns.

19 L.A. is largely urbanized already. Substantial
20 portions of the basin have no stormwater controls
21 whatsoever. As a result, most development subject to an
22 MCM is in-fill redevelopment and that provides an
23 opportunity to reduce pollution from stormwater runoff,
24 but the requirements you adopt must not be so rigid that
25 they get in the way of that redevelopment so that no

1 water quality improvement can occur. Redevelopment,
2 in-fill development, is done in isolated,
3 highly-constrained urban sites where the project is
4 adjacent to a building that may not be redeveloped any
5 time soon. In this context, it's important to consider
6 the trade-off for the cost of on-site stormwater LID
7 management compared to the benefit of regional off-site
8 to water quality LID improvement projects that might
9 accomplish more, including groundwater supply
10 augmentation. The tentative draft does not appear to
11 acknowledge this diversity and development patterns and
12 it contains many detailed requirements and engineering
13 standards that are more appropriately placed in Guidance
14 rather than the Permit. These technical standards may
15 actually get in the way of what the Permit is intending
16 to accomplish.

17 And to that end, I'm going to turn the
18 presentation over to Dr. Mark Grey, the Technical
19 Director of the Construction Industry Coalition on Water
20 Quality, our scientific expert on these water quality
21 issues.

22 DR. GREY: Good morning, Chair Mehranian, members of
23 the Board. I'm Mark Grey, Director of Environmental
24 Affairs to the BIA of Southern California and the
25 Construction Industry Coalition on Water Quality.

1 It's great to be here today. I was here in June
2 with Rich Atwater from the Southern California Water
3 Committee and we talked about -- and I talked about kind
4 of the excitement that has really been generated the last
5 couple of years around the use of low impact development
6 and on-site and regional projects to augment groundwater
7 supply, to improve water quality, and we're in a great
8 space right now, and I want to describe today some points
9 and some clarifications that we think could be made in
10 the Permit to achieve good water quality outcomes and
11 really achieve integrated water resources management.

12 I've put up a flowchart here. We've handed our
13 presentation out to you and given you the flowchart and
14 I'm just going to point out a few things on this
15 flowchart.

16 One, this flowchart is for the Planning and Land
17 Development Program. We would urge staff to develop a
18 flowchart like this in the next Permit draft to clearly
19 provide a path for the development community to follow in
20 the use of low impact to meet the water quality goals
21 that you have in the Permit.

22 The top is the applicability component. I won't
23 go into that today.

24 You'll see bolding in some of the areas on the
25 flowchart and I'm going to elaborate on those bolded

1 areas a little bit more.

2 The points -- a couple points I want to make on
3 this chart: On the left-hand side, you have the on-site
4 compliance pathway and that's an important element of
5 this Permit. One of the things that we feel is that
6 biofiltration is relegated to alternative compliance and
7 as you heard us talk many times, biofiltration is an
8 essential component of low impact development.

9 For development in Los Angeles County, as Holly
10 pointed out, that will be principally redevelopment,
11 we're going to need biofiltration to comply with this
12 standard both on-site in green streets and off-site away
13 from the projects for those projects that can't comply
14 on-site.

15 The right-hand side of the chart is for those
16 regional projects that originally in the minimum control
17 measures that staff released in March you had kind of a
18 coequal process; on-site feasibility, but if you were --
19 if you were -- if you had a project that was in an area
20 that had a water quality improvement or regional
21 groundwater supply project that was between your project
22 and the receiving water and you could go to that, you
23 could, like that (indicating), no feasibility analysis
24 required. You go to that project because it is
25 demonstrated through a Watershed Plan, which your Permit

1 allows. You have demonstrated that it provides equal or
2 better water quality performance for that on-site
3 project.

4 So that right-hand side of the chart gets there.
5 It gets at that green, that compliance with LID standard,
6 either through off-site, if that project exists at the
7 time of occupancy, or on-site.

8 So we would really urge staff to develop a
9 flowchart like this and provide a clearer path or
10 process. You know, I represent contractors and engineers
11 and they like flowcharts and they like diagrams and
12 things like that. So I would urge you to put something
13 like that -- a lot of -- you know.

14 I'm going to move on next to the -- if you can
15 hit the other -- get that green -- I'm sorry. Hit the
16 green compliance with LID standards. There we go.

17 All right. Board Members Glickfeld and Diamond,
18 we have experience in Ventura and we worked really hard
19 to get to a good place about using biofiltration.

20 For the new Board members who weren't involved
21 in the Ventura MS4 Permit, I've put this up as kind of a
22 refresher for biofiltration and what I've done -- all the
23 rest of the slides are organized in the same manner:
24 Permit issue, concerns and technical support for what
25 we're going to say in the middle, and suggested approach

1 on the right-hand side.

2 The point I want to make here is biofiltration
3 is an accepted LID practice. EPA recognizes it in its
4 guidance documents, throughout all its guidance
5 documents. It's a component of MS4 Permits throughout
6 Southern California and California, including the
7 San Francisco Bay Area and Sacramento, even often cited
8 programs that my colleague and friend Noah Garrison has
9 pointed out, Portland, Philadelphia, West Virginia, all
10 of these programs allow biofiltration. Once you've gone
11 through an engineering hierarchy, selection hierarchy for
12 BMPs, they allow you to use biofiltration to meet the
13 on-site capture volume standard.

14 So what we're suggesting is to explicitly allow
15 that to meet the design capture volume standard. Move it
16 from Alternative Compliance on page 71 to the Integrated
17 Flow and Resource criteria on page 69, a very simple,
18 very easy change that I think will have a lot of impact
19 on this Permit.

20 I'll sum up on this slide. I'll point out not
21 only did the national programs, but we've seen examples
22 today. The City of South Gate is using biofiltration to
23 help green its streets. So this is something that's
24 going to be very important for us in Southern California
25 to allow that practice, and I'll show you a couple

1 examples. You're going to see hundreds of pictures,
2 parking lots, urban streets, buildings with sidewalks and
3 planters. These are essential components of LID
4 compliance and LID technology in the modern world we work
5 in.

6 Okay. Let me move on. Use of off-site projects
7 to meet LID performance criterias is very important to
8 us. I talked about those sort of coequal goals that you
9 have or coequal process. Please recognize and allow
10 regional projects as coequal. And yesterday, the County
11 of Los Angeles cited a number of examples: Sun Valley,
12 Elmer Avenue. Andy Lipkis talked about it, the
13 importance of those projects. Those are essential. We
14 need to be able to use those to comply with this new MS4
15 Permit. Make them as coequal. Incentivize people to use
16 those. You're going to get a large benefit from a large
17 regional project that handles millions of gallons of
18 water versus micro replenishment which harvests from a
19 single-family home site.

20 We've got to do those things. We're not saying
21 don't do those things, but we're saying that some of
22 these regional projects provide a greater opportunity to
23 manage not only runoff from new and redevelopment but
24 from the existing infrastructure.

25 The other thing that is missing, we would

1 suggest, is the Regional Watershed Master Planning Permit
2 Language has been eliminated from this Permit, so please
3 reestablish conditions similar to Provision 4.D.9 in the
4 current L.A. County MS4 Permit. That allows a watershed
5 approach and you have Watershed Plans in your Permit.
6 Put that element into the watershed planning and allow
7 development to use that.

8 Next, we've made this comment in the past. In
9 the Ventura Permit and other MS4 permits I've worked on
10 in Southern California, all contain their own discrete
11 Technical Guidance Manual. We're asking remove some of
12 the prescriptive language, especially for biofiltration
13 and bioretention in the Permit and put it in a Technical
14 Guidance Manual. That allows for continuous improvement.
15 It doesn't allow for adaptation and improvement when it's
16 in the Permit language. Put it in a Technical Guidance
17 document which is more robust and allows for more
18 flexibility. That's an easy change. That's a common
19 technique used in other MS4 permits. Your own Board,
20 you've adopted one for Ventura County that is often
21 cited.

22 The other thing is about green roofs, and
23 requiring maximum application of green roofs is we feel
24 inappropriate language. Green roofs are great hydrologic
25 source controls. You can use them to reduce the design

1 capture volume you have to manage on your site. We're
2 not saying discouraging green roofs, but to provide
3 language saying You'll have maximum application of green
4 roofs required is just inappropriate.

5 We've talked a lot about infiltration rates.
6 Staff had suggested yesterday you're going to change the
7 lower minimum infiltration rate from 0.15 to 0.3. We
8 still don't think that's protective enough. We would
9 suggest a three-tiered system starting at half an inch
10 per hour infiltration criterion because you have to add
11 margins of safety to be protective of buildings and
12 foundations and other things, and also make sure you
13 adjust -- you explicitly require appropriate drawdown
14 times of 48 to 72 hours to account for back-to-back
15 storms when you're installing infiltration, biofiltration
16 and bioretention devices; very important.

17 Summing up, the last couple of points before I
18 have Holly conclude. You've got a table on page 75 that
19 is for treatment BMP performance criteria and it
20 establishes median values that must be met all the time
21 or your BMP is going to be out of compliance. It's
22 inappropriate to use median values for upset values. The
23 median value is the middle, not an upset. So that's a
24 real problem. We suggest deleting Table 11 and use
25 Pollutants of Concern Analysis and appropriate benchmarks

1 as technical guidance. Use the ASCE database in that
2 regard. We urge deleting that table because it's setting
3 up inappropriate numeric limits.

4 And finally, at that top part of that chart I
5 showed an applicability. The grandfathering of existing
6 projects is based -- is tied to the grading and
7 construction phase. LID, as you all know, is best
8 applied at the planning phase. We really would urge that
9 you use language consistent with the Ventura Permit that
10 grandfathers projects, that would grandfather projects
11 considering their development in the planning and
12 entitlement phases.

13 So with -- in sum, I really -- the two technical
14 points I really think that I want to leave you with are,
15 one, use that MCM, that minimum control measure, document
16 that you released in the process to put regional projects
17 to coequal the on-site strategy when a project exists and
18 it exists between the receiving water. The County
19 pointed to numerous examples yesterday of that and we're
20 going to get into a great spot if we allow that.

21 Number two, we've got to -- you've got to allow
22 biofiltration to meet the on-site standard here in
23 Los Angeles County. Of anywhere in the world, this is
24 where we need it to be able to retrofit parking lots,
25 road streets, and lot-line-to-lot-line development.

1 Holly?

2 MS. SCHROEDER: Yeah. So in summary, I think what
3 we're asking you to do is really think about where these
4 planning and developments are going to apply. We are in
5 the most urbanized and believe it or not the densest
6 urbanized area in the country and we need to make sure
7 that the urban runoff is treated before it reaches the
8 receiving water. That doesn't necessarily mean it always
9 has to be on-site, and individual projects are peppered
10 across this County; right? We don't -- there's going to
11 be here and there and all over the place and they're of
12 all shapes and sizes and, you know, different, depending
13 on what's happening in the city, the municipality that
14 you're in. They're going to need a variety of tools not
15 being too prescriptive.

16 Biofiltration is an option, but more
17 substantially in L.A. County, these projects, these
18 regional projects, these off-site projects, have got to
19 be a big part of the solution. It's the direction that's
20 been set by the Legislature in A.B. 2554. It's the basis
21 for the funding initiative. We need these on-site and
22 off-site options to be coequal goals and we ask that you
23 consider the pathway that we've provided and design a
24 program that will reflect the unique characteristics of
25 L.A. County.

1 Thank you for your time this morning.

2 MS. MEHRANIAN: Thank you.

3 Next we have Mark Ryavec, Venice Stakeholders
4 Association.

5 MR. RYAVEC: Yes. Thank you. My name is Mike
6 Ryavec. I'm the president of Venice Stakeholders
7 Association. We're a 501 (c)(3) in Venice. I suppose,
8 compared to some of your other speakers, I represent sort
9 of the retail aspect of this.

10 Ms. Diamond may remember me from many years ago
11 when we worked together to stop the oxy project in the
12 Palisades. I also was a founding director of American
13 Oceans Campaign with actor Ted Danson and went on to work
14 with Mr. Fleischli later to pass the beach protocol bill.

15 So I have a long history as a coast activist.
16 My organization, Venice Stakeholders Association, is
17 committed to coastal protection. Our residents rely upon
18 clean, safe beach waters every day for swimming, wading,
19 and surfing. The many businesses and hotels in Venice
20 rely on clean, safe beach waters to continue to attract
21 the almost 16 million visitors that visit Venice Beach
22 every year and who do so in most instances because they
23 want to enjoy the sand, the sea, and the surf.

24 It is now 22 years since the first Permit was
25 passed, was adopted, and still I am asked regularly by

1 visitors to Venice Beach if it's safe to go into the
2 water. Clearly we need a more aggressive Permit.

3 I am here today to support the proposal of the
4 L.A. Waterkeeper, NRDC, and Heal the Bay for water
5 quality standards, TMDLs, low impact development
6 standards, aggressive monitoring, and public
7 participation on all future actions in the Permit.

8 Thank you very much for your time.

9 MS. MEHRANIAN: Thank you very much.

10 We have Sam Lichtman, followed by Nancy Shrodes.

11 MS. SHRODES: Hi. My name is Nancy Shrodes.

12 I grew up in Manhattan Beach, beach baby all my
13 life, and I am an avid beachgoer, be it swimming,
14 surfing, playing volleyball; and needless to say, my
15 passion, having grown up in the Santa Monica Bay,
16 continued throughout college, having studied marine
17 bio-environmental science. But although now I live in
18 mid city, I frequently visit Manhattan Beach, one of my
19 favorite beaches; and as pristine as it is or as it
20 seems, I have definitely beared (sic) witness to some of
21 the issues concerning polluted stormwater.

22 Just this summer, in fact, I was swimming and
23 was deeply disturbed when a plastic bag hit me and threw
24 it away in the trash, but it's just a testament to these
25 issues that we've talked about in terms of plastic

1 pollution coming from urban runoff. And as we know,
2 urban runoff is the number one source of ocean pollution
3 and, you know, the issues of entanglement and
4 indigestion, as previously mentioned.

5 If the environmental implications aren't enough
6 to move you, maybe something in terms of community health
7 is.

8 In high school, a peer of mine, Kevin Courtney,
9 was on the surf team and after a storm there was a really
10 amazing break and he just couldn't resist and went out in
11 the water. As a result, he got a very bad eye infection
12 and was quickly hospitalized for weeks on end because it
13 became so bad. And that's just one person. That's just
14 one instance. I was shocked to learn that over 3 million
15 people get sick with gastrointestinal diseases every year
16 as a result of these high level of bacteria and
17 contaminants that are brought to our beaches as a result
18 of the stormwater pollution.

19 So for the health of our environment and our
20 community, I urge the Council to support strong numerical
21 limits in our Stormwater Permit. Thank you.

22 MS. MEHRANIAN: Thank you.

23 We have Gerhardt Hubner, Ventura County
24 Stormwater, Ventura County Watershed Protection District,
25 followed by Leslie Tamminen.

1 MR. HUBNER: Good morning, Madam Chair, Board
2 members, members of the audience. Thank you for allowing
3 me to participate today and provide comments for the
4 record. I am Gerhardt Hubner, Deputy Director with the
5 Ventura County Water Protection District. I'm here today
6 representing the Ventura County Stormwater Program, which
7 represents the ten Cities, the County, and the District.

8 My presentation will be very brief because I
9 know I have three minutes.

10 The program submitted a short six-page comment
11 letter on July 23rd, 2012. I hope you have a chance to
12 take a look and review it.

13 As you know, it was a little over two years ago
14 that we, I, stood before you for the Ventura Permit
15 renewal, arguably one of the most prescriptive permits --
16 stormwater permits in California. So our comments today
17 are directed toward the requirements that are either
18 inconsistent with what we see with the current Permit,
19 our Permit, or potentially precedent-setting, including
20 stormwater/municipal action levels, treatment control BMP
21 benchmarks, receiving water limitation language, and the
22 TMDLs that you've heard from several speakers.

23 So let's just start here with this consistency,
24 municipal action levels. We see that they appeared to be
25 calculated at 75th percentile. You recall the revised

1 Permit had it at 80th percentile. Other stormwater
2 permits have adopted it at a 90th percentile.

3 BMP controls: We feel that it's not necessarily
4 consistent with our Permit, but it should be focused on
5 the pollutants of concern.

6 Regarding the receiving water limitations
7 language, this is a huge, huge policy implication.
8 You've heard that from many speakers. We believe it
9 places the permittees in jeopardy for third-party
10 lawsuits. It redirects and disrupts some of the limited
11 resources we have.

12 Enforcement -- and this is something that may
13 not have come up. Mandatory Minimum Penalties. I'm not
14 sure that the Water Quality Improvement Plan would shield
15 us from that and it fundamentally could change the
16 relationship between Flood Control Districts and Cities
17 and Counties. We have a consensus-based program right
18 now. We want to maintain that. So you have discretion
19 on this particular issue.

20 TMDLs: Why the public policy change? As you
21 heard yesterday, numeric effluent limitations were
22 determined infeasible for MS4s, per the State Water
23 Resource Control Board Blue Ribbon Panel. You have EPA's
24 memo, its draft. Calculations, they're easy, but hard to
25 implement on the practical side. Again, I'm speaking as

1 a practitioner, 20 years' experience in water quality.
2 Not consistent with many of the TMDLs or the presumptions
3 dischargers had when the TMDLs adopted. And lastly, that
4 the implementation analysis did not consider some of the
5 technical or economical feasibility of meeting effluent
6 limitations.

7 So let me just jump --

8 MS. MEHRANIAN: I think you should conclude.

9 MR. HUBNER: Sorry.

10 MS. MEHRANIAN: Thank you.

11 MR. HUBNER: You have my presentation in front of
12 you. Take a look at it.

13 MS. MEHRANIAN: Will do.

14 MR. HUBNER: I'm here and happy to answer any
15 questions.

16 MS. MEHRANIAN: Thank you very much.

17 We have Leslie Tamminen and then followed by
18 Katherine Pease.

19 MS. TAMMINEN: Thank you. Leslie Tamminen, with
20 nonprofit environmental group Seventh Generation
21 Advisors. I work nationwide on source-reduction policies
22 for plastic pollution, which I note are very inexpensive,
23 cost-effective ways of meeting pollution limits.

24 Because of concerns about hyperbole from
25 municipal cost estimates, we compared our stormwater

1 reports to actual City budgets and we have here -- well,
2 let me back up. We have here some slides in front of you
3 that can show that in many cases, the numbers don't match
4 up. We urge the Regional Board to be cautious and
5 circumspect in reviewing economic impact testimony from
6 permittees and to refrain from accepting prima facie such
7 uncertain accounting by cities that historically have
8 been recalcitrant and unwilling to accept any pollution
9 limits. It's exigent that you remember that such impacts
10 have in the past and are now greatly exaggerated.

11 As an example, I'm going to skip to the end of
12 the Lynwood case study, which shows an incredible
13 increase for recent cost expenditures for stormwater and
14 we compared it to the actual City budget, which claims to
15 have had a budget previously of over 200,000 and now
16 about 300,000, which is not at all what is reported on
17 the L.A. Regional Water Quality reports.

18 Based on this review, we have concluded, and
19 this is just one case study, that several municipalities
20 appear to have mischaracterized their stormwater
21 expenditures in their Regional Annual Reports.

22 Lynwood is one example, but we found many
23 others, as documented in this information. You have the
24 slide show before you.

25 The numbers reported and their statements of

1 what it is going to cost them do not always match and
2 capital and Proposition-funded projects should not be
3 included in the annual expenditure reporting anyway since
4 many of these costs are funded entirely by the State or
5 through other mechanisms.

6 So in conclusion, we urge you to not let fear
7 and exaggeration trump reality and to remain steadfast in
8 your responsibility to protect the public through strict
9 numeric limits.

10 Thank you.

11 MS. MEHRANIAN: Thank you. Katherine Pease, followed
12 by Edward Murphy. No?

13 Okay. Vaikko Allen, Contech.

14 MR. UNGER: He's here.

15 MR. ALLEN: Good morning. My name is Vaikko Allen.
16 I'm the regulatory director for Contech Engineered
17 Solutions. I did submit written comments and I will not
18 go through them now because you do have copies of them.
19 I'd just encourage you to take a look back.

20 I want to just get to a couple of points here
21 that have been addressed a little bit, but I want to
22 refine thoughts a little bit further.

23 In particular, biofiltration, I want to echo the
24 BIA's position and statements there on the role of
25 biofiltration. Also, Dr. Horner's testimony that at

1 times it is legitimately impossible or unwise to
2 infiltrate. That is a real situation, especially in
3 Los Angeles County, and we need to have biofiltration as
4 an option to use in those situations without going into
5 alternative compliance.

6 I would like to just go a step further there and
7 note that the way the Permit is written currently, we
8 have a distinction between biofiltration and planter
9 boxes, biofiltration being systems that have incidental
10 infiltration and planter boxes being systems that have no
11 infiltration whatsoever. I would just point out that
12 these systems are going to be used in many situations
13 where infiltration is infeasible or unwise and I would
14 like to have the requirement that incidental infiltration
15 be included if you're going to call your system a
16 biofilter just be removed. I think that's unnecessary.

17 I do support and Contech supports the use of
18 retention BMPs where at all feasible and the inclusion of
19 an underdrain or incidental infiltration where feasible,
20 but you should not have to do that in every case,
21 particularly where there are structural sites or water
22 quality issues that would be created.

23 Table 11 there has been referenced there a
24 couple of times. Those are the treatment control
25 performance standards. I just want to point out as

1 written, there is no BMP that could actually meet those
2 standards. They are basically the lowest achieved
3 effluent concentrations for a range of BMPs and that
4 needs to be amended.

5 Last, I will just point out that with the Trash
6 TMDL, it is assumed that a municipality would be in
7 compliance with the installation and proper operation and
8 maintenance of full-capture BMPs. I want to be real
9 clear that it's important to be very specific on what is
10 required to demonstrate that you have adequately
11 maintained and operated those full-capture facilities.
12 In my own personal survey of a lot of these systems, a
13 lot of them are bypassing trash at a rate that is below
14 the design storm that they were designed for. So I think
15 that that part needs to be improved in the Permit to make
16 absolutely clear that ongoing demonstration of operation
17 and maintenance needs to show that things like clogged
18 screens are not happening on a repeated basis.

19 And with that, my time is up. Thank you.

20 MS. MEHRANIAN: Thanks.

21 Athena Shileen and then Mari Stanley.

22 Steven Dunn?

23 Wendy Werner?

24 Where is everybody?

25 Ken Kurtis?

1 MR. KURTIS: Yep. Good morning. My name is
2 Ken Kurtis. I'm a scuba instructor and a dive business
3 owner. I own the dive shop Reef Seekers Dive Company,
4 which operates out of Beverly Hills. I'm amazed
5 everybody's been talking about surfers and swimmers and
6 no one's mentioned divers yet, so I'll give -- thank you.
7 Thank you very much. So I'll give you a little bit of
8 that.

9 One of the things I get to do is I travel all
10 over the world and I get to see the benefits and
11 detriments of clean water and dirty water in third-world
12 countries, second-world countries, first-world countries.

13 I urge you to strongly adopt very stringent and
14 protective controls. The dive community, we are in the
15 ocean waters affected by all of runoff every single day.
16 I'll be in diving tomorrow with people. Personally, we
17 see the effects of all of this and locally we notice huge
18 differences after rains from the runoff, from trash and
19 everything else.

20 Finding Nemo is never considered to be maybe an
21 instructional movie, but I'm telling you it is because it
22 taught us one truth: Storm drains lead to the ocean.
23 Everything is going to end up to the ocean and I can
24 attest to you that that is indeed true. The ocean
25 ecosystems are under assault every single day from

1 over-fishing. I'm very proud to have been a member of
2 the statewide interest group of the Marine Life
3 Protection Act for about ten years and as you probably
4 know, we've been setting up marine protected areas
5 specifically in Southern California as of just a little
6 while ago. Well, those don't do any good if we don't
7 have clean water to go ahead with that.

8 In these days of budget crisis, it's very easy
9 to say "We can't afford it," but that's not really the
10 question to ask. The question is, How much is it worth
11 to us if I and my fellow divers don't get cancer in the
12 next ten years? How much is it worth to you to be able
13 to take your children to the fishing pier, pull out a
14 fish and not have to say, "Throw it back. We can't eat
15 it because of the pollution"? How much is it worth to be
16 able to just be able to go to the beach and watch
17 dolphins frolic in the surf because the waters are clean?

18 The statement is not "We can't afford it." The
19 statement should be, "We can't afford not to do it."

20 California has a reputation of being a leader in
21 eco solutions, but it does take guts to lead and I hope
22 this Board has the courage and I know it takes that to be
23 in the forefront and really show others how it's done.
24 That's sort of what we think we did with the MLPA in
25 establishing the marine protected areas and I hope you'll

1 sort of follow our lead in establishing runoff controls
2 and everything else.

3 I ask you to adopt the strongest possible
4 measures to keep our oceans healthy for all of us.

5 Thank you very much.

6 MS. MEHRANIAN: Thank you.

7 We have Shelley Luce, Santa Monica Bay
8 Restoration Commission, followed by Cara Young, Center
9 for Biological Diversity on behalf of Ileene Anderson.
10 So Shelley Luce.

11 MS. LUCE: Hello. I'm Shelley Luce. I'm the
12 Director of the Santa Monica Bay Restoration Commission
13 and I want to thank you for the opportunity to comment
14 and I also want to thank staff. I observed from a
15 distance the enormous amount of work and analyses and
16 real thoughtfulness that went into this Permit and I
17 think it's really impressive.

18 We have seen great progress in the last 20 years
19 that the SMBRC has been working on cleaning up stormwater
20 quality and we're proud of this Board and of all of our
21 partners in the Cities, at L.A. Flood Control District,
22 and the Board of Supervisors and the environmental groups
23 for making these improvements.

24 The SMBRC has contributed technical expertise to
25 advance the best management practices and we in our tiny

1 government agency have contributed over 35 million
2 dollars to stormwater cleanup projects. The State
3 overall has contributed many millions more and leveraged
4 many millions and so have the permittees themselves.
5 This investment has been worth it because the water has
6 gotten cleaner and the many benefits of these
7 multi-benefit projects have already been listed for you
8 today.

9 I also want to mention that the distributed
10 LID-type projects that are now required in the Permit are
11 also very, very important. Last year, my group spent
12 \$100,000 to disconnect 500 downspouts and put in place
13 500 rain barrels and install several rain gardens
14 throughout the City of Culver City. This does have an
15 impact on the amount of water going to the storm drains
16 and it does change the behaviors of the people who
17 experience those changes on their properties. So I
18 support the distributed LID as well.

19 We support overall the advances in the watershed
20 approach that are proposed in this Permit. The LID
21 requirements and the Watershed Management Programs move
22 all of us toward a more comprehensive Water Resources
23 Management and they complement other State programs, like
24 the implement -- sorry -- like the Integrated Regional
25 Water Management Planning Program of DWR and other

1 programs as well. Everyone's moving to the more
2 integrated watershed approach and we are very supportive
3 of it and we're committed to further financial and
4 technical support for stormwater cleanup projects and
5 active participation in those Watershed Management
6 Programs to assist permittees and the State to continue
7 to clean up and conserve water resources through this MS4
8 Permit.

9 Thank you.

10 MS. MEHRANIAN: Thank you.

11 MS. YOUNG: Good morning. My name is Cara Young and
12 I have been asked to read a letter from Ileene Anderson,
13 who is a biologist at the Center for Biological
14 Diversity. On behalf of the staff and members of the
15 Center for Biological Diversity, she is writing to ask
16 the Regional Board to include strong water quality
17 protections in the proposed Municipal Stormwater Permit.

18 "While we support some of the new
19 provisions which improve the 10-year-old
20 provisions currently in place, we are still
21 concerned that the proposed Permit fails to
22 properly implement the requirements of both
23 State and Federal law and is otherwise
24 inadequately protective of water quality in
25 the region.

1 "We support strong and enforceable
2 provisions that require compliance with
3 water quality standards set to protect the
4 beneficial uses of our waterways. Southern
5 California has already lost over 98 percent
6 of our local wetlands, streams and rivers
7 through development, diversions and other
8 hydrological alterations. Our streams and
9 rivers are the sustaining life blood for
10 numerous rare and endangered species and
11 their protection is essential to safeguard
12 and recover these imperiled plants and
13 animals, including willow fly catchers,
14 Arroyo toad, southern steelhead, and many
15 more.

16 "We support the Regional Board's and
17 USEPA's efforts to adopt TMDLs for 175
18 waterways in the Los Angeles area over past
19 years. Now it is essential that each of
20 these TMDLs is properly incorporated into
21 the Stormwater Permits so wasteload
22 allocations are enforceable. This will
23 assure actual water quality improvements
24 that will benefit not just rare plants and
25 animals but the ecosystems upon which humans

1 also depend.

2 "On behalf of the Center for Biological
3 Diversity staff and members, I urge the
4 Regional Board to do everything in its power
5 to ensure that the health of the streams and
6 rivers is protected in order to protect our
7 natural heritage legacy. We strongly urge
8 the Board to require immediate compliance
9 for Bacteria TMDLs for dry weather that are
10 long overdue. The Board should prioritize
11 and require practical cost-effective methods
12 for retaining and reusing stormwater and
13 reducing runoff volume and pollutant
14 loading."

15 Thank you very much.

16 MS. MEHRANIAN: Thank you. I am going to read four
17 names and then we are going to break because we have a
18 meeting at 12:15, Closed Session, so we have to get to
19 that.

20 MR. UNGER: It's actually 12:30.

21 MS. MEHRANIAN: Conner Everts, Southern California
22 Watershed Alliance; Sandy Shimooka, Ann Shabtay, and
23 Joyce Dillard will be fourth.

24 So Conner Everts.

25 MR. EVERTS: Thank you very much. My name is

1 Conner Everts from the Southern California Watershed
2 Alliance. I'm also co-chair of the Southern California
3 Steelhead Coalition.

4 I actually grew up taking the bus to
5 Santa Monica Pier and fishing in the '50s and swimming
6 there as well. We weren't aware of these issues. Now we
7 are. It's been 40 years since the Clean Water Act has
8 passed and it's easy to get deep into the details, but I
9 think hearing the youth speak earlier, it's really a
10 simple issue. We really need to clean up the water and
11 have the strongest standard possible.

12 I want to give the Cities credit for the work
13 that they've done. I live on Ocean Park in Santa Monica.
14 I can look out as they're doing, it seems like, long-term
15 construction to create a green street. We have other
16 green streets in the city and nearby we have the Penmar
17 Stormwater Project, a large-scale capturing water for
18 golf courses.

19 If we are going to have water supply in Southern
20 California in the future, and there's a lot of issues
21 about where that might come from, we have to improve our
22 local water quality and this is a real opportunity to do
23 that.

24 But the impression that the youth made on me is
25 the opportunity, as we did in water conservation, to

1 include youth for Water Conservation Programs and replace
2 1.37 million ultra-low-flow toilets is to create them as
3 ambassadors in the monitoring and help the cities with
4 their cost. I was trying to do water quality a long time
5 ago. We used those trainees to train others and we need
6 to use that opportunity again.

7 So I hope you take this chance here to hear from
8 all of us, but really think to the future in your
9 projects because it really is strong regulations that
10 give us clean water and in the future will give us water
11 supply as well.

12 Lastly, I go out and kayak every Sunday on the
13 Santa Monica Bay. I swim, but I limit myself within the
14 Bay to so much. I don't fish anymore. I actually go to
15 the piers and I talk to the fishermen because I actually
16 like to eat what I catch, but I think the opportunities
17 will be there to make the real changes, both in Ventura
18 County where I once lived and here.

19 And the other part, I want to put in a plug for
20 a fish that people talk about but may not know about, the
21 southern steelhead. I caught them in Malibu Creek when I
22 was young and I'm actually part of a program now where
23 we're bringing down dams both in Malibu Creek and
24 Matilaha. We're surprised by the number of fish that are
25 really the origin of the species that have survived in

1 these conditions in Southern California and they're
2 really the bellwether; and when one came into the L.A.
3 Harbor and didn't know quite where to go, we realized
4 where we're on the verge of success where the water will
5 be clean enough so those fish can return.

6 Thank you very much.

7 MS. MEHRANIAN: Thank you.

8 Sandy Shimooka.

9 MS. SHIMOOKA: Hi. Good morning. My name is Sandy
10 Shimooka and thank you very much for giving me this
11 opportunity.

12 I'm here to ask you for your support on a very
13 strong Permit with numeric effluent limitations, and the
14 reason is I'm somebody who has the benefit of having
15 these wonderful memories of a lifetime. I've spent a lot
16 of time beachcombing. I swim. I surf. I do nature
17 photography. I do bird watching. On occasion I go
18 fishing and sailing and so I have the benefit of being
19 here near the coast.

20 I'm obviously an ocean person. I couldn't
21 imagine living, you know, in the middle of somewhere
22 really far away from the coast, but also judging by the
23 number of tourists, hotels, and other residents that live
24 along the coast, I think it's something that's important
25 to all of us and not just me.

1 I've also spent a lot of physical time in the
2 water. So from areas from Mexico all the way up to like
3 Ocean Beach in San Francisco, I've personally been in the
4 water. I've surfed and swum in the water. I've traveled
5 the world and have been and seen the conditions in a lot
6 of different places as well.

7 One of the things is that I spend a lot of time
8 here in Santa Monica. My local break is at Tower 20 Bay
9 Street, south of the pier and one of the things that
10 happens is I can actually tell the water quality from day
11 to day. I can tell the difference in the amount of trash
12 that's in there. I can -- as disgusting as it sounds, I
13 can taste the water because when I'm swimming and
14 surfing, I inadvertently get water in my mouth and
15 this -- you know, this water quality issue is actually a
16 big thing. Like I can tell from day to day what happens
17 and the changes.

18 The other thing that happens to me is that I've
19 gotten ear infections. I've gotten eye infections. I
20 know that when the water is very dirty, I have to be
21 careful. Like if I have scratches, it actually gets
22 infected. So there is a difference between when the
23 water is clean and when it's dirty and it happens
24 throughout the year. It's not just something that
25 happens from year to year. I can tell when things are

1 running out into the ocean.

2 And there are times when it's so dirty in there
3 that I'll actually see condoms; obviously, you know,
4 plastic, tons and tons, and cigarette butts, and I know I
5 have to get out of the water.

6 One of the days it dawned on me as I was
7 paddling in, it's so sad because I'm doing this as a
8 recreational activity, but I see the little baby dolphins
9 and the other animals. I've even seen sea turtles off
10 the coast of San Diego at Cardiff. I know there's a lot
11 of sealife that we have here that we need to protect.
12 They don't have the choice to get out of the water. They
13 are stuck in it.

14 And right next to where I hang out all the time,
15 there is the Pico-Cantor storm drain and that runs up to
16 Hollywood and I see all the cigarette butts in the water.
17 I know it's illegal to smoke there, but I think about all
18 the people that are smoking a pack a day 365 days a year
19 and that stuff is all running into the ocean as well as
20 the dog poop, the pesticides, the oil, all the other junk
21 that just goes down from all the people that maybe they
22 don't know, maybe they're not watching out, maybe they
23 don't care; but it's something that affects all of us for
24 generations to come.

25 So anyway, some of these things to think about.

1 I could go on and on, but the bigger picture regardless
2 of the economy and the current financial situation, we're
3 sort of like renters of the environment for this current
4 time and to put standards that are any less is sort of
5 like saying we're going to borrow this house and we're --
6 because we may be a little short on cash at the moment,
7 we're not going to return it at the same level or
8 caretake it to the same level of quality as it was given
9 to us.

10 MS. MEHRANIAN: Thank you.

11 MS. SHIMOOKA: Thank you.

12 MS. MEHRANIAN: Ann Shabtay?

13 MS. SHABTAY: Hi. Good morning, Board members. My
14 name is Ann Shabtay and I'm here as a mother,
15 grandmother, teacher, beachgoer, and environmentalist, to
16 urge the Regional Board to please incorporate strong
17 protections in the proposed Municipal Storm Drain Permit.

18 It is very important to me, as I know it is to
19 you, to protect families, beachgoers, and marine life
20 from the bacteria that flows and the high trash that --
21 the amount of trash that flows out on the urban runoff.

22 There need to be stronger and numeric limits for
23 pollution and we need these protections now. No one --
24 no one should go home sick from a day at the beach.
25 Please help us keep our beaches beautiful and our

1 watersheds clean and safe for all.

2 Thank you for your consideration.

3 MS. MEHRANIAN: Thank you.

4 Joyce Dillard.

5 MS. DILLARD: Yes. Joyce Dillard.

6 Manhattan Policy Institute came out with a
7 recent report saying, Why do people leave California?
8 Lack of jobs, density, financial instability of the local
9 governments, and that financial instability is really
10 important.

11 General County Standard Boards, who sets the
12 standard for financial statements of local governments
13 and nonprofits were out here for a hearing a few months
14 ago. Here and New York were the two places they chose.
15 They foresee a lot of bankruptcies. They're trying to
16 change the disclosure requirements in the financial
17 statements to avoid this; and that's important because
18 it's a bonding aspect of these projects that are
19 addressed.

20 County Flood Control District addressed the
21 Prop 218 one. It's capital all the time. But in the
22 budgets of the Cities, they never allow operation and
23 maintenance money. Now, Prop 218 doesn't allow for O and
24 M projects, but this L.A. County Flood Control initiative
25 through A.B. 2554 will do that and it will be

1 challengeable. They'll probably lose in court and then
2 the burden's on them.

3 So what do we face here? I'm a citizen and I
4 have fellow citizens sue for infrastructure. We really
5 don't know what our infrastructure is in the area. It's
6 so diverse here. We have oil. A lot of places, you
7 don't see it in Washington and Oregon and all these
8 studies. We have it here. Everything's very
9 individualistic.

10 Can we do LID ordinances? Maybe in one place
11 yes, maybe in one place no, but it's not being looked at
12 that way. It's not being looked at kind of in a
13 cross-curriculum. You can talk oceans, but I've been
14 around those scientists in the oceans. They're great,
15 but the military is concerned there's some secret going
16 on with security there. So they're concerned in a lot of
17 ways.

18 You see it with the Southern California Bayou.
19 The hole that's clear, no pollution, is in Dana Point.
20 It's in the north-south idle flows. It gets very
21 complex, but I don't see things being addressed in this
22 complex way.

23 We're concerned about illicit discharges and
24 enforcement, but again you're wrangling the cities when
25 the cities are operating on a one-agency representation

1 with -- and you're like a one area representation in a
2 problem that really I think is going to end up being in
3 front of a judge to decide because of the complexities.
4 We cannot bear any more tax burden and that's all that's
5 really happening to us now as citizens.

6 I'd like to say, well, maybe it's a regional
7 aspect, maybe it's this. I just don't think people are
8 doing enough homework on this.

9 I look at a lot of CEQA and NEPA. Inner-city,
10 so bad, so toxic, it's never going to change. CEQA, I
11 don't see agencies writing anything. I'm one of the few
12 that wrote on the NFL stadium. Not one word of watershed
13 in there. No one understands watershed, period. No
14 planner, no urban planner, no one. Only the water people
15 understand watershed.

16 So I don't think you're going to solve the
17 problem. I'm going to see this problem two years from
18 now. I'm going to see it 20 years from now until you
19 really get a handle on what we have now, what we need,
20 what taxing that's going to happen, and what the cities
21 can bear. They're going to develop up to the kazoo
22 because they need that income for revenue. The judge
23 won't go against them.

24 Thank you.

25 MS. MEHRANIAN: I'm going to allow two more speakers

1 because we have a few minutes.

2 Kelly Zhao and George Ruiz and then we'll break.

3 MS. ZHAO: Hello, Board members. I'm Kelly Zhao and
4 I'm a student at SSC and a resident right here in
5 Los Angeles. I live in downtown Los Angeles because I
6 used to go to an art school down here and I was the only
7 one in my major that applied for a sustainability minor
8 and thus they no longer offered it because I was the only
9 one that was interested. So I am now going to SSC and
10 hoping to transfer to NYU.

11 Right now I'm concerned with the issues of the
12 water pollution. The L.A. waterways drain into our
13 beaches and the pollutants constantly are present at the
14 beaches and threaten the safety and the health of every
15 aspect of life there, from the beachgoers to the marine
16 organisms living within the community and the ocean
17 itself, too.

18 At school, we are constantly educated about and
19 exposed to the consequences of lifestyles we lead and
20 about how we can help to prevent like a hardening impact
21 on our environment. At home, I'm bombarded with masses
22 of waste flowing through traffic and tumbling on the
23 streets; and at the beach, the waste parallels the
24 conditions on land and it flows toward the oceans and
25 it's always harmful.

1 I noticed that the Metropolitan Water District
2 has a Mission Statement that basically defines
3 sustainability and to provide for the needs of the
4 present and for the future and I feel like a strong water
5 or a strong Storm Permit with numeric limitations would
6 help Los Angeles in hopes of a cleaner and healthier
7 future for all.

8 Thank you.

9 MS. MEHRANIAN: Thank you.

10 George Ruiz?

11 Okay. We have Eveline Bravo, the environmental
12 presentation.

13 Mike Avazpour? No?

14 MS. BRAVO: I believe it says "not speaking," but
15 we're submitting a report.

16 MS. MEHRANIAN: I'm sorry. What was that?

17 MS. CAMACHO: They're not speaking.

18 MR. UNGER: Eveline.

19 MS. MEHRANIAN: Eveline Bravo?

20 MS. BRAVO: Good afternoon. I believe --
21 Eveline Bravo here. I believe the pile that you got to
22 is the nonspeaking members that still wanted to pledge
23 our support because we agree with everything else that
24 has been said --

25 MS. MEHRANIAN: Okay. Great.

1 MS. BRAVO: -- and hope that you do support strong
2 limits.

3 MS. MEHRANIAN: Okay. Thank you.

4 So then we have Jocelyn Urrotia, Juan Arriaga,
5 Isaac Castaneda, and then Rafael Mkrtchyan, and then
6 Lorena Campos, Karmen Vasquez, Nina Avetisyan, Stephen
7 Mejia, Evelyn Salgado.

8 MR. MEJIA: I'm sorry. You are asking me to --

9 MS. MEHRANIAN: Please introduce yourself.

10 MR. MEJIA: My name is Stephen Mejia.

11 Yeah. So I just wanted to actually associate
12 myself with all other comments that the gentleman from
13 the diver club made about how incredibly important and
14 how this really is a question about vision and direction
15 that you're choosing as a Board about where we're heading
16 in terms of water quality.

17 I understand that the municipalities have a huge
18 task and a strong challenge ahead of them in terms of
19 meeting all the requirements that are there, but I think
20 it's incredibly important that we embrace that challenge,
21 because looking forward, we're only going to be burdened
22 more and more, as the -- I'm sorry to reference this --
23 ICC Climate Change Report listed California as one of the
24 vulnerable areas in the nation. And so looking at these
25 challenges in terms of looking at our water quality or

1 our water quality supply are really going to be tools or
2 foundations of tools to build upon later.

3 And I would also like to refute the claim that
4 somehow the inner-city doesn't understand watersheds or
5 water. Being brought up in the cities of Cudahy,
6 Compton, Hawthorne, I am well aware of the fact that
7 particularly African-American and Latino communities have
8 a strong rural background, so we are well aware of the
9 issues that come with water and how watersheds really
10 connecting the populations that are above the watershed
11 and travel all the way down to those who use it for
12 fishing and other recreational uses. It's really just
13 out of touch.

14 So there is definitely strong support in the
15 inner cities. There's definitely that challenge that we
16 need to meet, but I think that shying away from that
17 challenge is really just an embarrassment, and I urge you
18 to push these strong regulations forward in the Permit.

19 Thank you.

20 MS. MUNOZ: I want to comment on your testimony.

21 I think that what you said is probably the most
22 powerful but many times overlooked statement; that in the
23 communities of color, we are overlooked many times and
24 there's so many stereotypes and perceptions about what we
25 do and don't do for environmental health, that we do

1 understand the connection between watersheds and what
2 happens at the ocean.

3 So thank you so much for your testimony.

4 MS. MEHRANIAN: Okay. Thank you.

5 So we'll break right now, and I know that you
6 want to announce what the Closed Session is.

7 MS. MC CHESNEY: Yes. The Regional Board will be
8 meeting in Closed Session to discuss Item Number 9.11 of
9 the agenda.

10 MS. MEHRANIAN: We will be back at 1:15. Thank you.

11 (Lunch recess)

12 (Whereupon Katrina Woyjeck, CSR No. 13603,
13 reported the remainder of the proceedings)

14 MS. MEHRANIAN: We have to continue with our public
15 hearing and we have about 16 more speaker cards and then
16 we'll do the parties and then we will move on to staff
17 and we close that and then we'll have the Board
18 discussion.

19 So with that, we have Careen Mendelbaum, followed with
20 Merrill Barr.

21 MS. MENDELBAUM: Good afternoon. Thank you for the
22 opportunity to speak. My name is Careen Mendelbaum.
23 I'm here representing Generation Water. Generation
24 Water is a social entrepreneurial organization that
25 provides water efficiency services to water agencies,

1 large landscapers, and homeowners.

2 We're here today in support of the MS4 Permit based
3 on the pollution mitigation, supply augmentation, and
4 job growth benefits inherent in this permit. In the
5 past two years, Generation Water has conducted 225 audits
6 of schools, parks, and homeowner association parcels.

7 We've also installed 140 rain gardens for the Los
8 Angeles Department of Water and Power. We've
9 retrofitted 35 campuses -- school campuses throughout
10 Los Angeles County, and we've hired and trained a
11 workforce of over 250 local youth and young adults in
12 low impact development.

13 Sharing our vision, local partners have come forward
14 to help us identify more opportunities for low impact
15 development. Our partner, Community Conservation
16 Solutions, identified over 300 parcels just in the upper
17 watershed of the LA River, and these are public parcels
18 that are well suited for low impact development.

19 If you imagine private parcels and if you imagine
20 watershed of San Gabriel and throughout Los Angeles
21 River and the lower shed as well, the potential for
22 suitable retrofits is exponential.

23 Additionally, the economic roundtable studied the
24 potential for job impacts and economic stimulus inherent
25 in water efficiencies like stormwater capture. We

1 looked at 55 local water projects. Almost half of those
2 were stormwater capture projects, and from those we
3 found that 13 to 17 jobs can be created with every
4 million dollars spent.

5 A million dollars goes a long way. We know that in
6 our rainwater harvesting projects, it costs us about
7 \$3 per square foot to retrofit those gardens.

8 Additionally, the economic roundtable found that for
9 every dollar spent on stormwater capture projects,
10 \$2 in sales is yielded to stimulate the economy.

11 In closing, we know that stormwater capture is both
12 feasible and cost-effective, so we encourage you to make
13 it a reality with this MS4 Permit. Thank you.

14 MS. MEHRANIAN: Thank you. Merrill Barr and then
15 followed by Meredith McCarthy.

16 MS. BARR: Hi. My name is Merrill Barr. I'm here as
17 a concerned resident of Los Angeles, and I would like to
18 say that I'm here for altruistic reasons. However,
19 today I'm here for selfish reasons.

20 I want to be able to eat fish without worrying about
21 the pollutants I might be eating. I want to be able to
22 take a hike without being fearful of walking across a
23 stream. I want to be able to go to the beach and swim
24 in the ocean without the fear of getting sick from storm
25 water runoff. Basically, I want to live in a clean

1 environment.

2 I do my best to eat healthy and live a healthy
3 lifestyle, and I can control some of the that. For the
4 most part, that's my responsibility. However, I cannot
5 control the pollutants that I'm unknowingly eating when
6 I try to have what I believe to be a healthy fish
7 dinner.

8 I also cannot control when I unknowingly absorb
9 pollutants through my skin when I explore our local
10 streams, beaches, and oceans. Basically, I expect my
11 food and environment to be free of pollutants, and I
12 consider that to be your responsibility.

13 I don't like having to explain to my family they
14 can't touch the stream water because it's polluted.
15 Oftentimes they can't see it or smell it and they just
16 don't understand it.

17 I don't like having to explain to my family that they
18 can't go into the ocean today because it rained two days
19 ago and the Heal the Bay beach report card has the
20 beaches graded at a D or an F. Again, they don't
21 understand it.

22 I consider it to be the scientists' responsibility to
23 identify things entering our environment and their
24 impact. I consider it to be all of our responsibilities
25 to learn about how to keep themselves safe and their

1 families safe. And I consider it to be your
2 responsibility to protect our water and implement
3 policies that help keep us healthy.

4 I consider it to be your responsibility to implement
5 strong permit requirements with enforceable numeric
6 limitations so we can measure progress. I would like to
7 submit an additional 102 petitions from LA County
8 residents who also want you to protect our waters,
9 public health, and aquatic life. Thank you very much.

10 MS. MEHRANIAN: Meredith McCarthy followed by Tatiana
11 Gaur and then Kimberly Colbert after.

12 MS. GAUR: Good afternoon, Madam Chair and members of
13 the Board, staff members. My name is Tatiana Gaur. As
14 most of you know, I'm the staff attorney for the LA
15 Waterkeeper. However, I'm here today in my capacity as
16 a private citizen, as a resident of Culver City, and as
17 somebody who lives about a hundred feet away from
18 Ballona Creek.

19 Yesterday it was suggested by some city
20 representatives that this permit is driven by interests
21 who only care about the ocean and the beach, and I want
22 to tell you this is simply not true.

23 I personally care about this permit and how this
24 board regulates discharges from municipal storm drains
25 because my family and I use Ballona Creek and because I

1 know that thousands of other people use the creek every
2 week, maybe even every day. I haven't sat on the bridge
3 above to count.

4 So for example, the path along the creek is the
5 fastest way to walk from my house to my daughter's
6 school, and last year she walked with my father every
7 day, five days a week. My husband bikes with our
8 children on the bike path.

9 I run and I walk around it and along it, despite the
10 fact that it's fenced off and apparently it looks like
11 nobody wants us to use that creek. But I cannot tell
12 you how many times I personally observed flowing storm
13 drains discharging trash emitting foul -- flows with
14 foul odor directly onto the path along the creek.

15 And everybody uses that path has to jump over these
16 flows. Sometimes they're feet wide and they flow
17 directly to the river with no treatment, and it's hard
18 to imagine that we will ever reclaim our rivers without
19 addressing these discharges from municipal storm drains.

20 It is also hard to imagine that this pollution
21 continues more than 20 years after municipal stormwater
22 discharges were first regulated. It's clear that we
23 have to meet water quality standards. We have to ensure
24 TMDLs are enforced and are meaningful.

25 The conclusion is we need to do more. We have to get

1 out of our comfort zone and push our limits. And it's
2 the choice for our city managers and representatives who
3 we've heard speak to you yesterday and today is not --
4 and cannot be whether to fully protect aquatic life and
5 public health or not. That's a false choice.

6 So I am here today as a private citizen to urge you
7 to please protect our rivers. Thank you.

8 MS. MEHRANIAN: Thank you. Kimberly Colbert and then
9 we'll have Elroy Kiepke.

10 MS. COLBERT: Hello, Board. Thank you for this
11 opportunity to speak. I've been here for two days, and
12 I've heard a lot of testimony regarding opposed in this
13 work permit.

14 As a resident of Los Angeles County and a consultant
15 to a number of municipalities, I'm really concerned that
16 the discussions here have focused on the notion that
17 cities lack the will to implement stormwater controls
18 when, in fact, that is not the case.

19 We've heard from a number of speakers talking about
20 beach pollution, and we all want clean water; clean
21 beach water, clean streams, clean local lakes. But the
22 economic realities of today are that municipalities,
23 like all of America, is facing hard economic times, and
24 it's not being considered in this permit.

25 We are not asking that the requirements of the permit

1 be removed. We're asking for cooperation in
2 implementing the permit with those economics being
3 considered, which they have not been.

4 It is unfair to ask a city that is on the verge of
5 bankruptcy that has had to lay off countless numbers of
6 staff, reduce pensions, reduce benefits, and shut down
7 vital public services to bear the brunt of programs that
8 simply are not sustainable in the time frame that is
9 being called out in this permit.

10 We ask for a more collaborative effort instead of
11 lawsuits and "he said/she said"-type actions that have
12 been expressed during these hearings. I would like to
13 see the environmental groups sit down with the
14 municipalities and really look at the budgets and what
15 budget constraints we have to deal with and offer real
16 solutions and come together with a timeline versus the
17 attitude of just do it. Because we simply cannot do it.

18 Children living in the inner city have the same
19 rights as children living on the coast, and it's unfair
20 to ask a city to close its public library when it only
21 has one public library to fund a program where you have
22 citizens that have never seen the ocean before in their
23 lives.

24 So we're looking at what is fair to our children and
25 the future. It cannot only begin and end at the beach.

1 Thank you.

2 MS. MEHRANIAN: Thank you. Representing Rosemead,
3 Paramount, Elroy Kiepke.

4 MR. KIEPKE: Thank you. Chairman, members of the
5 Board, my name is Elroy Kiepke. I am a civil engineer
6 for Wilda Engineering, and I want to clarify a couple of
7 issues that were part of the testimony this morning.

8 The Gateway Authority Project was mentioned, and I
9 was personally the design engineer for that project. I
10 worked through the permit process and made sure that all
11 9,600 inserts that meet the regional board's full
12 capture standard were installed.

13 That led to an overall average of about 88 percent of
14 the catch basins in the watershed meeting the full
15 capture standard. That leaves cities with about 2,000
16 catch basins that they are still going to have to do
17 something with. The grant did not allow construction.

18 We had to insert the stainless steel inserts, but we
19 could not construct catch basins which is what will need
20 to happen to bring the rest of the catch basins into
21 compliance.

22 Another thing that has been in an awful lot of today's
23 testimony is the environmentalists against the cities,
24 and that's a misrepresentation, in my opinion, of what's
25 actually occurring.

1 Everybody in this room wants clean water. Everybody
2 in this room likewise pose the environment, some to a
3 greater extent than others. Certainly the cities are
4 not the responsible parties for non stormwater
5 discharges.

6 They didn't create them. They come from -- I turned
7 the irrigation system on on my front lawn on this
8 morning when I left. There's a sprinkler head that over
9 sprang in the street. Non stormwater discharge. That
10 happens to every one of us.

11 Cities do not generate trash. The largest percentage
12 of the trash that we're dealing with, if you look at
13 pictures that were on the screen today, is fiber. You
14 know, the food containers that come from fast food
15 restaurants.

16 And, you know, that industry needs to be regulated.
17 The metals from the tires, the metals from the brakes.
18 We're dealing with brakes because of the assembly action
19 lines here, but the tires contain metals that are a
20 discharge. Lead comes off because of the weights that
21 are on the tires. All of those things are pollutants
22 that are in the environment that are not caused by
23 cities. Thank you.

24 MS. MEHRANIAN: Thank you. Meredith McCarthy, I
25 think just walked in. We read your name if you want to

1 testify, and then we have Lisa Ikeda with the Children's
2 Nature Institute.

3 MS. McCARTHY: Thank you. Sorry. Don't go out to
4 lunch with 15 people; that's what I learned.

5 My name's Meredith McCarthy. I'm reading into the
6 record comments from Friends of the Santa Clara River.
7 Ron Bartof is the executive director.

8 "Friends of the Santa Clara River is an
9 environmental group organized as a nonprofit
10 corporation in accordance with the laws of California
11 in 1993 and with its principal place of business in
12 Newbury Park, California.

13 "FSCR has active members throughout Los Angeles,
14 Ventura, and Santa Barbara Counties who canoe, fish,
15 swim, hike, travel, recreate, and observe wildlife
16 throughout the Santa Clara River watershed and intend
17 to continue these activities.

18 "The upper Santa Clara watershed within the Los
19 Angeles County has seen explosive growth over the last
20 two decades with more to come. The population of
21 Santa Clarita region is expected to double over the
22 next several decades. As a consequence, the
23 ecological health of the Santa Clara River will be
24 placed under even more strain than at present.

25 "The river is already impaired in various reaches

1 from chlorides, ammonia, trash, bacteria, and certain
2 metals. We have worked steadily over the past several
3 years with our partners Heal the Bay, Wishtoyo Ventura
4 Coastkeeper, to ensure that every effort is made to
5 improve the water quality of the river and hopefully
6 one day to achieve an unimpaired river.

7 "We have been strong supporters of the regional
8 board and USEPA's efforts to install TMDLs for Los
9 Angeles area waterways over the past 13 years. It is
10 now imperative that each of these TMDLs is properly
11 incorporated into the stormwater permit such that
12 interim and final numeric wasteload allocations are
13 enforceable and water improvements are guaranteed.

14 "While we support some new provisions in
15 comparison to the current permit provisions, we are
16 concerned that the proposed permit as currently
17 drafted would not adequately protect the water
18 quality of the Santa Clara River.

19 "Of the numerous TMDLs established to protect our
20 rivers, streams, and ocean waters in the last several
21 years, bacteria deserves special attention. Our
22 organization urges your board to do everything in its
23 power to ensure the health of the river. Thus, we
24 urge the Board to require immediate compliance with
25 the past due TMDL for dry weather.

1 "We support the inclusion of the low impact
2 development and green infrastructure provisions in the
3 proposed permit because they are practical and cost
4 effective methods for retaining and reusing storm
5 water, which reduces volume and pollutant loading while
6 in many cases increasing water supplies. These
7 practices should be a priority requirement in the new
8 stormwater permit.

9 "These were established recently in the WDR for
10 Newhall Ranch and should apply to all new projects as
11 well as the existing development wherever feasible.
12 The proposed permit requires permittees to address
13 storms at or above the twenty-four hour 85th
14 percentile storm. We support these requirements."

15 Thank you.

16 MS. MEHRANIAN: Thank you. Lisa Ikeda and Ann Heil
17 after.

18 MS. IKEDA: Hello, my name is Lisa Ikeda and I'm here
19 today as an educator from the Children's Nature
20 Institute from right here in downtown LA.

21 We urge the Board to include strong water quality
22 protection and numeric effluent limitations in the
23 proposed MS4 Permit. Including these limits would help
24 help protect our water quality and help protect public
25 health.

1 At CNI, the Children's Nature Institute, we had a two
2 week summer camp for approximately 100 K- through 3rd
3 graders this summer who are primarily from low income
4 Latino families. I am here to speak about their
5 experience during camp.

6 They were able to learn about the ocean and the
7 importance of marine ecosystems and took a field trip to
8 the beach and also a tour of their own communities
9 noting the storm drains, which were surrounded with
10 plastic. They were able to make the connections between
11 the storm drains and leading to the ocean and what those
12 consequences are.

13 When asked -- when these students were asked why it's
14 important to protect our water and our beaches, time
15 after time we heard answers like "to protect the
16 animals; so we don't see plastic bags and other trash at
17 our beaches anymore." And the most common, "so we don't
18 get sick."

19 They understand the importance of protecting our
20 water quality and the consequences if we fail to do so.
21 Our communities want to see clean and healthy beaches.
22 Neglecting to address the important issue of public
23 health would be a disservice to these communities.

24 The children I just spoke about come from communities
25 where families can't afford the potential risks that

1 come from having to miss work for doctor's visits and
2 the resulting loss of wages that could result from not
3 including these strong limits such as bacteria TMDLs.

4 We ask that the Board require numerical limits and to
5 ensure the inclusion of strong water quality protections
6 to protect our communities and water. Thank you.

7 MS. MEHRANIAN: Thank you. Ann here? Andy Shrader,
8 you're up.

9 MR. SHRADER: Who'd you say first?

10 MS. MEHRANIAN: Ann Heil. No? Let's go with Andy
11 Shrader and then we'll come back.

12 MR. SHRADER: Okay. I'm Andy Shrader. Good morning,
13 afternoon, whatever we are. Madam Chair, Board members,
14 thank you for the opportunity to comment.

15 I'm here today as a concerned resident of Los Angeles
16 who cares very much about water quality. Cities have
17 already made great low-cost strides to improve water
18 quality. We are all on the same page.

19 There's so many inventive, nontraditional,
20 inexpensive ways to meet water quality requirements, and
21 we human beings are an inventive bunch. For example,
22 all the recent citywide plastic bag and Styrofoam bans
23 which, when implemented, effectively remove pollution
24 from the stormwater system.

25 It is time to start holding companies accountable for

1 the trash that they're putting into our system. The LA
2 County plastic bag ban for instance, has already shown a
3 95 percent reduction in overall bags being given out,
4 both paper and plastic.

5 Every reusable bag used reduces pollution. Cities
6 are jumping on board and businesses are supportive.
7 Such nontraditional methods may require some
8 documentation costs, but these costs will be more
9 inexpensive than the methods the cities are claiming
10 will cost hundreds of thousands or millions of dollars.

11 Therefore, I encourage the regional board to take
12 into account the myriad of inventive ways cities can
13 meet numeric permit limits and to vote to protect the
14 public and our oceans by passing a permit with strong
15 enforceable numeric limits because -- and this is the
16 important part -- it has been said human beings can live
17 for three weeks without food, three days without water,
18 and only three minutes without oxygen.

19 Our oceans provide up to 70 percent of the oxygen we
20 breathe every day. 70 percent. The health of all of us
21 depends so very much on the health of our oceans.
22 Cities have been saying we can't afford this for two
23 decades.

24 The same cities who said we can't afford to get off
25 of coal. Guess what? We're getting off of coal. We

1 can't afford not to do this. Thank you.

2 MS. MEHRANIAN: Thank you. Ann with LA County
3 Sanitation District, you're here. I'm sorry. I didn't
4 see you. You were in the back.

5 MS. HEIL: Sorry I didn't come up sooner. I just had
6 a hard time hearing the names in the back.

7 MS. MEHRANIAN: Oh, okay.

8 MS. HEIL: Well, good afternoon. My name is Ann
9 Heil, and I'm here today representing the LA County
10 Sanitation Districts. We provide waste water services
11 for much of LA County for over five million people, and
12 we operate 11 waste water treatment plants and 1,400
13 miles of sewer lines.

14 We wanted to speak to you briefly on just one topic,
15 and that relates to potential sewer diversions of storm
16 water flows. We want to make sure the Board is aware
17 that sewer diversions of stormwater are not an option
18 during wet weather.

19 We do allow dry weather diversions when we have the
20 capacity to accept them and when the municipalities pay
21 the appropriate fees to cover our costs, but we do not
22 allow these diversions of wet weather. And apparently
23 this topic came up yesterday.

24 That's because we need to protect against sanitary
25 sewer overflows and ensure that the capacity of our

1 waste water treatment plants has not exceeded. As a bit
2 of an explanation, the sanitation district's sewer
3 treatment system is a separate sanitary sewer system.
4 And that means that our sewer and treatment plants were
5 specifically designed to exclude wet weather.

6 Our system currently has a wet weather peaking factor
7 of two and that's kind of a technical term. But simply
8 put, that means that during our peak wet weather, during
9 a big storm, we'll have about twice as much flow coming
10 in as we would during dry weather. And that's from
11 things like manholes popping and places are illegally
12 pumped to our system where rain water might get in.

13 Now, in a system that's designed to handle both the
14 stormwater and the sanitary sewer flows, that's called
15 a combined system, and in those you'd get a peaking
16 factor more like a factor of ten. So you'd be seeing
17 ten times as much water during wet weather than dry
18 weather.

19 To go over to a combined system like that would be a
20 profound change in our approach, and it would require a
21 fundamental rethinking of the design of our system and
22 literally billions of dollars of investment of new
23 infrastructure.

24 Due to the challenge of handling the huge amounts of
25 flow during large storms, new combined systems where you

1 have sewers and storms together are not being built in
2 the United States. There's still legacy systems on the
3 East Coast and in San Francisco.

4 And the reason is that you tend to get overflows
5 during heavy storms, so you'll get that sewage
6 overflowing to your beaches, and you don't want that.
7 So because their system wasn't designed to handle wet
8 weather in the storm flow, we just cannot begin to
9 accept wet weather diversions, so we have no plans to
10 allow such diversions. So thanks for the opportunity to
11 provide input on this.

12 MS. MEHRANIAN: Thank you. We have Melanie Winter
13 with the River Project and Gerald Greene. Sorry.
14 Gerald Greene.

15 MR. GREENE: Thank you very much for allowing me to
16 speak this afternoon, Board and Chair. My name is
17 Dr. Gerald Greene. I have appeared many times before
18 this board to advocate for an agency. I'm no longer
19 able to do that, but I am here to speak about a very
20 different issue, and that is not one of policy or legal
21 views.

22 It's a request for a small technical change to this
23 document. The permit, as currently written, has confused
24 a hydraulic situation and essentially Legg Lake does not
25 drain to the San Gabriel River. Legg Lake drains to the

1 Rio Hondo and LA River.

2 As staff changes, this information did not get
3 conveyed forward into this document, but we have
4 discussed with staff that this is a change that should
5 happen. It would need to have changes in appendix K, O,
6 and P of the permit.

7 And we've conveyed some of this to the staff, and I
8 think they've acknowledged that there could be a little
9 confusion over time, a little lost information. And
10 that does happen with very busy agencies, but we would
11 like to get this into the right watershed.

12 And by the way, you can always reference the EPA
13 lakes TMDL, which correctly assessed that Legg Lake
14 drains into Mission, drains into the Rio Hondo, drains
15 into the LA. And with your direction to staff, I would
16 be glad to help providing additional information I'm
17 able to, although I think they probably have it, and
18 they suggested that I might bring this to your
19 attention.

20 I apologize for not having brought this to your
21 attention previously in written presentation.
22 Unfortunately, I'm one of those public sector guys who
23 lost his job this year and until June, I was not really
24 very motivated to read a permit, but I recently did have
25 the opportunity to read that.

1 And I found this, and like I said, this is not a
2 policy change. This does not change money. This is
3 simply putting water going down the right watershed. So
4 I hope that you will consider my request today.

5 Having just a moment, I wanted to say that I very
6 much enjoyed two things today. Seeing LID structures
7 that we've previously presented to the Board and
8 presentations from NRDC. It is nice to see public
9 facilities being noted and that we're making headway.

10 Second, Mr. Gold -- Dr. Gold. I'm sorry. My
11 classmate Dr. Gold yesterday had a wonderful
12 presentation. He talked about diversions. He talked
13 about the Pico Canyon diversion. Guess what? That was
14 one of my projects. That was one of the first projects
15 I did. The amazing thing is six months of negotiation,
16 two weeks I got a warning that we're having a ribbon
17 cutting on Labor Day. Do it.

18 Six months of agency negotiations and in two weeks
19 I'm out there on the sand in the middle of the weekend
20 rewiring things. Why was I able to do it that quickly?
21 Because there was already an existing project that I
22 took advantage of.

23 We are learning BPMs is an evolving art. Please help
24 us agencies, those who work for agencies have the chance
25 to evolve it right. It's not an easy process.

1 MS. MEHRANIAN: Thank you. Anne Bergman and Bobby
2 Feingold. Anne Bergman and then Bobby Feingold after.

3 MS. BERGMAN: Good afternoon. Thank you for allowing
4 me to speak today. I'm here as a parent. I live in the
5 San Fernando Valley, and my children are lucky enough to
6 go to a title one school where they have been taken on
7 field trips to the beach.

8 But one of things I just found mortifying was there
9 were some parents who were scared to let their kids go
10 in the water that day, not because they were scared they
11 couldn't swim, but because they were scared the children
12 were going to get sick.

13 And as a parent, you know that the most powerless
14 feeling in the world is when your child is sick and you
15 don't know how serious it is. So I'm just here to
16 encourage you to pass a strong permit with numeric
17 quantitative enforceable limits. Thank you.

18 MS. MEHRANIAN: Thank you. We have Melanie Winter
19 that walked in. We called you earlier, so if you want
20 to speak with LA River.

21 MS. WINTER: Good afternoon. I'm Melanie Winter.
22 I'm the founder and director of the River Project, and
23 I'm here speaking on our behalf.

24 For 15 years, we've supported the regional board and
25 the EPA's efforts to adopt TMDLs for the LA River

1 watershed, and now it's time in incorporate these TMDLs
2 into the stormwater permit.

3 Our organization's goal is a living Los Angeles River
4 that is nourished by a healthy watershed. To that end,
5 we support strong permit revisions that require
6 compliance with water quality standards to protect the
7 beneficial uses of our rivers.

8 This summer we were partnered on the Paddle Los
9 Angeles River Program, which we started several years
10 ago. This was our second year in full operation. We
11 had the opportunity to take out well over a thousand
12 people to experience the Los Angeles River as a living
13 river in the Sepulveda Basin, not a stitch of concrete,
14 abundant wildlife. This is a transformative experience
15 for anybody who has done it. This is the kind of river
16 people want to have in Los Angeles again.

17 Two of the biggest questions we hear after their
18 experiences are "What can I do to make this a reality,"
19 and "Why isn't government doing more?" I urge the
20 regional board to do everything in its power to ensure
21 that our waters are protected from the impacts of urban
22 runoff pollution by adopting a permit that protects
23 people who want to recreate on our rivers from getting
24 sick.

25 We also support the inclusion of this low impact

1 development and green infrastructure provisions that are
2 in the permit. There are a myriad of practical and very
3 cost effective methods for capturing and reusing storm
4 water, many of which also augment local water supply.
5 And in an integrated approach that should be of coequal
6 concern.

7 These distributed practices should be a priority
8 requirement and we don't think they should be coequal
9 with regional solutions. There are studies out there,
10 pilots throughout the country, that are proving that the
11 distributed approach has a greater benefit on all
12 levels: Water quality, water supply.

13 We're capturing more supply with a greater number of
14 small projects than they are with larger projects, and
15 the improvements to water quality are greater as well.
16 These are being done in numerous other cities throughout
17 this country that don't see themselves and don't
18 advertise themselves as progressive as we do here in
19 Los Angeles.

20 I think it's time for us to catch up and start paying
21 attention to what other grass roots small cities are
22 doing and work with them. So we also think that this
23 should not only apply to new development and
24 redevelopment, but we need to be encouraging this in
25 existing development.

1 Homeowners can play a big role in this in
2 retrofitting by choice existing developments through
3 incentives that the local governments can encourage. So
4 we want that to be considered in this approach as well.
5 People are ready to participate and do what they can as
6 long as local government is doing what they can. Thank
7 you.

8 MS. MEHRANIAN: Thank you. We have Ana Ahern that
9 wanted to support and not speak, then we have Ray Tahir
10 followed by Antonio Carrera.

11 MS. GLICKFELD: Is he speaking again?

12 MR. UNGER: I think he used all his time up.

13 MS. MEHRANIAN: Antonio Carrera. Antonio Carrera and
14 then Chris Bacca and followed by Matt Fairweather, and
15 that's it for the cards.

16 MR. BACCA: Good afternoon. I'm Chris Bacca and for
17 several years I've worked with Community Health
18 Charities, but I don't really want to talk about the
19 health aspects of what we're -- this discussion today.
20 I think a number of people have talked about that.

21 I think one of the things I want talk about is
22 something that is funding. And in looking at some of
23 the numbers, just -- this is my first hearing. I didn't
24 come yesterday and I hope I'm not repeating anything.

25 But I looked at some numbers during the break, and

1 one of the numbers I saw was that there were 6.7 million
2 visitors to Santa Monica from outside Los Angeles County
3 and they brought in 1.3 billion dollars. They spent
4 that. And 35 millions in hotel taxes.

5 And somebody from another city agency mentioned,
6 "well, it shouldn't just be about the beach cities and
7 it shouldn't be just about the ocean," but it's not.
8 You know, there were \$15.4 billion spent in the City of
9 Los Angeles. We can't forget how important that ocean
10 is to tourism.

11 If you're here in January to see the Rose Bowl and
12 you're walking the beach and the beach is filthy, you're
13 going to go back to Omaha or Nebraska or wherever that
14 team is from, and say, "yeah, I don't know." Or if
15 you're here from Japan and it's June and you're swimming
16 in the ocean and a plastic bag comes up against you,
17 you're going to go back to Tokyo and not have great
18 things to say.

19 And I think that's one of the things we've made great
20 progress. But I want you to really continue that
21 progress, to really take a look -- a hard look at
22 protecting people's health and protecting those tourism
23 dollars and generating that income and making Los
24 Angeles attractive -- all of Los Angeles attractive to
25 people from all over the world. Thank you.

1 MS. MEHRANIAN: Matt Fairweather. Okay. Is there
2 any other public comments? Anyone that did not submit a
3 card? Okay. I think then that we're closing the public
4 hearing.

5 All right. So what are we doing? Oh, we're going
6 the public parties. Thank you. Yes. So there's no
7 more speakers. I'll give you the cards. It's the --
8 how much time do we have for each?

9 MS. FORDYCE: So we've been back to the parties --

10 MS. MEHRANIAN: Yes.

11 MS. FORDYCE: The reserved time? Do you want to just
12 go in the order that they ended yesterday?

13 MS. MEHRANIAN: Sure.

14 MS. FORDYCE: So LA Permit Group reserved 19 minutes.

15 MS. MALONEY: Sorry about that. I thought you were
16 reading everybody's time. Sorry. I'm hoping that we do
17 not need it, but I'm also here representing the City of
18 Monrovia, and we want to provide the additional time for
19 the City of Monrovia to the LA Permit Group. We'll try
20 to go faster than that.

21 MS. FORDYCE: And Monrovia had about six minutes and
22 53 seconds.

23 MS. MALONEY: Okay. We want to thank you again for
24 the opportunity today to provide comments to the Board.
25 As I mentioned before, I am speaking on behalf of the LA

1 Permit Group. Our comments here today represent the
2 consensus of the 62 agencies that participate in the LA
3 Permit Group. For the record, my name is Heather
4 Maloney.

5 And we just -- we want to reemphasize that we are
6 committed -- fully committed to improving water quality.
7 That's why we're here and we're so engaged in this
8 process. We want to make sure that water quality does
9 happen and continue to improve in this region. We're
10 just -- our comments are really related to the
11 mechanisms that we use to get there. But definitely we
12 all -- we see the same goals. Everyone else in this
13 room wants to reach those water quality goals.

14 We took a great time and effort to prepare all our
15 comments both here today and in writing for your board's
16 consideration. And do we hope that you do take the
17 chance to read our comment letter because we did provide
18 a lengthy list of more technical issues as well that
19 we -- we look forward to working with your staff on to
20 smooth out those details.

21 We did want to address just a few key issues and
22 reiterate some key points as well. And the first one is
23 regarding some of the funding discussions that we heard
24 in testimony here today and yesterday.

25 The first one is there was a claim that cities

1 overinflate the numbers that we present related to
2 achieving water quality or permit costs. And, you know,
3 I can't speak for each and every city, but that doesn't
4 happen in every city. And I think that's a very large
5 misrepresentation of the way -- of how seriously cities
6 take our annual reporting for permit compliance.

7 We take that seriously. That's, you know, something
8 that we have to sign as, you know, legally -- as legal
9 representatives of the agencies. So we do our best
10 effort to make sure that each and everything that is put
11 in that report is accurate.

12 The first specific thing that I do want to address is
13 there there was a claim that was related to us
14 overinflating numbers. Is that -- and we said that the
15 trash -- LA River trash TMDL was going to take
16 \$1 billion for our compliance, and we want to point out
17 that this number was really presented before the Basin
18 Plan amendment was adopted and this was in discussions
19 related to numeric compliance.

20 Once that BMP based-compliance, a full capture
21 compliance method was provided, you know, the compliance
22 costs were significantly lower. The other thing that --
23 and because of this, because permittees have made
24 significant progress towards the trash TMDL in the
25 LA River.

1 You heard yesterday and many cities' testimony that
2 they have reached 90 plus percent reduction and trash
3 loading to the LA River whereas the trash TMDL for the
4 intern compliance point right now only requires
5 70 percent. So we're making great strides in that
6 ability to have a BMP based compliance mechanism really
7 allows cities to progress faster on that specific TMDL.

8 The other things I wanted to address was the gateway
9 cities cog -- the mention of the gateway cities cog
10 grant. That was -- that was received by 13 out of the
11 42 cities in -- in the LA River watershed. There's
12 still 29 other cities that are trying to find the money
13 to complete their trash reductions in the full capture
14 insert installations within the LA River.

15 In fact, many of these cities tried. They banded
16 together and they tried to apply for a Prop 84 --
17 funding under the Prop 84 grant process last year and
18 were denied funding. So those are cities that are still
19 seeking funding to finish that project, but nonetheless
20 they are going at a steady pace.

21 So the other -- the other issue related to -- to cost
22 and budgeting, there was a presentation here today
23 that -- that -- and this goes back to staff's
24 presentation as well yesterday that -- that the numbers
25 that are presented are misrepresented. And we just

1 wanted to say that, you know, although you -- again, we
2 take great time and effort to make sure that the numbers
3 we present in our annual report are accurate.

4 And for the City of Monrovia, taking them for
5 example, there are compliance costs or compliance
6 responsibilities for the stormwater permit are spread
7 out throughout various different departments. And so
8 even though that money doesn't show up in our storm
9 water budget, you might see your money for -- or costs
10 for street sweeping, and our maintenance funds or for
11 catch basin cleaning, you know, and our maintenance
12 funds, as well as, you know, trash collection and other
13 funds and public education, for example, as well as our
14 CIP budgets.

15 So just doing that type of analysis is not a true
16 reflection of municipal budgeting or the money that
17 we're actually spending on stormwater permits. So the
18 economic costs to cities are very real, and that's why
19 you've heard a lot of testimony from us on this issue.

20 We will be faced with significant choices to fund
21 water quality, and we want to make the progress and we
22 are committed to it. However, the current economic
23 realities of cities limit our resources. There was a
24 lot of discussion about various different grant funding
25 and possible funding initiatives that would be available

1 to fill that void that we're describing here today in
2 funding.

3 The first one I want to address is the LA County
4 Funding Initiative. First off, this money is not
5 guaranteed. It's a wish and a hope and a dream of all
6 of us that that does go through, but that's really all
7 it is. It's not reality until the voters vote for it
8 and they vote yes. We have no guarantee that that's
9 going to happen.

10 So while we do truly hope that does happen, basing
11 permit compliance guidelines and permit -- in the permit
12 on money that's not there and basing the economic
13 analysis on that is just simply not fair to cities.

14 If -- if -- hopefully, you know, if it does pass,
15 then, you know, then we can sit down and talk about what
16 else is possible, you know, with that money or how
17 things have changed with that funding initiative going
18 through.

19 The other thing that I wanted to point out that if
20 the funding does go through, 100 percent of that money
21 does not go straight to the cities. Only 40 percent of
22 that is a local return. 50 percent of that goes to
23 watershed groups that then have their own mechanism and
24 their own bureaucracy that decides how that money is
25 spent.

1 That's different -- that's not under the direct
2 control of the cities. It's not under your direct
3 control. It's outside the control of anyone that
4 controls the permit itself. So we do hope that that
5 money can go towards water quality; but again, it's not
6 guaranteed.

7 And the same goes for Irwin. There was a large
8 number -- amount of grant money that was thrown out
9 regarding the Irwin process and availability of funding.
10 However, the main focus of that funding is for water
11 supply. It does promote multi-benefit projects which
12 some of them incorporate stormwater. But the vast
13 majority of projects that are funded through that grant
14 source are water supply and are not available for water
15 quality projects such as we're talking about or permit
16 compliance.

17 So despite the economic challenges, we've made
18 significant progress over the last few years. In our
19 current permit we only have one TMDL, but we have still
20 made significant progress towards the other TMDLs that
21 are in the queue waiting for permit incorporation.

22 We have developed TMDL implementation plans,
23 monitoring plans, and participated in various special
24 studies and we have implemented all these plans on
25 schedule and are making significant progress.

1 You've heard from many cities there's a lot of hard
2 work that's been done at the Santa Monica Bay regarding
3 the bacteria TMDL. Even as you heard from Mark Gold
4 yesterday in his testimony, we've made significant
5 progress with beaches at A and B grades. We don't need
6 numerics in the permit in order for action and progress
7 to happen.

8 I want to turn it over to Ashli Desai from Larry
9 Walker & Associates to provide some more information on
10 the numerics issue.

11 MS. DESAI: Thank you. Again my name is Ashli Desai
12 from Larry Walker & Associates. As you just heard from
13 Miss Maloney, I think it's important to note that
14 there's been a lot of discussion about the water quality
15 improvements that have been made due to TMDLs, but none
16 of those -- there's only two TMDLs that are in the
17 permit right now, and one of them is not Santa Monica
18 Bay Beaches TMDL. And so it's very important to realize
19 that numeric effluent limits are not what is driving
20 action for these permittees. The TMDLs are doing that.

21 The need to have a plan to be able to implement to
22 get towards moving these -- making progress, and your
23 staff has done a very good job in the permit of laying
24 out a process that can be utilized to make this happen
25 to make real water quality improvements.

1 They have a water quality management plan --
2 watershed management plan that includes and requires
3 measurable goals and the schedule to implement those
4 goals. They have an adaptive management process that
5 requires all of the permittees to do a comparison to
6 these measurable goals and see if they're making
7 progress per their schedule.

8 As both Mr. Courier and Dr. Horner talked about, the
9 use of measurable limits can include things beyond water
10 quality. They can include things like retention limits,
11 they can include things like BMP maintenance
12 requirements, schedules to implement BMPs. Those are
13 all measurable. And so what we're asking is to allow
14 those water quality management plans to be utilized
15 without the risk associated with numeric effluent
16 limits.

17 I think it's, you know, another point. I think
18 there's been a lot of discussion about the feasibility.
19 TMDLs require the development of a numeric wasteload
20 allocation. That's a requirement. There's a difference
21 between taking that number that was required to be
22 developed for a TMDL and turning that into a numeric
23 effluent limit in a permit per EPA guidance. That is
24 technically feasible to me. And so regardless of
25 whether it's feasible or not, you also have the

1 discretion to include the BMP-based compliance.

2 So we're asking to you take that discretion and
3 utilize the process that has been outlined in the
4 permit. And it's important to recognize that if people
5 don't use the watershed management program, if they
6 don't submit one or comply with that program, you have
7 the backstop of these effluent limits currently written
8 in there.

9 So it doesn't rely on having these programs be
10 implemented if somebody chooses not to do that or
11 doesn't meet the requirements. So I think that just to
12 kind of wrap it up, we're asking you to allow the
13 permittees to have the same compliance mechanism for all
14 the TMDLs that you've adopted and all the TMDL
15 requirements, not just selectively picking some and the
16 interim requirements. And -- for -- to allow people to
17 implement a plan and have that regulatory certainty.

18 With that I'm going to turn it back over to Miss
19 Maloney.

20 MS. MALONEY: Thank you. So we -- just to summarize
21 what Ashli stated, we really feel that the permit lays
22 out a very clear path towards compliance. Numerics will
23 not change our ability to reach the water quality
24 standards. Rather, a numeric simply acts as a number on
25 a sheet of paper.

1 With that, until it has a plan to illustrate how we
2 get -- get to that goal, it's only worth its weight on
3 the paper it's written on. What we need is a structured
4 plan in which the watershed management plans or programs
5 clearly lay out the steps we need to take to develop the
6 plan itself in order to get to those goals and requires
7 us to provide reasonable assurance that the plan will be
8 effective.

9 We've come a long way in this permit development the
10 and discussions and deliberations we've had have been
11 valuable with both you and your staff, and we truly
12 appreciate the opportunity to comment. As we mentioned
13 in our testimony, there's still a few large issues and
14 many technical issues that need to be smoothed out.

15 To summarize our key issues that we'd still like time
16 to work out with your staff, are the time frames allowed
17 for the watershed management programs and the integrated
18 watershed monitoring plan, the receiving water
19 limitations language which does need to be revised, and
20 the final TMDL wasteload allocations that should be BMP
21 based and that we're still very much still waiting for a
22 response to comments to see how some of our comments
23 have been addressed.

24 And then in order to work out these final issues, we
25 are asking for the permit development timeline to be

1 extended to reflect the following: Following this
2 meeting, we request that an administrative working draft
3 of the permit is released. And this will allow us time
4 to work these issues out with staff. In the 90 days
5 after the release of the administrative working draft to
6 release the revised tentative order. And then 60 days
7 following the release of the revised tentative order,
8 schedule the adoption hearing.

9 And then again as we presented in our testimony
10 yesterday, it's very important that the effective date
11 of this permit does not occur prior to July 1, 2013, and
12 that's because of the budgeting process that cities need
13 to go through. We're all in the middle of the budgeting
14 process and resources have already been allocated, and
15 we're in -- we have contractual obligations that we
16 need to meet for those resources.

17 So to be fair to the governing bodies of the cities
18 here, they really need to have the opportunity to go
19 through a full budgeting formal budget process in order
20 to allocate resources accordingly.

21 So with that, I'll close our comments, but I do want
22 to reserve the remainder of our time for any
23 cross-examination. Is that possible?

24 MS. FORDYCE: It's up to you, but they -- the parties
25 have already testified.

1 MS. MEHRANIAN: Would you like to do it now or?

2 MS. MALONEY: We were hoping to hear the rest of the
3 final testimonies because we're first up in line, so.

4 MS. MEHRANIAN: Okay. That's fine.

5 MS. MALONEY: Thank you very much.

6 MS. MEHRANIAN: Who else is on the parties and how
7 much time do they have left?

8 MS. FORDYCE: So next is Norwalk. 15 minutes.

9 MS. MEHRANIAN: And then?

10 MS. FORDYCE: Westlake Village, three minutes. I
11 think it was the same person yesterday.

12 MS. MEHRANIAN: I'm trying to see how many more so we
13 can see how much --

14 MS. FORDYCE: Oh, okay. Let me just go down the line
15 then. So Norwalk, 15 minutes; Westlake Village, three
16 minutes; Los Angeles County and the district have
17 41 minutes; and Heal the Bay, NRDC, and LA Waterkeeper
18 have a whopping 1 minute and 45 seconds.

19 MS. GLICKFELD: Miss -- Madam Chair.

20 MS. MEHRANIAN: Yes.

21 MS. GLICKFELD: It's 4:00 o'clock. We have to to be
22 out of here at --

23 MS. MEHRANIAN: No, it's 2:15.

24 MS. GLICKFELD: Oh, my God. It feels like next week.
25 I'm hoping that by 3:30 --

1 MS. GLICKFELD: I hope the audience understands that
2 we have now heard, I don't know, 16 hours of testimony,
3 we've read a 500 page document, read over 2,000 pages of
4 comments, and we have to be out of here at 5:00 o'clock.
5 So if you want us to have anything to say back to you,
6 you should consider that.

7 MR. BRADY: And I'll try to be as compelling as
8 possible to entertain you.

9 MS. MEHRANIAN: Okay. Go ahead.

10 MR. BRADY: Good afternoon, Chair Mehranian,
11 honorable members of the Board, and regional board
12 staff. Thank you for the opportunity to speak.

13 My name is Andrew Brady, and I'm here today on behalf
14 of the City of Norwalk. As I'm sure you've gathered
15 from the testimony of many of the municipal permittees,
16 one of our biggest concerns is a permit that would
17 expose municipal permittees to open-ended liability for
18 exceedances of numeric standards.

19 I think the NRDC versus LA County case teaches us a
20 lot about what we can really expect to see from the
21 adoption of the permit that imposes strict numerics.
22 We're nearing that case's five year anniversary now.
23 It's not over. And the question that went to the county
24 will ultimately by held liable for exceedances in
25 numerical standards has not been determined and frankly,

1 it's obvious why.

2 Science and law will always be debated. And actually
3 proving that a discharge from the MS4 caused or
4 contributed to an exceedance in the receiving water body
5 can be extremely difficult and the subject of rightful
6 contention. But to my mind, the most important question
7 for us is what have the millions of dollars spent in
8 that suit done to improve water quality in Los Angeles?

9 It's not a rhetorical question. The answer is none
10 whatsoever. Let's not go that route. Litigation is
11 counterproductive. Administrative civil liability
12 proceedings are also no walk in the park. They can also
13 lead to endless appeals and litigation as well. I'll
14 tell you, a city's decision whether to pay the
15 administrative penalty or defend a lawsuit is based on
16 our objective assessment of numerics of the claim and a
17 simple cost benefit analysis.

18 And in a case like NRDC versus LA County, we have a
19 right to defend ourselves against what we feel are
20 questionable claims. And I'm not calling it
21 questionable to insult the NRDC, but I mean, look at
22 what's happened. The federal district courts said no
23 liability.

24 The 9th Circuit Court of Appeals said liability for
25 some things and not for others, and now at least four

1 members of the US Supreme Court who will grant a review
2 think the 9th Circuit was wrong. So liability will not
3 always be clearcut and litigation will result. And make
4 no mistake, at this time imposing enforceable numerics
5 puts stakeholders in this room on a collision course
6 towards litigation.

7 You heard it from Miss Crosson. 3,300 -- I'm sorry.
8 3,834 bacteria exceedances in Santa Monica Bay beaches
9 in the last six years. Numerics -- numeric exceedances
10 happen, and who was responsible for them on a particular
11 level is not always clear. But thankfully we have an
12 approach where we can avoid ugly legal battles while
13 still requiring everything of which cities are actually
14 capable. That's a BMP iterative approach.

15 We have to have it in this permit. The watershed --
16 watershed management group plans -- watershed
17 management plans appear to sort of mimic or be, you
18 know, as explained by the regional board staff, almost a
19 BMP iterative approach on steroids. But you know,
20 that's something that appears to be closer to -- closer
21 to an achievable method of compliance.

22 A BMP based approach is effective. You heard from
23 Mr. Gold yesterday. We've seen improvement. As we've
24 heard today, we're not all the way there of course, but
25 that's why we're here. It's a process; an ongoing

1 process. It takes a really long time.

2 But look at the EPA TMDL guidance from 2010. You
3 have the discretion to impose numerics -- to not -- to
4 impose numerics or not impose numerics or go BMP based
5 iterative if you so choose. The NRDC versus Browner
6 case says the same thing. That's the law. And
7 furthermore, you know, we have a Caltrans permit now.
8 That indicates where state policy is likely going.

9 All the anti-backsliding rule actually does is
10 prevent a new permit from having the interim effluent
11 limitations that are less than the final effluent
12 limitations from the prior permit. It prevents you from
13 rolling the numbers back. It says says nothing about
14 your discretion to decide how to achieve those numbers
15 and to decide how compliance will be achieved. It has
16 nothing to do with how compliance will be achieved.
17 It's just about rolling back the numbers.

18 The anti-backsliding rule -- I'm sorry. The
19 anti-degradation policy that's the anti-backsliding
20 rule. The anti-degradation policy is a national policy
21 that simply the requires the protection of existing uses
22 and requires regulators to justify any regulation that
23 degrades what are qualified as high quality water with
24 sufficient social economic benefit. And that's from the
25 1994 EPA water quality handbook at page 5.

1 Anti-degradation has nothing to do with your legally
2 vested discretion to decide how the numeric standards
3 will be achieved and how compliance will be measured
4 with this permit. And those two authorities, NRDC and
5 Browner and the 2010 EPA -- EPA TMDL guidance refer to
6 BMPs for TMDLs.

7 Creating enforceable numeric standard for non TMDLs
8 constituents makes even less sense because those are
9 obviously constituents that are less concerned. But in
10 this permit where watershed management plans equal
11 compliance with the TMDLs, but not with non TMDL
12 constituents, creates sort of perverse incentives because
13 then you have permittees who are more concerned about
14 the non TMDL constituents because for reasons that are
15 sometimes beyond -- entirely beyond their control, they
16 lead to numeric exceedances. That's potential
17 liability, potential lawsuits.

18 But just yesterday, the Board told permittees for the
19 first time that it was thinking about utilizing the
20 watershed management approach for all constituents.
21 Now, we have not seen the language so we obviously can't
22 comment on it -- and we reserve all the rights to
23 address the actual language once we see it -- but based
24 on Ms. Purdy's presentation, the proposed change would
25 apparently apply the approach where watershed management

1 plan compliance is compliance with the permit for all
2 constituents. And I may be mistaken about that, but
3 that's what I was led -- that's what I was led to
4 understand.

5 I think that presents a potentially workable system
6 for achievable compliance that avoids inevitable
7 litigation. Though its ultimate effect in this will
8 depend on finding the right balance for the enforceable
9 standards, it beats having to comply with the watershed
10 management plan and numerics, which is frankly oppressive.

11 And the BMP approach is not toothless or ineffective.
12 Done correctly, it works. It's been shown to work.
13 We've seen improvement. And it's really all cities can
14 do anyway. But at the end of the day compliance is
15 really the key concept. Cities need a path to
16 compliance that strikes the right balance between being
17 effective and being actually achievable. That must be
18 the goal. And frankly, the reality is the biggest part
19 of achievability is affordability.

20 The willingness on the part of the permittees is
21 there. Believe me, we would love to implement every
22 Cadillac BMP out there. We'd love that. We are public
23 servants. We take that role very seriously. I assure
24 you, nobody goes into this for the money. We recognize
25 the benefit of clean water to the public, and we're

1 committed to achieving the goals.

2 But as a public servant, you have to recognize that
3 given the realities of limited budgets, the best course
4 for all involved lies in collaboratively figuring out
5 how to maximize actually available resources. And with
6 Prop 218 and grants, we cannot start spending that money
7 until it's in our hands. And this permit is going to be
8 expensive.

9 You know, we can quibble back and fourth about, you
10 know, how many days we'd do street sweeping if we didn't
11 have the permit or how much people would be willing to
12 pay in the abstract for clean water versus how much
13 they'll be willing to be taxed even more for it. We can
14 argue about that stuff all day, but the fact of the
15 matter is watershed management plans are not going to
16 develop themselves.

17 It takes a long time, a tremendous amount of effort,
18 and it's going to cost a lot of money, as the Permit
19 Group, I think, demonstrated pretty sufficiently to the
20 board staff. Implementing and carrying out minimum
21 control measures will cost money. Inspecting and
22 monitoring other permittees is a big expense. Creating
23 and implementing public outreach, that's another big
24 expense. Monitoring, very, very expensive and the
25 cost's constantly going up.

1 There may be cost savings once you implement a
2 particular LID project on a project scale, but
3 developing LID ordinance and implementing it is an
4 additional huge expense for cities that don't already
5 have them. TMDLs -- oh, TMDLs are costly. The LA/Long
6 Beach Harbor toxics and metals TMDL has a multibillion
7 dollar judging project with a B. And frankly, if you
8 think reducing trash in the LA River to zero and keeping
9 it that way will cost one million dollars, as suggested
10 by one of the people in Bay Keeper, then you are not
11 living in reality.

12 Last year, the state legislature eliminated local
13 redevelopment agencies and with them a large portion,
14 billions of dollars across the state cities -- of
15 property taxes for capitol projects. We also no longer
16 have the county as the principal permittee. In all of
17 the tons of things they did under the old permit, we're
18 now on the hook for. And that isn't to say that some of
19 these costs can't be defrayed by funding from outside
20 sources or cost sharing, but it is unrealistic to expect
21 outside funding and cost sharing to cover every
22 additional expense imposed by the new permit.

23 Given these facts, projections of 100 percent
24 increase in annual costs for compliance are not
25 ridiculous. Even if it's 80 percent, even if it's

1 50 percent, it's coming at a time where budgets for
2 every other essential city function are going the other
3 way. They're decreasing.

4 The bottom line fact is California cities are
5 actually going bankrupt. Many more are teetering on the
6 edge of bankruptcy. Because of the economic realities
7 our situation, a very measured approach from the Board
8 and from staff is what's sorely needed.

9 The strict numeric approach for achieving receiving
10 waterbody -- receiving water quality standards in
11 receiving waterbodies is not measured. It's a hard line
12 approach that will lead to litigation. Broad permittee
13 liability for violations that NGOs admit are continuous
14 and will continue ongoing to the future. And
15 furthermore, it will create an atmosphere of strife and
16 discord that will destroy the kind of collaborative
17 effort that we need to achieve those goals.

18 I thank you very much for your time. And, you know,
19 we really just -- we -- we think -- we think we need
20 some extra time for this. That'd be nice. But if not,
21 we'll await the - we'll await the revised draft
22 tentative and take it from there. But we do want to say
23 that we think that another full public hearing or the
24 opportunity to comment on the entire permit is necessary
25 coming here today not being able to see the draft

1 tentative. Thank you very much.

2 MS. MEHRANIAN: Thank you.

3 MS. FORDYCE: City of Westlake Village. Three
4 minutes.

5 MR. BELLAMO: The City thanks you, but we won't have
6 any comments today.

7 MS. FORDYCE: I think the Board thanks you then.

8 MR. UNGER: Staff does anyway.

9 MS. FORDYCE: County has 49 minutes.

10 MS. MEHRANIAN: We're ready for you.

11 MS. EGOSCUE: Okay. Good because my time's ticking
12 away. In closing, my name is Tracy Egoscue on behalf of
13 the County of Los Angeles and the Flood Control
14 District.

15 For the last two days, you have heard various
16 interested parties discuss and testify about this draft
17 permit before you. The County of Los Angeles and flood
18 Control District spent their allocated time discussing
19 the extraordinary efforts undertaken over the last ten
20 years including the County LID ordinance, low flow
21 diversions, and plastic bag ban. In addition, the
22 County and Flood Control District spent part of their
23 allocated time discussing the Sun Valley watershed
24 management plan and the variety of benefits that will be
25 realized for our community.

1 You heard support for this multi-benefit regional
2 approach from the County and the cities and even
3 Dr. Horner, which we thank him for. As our future
4 demands for fresh water supply continue to increase,
5 stormwater infiltration will be of paramount
6 importance. The Board regulates stormwater in an
7 effort to remedy water quality impairment. As Gary
8 Hildebrand of the County and Flood Control District
9 testified, the County has spent the last ten years of
10 the permit acting in response to these regulations
11 passed by the Board.

12 These actions have resulted in water quality
13 improvements. Our region has seen significant
14 improvements from trash reduction to reductions in
15 bacteria exceedences at the beaches just to name two.
16 As Gary also testified, the County and Flood Control
17 District have consistently gone above and beyond the
18 requirements in many instances from the public education
19 efforts to trash reduction efforts outside of the
20 required area and enhanced monitoring which is extremely
21 expensive.

22 During the Waterkeeper presentation, Dr. Jay
23 testified about bacteria exceedences and the health
24 effects of runoff citing studies such as the Hail Study
25 of 1999 and the Noble Study of 2006. These studies have

1 been important to guide decisions about regulations.
2 However, they are not an accurate depiction of current
3 health effects because they do not take into account the
4 improvements and public investments in low flood
5 diversions and other infrastructure that have been
6 implemented since that time.

7 Stormwater quality impairments are difficult to
8 manage from the example of Maria Canyon in Santa Monica
9 Bay and its UV treatment system to the Santa Monica
10 pier. In fact, as Dr. Gold testified, he and the city
11 of Santa Monica have undergone a, quote, long and
12 iterative, end quote, process to try and deal with the
13 pier issues. And although the pure water quality, as
14 Dr. Gold testified, is the best in 20 years, the pier is
15 still one of the highest exceedances under the very
16 recent Heal the Bay report card.

17 Gary Hildebrand also testified that the County and
18 the Flood Control District picked up the banner of the
19 wet weather task force when the regional board was
20 unable to finish due to budgetary constraints. Once the
21 County and the Flood Control District began this
22 process, again as he testified, an EPA supported-model
23 was developed.

24 As Gary testified, the model was used to support a
25 design storm of the 85th percentile. Due to the

1 maximization of both costs and benefits in using that
2 design storm, as the evidence indicates, at the design
3 storm event the total cost would be \$17 billion over the
4 next 20 years. If all storms were to be treated, the
5 cost would be 120 billion. And as you recall, it was a
6 slide that he put up during his presentation.

7 The County and Flood Control District support a
8 design storm as a reasonable approach to regulating
9 stormwater. Much of the uncertainty and the wide range
10 in cost estimates that you have heard over the last two
11 days is due to the fact that there's no clarity in the
12 standard for the design of BMPs. The establishment of a
13 design storm will provide that clarity.

14 You have heard a lot about the cost of implementation
15 of water quality projects. The high cost are not an
16 excuse for inaction. The permittees have maximized
17 their available resources including grants and loans.
18 However, there are still unmet needs and the expected
19 cost to implement the requirements of this draft permit
20 will require additional funding.

21 The Flood Control District is pursuing the
22 establishment of a water quality fee, which would provide
23 an additional funding source if approved by the voters.
24 When the trash TMDL was finalized, the County and Flood
25 Control District stepped up and developed a concept for

1 the full capture device. And these devices are
2 currently being installed in areas of the County that
3 are not required.

4 The trash TMDL provides a very useful example. Today
5 Kirsten James talked about the cost estimates and cited
6 the County's cost estimates for the trash TMDL. This
7 was used as an example of the County and the City's
8 overinflating costs. We're not clear what document or
9 statement Heal the Bay was referencing. However, it is
10 useful to note that the original cost estimates were
11 high due to the numeric water wasteload allocations
12 originally contemplated by the TMDL.

13 Ultimately a BMP technology-based compliance approach
14 was approved. This brought the cost down and encouraged
15 the use of this BMP across the region. As Heal the Bay
16 testified, the gateway cities received resent stimulus
17 money to install full capture devices. This
18 technology-based BMP incorporated into a TMDL provided a
19 path to compliance for the cities that are struggling to
20 emerge from what we are calling the Great Recession.

21 Board staff has developed a tentative permit that is
22 almost there. From the watershed management section
23 with a clear path to compliance to the incorporation of
24 TMDLs and LID. As you've also heard from numerous
25 parties, however, there are still some issues left to be

1 resolved.

2 Los Angeles County and the Flood Control District are
3 committed to working with all parties to resolve these
4 remaining issues and we have brought to this board a
5 vision of the future where stormwater can be reused in
6 an optimal way. A revised permit can provide for that
7 future. According to testimony from Nick Materano,
8 your -- your cost -- I guess he was your expert --
9 \$645 has been spent to address stormwater in this
10 region in public monies alone.

11 Heal the Bay also testified to this number. The
12 County and Flood Control District testified to the
13 additional economics invested in our community to date
14 and the commitment by the county to continue this vision
15 into the future. We heard from Bradbury, a city with an
16 \$800,000 general fund. They are concerned with
17 compliance costs of the draft permit.

18 This Board has the discretion and authority to
19 provide an incentivized approach that will allow
20 Bradbury and other small or large economically
21 distressed cities, such I hope I can call Pomona that,
22 to partner with others under a regional approach.

23 This regional approach will need a revision to the
24 permit. We support the staff's stated intention to
25 revise the permit and we're all going to sit down

1 hopefully and discuss that in the near future.

2 Please provide your staff and the community the time
3 to develop a permit that we can all support and
4 implement. The County and Flood Control District look
5 forward to supporting a revised tentative that
6 accomplishes many goals and brings benefits to everyone.

7 Thank you for your time. I'm done. I would like the
8 record to reflect that we do have 40 minutes left. And
9 if a rebuttal --

10 MS. MEHRANIAN: We're so proud of you.

11 MS. EGOSCUE: You're cracking my facade there. If
12 appropriate, we could use that if necessary to answer
13 any additional questions. Thank you very much.

14 MS. MEHRANIAN: Okay.

15 MS. MEHRANIAN: Thank you. Going forward, we have --
16 the remaining time that we have, we have the
17 Environmental, Heal the Bay, NRDC/LA Waterkeeper a
18 minute 45; we have the LA Permit Group 10 minutes; and
19 we have the County as -- as she said about 40 minutes or
20 so. So you want to go first? Go ahead.

21 MS. CROSSON: I'm Liz Crosson from LA Waterkeeper.
22 You've heard from Dr. Mark Gold; you've heard from the
23 cities, and you've heard from the County that there have
24 been measures that have been used and taken to address
25 pollution problems and in particular the low flow

1 diversions.

2 However, I just want to point out despite these
3 efforts that stormwater is not addressed through these
4 solutions, it doesn't even address all of the non storm
5 water discharges, not to mention that the exceedances
6 still persist. We still see bacteria exceedances at all
7 of our -- at many of our beaches, and people still get
8 sick.

9 The County claimed that the health effects are no
10 longer exist that Dr. Jenny Day was talking about.
11 Well, the health effects are the health effects. What
12 she testified to is that where there is bacteria, that's
13 indicative of people getting sick. And that's still
14 happening where we're seeing bacteria exceedances. But
15 we have seen progress, so we are on this pathway towards
16 progress and we're happy to see that and to report it.
17 But the choice before you today is whether to continue
18 on that path to continue towards progress and see this
19 as an opportunity.

20 Today I think it's become very clear that we're not
21 just taking about bacteria at beaches. We have of
22 course heard from swimmers and surfers and divers, but
23 we've also heard from kids in Los Angeles. We've heard
24 from community members all over. We've heard from the
25 schools. We've also heard from people talking about

1 jobs and the creation of jobs through the implementation
2 of this permit.

3 We've talked about the millions of dollars that can
4 be spent on good projects in all of our communities. So
5 again, here is an opportunity for you and I would urge
6 you to move the cities forward. I think that they are
7 selling themselves short. I think that they, you know,
8 they didn't think they could accomplish the trash TMDL
9 for example. And look at what they have accomplished.

10 There really is some an opportunity here for them to
11 move forward and we support them in doing so, but there
12 needs to be really strong clear numeric pathways for
13 them to do that and for us to track that progress.

14 So thank you very much for the opportunity.

15 MS. MEHRANIAN: Thank you. LA Permit Group, do you
16 want to use your minutes? You have ten minutes.

17 MS. MALONEY: No, I think we're good. Thank you.
18 We'd like to use the time to address any further
19 questions the Board may have. Thank you.

20 MS. MEHRANIAN: Okay. And LA County. You're good?
21 Okay. So Sam, how much time do you need for staff?

22 MR. UNGER: I think we need, what?

23 MS. MEHRANIAN: Thirty?

24 MR. UNGER: Thirty-five? Thirty-five minutes.

25 MS. PURDY: I don't know. We can start with that.

1 I'm hoping I can do it in less, but I want to be
2 certain.

3 MR. UNGER: Yeah. I -- yeah. We may have some
4 direct questions.

5 MS. MEHRANIAN: Sam, can we do five minute break
6 before your presentation?

7 MR. UNGER: Yes.

8 MS. MEHRANIAN: Before Renee? Yeah?

9 MR. UNGER: Yes.

10 MS. MEHRANIAN: Thank you.

11 (Recess)

12 MS. MEHRANIAN: Can you please take your seats? We
13 still have another two, three hours of testimony.
14 Ronji, thank you for your help.

15 MS. MOFFETT: Okay.

16 MS. MEHRANIAN: Everybody listens to you. I can
17 tell. Okay. We have Renee Purdy for 30 minutes.
18 Renee.

19 MS. PURDY: Yes. I'm going to see if I can be faster
20 than that, but that sounds like a good starting point.

21 MS. MEHRANIAN: Board members want you to take as
22 long as you want.

23 MS. PURDY: Oh, thank you. I appreciate that.
24 That's very kind of you. But I want to make sure --
25 we're really interested to hear what you have to say

1 after hearing all of this testimony, so I do want to
2 make sure that we allow time for that as well.

3 What I want to do is I really -- because we have
4 heard so much over the last day and a half -- over a day
5 and a half. I just want to take this opportunity to
6 touch on a few of what I think have been the key themes
7 that we've heard with regard to comments and testimony
8 and go over a few things with regard to those different
9 topics.

10 And there are three topics that I want to go over
11 that regard content of the tentative order and then I do
12 want to talk about a few process-related comments as
13 well. So I want to start out with, of course, the
14 comments that you've heard over the last day and a half
15 on the receiving water limitations language that's
16 included in the tentative order.

17 And of course you heard concerns from the permittees
18 with regard to the fact that they feel they'll be in
19 immediate noncompliance and there's a risk of an
20 enforcement by the regional board or third party
21 lawsuits, and they're really requesting that there be a
22 mechanism to come into compliance over time without that
23 threat of enforcement.

24 And we certainly have heard these concerns and
25 understand these concerns. And I want to start out by

1 just summarizing some of what I said in my presentation
2 yesterday which is, you know, why these provisions are
3 in the tentative order in the first place which is that
4 under the Clean Water Act, Section 402P3B3, the state,
5 the regional board does have the authority to include
6 requirements in these MS4 permits necessary for
7 compliance with water quality standards.

8 And furthermore, as I discussed and as is discussed
9 in the fact sheet, the state board has also determined
10 through the order 99-05, the precedential order, that
11 all MS4 permits must require compliance with water
12 quality standards. And the language in the tentative
13 order before you is the existing language from the 2001
14 permit that was taken from this precedential state board
15 order.

16 So -- however, I mean, given -- given that, we have
17 that language in the permit, but in the case of MS4
18 permits as compared to some non MS4 permits, the
19 regional board does have some flexibility in how these
20 requirements are implemented and specifically with
21 regard to a time to achieve compliance.

22 So as I discussed with you yesterday, in response to
23 the comments, the written comments we've received and
24 the comments you heard verbally, we are looking at ways
25 in which we can address these concerns through a revised

1 tentative order and specifically through the mechanism
2 of the watershed management program.

3 So at the end of my presentation yesterday -- and I
4 won't pull it back now on the screen now in the interest
5 of time -- but I laid out for you basically three
6 categories not of -- basically water body pollutant
7 combinations that are not currently addressed by a TMDL
8 which is really where I think the primary concern lies
9 because in those cases there's not a implementation
10 schedule or a compliance schedule in the permit for
11 coming into compliance with the receiving water
12 limitations.

13 So I laid out a process by which those other non TMDL
14 waterbody pollutant combinations could be addressed
15 through a watershed management program that would be a
16 mechanism for coming into compliance with those
17 limitations over a period of time. And we will be
18 working internally on that language as well as
19 discussing it with the various stakeholders.

20 The other thing that I actually meant to mention
21 yesterday and I failed to, the other way in which we're
22 addressing these concerns that we've heard is many of
23 you have heard that there's a state board workshop
24 that's planned for November regarding the language of
25 99-05. And the state board discussed that at the recent

1 Caltrans hearing when they adopted the Caltrans storm
2 water permit.

3 And at that time, the state board did proceed with
4 the adoption of the Caltrans permit as with the language
5 that is basically the same as what we're proposing in
6 the tentative order, but did include a re-opener
7 provision specifically to consider any changes or action
8 the state board might take on 99-05. And so one of the
9 things that we also are considering is to include a
10 similar provision in this permit for a re-opener to
11 consider any state board action that might be taken on
12 the language of 99-05.

13 So I think that that addresses in many ways the
14 concerns that you've heard from the various permittees
15 with regard to -- one, they actually did request
16 specifically a re-opener to address this just as was put
17 in the Caltrans permit and also to look at alternative
18 ways of complying with the receiving water limitations.
19 So that's the first topic I wanted to cover.

20 The second topic that I wanted to cover is the issue
21 of numeric water quality based effluent limitations and
22 how compliance with those is demonstrated particularly
23 with regard to the final water quality based effluent
24 limitations.

25 And I said earlier, the Clean Water Act -- under the

1 Clean Water Act, the state has the authority to include
2 requirements necessary for compliance with water quality
3 standards. And especially in the case of the 33 TMDLs
4 which have identified that MS4 wasteload allocations
5 would be implemented through MS4 permits. That's what
6 the implementation plans for those TMDLs said.

7 The regional board has found that it is necessary to
8 include numeric WQBELS to meet the water quality
9 standards. And I just want to emphasize that these
10 TMDLs which the regional board staff, your staff, and
11 you worked so hard to adopt were not intended to be
12 academic exercises, but were meant to be used to achieve
13 real improvements in water quality through
14 implementation through the MS4 permits and other
15 appropriate mechanisms.

16 And EPA has also -- as you heard in the testimony
17 yesterday and in written guidance -- has strongly
18 recommended this approach including numeric WQBELS where
19 there is a wasteload allocation expressed as a pollutant
20 load, and they've emphasized that the wasteload
21 allocation should, where feasible, be translated into
22 numeric WQBELS in permits.

23 And you did hear many permittees say that the TMDL
24 wasteload allocations should be incorporated as BMP
25 based requirements, not as these numeric WQBELS that

1 we've included. And I did want to point out that the
2 regional board does have discretion -- you've heard a
3 lot of people say that. The regional board does have
4 discretion as to whether it incorporates permit
5 provisions as numeric WQBELS or BMP based requirements.

6 However, this discretion is constrained in two
7 specific ways, and I think this is the very important
8 point that I tried to touch on in my presentation
9 yesterday as well. The first being that the permit's
10 administrative record needs to include adequate
11 demonstration that those BMPs will be sufficient to
12 achieve the wasteload allocations established in the
13 TMDL. And I want to point out that state board in its
14 action on the Caltrans permit included language to this
15 effect as well, that there needed to be supporting
16 analysis provided that the BMPs, if a BMP based approach
17 was to be used, that those BMPs would be sufficient to
18 implement the wasteload allocations through the Caltrans
19 permit.

20 The other way in which the discretion is constrained
21 is regarding whether numeric limits are feasible. And
22 as I have said yesterday -- and maybe it was today as
23 well; I can't remember now -- we have found that numeric
24 limits are feasible because the wasteload allocations in
25 the TMDL are expressed numerically. And we find that

1 it's possible to calculate numeric water quality based
2 effluent limitations and that that is consistent with
3 the assumptions and requirements of the wasteload
4 allocations established in the TMDLs.

5 The other thing that I do want to point out though
6 which I said yesterday in my presentation as well is
7 that where permittees elect to use the watershed
8 management process, they can demonstrate compliance by
9 showing implementation of watershed based control
10 measures and BMPs in an approved watershed management
11 program.

12 So while we've included numeric water quality based
13 effluent limitations in the tentative order, we've
14 provided options for permittees to go forward with
15 development of a watershed management program, identify
16 watershed control measures, and conduct the necessary
17 reasonable assurance analysis to show that those BMPs
18 will be sufficient. And if they are found to be
19 sufficient, then permittees can use those BMPs as a way
20 of demonstrating compliance with the interim water
21 quality based effluent limitations.

22 And I know one of the things that you also heard with
23 regard to this is when all this BMP based option is
24 available for the interim water quality based effluent
25 limitations. It's not available at this time for

1 compliance demonstration with the final water quality
2 based effluent limitations in the permit.

3 And the first thing that I want to note here is that
4 within the coming five year term of this permit, there
5 are very few final compliance deadlines for water
6 quality based effluent limits assigned to stormwater,
7 and most of these are either for trash TMDLs which
8 you've heard many talk about. And where there is a BMP
9 based approach that's already provided in the permit for
10 both interim and final compliance deadlines.

11 And then the others that are coming through are for
12 dry weather bacteria TMDLs with numeric WQBELS that
13 applicable to non stormwater discharges from the MS4
14 which as I discussed with you yesterday are to be
15 effectively prohibited from reaching receiving waters in
16 the first place. Additionally, as we indicated
17 yesterday and in the fact sheet, the Board can consider
18 applying this BMP based approach in the next permit term
19 to the final WQBELS for stormwater after experience is
20 gained in this permit term to evaluate how effective
21 this approach will be.

22 I did want to point out one of the things that we are
23 also proposing to do in a revised tentative order to
24 provide greater assurance to permittees that the Board
25 will consider applying this approach to final WQBELS for

1 stormwater prior to the final compliance deadline is to
2 propose additional provisions committing to a re-opener
3 no later than two years before the final deadlines for
4 TMDLs other than trash, which already has a BMP based
5 approach in place and also a re-opener provision that
6 would allow the permit to be reopened within 18 months
7 of any modifications to TMDL wasteload allocations or
8 implementation schedules. So those changes could be
9 reflected in the permit with regard to how permittees
10 would demonstrate compliance.

11 And as -- I guess just on the last point on that,
12 you did hear a number of people talking about the
13 feasibility of numeric effluent limitations, and you
14 heard some discussion of the Blue Ribbon Panel in
15 particular a report on the feasibility of the numeric
16 effluent limitations, and one of the reasons that we
17 don't think it's appropriate to allow this BMP based
18 approach at this stage is in fact because of some of the
19 findings, I would say, of that panel.

20 The panel really looked at the variability in BMP
21 effluent quality and found that there is quite a bit of
22 variability. And so it's important that we have this
23 permit term and the adaptive management process and
24 evaluation process that I discussed with you yesterday
25 to see how well this approach works before we also

1 provide the same alternative for the final water quality
2 based effluent limitations.

3 The last topic that I wanted to briefly touch on is
4 monitoring because I think that's another thing that you
5 heard a lot about over the last two days and a lot of
6 concern over the monitoring program both, I think,
7 concern with the regard to the amount of time that it's
8 going to take to develop these monitoring programs as
9 well as the watershed management programs and also the
10 additional cost. And because of the addition of the
11 outfall monitoring.

12 And the one thing that I would say -- and I am
13 going to, at the end of my presentation, let Sam make a
14 few remarks regarding cost overall -- but we feel the
15 addition of the outflow monitoring is very necessary at
16 this stage and in the development of the stormwater
17 program in the Los Angeles region.

18 We think it's also going to be beneficial to
19 permittees in that it will provide more specific
20 information on where there are problems, and it will
21 allow permittees to target and direct their actions on
22 the basis of that monitoring data.

23 We've been discussing the monitoring program with a
24 number of the permittees and in particular at length
25 with the City of LA, with the County, with the Flood

1 Control District, with the City of Santa Monica, and we
2 are going to be proposing some changes in a revised
3 tentative order to one, allow for the customization that
4 you've heard many people asking for in conjunction with
5 a watershed management program.

6 So particularly I would say for some of the larger
7 permittees, the program that we have outlined right now
8 with regard to the outfall monitoring would require
9 quite an extensive monitoring program, and they feel
10 there may be ways to find efficiencies and still meet
11 the same objectives that we've outlined in the
12 monitoring and reporting program.

13 So we'll continue to work on that language with them
14 and we anticipate providing that flexibility in the
15 monitoring program. The other thing that we've heard
16 from a number of people is the fact that more time is
17 needed to develop the monitoring and reporting program.

18 It -- the -- what we call the IMPS and the CIMPS, the
19 integrated monitoring programs or the coordinated
20 integrated monitoring programs. And we've taken this to
21 heart and we think it's a wise decision to align the
22 timing with the development of the watershed management
23 programs. And so that will provide some addition time
24 and the opportunity to really make sure that those two
25 things are well integrated with each other.

1 And with regard to the timing on the watershed
2 management program, I mentioned this briefly yesterday
3 as well, it's currently a requirement to submit a draft
4 plan within 12 months. We are going to be recommending
5 an extension of that if there are some early actions
6 taken to an 18-month period where permittees are
7 developing a watershed program and they commit to
8 certain early actions while they're in the development
9 basis for that plan.

10 So the -- the last thing that I wanted to touch on --
11 well, actually before I move on to some of the process
12 things, just in summary, I just want to mention that all
13 these of these things that I've just talked about, the
14 receiving water limitations, the numeric water quality
15 based effluent limitations for implementing TMDLs, the
16 monitoring program, can all be addressed through this
17 watershed management program framework that we've laid
18 out.

19 And I really just want to revisit one of the themes
20 that we talked about. Sam started the day out yesterday
21 with, and I mentioned as well, about flexibility which
22 is that we are really trying with this tentative order,
23 as I said at the beginning of my presentation yesterday,
24 to allow water quality outcomes to drive these programs
25 and the watershed management programs.

1 Well, they are voluntary on the part of permittees
2 are really at the heart of trying to bring all of the
3 elements of the permit together and really look at the
4 water quality outcomes that we're trying to achieve and
5 find the most integrated and cost effective way to do
6 that through the watershed programs.

7 And we also want to make sure though -- and this was
8 another thing that I mentioned at at the beginning of my
9 talk yesterday -- that those watershed management
10 programs are driven by very clear and objective water
11 quality based measures. And so while we have a lot of
12 flexibility in terms of how permittees can demonstrate
13 compliance, we do feel it's essential to have those
14 clear objective water quality based limitations in the
15 permit so that we can measure progress towards our
16 ultimate goal.

17 With regard to a few process things, the first that
18 thing that I wanted to talk about is the fact that some
19 of the environmental organizations raised some concerns
20 with regard to the regional board staff's ability to
21 address that many watershed management programs that
22 will likely be submitted to us and the monitoring
23 programs that will be submitted to us for review and
24 ultimately for executive officer approval.

25 We'll continue to recommend that those come to us and

1 are subject to EO approval. We're not sure whether
2 we're going to get seven watershed management plans or 86
3 watershed management plans. At this point, we're hoping
4 it's closer to seven than 86, but staff is prepared, just
5 as we did with the TMDL program, we had a tremendous
6 number of 92 TMDLs that needed to be done over a period
7 of time. And we, you know, we organized and we allocated
8 resources to get that done.

9 And at this point, we're wrapping up our TMDL
10 development requirements under the consent decree, as
11 you know. And those TMDL staff will be available to
12 help with the review and comment on these watershed
13 management plans and many of which are implementing the
14 TMDLs. So those staff will be well equipped and well
15 prepared to review those plans and provide comments and
16 help with the approval process.

17 The other thing that I wanted to touch on, you heard
18 some permittees asking for the effective date of this
19 order to be delayed until next fiscal year because of
20 budgeting reasons. And the one thing I want to
21 emphasize with regard to that is that most of the
22 requirements that would be implemented by permittees
23 prior to next fiscal year will most likely be existing
24 requirements under their stormwater management programs
25 or TMDL implementation measures that they're already --

1 they already have underway.

2 The way the permit is laid out in terms of the
3 timeline, particularly if a permittee wants to develop
4 a watershed management program, is they need to give
5 notification to the regional board six months after the
6 effective date of the order. And during that period
7 prior to notification and actually prior to approval,
8 final approval of the plan, their obligation is just to
9 continue to implement their existing stormwater
10 management program and any TMDL implementation measures
11 that they already have underway.

12 So we don't think that it's a problem to go ahead and
13 have this order become effective. Normally -- the
14 normal course is it would become effective 50 days after
15 the regional board adoption of the order. And then the
16 last thing that I wanted to touch on is -- is really
17 just to review with you again the -- what staff believes
18 has been a very long and inclusive process over the last
19 18 months in developing this tentative order that we've
20 before you over the last two days.

21 You know, we started back in -- really noticed our
22 first kickoff meeting early April of 2011. We had that
23 meeting in May of 2011. Since that time we've had five
24 staff level workshops on the permit over the three
25 course of the 18 months. We've had three board workshops.

1 There was also the Board field member tour that you went
2 on.

3 In addition to that, we -- at your directions, we
4 convened and held -- I can't remember if it was four or
5 five -- joint meetings among key stakeholders to try to
6 find some areas of consensus on different issues within
7 the tentative order, and we had some successes with
8 that. Additionally, we met with the LA Permit Group on
9 a very regular basis from late 2011 through the spring
10 of 2012 meeting with them, I would say, monthly if not
11 twice a month in many cases.

12 Of course, we've had extensive meetings with the City
13 of LA, the County of LA, the Flood Control District, and
14 additionally we released working proposals of all the
15 major sections of the tentative order. So as I said,
16 from staff's perspective this has been a very inclusive
17 process. It's been a very lengthy process.

18 We've tried to make ourselves as available as we
19 could possibly be to hear permittees' concerns, to hear
20 the concerns of the environmental community, and really
21 take those to heart in the permit that we brought before
22 you today.

23 And with that, I'm going to turn it over to Sam with
24 regard to a few comments on cost.

25 MR. UNGER: Thank you, Renee. Board members, Madam

1 Chair, I just wanted to -- I know in our staff
2 presentation yesterday, Nick Materano, we -- he was at
3 state board. We were able to steal him for the regional
4 board a while. The state board stole him back, and
5 that's a sad situation.

6 But in any case, he worked on the cost study with me
7 during the development of his TMDL. And really, I don't
8 want to say much that is different from what you've
9 already heard, but I just wanted to show you sort of the
10 methodology a little bit more than what we have here and
11 why it's so difficult to rely on -- basically any
12 statements at all about costs for compliance with this
13 permit.

14 So there's -- there's basically -- there's two
15 studies and essentially what we have done here is these
16 are data -- two studies that we've looked at. First of
17 all, we looked at the uniform -- unified annual report
18 that's published by the permittees, by LA County Flood
19 Control District is the principal permittee. And then
20 we also looked at a 2005 state board study which I'll
21 talk about in a minute.

22 So basically what you have is we took numbers --
23 essentially the data in the left-hand column, second to
24 the left-hand column -- the total expenditures from the
25 Los Angeles County and municipal stormwater unified

1 annual report from 2010/2011 and that's available.

2 And what you don't see here is basically it's a three
3 page table that goes into this final at the bottom
4 there, the \$339 million. And so what you don't see
5 there -- and it shows each one of the cities who is
6 reported their costs -- and so we've totaled them up.
7 We've taken that number and what Mr. Materano did
8 during this study is he essentially took out the number
9 for trash collection and street sweeping.

10 If you go back to the current permit now, those are
11 two key elements of the minimum control measures that
12 the permittees conduct under this permit right now. And
13 we took those numbers out. And where did that
14 requirement come from in the current permit? The
15 requirement came from the current permit for essentially
16 the amount of street sweeping and trash collection that
17 was done in 2001 when this permit was first adopted.

18 There hasn't been any escalation of the requirements
19 in this permit. There may have been an escalation in
20 cost over of the past ten years, but there is no
21 escalation in the requirements. So you see, of that \$339
22 million, basically a 189 million -- when you adjusted the
23 expenditures to remove that, nearly 50 percent of those
24 costs were essentially activities that municipalities
25 were conducting anyways, long before this permit was put

1 into place.

2 Certainly this permit did not put into place street
3 sweeping and trash collection. You have to do that for
4 other purposes as well, not just water quality. So
5 anyways, we then tried to normalize that number, the
6 adjusted number, against the population that was
7 reported in 2010 in households from 2010 from the US
8 Census Bureau, and I think the household numbers came
9 from SCAG. It is my recollection.

10 And basically what we did was we came down in the
11 right hand columns essentially a mean value and median
12 value. And what you'll see -- the cost per household
13 originally at 120. If you take out trash collection and
14 street sweeping, it's down to \$42 as a mean and \$17.89,
15 nearly \$18 per household as a median.

16 What Mr. Materano said yesterday -- he said it very
17 diplomatically and I'm going to say it a little less
18 diplomatically, I think, but when you have a data set
19 where the mean value and the median value are so
20 different from each other, it happens sometimes in
21 environmental data and things like that. But when we're
22 looking at data like this, what it means is there's not
23 a lot of uniformity in the costing. It means you have a
24 few municipalities that are reporting extremely high
25 costs on an adjusted per household basis where you have

1 others that are grouped more closely in the middle.

2 So really what it comes down to basically, is that
3 there's not a lot of uniformity in how those costs are
4 reported and what is brought to you and what is brought
5 to the regional board. I had a conversation with Flood
6 Control staff during the development of this permit, and
7 basically they said they took the numbers that
8 essentially the cities report and, you know, then they
9 just put it in this and there's really no adjustment or
10 any sort of refinement or review by -- in these annual
11 reports.

12 So if we can have the next slide.

13 MR. YEE: Sam, can I ask you a could you a quick
14 question on that?

15 MR. UNGER: Sure. Certainly.

16 MR. YEE: Can you tell me what -- generally what the
17 revenues were to support the expenditures that you
18 showed us here?

19 MR. UNGER: No, I -- we don't have those numbers, no.
20 We don't have the revenues from -- you mean the tax
21 revenues and such?

22 MR. YEE: I just mean generally the sources. Is it
23 all taxes?

24 MR. UNGER: I don't know. Yeah. Basically this
25 is -- this is another piece of data that are reported in

1 the unified annual report and essentially what you see
2 here is that same \$339 million as their total. They
3 also project their expenditures for this coming -- this
4 fiscal year that we're in now.

5 And you can see it's a substantial increase from 339
6 million up to 500 and, you know, 529 million. Really
7 they're talking about 50 percent increase. Whether
8 that's happened or not yet, we don't know. We haven't
9 looked at the latest report. But it's a huge -- it's a
10 huge increase that is being projected and whether
11 that -- whether that is -- will be really worn out yet,
12 we don't know exactly how much we're spending.

13 Clearly there's no -- there's no -- again, there's no
14 increase in the requirements from last year to this year
15 under the current permit.

16 I would like -- so that -- that's one piece of
17 information that Mr. Materano and I did.

18 MS. GLICKFELD: Sam, would you -- before the next time
19 we hear this and if you're going to show this data
20 again, please check the total population and the number
21 of households for the city, for the county, and the
22 cities that are under our jurisdiction in Los Angeles,
23 because this might be wrong.

24 MR. UNGER: Okay. Be happy to. If you go down to --
25 in your binders, if I could bring your attention to

1 82381. It's part of the fact sheet for those in the
2 audience that are following along. It's actually page
3 382; so it's F140, if you could.

4 There was a state board study that was done in 2005
5 and that's referenced on the previous page. An MPDS
6 stormwater cost survey final report where essentially
7 several municipalities throughout the state were
8 canvassed and then their costs were studied.

9 I will say in some respect, the means and medians were
10 not -- were not as severely different as they are in
11 the -- the numbers for LA county. But -- and again, the
12 range was not as broad as the range between the lowest
13 costs and the highest cost was not as great as LA County.

14 What we did is we took some numbers and the program
15 aggregation in this, and you'll see a table on page 382
16 F140. And there's different -- there's different costs
17 categories there that the state board study found and
18 that the County also reported. And what you'll see is
19 not all the categories lined up properly together, if you
20 will. It wasn't a one-for-one comparison, but there's a
21 couple of things that come out.

22 One is that in the LA County studies -- the LA County
23 report, I should say, flood control report -- I'm using
24 the words interchangeably -- basically there's a
25 category called "other" in which the majority of the costs

1 the reported in the "other" column. And so what "other"
2 is, we don't know what that means, basically, in terms
3 of permit compliance and the activities that are
4 conducted.

5 And the other thing I want to bring your attention to
6 is the monitoring section which is four up from the
7 bottom if you will. Where essentially in the state
8 board study the other municipalities throughout the state
9 spend about 60 percent of their costs on their storm
10 water program. On monitoring where it is in LA County,
11 we took those numbers and calculated it out to nearly
12 just about 3 percent.

13 So there's clearly a lot less monitoring. We've
14 heard that theme throughout the day. Mr. Tahir said we
15 needed outfall monitoring -- and let me try to finish up
16 my sentence here. But what I'm trying to say is if you
17 look at this 3 percent number, if you look at this
18 permit versus the previous permit now, I mean, basically
19 the costs come in three basic areas.

20 There's the minimum control measures, which there's
21 flexibility to produce a watershed management program;
22 there is also the TMDLs; and you've heard today that the
23 TMDLs are already being implemented. It's not really
24 this permit that's implementing the TMDLs, but really
25 what I think the major cost is in the monitoring. And I

1 think that's what people are commenting on at this point
2 is the monitoring costs are going to increase. And yes,
3 they will increase.

4 However even if the monitoring costs are to double or
5 triple, it's really a varied percentage of the entire
6 costs. And basically it's well within the numbers that
7 are being projected to spend -- to be expected next
8 year.

9 So again, I think I'm ready to sum up and maybe take
10 questions on this, the study that we did and the
11 conclusions. I mean, the basic study is that -- or
12 basic conclusion is that the data are not that reliable
13 for us at this point to -- to make conclusions upon.

14 However, there's certainly is a lot of -- there's a
15 lot of uncertainty in the data, but we think also that
16 any major increases here for people who don't take
17 advantage of integrated monitoring programs, or dated
18 integrated monitoring programs, the watershed management
19 programs, even if they don't take care of those that the
20 costs in monitoring really represent a small,
21 substantial cost in the overall cost of stormwater
22 management in the LA County now.

23 Now, there's going to be shifting of that because at
24 this point, most of the monitoring costs, even though some
25 of the other municipalities claim some in their report,

1 is one by the LA County Flood Control District. But
2 nonetheless, there's going to be shifting of costs, but
3 it doesn't seem to be that the increase in costs are
4 going to be substantial or even very much noticeable
5 relative to the overall costs that are claimed to being
6 expended to manage the stormwater program at this time.

7 And with that, I would like just one last thing to
8 say which is that throughout my career, I've really
9 tried to maintain very good relationships with my former
10 bosses, but I need to take an exception to what she said
11 that the fact that there was not a numeric standard, and
12 that's what caused the quote, unquote overinflation --
13 and I even used that word -- but of the total TMDL costs
14 early in the TMDL program.

15 There was always SUSUM if you will. That standard
16 has been in place in the 85th percentile and any sort of
17 design work and cost estimating work in terms of total
18 costs could have been done in accordance with the SUSUM.
19 And so I think there's probably other reasons why
20 projected costs early in the program are not turning out
21 to be as extensive or expensive as previously projected.

22 I'll leave it at that.

23 MS. MEHRANIAN: Thank you, Sam. Thank you, Renee.
24 Is there anything else you guys want to add? No? Good.
25 Okay. We're -- it's 3:30 so we have really 90 minutes

1 and we have seven Board members. So I think, like, we
2 can average like 10, 12 minutes each. So with that --

3 MS. PURDY: Sorry. It was just a suggestion. I --
4 which was that -- I don't know if we have the time to do
5 this, but at the Board workshop in -- I believe it was
6 in May, the Board members asked questions topically, and
7 I actually meant to suggest do you think, you know,
8 consider whether you want to go in that way. That would
9 make things more clear to go in that way and we can go
10 based on different sections of the permit basically that
11 I've covered before. So non stormwater discharge
12 prohibitions, that sort of thing. I don't know if
13 you --

14 MS. MEHRANIAN: Each person takes ten minutes and
15 then we'll see. Board member Glickfeld, do you want to
16 get started?

17 MS. GLICKFELD: Oh, thank you.

18 MS. MEHRANIAN: And it's not 4:00 yet and we're going
19 to get started.

20 MS. GLICKFELD: Thank you. I'm never going live that
21 down. So I want to thank everybody for really an
22 amazing job of providing us with an incredible wealth of
23 information.

24 And I wondered whether it would be good first -- I
25 think what I'd like to do is ask some questions of the

1 staff very quickly, and may I -- make sort of -- may I
2 make some recommendations for what they might want to
3 think about adding in as they do the next round? Is
4 that appropriate at this point?

5 MS. MEHRANIAN: Yes, yes.

6 MS. GLICKFELD: Okay. So I am concerned about the
7 costs. I am totally committed to seeing us have
8 performance-based water quality standards where we know
9 what we're achieving. It's really important to me to
10 know what we're achieving.

11 However, if there's a problem in the way that the --
12 we're getting the costs reported to us, and we think
13 it's unevenly being reported, I'd like to see whether or
14 not we could develop some new standards that everyone
15 could agree on so that we actually get the real costs.

16 The other thing is I don't think that it's
17 appropriate for us to take what were estimated as costs
18 in 2004 when we didn't even have close to this permit or
19 the TMDLs and try to project out what this permit will
20 cast. It will be very useful for me to see a listing of
21 all the things that we -- a summary listing of all the
22 things that we are expecting to have done, when it's
23 going to be done. And so that would be helpful to me.

24 I think that we have to look ahead at not just
25 looking at what costs have been, but what they will be

1 and when they will occur. I think one of the things
2 that Renee said that is very helpful to me is that she
3 said that not -- final effluent limitations would not be
4 due on more than two, did you say? Is that right?

5 Renee, two additional TMDLs over this permit period?

6 MS. PURDY: Right. I mean, there aren't final
7 effluent limitations due except for there are a number
8 of trash TMDLs and a dry weather bacteria TMDLs for
9 which there are final compliance deadlines, but it's --
10 I would say less than -- certainly less than a dozen and
11 it's those two types of TMDLs primarily and costs.

12 MS. GLICKFELD: Oh, so that's my request. And costs
13 will be related to what people are going to have to do.
14 There will be a variability in the way they do it,
15 there's high variability in the number of -- in the
16 responsibilities by size of the jurisdiction, the
17 population, the way that they're developed, the density,
18 all of those things I expect variability and there would
19 be something strange if there wasn't.

20 But I do think that we have to be better at this, not
21 because -- not because we should compromise the water
22 quality standards. I think we should be really paying
23 attention to making sure that we achieve the water
24 quality standards at the lowest costs possible.

25 So I think that would be important to say.

1 Important. We have to be able to have numeric
2 standards. We have to figure out ways of monitoring
3 what people are spending and whether or not it's
4 actually working and how much it's costing and whether
5 it's the most cost-effective way to go.

6 So I wanted to ask a couple of questions, which is
7 I never even heard of a non TMDL pollutant water body
8 combination before today. And don't know what it is and
9 why we have them since we have -- how many TMDLs do we
10 have? Why do we have any left? I thought we did
11 everything. It never ends.

12 MS. PURDY: We did everything. This is Renee Purdy.
13 We did everything that had been identified in -- on the
14 1998 303(d) list of impaired waters. Since that time,
15 that report is done every two years approximately, and
16 new waters have gone onto the 303(d) list of impaired
17 waters.

18 And so we continue to identify additional waterbody
19 pollutant combinations and put those on the list that
20 don't have TMDLs yet

21 MS. GLICKFELD: So what we completed is the consent
22 decree, and the consent decree did not include any new
23 reaches of any waterbodies that have -- that are
24 impaired and we're going to now have to continue to
25 develop a whole bunch of new TMDLs?

1 MS. PURDY: Correct. It's only one left.

2 MS. GLICKFELD: I hope that when you have your
3 discussions about the watershed management plans that we
4 think about right now. Not only having combined the
5 implementation of the existing adopted TMDLs, but how we
6 have developed the new TMDLs so that they can be
7 implemented in a integrated way.

8 I mean, I actually believe in the basic idea of TMDLs
9 as a key way of implementing the Clean Water Act. It's
10 there because it's a -- what wasteload allocation means
11 is that municipalities have an allocation; industry has
12 an allocation; Caltrans has an allocation; construction
13 industry has an allocation, and point sources like
14 treatment plans have an allocation so everybody bears
15 their portion of the responsibility to reduce.

16 But I am concerned that the number of different
17 reaches, the number of different pollutants, the number
18 of different combinations thereof make it so convoluted
19 that you may end up doing separate BMPs where you could
20 do combined BMPs if you just looked at it the right way.

21 So I mean, when you look at this larger regional
22 solution, could you consider a way to move forward from
23 here if we're going to be continuing to do TMDLs and we
24 how to incorporate them in to it the system.

25 The other thing I wanted to ask is why is it that we

1 BMP approach in trash the and that we couldn't fashion
2 that in a scientifically valid way for the other TMDLs
3 that are actually numeric and appear to be numeric and
4 it's not a BMP approach which the cities seemed to like
5 a lot. And I understand the environmental groups
6 actually developed that with you, was the BMP approach
7 for trash.

8 Is it that that doesn't work as well for other kinds
9 of pollutants? Or we don't know the right BMPs?

10 MS. SMITH: I'll take a stab at that. I think trash
11 inherently because of its size lends itself better to
12 developing technologies to keep it out of the street,
13 but there have been -- a lot of companies have
14 researched, you know, various inserts that take out oil
15 and grease, and people are looking at ones for bacteria
16 and metals and things like.

17 Those are going to be more complicated to develop,
18 but our permit can accommodate if there's some sort of
19 device that's -- that meets the water quality standard.
20 We will --

21 MS. GLICKFELD: So for instance --

22 MS. SMITH: -- allow those to be used, so it's just
23 the --

24 MS. GLICKFELD: -- Boeing developed an amazing new
25 fabric that absorbs metals that's -- I think can be

1 developed -- we think can be a key implementations tool
2 for treating metals.

3 MS. SMITH: Yeah, if we can get media in the small --

4 MS. GLICKFELD: So what? You get to that point
5 where you have a BMP that the -- that the -- that the
6 municipalities and you think can happen, you can
7 actually start to implement them, the BMPs, that were
8 providing more certainty.

9 MS. SMITH: Definitely. And that was a great example
10 of Boeing.

11 MS. GLICKFELD: I have a lot of solid questions I
12 think I'm not going to -- I'm not going to ask. I'd
13 like to ask a couple of questions of the -- is the EPA
14 here? This poor guy. I made him come back and sit
15 here. John.

16 MR. KREMMERER: Hi.

17 MS. GLICKFELD: Hi, John. Why don't you give your
18 name for the record.

19 MR. KREMMERER: Hi, John Kremmerer with EPA.

20 MS. GLICKFELD: So John, since you testified
21 yesterday about the fact that EPA encourage numeric
22 effluent limits and you cited the 2012 EPA -- is it
23 called guidance?

24 MR. KREMMERER: Guidance memo, yeah.

25 MS. GLICKFELD: Is that actually -- is that guidance

1 actually effective as --

2 MR. KREMMERER: I'm glad you asked that. I mean,
3 there was a few things that were said about that that
4 were kind of misleading. There was one statement made
5 by LA Permit Group that EPA had withdrawn it from EPA's
6 website, and that's not correct. I've just been
7 looking at it recently, and I double checked last night
8 after I heard that, and it's still there.

9 There's a list of documents called stormwater --
10 under the heading stormwater and policy documents, and
11 it was listed under there. And there was another -- I
12 guess another aspect of this that I hope I'm getting to
13 answering your question --

14 MS. GLICKFELD: Yeah.

15 MR. KREMMERER: -- another aspect of this that is --
16 I think calls for important -- I think Renee kind of
17 alluded to this in her wrapup, but there's been a lot of
18 discussion about this memo and talking about the word
19 "feasible" and how that's used in the memo.

20 The memo makes a statement about -- let me see if I
21 have it in front of me here -- but basically, you know,
22 you should -- you know, it's correct that it's not
23 saying that's it's mandatory to use the numeric limits
24 but it's a recommendation to use numeric limits, to have
25 those measurable and accountable means.

1 And it says "use these numeric limits when feasible,"
2 and during the discussion while this memo was being
3 drafted, we never talked about the idea of it being
4 feasible to actually achieve the wasteload allocation.
5 You have -- the use of the term "feasible" was to say is
6 it feasible to translate the wasteload allocation into a
7 numeric water quality based effluent limit.

8 So there is a big distinction there. And as Renee --
9 Renee referred to here, the way this regional board has
10 established EPAs -- established TMDLs and what EPA
11 established TMDLs for the ones we did, they are varied,
12 it is very feasible to translate them from that.

13 MS. GLICKFELD: So you're talking about based on
14 science, you can take a certain load and then --

15 MR. KREMMERER: Well, yeah. If you -- depending on
16 how -- you can express a wasteload allocation in a lot
17 of different ways, and it's not out of the question
18 depending on how you express that wasteload allocation,
19 it may not be feasible to translate it into a water
20 quality based effluent limit.

21 In the case of what's being done under this permit,
22 we -- we agreed with your staff that the wasteload
23 allocations that have been established are -- it is
24 feasible to translate them into water quality based
25 effluent limits. And I should, you know -- and there

1 is -- and I think EPA's brought this on itself to some
2 degree.

3 And the reason I know there's a lot of -- there's
4 been some questions I heard Erhardt from Ventura County
5 said that it's a draft memo. That's not correct either.
6 I mean, it is a -- an existing EPA policy document. The
7 thing is when it did come out, there was a lot of
8 concern about it.

9 EPA put it out for public review, they received
10 fallout. The EPA headquarters received a lot of
11 comments on it. But -- and at this point there has not
12 been a decision about whether to make any changes to it.
13 And so it's still considered an existing policy guidance
14 and then we feel like the way it's being used in this
15 permit is appropriate.

16 MS. GLICKFELD: Thank you. I think I've taken my ten
17 minutes.

18 MS. MEHRANIAN: Then we'll come back to you if we
19 have time.

20 MS. GLICKFELD: Sure.

21 MS. GLICKFELD: Board member Camacho.

22 MS. CAMACHO: Hi. First, I wanted to thank staff for
23 the efforts that you guys have all gone through in
24 attempting to think outside the box, I think, for ways
25 to achieve water quality outcomes that are acceptable to

1 meet, hopefully, water quality standards that are also
2 be flexible. So this is my first permit, but I think it
3 seems that we're really trying to find ways that will
4 work with folks collaboratively and around the table.
5 So I appreciate that.

6 And also I want to thank the permittees and other
7 interested parties for your time and being involved with
8 this process in a thoughtful and productive way, so I
9 really applaud everyone who's been involved in this
10 whole process.

11 So I obviously have a ton of questions. Can you --
12 can you explain -- and I know you've mentioned it a bit,
13 but -- just recently about this whole state workshop and
14 Caltrans MS4. Can you just explain how those decisions
15 or discussions would impact our MS4, our tentative order
16 now? Can you give me, like, a quick overview or
17 something?

18 MS. FORDYCE: So the simple answer is that it doesn't
19 impact your decision. It's a completely separate
20 permit. So essentially, state board has issued a
21 Caltrans permit under their own authority. Like Renee
22 said, they did include the standard receiving water
23 limitations language that they themselves had set as
24 precedent in 1999.

25 Due to the fact that they have to include TMDLs for a

1 variety of regions -- actually all the regions -- they
2 have to coordinate that. They defer including all the
3 TMDLs for one year. So during that time all the
4 regional boards are going to be drafting language -- I
5 actually understand that we did and submitted it, but
6 state board opted to wait until the got all the other
7 region's language, too. And then in one year, they're
8 going to reopen the Caltrans permit to include those --
9 those TMDLs.

10 And in the meantime, they have required compliance
11 with TMDL wasteload allocations themselves. They just
12 haven't put in effluent limitations. But like Renee
13 said, is they are holding a workshop on November 20th.
14 They specifically said in the notice that I received
15 saying the date that they're not taking final action.

16 I don't think they know whether they're even going to
17 be taking any action on this. They may chose to affirm
18 what they've already done and then we change it. If
19 they change, they have to do it in some sort of order,
20 and a presidential order can require the regional boards
21 to either modify the language they used or they may
22 choose to keep the language that it there. Or they may
23 do nothing. It's really unclear at this point.

24 So Sam wants me to add that the state board, as I
25 mentioned, Tom Howard -- executive director Tom Howard

1 did send a letter to all the regions asking -- not
2 requiring, but asking that they put it re-opener
3 language in case the state board does change their
4 record.

5 MS. CAMACHO: Okay. And then also today the
6 Environmental Community raised the concern for a lack of
7 public review, I think, that was folded into the draft
8 permit. So can you explain if there is a public process
9 as part of -- I know it's part of some provisions, but
10 is it part of as many provisions as appropriate or how
11 is the public review aspect brought in?

12 MS. PURDY: So the public review process is -- it's
13 built in as a standard provision in the tentative order
14 for any requirements that -- or any deliverables that
15 are required under the tentative order that are subject
16 to executive officer approval.

17 So the watershed management programs, also the
18 monitoring programs, either the individual or
19 coordinated integrated monitoring programs, are both
20 things -- significant items that are subject to EO
21 approval. And so for both of those, those would be
22 subject to a public review period and then we would
23 review those comments as well as reviewing them
24 ourselves before the executive officer approves.

25 So those are the main two elements of this new

1 tentative order. I'm trying to think if there are any
2 other -- there actually there are a few other things.
3 There's the -- there's provision in the minimum control
4 measures regarding the local low impact development
5 ordinance equivalency. Sorry, I was just trying to
6 remember going through the permit.

7 And that is also something where permittees can
8 basically submit their local low impact development
9 ordinance to the regional board for an evaluation of
10 whether it's equivalent to the requirements in the
11 permit. And that's subject to EO approval. So that
12 would also be subject to a public review period prior to
13 EO approval.

14 MS. CAMACHO: Another question that was raised by the
15 City of Santa Monica, they mentioned, and we obviously
16 heard a lot about the concern of monitoring -- not only
17 the cost, but the actual process and the understanding
18 of needing the timelines and -- but they mentioned
19 something about the reduction of monitoring locations if
20 there's similar land uses. Can you explain if that's
21 possible?

22 MS. PURDY: Yes. Certainly. And in fact, I would
23 say that the tentative order and the monitoring
24 reporting program already allows that. What we require
25 in the monitoring reporting program is representative

1 locations, representative outfalls on a subwatershed
2 basis.

3 And so if there are similar land uses within that
4 subwatershed area, it can just use one location.

5 Another option that Santa Monica may be contemplating,
6 and I think perhaps others are as well, is would it be
7 possible instead of having one outfall per what we call
8 a hydrologic unit code at a certain level, if maybe they
9 don't need to have one per subwatershed area, but if
10 there's similar land uses, could they use one to be
11 representative of multiple subwatershed areas.

12 And through the customization that I talked about,
13 that would be possible for them to propose that to us
14 for review and possible approval.

15 MR. UNGER: Just to add -- I just want to explain why
16 we're doing it on land use areas, per se, and the simple
17 reason is different land uses get different pollutant
18 profiles in runoff. So that's -- that's the reason
19 why they brought up land use areas.

20 MS. CAMACHO: And then I believe the LA County, in
21 their presentation, discussed the-- an benefit
22 multi-benefit watershed program or multi-benefit
23 watershed program? And I didn't quite understand it.
24 I think we asked to get further clarification of this.
25 I didn't quite understand. What that he -- how that's

1 different from watershed management.

2 MR. UNGER: Well, basically at this point, we are
3 going to be talking to the County to get some greater
4 definition.

5 It's -- it's -- the argument is that certain projects
6 can be larger than a single watershed, and if it's in a
7 large shed, they may have different partners than just
8 the permittees and things like that. So there's some
9 concern with the language as it is right now. It may not
10 really allow that if you will and address that
11 specifically. So we're going to be meeting with the key
12 stakeholders to discuss that.

13 MS. CAMACHO: So that's something that possibly could
14 be incorporated in --

15 MR. UNGER: Yes.

16 MS. CAMACHO: -- to the revised --

17 MR. UNGER: Yes.

18 MS. CAMACHO: Okay. One of the -- I don't know how
19 much more time I have.

20 MS. MEHRANIAN: You're okay. Five more.

21 MS. CAMACHO: Okay. One of the environmental
22 communities' concerns was that the draft permit
23 inappropriately established a goal of discharge water
24 quality in comparison with municipal action levels
25 rather than meeting water quality standards. And I just

1 wanted to understand that claim and -- and hear a
2 response to that claim.

3 MR. PURDY: I'm going to let Aybar Ridgeway answer
4 that question.

5 MR. RIDGEWAY: Hi. For the record, I'm Aybar
6 Ridgeway. The reason -- the way staff were proposing
7 using the municipal action levels now, they're using
8 them as an upset value or a benchmark. We're not, you
9 know, defining them as a standard, but just at a certain
10 threshold, if you see this, then you need to go back and
11 reevaluate your program and take actions. But it's not
12 actually meant to be a surrogate, I guess, for wasteload
13 allocations.

14 MR. UNGER: Aybar, just provide them with a little
15 information about the action levels derived from
16 relative to water quality.

17 MR. RIDGEWAY: Sure. When the municipal actions
18 levels were actually derived from actual nationwide MS4
19 sampling of major outfalls. So these were true results
20 that were actually achieved nationwide.

21 MS. CAMACHO: Okay. That's helpful. Do you want to
22 move it along?

23 MS. MEHRANIAN: Thank you. Board member Stringer?

24 MR. STRINGER: Thanks. So I'm just going to
25 reiterate how impressed I am by the work that's been

1 done not only by staff and in particular Renee and your
2 staff, but also by the regulated community permittees,
3 the environmental committee. Thank you all for making
4 such an informative process.

5 Renee, one of the amazing things you do is read
6 people's minds. Ninety percent of my questions I've
7 checked off my list thanks to what you just said
8 recently. So I just have a few additional things.

9 One is I just want to -- there was a lot of concern
10 expressed especially by the permittees about the
11 structure of the hearing and our bifurcated approach and
12 the fact that we're holding this hearing on these two
13 days before the response to comments have been made
14 public. And I want to make sure that all of us up here
15 are comfortable that what we're doing is consistent with
16 past practices.

17 I understand it's consistent with what the state
18 water board has done. Of course, I also want to make
19 sure those response to comments are going to be coming
20 out very soon. So I don't know, Jennifer, if you or
21 somebody else can just reassure us that this is the
22 right way to go?

23 MS. FORDYCE: Well, I think I can't tell you it's the
24 right way to go, but it's the legal way to go. There's
25 a lot of -- in a lot of the comments that were raised

1 about the process or -- you know, as a lawyer, you hear
2 a people saying you can't do something or shouldn't do
3 something and there's a very big difference.

4 So a lot of the comments that we got saying you can't
5 have this bifurcated process, you can't go forward
6 without having written response to comments, and that's
7 not true. The federal regulations completely allow the,
8 you know, to have a hearing without responses to
9 comments. You just need written response to comments
10 before you adopt the permit. It's very clear.

11 Now, the comments about whether you guys should go
12 forward with the hearing or, you know, should delay this
13 permit adoption, you know, that's a different story, and
14 that's entirely up to you guys.

15 MR. STRINGER: I should have chosen my words more
16 carefully. I'm interested in what our legal parameters
17 are, which is why I asked you, and you answered that
18 question. I think -- I think all of us are relatively
19 comfortable with the way you've structured the process.
20 I want to make sure we're standing on firm ground in
21 that sense.

22 MS. FORDYCE: I completely agree. I think we are.

23 MR. STRINGER: Got it. Okay. And then the way the
24 process is going to forward, the responses to comments
25 are going to go out and then at our next hearing,

1 November 3rd, we're going to be --

2 MR. UNGER: The 8th.

3 MR. STRINGER: November 8th, we're going to have
4 limited opportunity -- or people are going to have the
5 opportunity to comment further, but only limited to the
6 additional changes that are going to be made to the
7 permit. Is that right?

8 MR. UNGER: Right.

9 MS. FORDYCE: Yeah. So yeah. Written responses to
10 comments are forthcoming.

11 MR. STRINGER: Right.

12 MS. FORDYCE: I do need to clarify or at least note
13 that there has been some assertions that people have a
14 right to review responses to comments before the Board
15 adopts the permit, and that's not true. You know, the
16 public and the permittees do not have a legal right to
17 review or comment on the responses to comments.

18 The reason why they're provided in advance is for
19 your benefit, the Board members, because they do become
20 your responses to comments received. So we want you to
21 read them before you adopt. But otherwise, the members
22 of the public and the permittees don't have a right to
23 comment on the response to comments.

24 MR. STRINGER: Right.

25 MS. FORDYCE: It's helpful for them, obviously, but

1 there's no legal right. So response to comments are
2 forthcoming and the recommendation is that -- and a lot
3 will depend on what happens next week as more changes
4 might be made to the revised tentative in response to
5 the meetings next week that Sam and Renee are having
6 next week with with the various permittees.

7 The revised tentative will, like I said, go out very,
8 very soon and then on November 8th, the recommendation is
9 that they be -- comments be limited to just the changes
10 made to revised tentative.

11 MS. MEHRANIAN: Board Stringer, could you allow me to
12 piggyback a question on that?

13 MR. STRINGER: Yeah, sure. Yeah.

14 MS. MEHRANIAN: My question to was that I agree that
15 maybe they do to have, legally, the right or they're not
16 entitled of reviewing the comments to respond to
17 comments, but I think that would help them to know their
18 positions of where they stand with the new -- and that's
19 why -- it's the the importance of --

20 In that light, when would this be out for them to know
21 so that they have enough to position themselves for the,
22 you know, of where they stand?

23 MS. FORDYCE: I think we're thinking within a couple
24 weeks at the latest.

25 MS. MEHRANIAN: If you would give a date to everyone

1 right at the end of this meeting or somehow soon just
2 because it will help -- you know, we cut through so much
3 in testimonies and disagreements if, you know, this is
4 on time and they can review it and position themselves.

5 MR. UNGER: Madam Chair, may I ask for a bit of
6 indulgence? Can we get you a schedule on Monday?

7 MS. MEHRANIAN: Yes.

8 MR. UNGER: That you can review, and then upon maybe
9 yours and Vice Chair Stringer's approval of that, we can
10 then publish that? Would that --

11 MS. MEHRANIAN: Yes.

12 MR. UNGER: Thank you.

13 MS. MEHRANIAN: Thank you.

14 MR. STRINGER: That's great. I just want to just --
15 just elaborate a little bit more than this and that is
16 that I think it's important to understand that, you
17 know, in the normal situation, in a normal
18 permit hearing, which this is not normal, obviously.

19 We frequently hold our hearings, make changes to the
20 permit at the hearing, and finish it up on that same
21 day. We're doing it this way because of the complexity
22 and enormity of this particular permit, but -- so I
23 just -- I want to say that just to emphasize that I'm
24 very comfortable with this approach, and I feel like it
25 more than addresses people's concerns about

1 opportunities to weigh in.

2 MR. UNGER: Just to add one more thing -- I'm going
3 to try to talk in both directions at once -- but our
4 intent is to do much like we did earlier this year and
5 provide the revised tentative in strikeout, you know,
6 in -- in --

7 MR. STRINGER: Sure.

8 MR. UNGER: -- in strikeout form, so it will be very
9 readily apparent exactly which changes were made so you
10 can still continue --

11 MS. GLICKFELD: Sam, I think it would be better if you
12 went up there because I'm not sure you're speaking into
13 the mic.

14 MR. UNGER: Sure. Yeah.

15 MR. STRINGER: Can people hear Sam?

16 MR. UNGER: That's better. I asked for the Board's
17 indulgence to provide them a schedule for review on
18 Monday, a couple days from now, and upon their approval
19 of that schedule, we'll get it out on our website and
20 tell all the interested parties so they'll know what the
21 schedule is moving forward. So you can look for a
22 schedule early next week.

23 MR. STRINGER: Great. Great. One question on costs.
24 I -- you know, the cities have talked a lot about this
25 and I think I can empathize with the city managers'

1 position and I -- I assume that concerns and fears are
2 real. And Sam, I appreciate your perspective on it.

3 I guess, just from my perspective, it would be helpful
4 for us to know, you know, what if -- what if we're wrong
5 on costs? What if the costs are completely blown out of
6 the park, and it's really a serious problem for the
7 cities and they just can't, you know, for budgetary
8 reasons, they just can't do the things that the permit
9 requires them to do?

10 Is there anything -- I mean, what -- what happens
11 then?

12 MS. PURDY: I'll start and then Sam if you want to
13 add to what I have to say. I would say one thing
14 that -- one option we can take and I talked about some
15 re-openers that we're planning on incorporating in the
16 revised tentative order and some of the purpose for
17 these re-openers is, I think, to address the concern
18 that you've just, you know, restated that permittees
19 have raised.

20 And those re-openers would provide an opportunity to
21 look at things like the compliance schedules, the length
22 of those and so I think the first step in that process
23 would be assuming that those costs are going to be
24 related to TMDL implementation that we may look at the
25 TMDL and we may chose to go in and revise the TMDL and

1 lengthen the amount of time that's provided to implement
2 it.

3 Many of the TMDLs already have lengthy time schedules
4 in recognition of the cost that is going to be to need
5 to be borne to implement those TMDLs, but the TMDLs can
6 always be modified. In fact, some of the more recent
7 TMDLs, we've had discussions about that, about the need
8 to potentially lengthen the schedules to spread out the
9 costs further.

10 So that would be something -- one way of addressing
11 this while still maintaining our goal of achieving water
12 quality standards. And addressing the impacts of the
13 MS4 discharges is to provide a longer time frame for
14 eventually coming into compliance.

15 MR. STRINGER: All right. And I saw that in the
16 permit and I'm very impressed by the balance -- the
17 balanced approach that's laid out there. And I also am
18 a firm believer in setting the goalposts and letting
19 people sort of the figure out how to get there, so the
20 most efficient means can be creatively developed, and I
21 think the permit does a really good job of -- of being
22 structured in that way.

23 Just a couple of other things. The Supreme Court
24 case that folks have been bringing up, you should delay
25 everything until we get a ruling on that, could you just

1 put that in context for us, Jennifer?

2 MS. FORDYCE: Sure. So the Supreme Court's scheduled
3 for oral arguments on December 4th obviously in
4 Washington, D.C. and the Court will not be issuing a
5 decision that same day. It's just oral arguments. The
6 Court may issue its decision any time between I think
7 April and June. It's really unclear at this point.

8 And then it's very possible that the Supreme Court
9 will remand the case to a lower court for additional
10 proceedings. And if that happens, then there could
11 be -- I can't even guess to a time frame. So I think one
12 of the -- obviously what they're asking for --

13 MR. STRINGER: I guess my question isn't a procedure
14 one, it's a substance one. Just is the case relevant?

15 MS. FORDYCE: The case is relevant to the 2001 permit
16 and -- in which -- it concerns the enforcement of
17 receiving water limitations in the 2001 permit. They
18 are based on mass emissions stations data, and it
19 concerns -- the case -- the question before the Supreme
20 Court is -- was presented as a very narrow question.

21 Along with the numerous briefs that were filed to
22 extend beyond the question presented. But I -- it
23 does -- it concerns -- basically if the Supreme Court
24 answers the question in the affirmative or in the
25 negative, what I think it will do is it will affect the

1 NRDC's enforcement case. It won't affect the Board's
2 regulatory authority in issuing a permit or including
3 any provisions.

4 And if it does, there's already a (inaudible) in the
5 tentative order that allows the Board to reopen a permit
6 in case there's judicial decision that somehow affects
7 the validity of a provision.

8 MR. STRINGER: Got it. LID, onsite versus offsite.

9 MS. MEHRANIAN: You have three more minutes.

10 MR. STRINGER: All right the onsite versus offsite
11 issue that we heard quite a bit about from LA Group.
12 Could you -- Renee, maybe this is for you; I don't know.
13 Could you elaborate a little bit more on it? I know
14 there's some guidance documents out there that -- well,
15 maybe it's more than that -- that mandates some sort of
16 preference for onsite rather than offsite. From a water
17 quality perspective, I'm just interested in-- well, two
18 questions. One is: Do we have any discretion? Two is:
19 From a water quality perspective, is the contaminations
20 being contained and managed properly? What is wrong
21 with off site if it's more efficient?

22 MR. RIDGEWAY: The way the order is currently
23 drafted, if offsite mitigation on a particular ground
24 water replenishment is an option, it's -- it gives
25 you -- we prefer onsite. It's listed onsite retention

1 is listed first, but there's a provision in it listed
2 where, you know, if, you know, you go to offsite
3 mitigation if it's technically infeasible to do it onsite.
4 Or as an option, we allow groundwater replenishment
5 project offsite.

6 In general -- at the inception of most LID -- I'm
7 going back to Larry Kaufman in Maryland -- LID was
8 generally seen as onsite practice. You know, it's
9 possible to do it at regional and staff doesn't have a
10 problem if they can demonstrate, you know, that it can
11 be done effectively offsite, but it's easier to assess
12 compliance onsite; it's easier for a community to
13 implement it onsite than it is offsite.

14 But as far as staff having a problem with offsite
15 mitigation being done correctly and demonstrating that
16 you get the same benefit, there's no problem.

17 MR. STRINGER: Okay. One more thing.

18 MS. MEHRANIAN: One minute.

19 MR. STRINGER: This maybe is more of a comment than
20 a question. I was a little disappointed that we didn't
21 hear a lot about the impacts of -- from a sort of study
22 scientific perspective of water quality contamination
23 upstream.

24 I know most of the folks do the research down by the
25 beaches, but I've asked this question in the past, and I

1 would like to hear more about from a study scientific
2 perspective the health impacts of upstream -- to
3 upstream communities of contamination, and I am certain
4 that those impacts exist.

5 But the focus of the presentations today, which were
6 very impressive and grounded in research, were all
7 focused on the beach communities and the people who go
8 to beaches, which include potentially people who live in
9 the inland cities.

10 But I'd really like to hear more about and understand
11 more about the impacts on those communities and if the
12 studies exist and we just don't know about them, please,
13 we'd like to hear about them. I'd like to hear about
14 them and. And if they don't, maybe folks who do those
15 sorts of things can think about that. That's all I
16 have. Thank you.

17 MS. MEHRANIAN: Move on to Board member Munoz,
18 please.

19 MS. MUNOZ: Good afternoon. First, I want to
20 thank the staff for working on this so diligently and
21 providing us with coded briefings and providing us with
22 the permit. I really like the LID. I think that's very
23 critical. I think it's very good. And the watershed
24 management options that you provide, especially in the
25 interest of small cities.

1 I want to thank the permittees and the environment
2 community. You always provide such great information
3 and it's real interesting being up here listening to
4 both sides and trying to figure out a medium with the
5 information that you provide.

6 A lot of my questions and comments were addressed by
7 my previous colleagues, but there are two or three that
8 I want to ask that I heard repeatedly. And one of them
9 was this threat of lawsuits. And I think a couple
10 people said that they felt that the receiving water
11 limitations language would put permittees in jeopardy of
12 third-party lawsuits, and I'm wondering if the staff can
13 comment on that, if it's a factual, real threat or
14 something that's being imagined.

15 MS. MC CHESNEY: So the language that they're
16 commenting on is the receiving water limit language that
17 is consistent -- so the language that they're talking
18 about is the receiving water limit language that says if
19 you cause or contribute to an exceedance of a water
20 quality standard, then you're in violation of the
21 permit.

22 So that language and the following language is
23 directly out of state board order that -- a precedential
24 order. So that's a language that's included in the
25 permit and that's the language that the state water

1 board will be considering in November to evaluate. And
2 so if the state water board chooses to change that,
3 there'll be taking some action of the permit.

4 The staff is proposing a re-opener as requested by
5 this state water board executive director to relook at
6 that in that case. But the federal law for MPDS permits
7 allows citizen suits, and the regional board cannot say
8 no citizen suits.

9 The regional board needs to have a permit that's
10 consistent with the law and can't just say no citizen
11 suits. That's just part of the law, and there are no
12 citizens suit provisions in the state law, but there are
13 citizen provisions in the federal law. And that's just
14 not something the Board can change.

15 And Renee can probably add some, you know, discussion
16 about what's included in the permit to provide some very
17 brief provision. As far as numbers of lawsuits, I'm only
18 aware -- I don't know, two that are challenged in
19 compliance with the permit by citizens.

20 MS. MUNOZ: Renee, did you have additional comments?

21 MS. PURDY: I would just add again as I've mentioned,
22 we are thinking very hard about this, and we've
23 certainly heard the comments from permittees. We do
24 believe the regional board does have some flexibility in
25 this new permit with regard to how the receiving water

1 limitations are implemented, and that's what we're
2 looking at with regard to the watershed management
3 program in providing these other alternative means of
4 complying with the receiving water limitations through
5 that watershed management program for non TMDL
6 pollutants.

7 So I would certainly say from the point of view of
8 waterbody pollutant combinations already addressed by a
9 TMDL, which as Board member Glickfeld pointed out, is
10 many, many of the waterbodies in our region are already
11 addressed by TMDLs. And so in those cases, to the extent
12 that final compliance is not until sometime down the
13 road, there's not the threat of permittees being in
14 noncompliance or being threatened with third party
15 lawsuits because those TMDLs provide schedules for
16 coming into compliance.

17 But it's really those other waterbodies which I don't
18 think are going to be too numerous that don't have a
19 TMDL that provides time to come into compliance. But
20 are contemplating how we can put a mechanism like that
21 into a revised tentative order. Thank you.

22 MS. MUNOZ: Okay. Thank you. I would be, as a Board
23 member, interested in looking at some of the watershed
24 management plans are submitted especially ones that you
25 consider to be strongest and kind of effective that we

1 might be able to share with other cities so that they
2 don't reinvent the wheel.

3 And also just so that we can maybe even get a
4 presentation from that particular study group putting
5 together what their challenges -- whether they did it,
6 and some of the challenges and successes they achieved
7 after they start implementing it.

8 MS. PURDY: I think certainly that would be possible
9 and perhaps even permittees would like to bring
10 informational items of some sort before the Board.

11 MS. MUNOZ: I also think that it would be important
12 to encourage the nonprofit world who have been
13 working on a watershed management plans for quite some
14 time. If they could collaborate with the cities because
15 I think that there needs to be more cooperation,
16 collaboration, exchanging of information, and talent
17 with what has already been done previously.

18 So I want to encourage the cities who are present in
19 others. And speaking of cities, Signal Hill came to us
20 and asked if they can have their own permit. They're
21 surrounded by Long Beach and I'm wondering what response
22 they received when they asked for receiving their own
23 permit.

24 MR. UNGER: Well, I think they explained why they
25 were looking for their own permit.

1 MS. MUNOZ: Well, I'm -- what's our answer?

2 MR. UNGER: Our answer is although we never -- the
3 Board staff had never sent a response to their 2006
4 ROWD, report of waste discharge, prior to the -- oh, we
5 did -- excuse me. We did. We sent a very brief
6 response that didn't go into details so as to why it was
7 not sufficient.

8 So we had a meeting with them recently, and we talked
9 about those issues and we thought that the best path
10 forward -- and I think they were in agreement with it at
11 time of the meeting -- was that they would be enrolled
12 in this permit and if they would submit a ROWD sometime
13 during this permit, staff would evaluate it and consider
14 whether they should have their own permit at that time.

15 But we don't have an ROWD, a report of waste
16 discharge, urban application that we feel is sufficient
17 to move forward with at this time. So we seem to be in
18 agreement with that plan forward to submit a new ROWD
19 that we can evaluate.

20 MS. MUNOZ: And my last question is --

21 MS. PURDY: I was just wondering if I could add just
22 a little bit to that response. Which is just that one
23 one of things that we've mentioned over the two days is
24 the fact that while this permit is a single systemwide
25 permit covering all 86 entities, we do provide the

1 flexibility for permittees to implement the watershed
2 management program and monitoring programs and the core
3 minimum control measures on individual jurisdiction by
4 jurisdiction basis.

5 So to the extent that Signal Hill wishes to
6 essentially conduct those programs on its own, it has
7 the discretion to do that even as a co-permittee under
8 this permit.

9 MS. MUNOZ: Okay. And the last thing that I've heard
10 a lot of folks talk about, cities, was the economics.
11 And I know that some of my colleagues already touched
12 upon it, but I think we need to take it very seriously
13 because the truth of the matter is is that cities --
14 many smaller cities specifically are really facing
15 borderline bankruptcies.

16 When you have people up here talk to us about closing
17 their only library and/or, you know, cutting back law
18 enforcement, laying off 200 people. And I believe it
19 was the city of Torrance that said that they thought it
20 was going to cost \$120 million to execute this.

21 That just sounds so high. I'm not sure where those
22 numbers came from, but what happens if you do have a
23 city that has filed bankruptcy? What happens to them at
24 that point when there's just no money, you know, because
25 they're filing bankruptcy at that point? What's our

1 act? What do we do with that city?

2 MR. UNGER: Yeah, I think Renee addressed it. Why
3 don't you address it again? I think that would be the
4 ideal -- if we look at the schedules.

5 MS. PURDY: Yeah, I think -- I think there may be
6 a -- perhaps a policy answer to the question. There
7 maybe be a legal answer to the question. I'll look
8 towards our attorneys for that.

9 But I would say, yeah, as I stated earlier, one option
10 certainly is to look at a -- the time to come into
11 compliance with the permit and for the TMDLs that has
12 been established through the Basin Plan, but there --
13 there is the option if there's a compelling reason to go
14 back and look at that TMDL and the implementation
15 schedule in the TMDL, so that certainly is an option.

16 The one thing that I would also reiterate and I would
17 say we do take the cost information seriously is we have
18 tried to spread out particularly the TMDL requirements
19 over long periods of time. In some cases, final
20 compliance is not going to be required until 2025.

21 So these are long implementation schedules, and many
22 of the final compliance deadlines, as I mentioned for
23 the coming permit term, are for things like trash where
24 because of the TMDL, there's been a lot of innovation
25 like in regard to cost effective ways of implementing

1 and coming into final compliance with those TMDLs.

2 So the deadlines will be spread out, but there's also
3 the option reevaluate those deadlines if it seems
4 warranted to do so.

5 MS. MUNOZ: Thank you. My last comment, as I said,
6 is that it's very interesting that we have more in
7 common than not. Everybody in this room agrees on
8 better water quality. We want to go to the beach and
9 enjoy it with our families. We want to canoe down the
10 river and have a wonderful experience. You know, all of
11 us want the best for our children, our families, for our
12 future.

13 It just seems it's in the executing that we seem to
14 have -- we tangle and trip up on each other. And I'm
15 asking once again as one of my colleagues said a number
16 of months ago, it would be really great if the
17 environmental organizations and the permittees, you
18 know, start focusing on what they have in common so they
19 -- you can come up with a lot more solutions.

20 Because you really are the ones who have the
21 knowledge and with support of our staff, maybe we can
22 come up with more solutions that are beneficial for all
23 because if you focus on what you do have in common, and
24 do believe that everybody in this room wants better
25 water quality, wants to enjoy our outdoors especially

1 when we are near waterways, so that we don't get sick.

2 I have worked with constituents who are -- they go to
3 the beach and they come and report to me what a terrible
4 day that they had because their kids come home sick with
5 flu-like symptoms and are throwing up, and you don't want
6 than to happen. You want less and less of that.

7 So I think that -- I don't question anybody's
8 commitment because I believe everybody's committed to
9 it. I think it's more a matter of learning how to
10 compromise and hammer out the real difficult stuff.

11 So once again, thank you so much for all of your
12 comments and your time and patience with us.

13 MS. MEHRANIAN: Thank you. Board member Yee.

14 MR. YEE: Thank, you Madam Chair. I'm still new
15 enough that as I drop down into the weeds of 500-page
16 proposed permit and over 2,000 pages of comments, I get
17 easily overwhelmed. And now I really know what is meant
18 by the expression being "water-boarded."

19 But seriously, I want to thank you all of you for your
20 time and efforts. I want to thank you for the education
21 that you've given me over the last couple days and as
22 Irma just said, thank you very much for your commitment.

23 I have a number of specific questions that I think
24 I'll just deal with staff off the line, but one major
25 question that I have that I'd like to ask -- because

1 we've heard so much about delaying the adoption of the
2 permit until next July; staff, what is the worst-case
3 scenario if we have a delay until then and do not
4 approve of this, of the revised tentative order?

5 MS. PURDY: I mean, I would say the ramifications of
6 that are first, that this permit is over -- at this
7 point, it's six years overdue. It is probably one of the
8 most overdue permits, I would say, in California.

9 It's been a top priority for staff and I think also
10 for this Board to update the permit. There's been
11 tremendous changes in the stormwater program nationally
12 as well as throughout California and locally. There's
13 been a lot of lessons learned as well as the fact that
14 it has been largely over those last six years that we
15 have developed the majority of the 33 TMDLs that we're
16 developing provisions for in this permit to implement.

17 TMDLs are not self-executing. They have to be
18 incorporated into a permit to be fully implemented. I
19 think to the credit of many of the permittees, they have
20 begun implementation, but the TMDLs are required to be
21 incorporated into the permit.

22 And so further delay would just further delay
23 incorporating the 33 TMDLs that this Board has worked
24 very hard to adopt and put in place to get water
25 quality.

1 MR. UNGER: Can I just add briefly to that, Board
2 member Yee? Last January and this January coming up, we
3 had on our Board retreat where the priorities for the
4 year are laid out. And it was very clear that the
5 entire Board at that time -- on the way up, this is the
6 number one priority.

7 It turned out to be a huge undertaking. I think we
8 all knew that it would and still it took longer than we
9 hoped that it would be even with the dedication of many
10 staff. We had help from state board. We have a new
11 attorney with us now. And even with all that staff, we
12 have put other programs aside and other commitments
13 aside and things like that to get this done.

14 We know that if we delay it for six months, we'll
15 basically -- as I think some of the other Board members
16 said, that we're there already, if you will. We're very
17 close to being there in terms of, you know, reaching
18 meaningful resolutions to some of the issues that were
19 brought forward and, you know, I think in that
20 six-month-period we're going to have that same staff
21 devoted to this.

22 They're not going to be released. And it's just, you
23 know, I -- Deb could tell in detail about the other
24 programs and other priorities that essentially have been
25 set aside so we could get to this point, and I would

1 just suggest to you it would be in the best interest of
2 quality and for other priorities and initiatives and
3 that we have that we move forward with this.

4 MR. YEE: Great. Thank you. And I look forward to
5 the revisions that are coming soon. Thank you. I'm not
6 sure if it is a question or just some comments about
7 cost and economics. I feel like, boy, now I know why
8 they call economics the dismal science because I mean,
9 I've heard so many different numbers and statistics and
10 whatnot flying around.

11 You know, I think from a city's perspective, they look
12 at this mostly from a cash flow perspective whereas, you
13 know, the statistics and whatnot say that the fewer percent
14 is macro economic approach to this whole thing. So I
15 would really appreciate, as we move forward to, you know,
16 to do a much better job with looking at the cost -- the
17 true cost and benefits in the economic of water quality.

18 And I think what would really help is -- is we all
19 adopted some consistent assumptions and consistent
20 criteria by which we're going to look at economics and
21 costs. So I would suggest that.

22 MR. UNGER: I fully agree. It would be great if we
23 were not (inaudible) all this and that.

24 MR. YEE: Sure. Thank you.

25 MS. MC CHESNEY: I just want to make a comment that --

1 and I'll provide more detailed information on this and
2 it'll be in response to comments, too -- but the
3 regional board is adopting the permit under the federal
4 Clean Water Act, and there are certain constraints on
5 the regional board and consideration of economics. So
6 I'll be providing more detail, but I understand that
7 that information is important and, you know, certainly
8 the Board can consider economics, but there are -- but
9 there's no cost benefit analysis.

10 There's not, you know, some elevation of costs over
11 other considerations in issuing a federal Clean Water
12 Act permit. So I'll provide further information on that
13 and work with Sam, you know, what level of information
14 is appropriate for the Board to be considering.

15 But I just wanted to remind you of that so that you
16 don't get too bogged down in that. Probably one of the
17 basic issues is that the dischargers are required to
18 comply in the term as to the maximum extent practicable
19 and that term takes into account the costs and
20 feasibility of implementing the various measures to
21 comply with the permit.

22 And then it's up to them to choose from among those
23 measures in order to determine compliance and they need
24 to choose measures that are effective, but certainly they
25 can -- if they are cheaper ways to do things, they can

1 do those, but they still need to be effective.

2 And then as Renee discussed, the permit includes
3 various ways to help the permittees with costs like the
4 long schedules and some of the TMDLs, the ability to
5 adjust monitoring programs, the watershed management
6 plans, and those things to help them determine for
7 themselves what, you know, the order of things and
8 priority of things.

9 But just to summarize it, there's no cost benefit
10 analysis, so I just wanted to let you know.

11 MR. YEE: Okay. Great. And I apologize if I have to
12 duck a little early. I have a train to catch a little
13 after 5:00, so.

14 MS. MEHRANIAN: Thank you. Board member Diamond.
15 Thank you for patiently waiting your turn.

16 MS. DIAMOND: Well, it's great to be last because
17 most of the questions are asked, so the pressure is less.

18 But we can't -- all of us can't thank our staff, and
19 the permittees, and the environmental community, the EPA
20 for all that you've done to inform us and education us
21 over these last couple of days. This is the most
22 important permit that I think comes before us.

23 I have had the opportunity to hear the first permit
24 that we're operating now that was issued in 2006, so
25 it's still hard to read this and to try to look at where

1 we've been and where we're going, but I think where
2 we're all going is, as Board member Munoz said, is to
3 improve water quality.

4 And so I have a couple of comments, not many more
5 questions at this point. As far as the watershed
6 management plan, which is, I think, that's one of the
7 big changes that we're seeing from the last permit. And
8 the County has talked about an alternate plan that is
9 possibly more than one watershed at a time.

10 So when we come back to look at that, I was thinking
11 about listening to those to -- listening to that idea
12 coming forth, but not fully understanding it or having it
13 completely explained to us yet. At the same time,
14 looking and hearing from the various cities who are
15 having economic problems like the City of Pomona comes
16 to mind because they had some very detailed issues about
17 what possibly will be cut, what kinds of problems they
18 have.

19 Is it possible -- and I'd like to have staff and the
20 county explore this -- is it possible, as we look forward
21 to the management plan or the alternate approach, to see
22 where the County, for example, could be helpful to
23 cities in going forward with their plan?

24 I'm just wondering if we can look at alternatives and
25 if the County can forward to us and give us a picture

1 whether it is possible for cities who are having
2 problems because of their particular economics might be
3 incentivized by some of the watershed management plan.

4 It's just an idea. I don't know that's possible, but
5 I'd like to have that explored. I also want to look at
6 the possibility of the Board getting to review the
7 watershed managements plans because this is such a new
8 thing. It is so potentially quite huge and I just feel
9 that a public process should be in place when a
10 watershed management plan is ready to be approved to
11 come before the Board in a public process. So that is
12 something that I'd like to see.

13 The other question that I have comes about the whole
14 issue of onsite and offsite retention. And EPA
15 suggested or said that this is when feasible, offsite
16 should be -- needs to be shown to be feasible. So I'd
17 like to understand more about what you expect to see if
18 that is feasible or is not feasible. What will we be
19 looking for if the permittee comes forward and says it's
20 not feasible?

21 What will they have to show? The other part of that
22 -- nobody -- we have not discussed the idea of
23 biofiltration and how will that -- how will that be
24 allowed and what is the threshold curve for
25 biofiltration? I mean, would that be after? Would they

1 not -- maybe somebody can answer that now. What if --
2 what would discharge or a permittee have to show to be
3 able to do biofiltration as opposed to onsite retention
4 or offsite retention or either? What's the threshold
5 for that?

6 MR. UNGER: I think I'm going to let Aybar talk about
7 the specifics, but you may recall, Board member Diamond,
8 that we discussed this at length during the Ventura, and
9 we had a list of sort of probably (inaudible) would --
10 that would cause quote, unquote, technical and feasibility
11 and we were reviewing that list here. We've gotten a
12 lot of comments on the nature of that list, but that was
13 sort of our starting point. Some of the things might be
14 just the soil type for example.

15 We would not allow infiltration onsite. Another
16 example -- I'm just kind of off the top of my head --
17 what's in Ventura right now, but in a contaminated
18 area, we may not want to infiltrate waters through a
19 contaminated substance, something like Brownfields or
20 something like that might be an example of technical
21 infeasibility.

22 MS. DIAMOND: I'd like to for the -- for the revised
23 tentative, I'd like to see that spelled out in terms of
24 what has to be demonstrated and when it could be -- when
25 it could be used and --

1 MR. RIDGEWAY: And Fran, I can't say I hit on most
2 of them. What I actually was trying to was I actually
3 trying to direct you to the page. I could actually
4 probably direct you to the technical infeasibility
5 criteria by the time, you know, adjourn the meeting, but
6 it's already outlined in the permit what are the
7 specific conditions that it has to demonstrate for
8 technical infeasibility, and infiltration rate -- Sam
9 had brought up the was soil infiltration rate was one;
10 Brownfields was one. Previous (inaudible) obviously
11 you don't want to infiltrate -- brown lawn was another.
12 But I'll actually point it out to you.

13 MS. DIAMOND: So is this consistent with the Ventura
14 Permit?

15 MR. UNGER: It is. We've done a lot of work to
16 review those just because of the urban nature of Los
17 Angeles and the difference with Los Angeles County, so
18 Aybar's led that.

19 MS. DIAMOND: Just one other thing that I wanted to
20 bring up and that was was the question of toxicity
21 monitoring. Heal the Bay brought up the fact that we --
22 that the monitoring was, I think, once a year, and I
23 just wanted to hear -- and you don't have to do it now,
24 but that's something that our -- I think we need -- we
25 talked about toxicity frequently with TMDLs and permits,

1 and that is an issue that I think I'd like to hear more
2 about in the revised and why not do it more than once?

3 MR. RIDGEWAY: Fran, can I just add one thing? It's
4 on page 8-2-70, all of the feasibility criteria is listed
5 out in binder.

6 MS. DIAMOND: Okay. 8-2 --

7 MR. RIDGEWAY: 8-2.7.70.

8 MR. DIAMOND: Okay. Thank you.

9 MS. SMITH: Board member Diamond, we'll talk
10 extensively on toxicity when we come back. But just to
11 frame it, we're working very closely with Deborah Denton,
12 who's the EPA and statewide expert on toxicity and on
13 drafting requirements, and we're trying to balance the
14 need for toxicity as a backstop. And we all know that's
15 a really important thing to measure with with the added
16 cost for monitoring to work within that framework to try
17 to figure out what the right balance is, but we'll bring
18 back the discussion about that.

19 MS. DIAMOND: I -- I just -- and you know, I think
20 that all of us are looking forward to the response to
21 comments, and I think that it's been very hard for the
22 regulated community and for the Board, but I think I
23 want to acknowledge it's very hard for the staff, for us
24 to be here with the permit, with the comments and
25 without your responses.

1 So I think it makes it much harder for you today that
2 we don't have -- and I understand why. I mean, I'm
3 not -- I totally understand why you haven't gotten it
4 done. We've had letters, and I said this before, from
5 everybody from the entire regulated community, from all
6 the stakeholders, and they've been quite lengthy. I --
7 I -- you know, I wish that we had an ability to say that
8 we would prefer or require if possible letters that were
9 no more than, say, 20 pages long that it was adequate to
10 get everything that needed to be said done in a
11 prescribed number of pages.

12 And I think that fact that the you had thousands of
13 pages to digest and respond to was very difficult for
14 you, and I wish that, you know, that you -- that we
15 could have seen your responses, but I totally understand
16 why we haven't gotten them yet, and I look forward to
17 them. So that you very much.

18 MS. MEHRANIAN: Thank you. I promised that I would
19 not take 15 minutes, but I wanted to make a few comments
20 and I have questions. I do -- not only -- I'm joining
21 my board -- fellow Board members to thank everybody, but
22 more than that, I think I want to compliment this group,
23 everybody in this room because I think for the first
24 time at least in the history that I know, the fact that
25 the permit group, LA Permit Group was created, the fact

1 that the environmental community together presented the
2 same platform, and the fact that the Board created this
3 big process of workshops before this was something which
4 talks about the fact that they're not people who agree
5 with good water and good air and good quality and people
6 who are against.

7 We don't believe any of that exists anymore at least
8 now. So -- and it appears and we all want to believe
9 that we all come together and we are very close and we
10 have a lot of similarities, but at the same time, we all
11 know that the devil's in the details. And the fact that
12 there is some distance yet, I think it's upon us who
13 started this process to try to work that out because I
14 want to believe that the strength of this permit, at the
15 end of the day, will be something that makes a real
16 difference and doesn't go through legal processes.

17 In that light, I think it's important to see this as a
18 new generation of permits that works -- works for what
19 it's created to do, to -- to clean, protect, and improve
20 the water quality. So in that light, I think -- I felt
21 like most of the meeting there was this kind of -- that
22 this was a good background of everybody knowing to come
23 to a point where we agree on things, but then I would
24 feel that there are differences, and therefore, I
25 would -- I think that that we have still time to try to

1 see if we can bring this closer.

2 And in that light, I was going to ask if there would
3 be something that create a matrix of at some point of --
4 let's say, where the LA Group was, where some of the
5 cities like Pomona are, and where is our permit, and
6 what is the real differences and how did we do both?
7 How do we work to bring both together? Is it possible?
8 Where are the holes?

9 If we can create a matrix like that for the next time
10 when we have to make a decision, in that light, I think
11 we did a very good job. Except the only thing that I
12 though was still a big hole was the cost. Could we help
13 having building cost model of a matrix of sorts that
14 says these are the standard stuff that you have to do,
15 and there's average cost of this?

16 In my industry, you know, we can do that. We can
17 build models, cost models of what something costs, and
18 then you apply that to your city by the number of people
19 and the size of the city and you get some numbers.

20 So for us to just say that, you know, well, the cost
21 numbers that are calculated was not accurate is not
22 enough. I think we have something that we can share
23 between the Board, the staff, the environmental
24 community of -- I think Board member Munoz mentioned
25 that there is precedent of this. We can use some of

1 these numbers and models.

2 And the same thing, I think if there's a model that
3 can be created -- or some kind of a cost, a matrix, not
4 very complicated of what this whole LID thing. If --
5 what is really the difference of onsite and offsite? We
6 know optimal is onsite, but how much is our tolerance of
7 having offsite when onsite isn't possible?

8 I'm familiar with this because we did this kind of
9 model in air quality. And in -- in -- in the offsite
10 does make a big difference and it's not that it's
11 nothing just because we wanted to make this
12 implementable.

13 And the third thing -- so it's the cost, it's the
14 LID, and then if we can share the -- some kind of a
15 watershed experience that watershed-based model that
16 anybody has developed and it's a goof model. And we can
17 share it with the cities.

18 So I think those are the things that I'm hoping that
19 between now and next meeting we can cover so that when
20 we're here, we have a better draft and we're closer, and
21 the decision that we make makes a real difference.
22 That's all I have.

23 MS. GLICKFELD: Madam Chair?

24 MS. MEHRANIAN: Yes, we have time. We have 15
25 minutes if anybody else wants to --

1 MS. GLICKFELD: I have four short things. Well,
2 they're big, but they're short. Sam, you said that you
3 were going to -- that I heard you say that you were
4 going get back to the chair and vice chair with a
5 schedule of when you're going to get response to
6 comments out.

7 Given your commitments to working with the parties,
8 all the parties, on a larger regional solution -- which
9 I still don't understand what it is, and neither do you
10 probably -- how likely are we to have this back before
11 November? And if it's not coming back in November,
12 when do you expect it to come back?

13 MR. UNGER: I think it's highly likely that it'll be
14 back before you in November.

15 MS. GLICKFELD: Okay. Thank you.

16 MR. UNGER: And the next regular meeting we have
17 scheduled after that is December, and we have a group of
18 stakeholders in the other county that very much wants a
19 regional board TMDL rather than an EPA TMDL, so we're
20 hoping we can provide that for them in December, so I
21 think hopefully we'll be well incentivized to get
22 this --

23 MS. GLICKFELD: Okay. Thank you. So I had some
24 concerns because it was very open ended, but you'll be
25 giving the schedule to the chair and the vice chair, and

1 then once it's finalized, the rest of us will receive a
2 copy of it and a notice will go out on our website?

3 MR. UNGER: Absolutely.

4 MS. GLICKFELD: Okay. And my other question is about
5 LID again so if I can get maybe Aybar or Renee to answer
6 this. The alternative offsite now is projects for
7 groundwater replenishment; is that correct?

8 MR. RIDGEWAY: That's correct.

9 MS. GLICKFELD: Why don't we also allow regional
10 projects that provide storage and reuse like a park that
11 has cistern underneath it and uses it for water? Why
12 don't we also provide other alternative? There's not a
13 lot of places in the county -- I've been finding
14 out recently that not every place is equally for
15 groundwater replenishment, but there is a lot of other
16 ways to store water, there are drag wells to get to
17 groundwater, there's a whole variety of different
18 solutions and I just would hope that you would consider
19 the widest possible way of augmenting groundwater and
20 augmenting water supply.

21 And then here's a question about the watershed
22 management plans. I agree with Board member Diamond
23 that those watershed management plans, if they aren't
24 supported by these regional plans, will be big policy
25 documents; probably as big or not bigger they are than

1 TMDLs are now because they will integrate the TMDLs, I
2 hope.

3 So I hope they come back to the Board. That would be
4 my feeling, that they should come back to the Board. I
5 guess you can make it your recommendation to us, but I'd
6 like to have the Board discuss that at the next hearing
7 as suggested by Board member Diamond. And I'd also like
8 you to discuss what -- how many jurisdictions our how
9 much land area has to buy into the watershed plan before
10 it's viable? And whether or not one or two holdout
11 jurisdictions can hold it all up.

12 I think we have to have some ideas of what's workable
13 and what's not workable because I think that a lot of
14 jurisdictions and, frankly, this Board are depending on
15 these watershed plans as a good way of working through
16 some of the problems with dealing, with 33 TMDLs.

17 And finally, I hope that Mr. Fleiscli and Ms. Crosson
18 and Mr. Garrison are -- I assume you're going to all to
19 be here next time. I have to say that the lawsuit has
20 been our -- the gorilla in the room the entire two days.
21 And from my point of view, maybe the staff might not,
22 maybe my colleagues might not agree, but I consider this
23 lawsuit as a failure on our part.

24 I wasn't here, but if I had been here and I had known
25 about how unhappy the environmental groups were about

1 compliance, I think it would have been better for us
2 looking backwards, which I couldn't do from then, but
3 looking backwards, I think it would have been better for
4 us to find a way to work with the parties to avoid this
5 kind of a lawsuit.

6 And it is our job to do the enforcement and obviously
7 it was our failure to act in these areas that caused
8 this lawsuit to happen. And so I hope that, as you're
9 discussing a number of things with our staff, that you
10 talk honestly about how to avoid going right to court
11 and what it is that we can do to make sure that problems
12 are resolved in a way that actually create water quality
13 benefits. Thank you.

14 MS. MEHRANIAN: Anything else? Anybody? Anything
15 else? No. Okay.

16 MS. CAMACHO: If we have specific questions, we can
17 just offer those offline; right? Because there's a lot
18 of questions that I still have.

19 MR. MEHRANIAN: Motion to adjourn.

20 MS. FORDYCE: I recommend that you continue the
21 hearing at this point.

22 MS. MEHRANIAN: Okay. Motion to continue the hearing?

23 MR. UNGER: So moved.

24 MS. MEHRANIAN: All in favor?

25 MS. CAMACHO: Aye.

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MS. GLICKFELD: Aye.
MS. DIAMOND: Aye.
MS. MUNOZ: Aye.
(Hearing concluded at 4:51 p.m.)