next slide, my question is this, if you're recognizing
it's a segment, which I appreciate, of a larger plan,
and on your website the whole 241 is still projected as
needed and desired and everything by the TCA; is that
correct?

MR. THORNTON: That's correct.

MS. KALEMKIARIAN: Okay. So --

MR. THORNTON: Let me modify, that's not just
the TCA, I mean that's the regional transportation
industry.

MS. KALEMKIARIAN: I understand that.

Everybody thinks, except for other folks in the room,
but there's a lot of people that think it needs to be
built all the way to the five. So would you be building
this as a segment if you knew today that there would be
no further extension?

MR. THORNTON: Yes, we would. And that's the
documentation that we made in the addendum to
demonstrate this project has independent utility that
provides substantial traffic benefits independent of a
continuation south of Cow Camp Road. That's the
determination that TCA has made.

MS. KALEMKIARIAN: Okay. So would it be worth
the investment you're prepared to commit on the --
behalf of TCA, that if the future you were not permitted
to continue, for any reason, whether it was money or
environmental impact or anything else, that the
investment now in this one extension would be worth
doing.

AUDIENCE MEMBER: You're under oath.

MR. THORNTON: Let me answer this way, in
reference to the comment from the crowd that I'm under
oath, my opinion doesn't make much difference, but the
opinion that matters is, frankly, the bond market. The
bond market, which has to purchase the debt issued by
TCA, supported and backed by future toll revenues, that
will be the determining factor as to whether they think
the investment is appropriate. Not me personally.

MS. KALEMKIARIAN: I understand.

MR. THORNTON: And I would say over the years
-- the TCA has been in business since 1986. Every
project that TCA has built has been built in segments.
Every project has been successfully financed.

AUDIENCE MEMBER: That's not the question.

MR. THORNTON: And so the bond market, the
capital market, has made the judgment that projects are
worthwhile investing in, and they believe that they're
worthwhile investing in.

MS. KALEMKIARIAN: Your answer -- I understand
there's lots of moving parts and the bond market may
have to decide. Maybe it won't get built because you
won't raise the money. But I guess the problem I have
with the concept is on the one hand -- and I get this
problem. On the one hand we have a segment of a larger
project which is being described and is being described
as a segment to the bond market, I would assume; right?
You're telling them that this is the first part of a
longer project we hope to eventually build?

MR. THORNTON: We would -- we haven't gone to
the bond market for this project yet.

MS. KALEMKIARIAN: But when you do it will be a
segment of a larger project.

MR. THORNTON: But they -- but they -- believe
me, they will not depend on the revenues from the larger
unapproved project to decide whether to purchase the
bonds.

MS. KALEMKIARIAN: So it would be the revenues,
the utility, the approval of the -- this one segment
that will go into the raising of funds to build this one
segment?

MR. THORNTON: That plus the revenue from the
existing facilities.

MS. KALEMKIARIAN: Obviously. But not from the
stuff that's not built.

MR. THORNTON: There will be very few investors
that would expect revenue from future facilities that are not yet permitted.

MS. KALEMKIARIAN: If you come back to this board, which I fully expect will happen, frankly, in another couple of years and say, we're ready now to -- we want to do the next segment. We're going past Cow Camp. Now we're going to go towards the five or towards the position where we start to get into other kinds of environmental impacts and other kind of water quality concerns. You're prepared in the TCA -- I -- I don't mean you personally, of course. The TCA is prepared that we may say, wait a minute, now you're talking about something different. We're not talking about -- we're not talking about just this first portion.

MR. THORNTON: Of course whatever future project we decide to pursue, and to what ex -- whatever extent it has impacts on state water then we will obviously have to come before this board and address those issues with regard to that project. That's clear. This -- the permit that's before you is only with regard to 4/10ths of an acre for a five-mile road.

MS. KALEMKIARIAN: Which you would build if anything else happens.

MR. THORNTON: Correct.

MS. KALEMKIARIAN: Assuming you get the
MR. MORALES: Folks in the audience, if you have comments when somebody else is speaking, please keep them to yourself. It is disruptive.

AUDIENCE MEMBER: He didn't have respect.

MR. MORALES: Folks, with respect to the designated parties, I'll put it this way, the NGO's if they wanted to raise a procedural point of order and they choose to do so, I will show them the same amount of deference that I would to any other designated party that ask for a point of order.

But I'm just asking, as a matter of common courtesy, if somebody is speaking just please, you know, keep your opinions to yourself. When we get to the public participation portion I'm sure you will have the opportunity, hopefully, to voice your views at that point. Thank you.

MR. THORNTON: Go to baseline. I wanted to address testimony that you have heard with regard to baseline water quality monitoring suggesting that the WDR should not be issued until the baseline data is in place. Well, in fact, you already have baseline data, as your staff has noted in their responses to comments, there's a formal program that the state service water and the monitoring program, known as SWAMP, monitors all
of California surface waters.

Orange County has a very aggressive water quality monitoring program. Indeed there are over 50 water quality monitoring sights in San Juan Creek immediately downstream of this project. So there's extensive existing baseline data consistent with the baseline plan. I want to make a point here about the consistency of the MS4 permit. This project, because your staff has required -- your staff has required to us comply with the standards of the MS4 permit. Moreover, they have required us to comply with the standards in the Orange County water quality management plan, which no other state highway has been required to comply with. So it's fair to say that no state highway in the state has been required to comply with the water quality standards imposed by your staff or recommended by your staff in the tentative order that is before you. Now in response to board member Abarbnel's question about pollutants, what's in the pollutants, and what is the effectiveness of the treatment. I think that was the question. The pollutants of concern from highways, included heavy metals, total suspended solids, trash and total hydrocarbons, the TCA proposes to use and your tentative order would require, vegetated swales, Austin sand filters, which I don't think any other highway
project is using, and permeable overlay asphalt, which I think you saw a graphic of last time, to remove pollutants of concern, this, the studies indicate removes 90 percent of those pollutants. And this is before the water passes through the sand filters, which are also proven to be about 90 percent effective.

So, again, we're being asked to meet a standard that no other state, highway, Cal Trans, has not been asked to meet. No other large transportation project in the state has been asked to meet the standards that your staff is recommending and that we're willing to accept.

Next. Go back. In conclusion, as I have just said, the WDR conditions proposed by your staff are the most rigorous in any of the states and we respectfully request that you close the public hearing today and approve the WDR.

I did want to ask Dr. Bob to respond to one of the points that was made that the chair allowed us to respond with regard to the hydro-modification questions. Dr. Bob.

MR. MORALES: Before you go there -- there may be some questions.

MR. THORNTON: Where are we on time?

MR. STRAWN: You have about 16 minutes left, close to 17.
MR. THORNTON: Thank you.

MR. STRAWN: 16:45.

MR. MORALES: I do want the record to reflect that we have gone back and looked at the time we were keeping for the prior group of speakers from the Coalition and we are fairly convinced that you all had your 30 minutes and it wasn't just the 20. We have our timekeeping system and I think we followed the system and we use it the countdown timer so -- but, Mr. Thorn, before -- I guess Dr. Bob -- before Dr. Bob speaks if you could, one of the points that was raised by -- by Mr. White, he said that as, I guess, a public agency, I think what he was referring to was the CEQA section that says public agencies can make findings or have a responsibility to make findings and there may be a lack of distinction between lead agency and responsible agency. What is your take on that?

MR. THORNTON: I would refer Mr. Chairman you use CEQA guideline section 15042, which I think speaks directly to this point. And let me just read it because it can do a better job than I can do at trying to describe it. And it describes the distinction between lead agency and responsible agency. And so it says -- for example, first it says a lead agency has broader authority to disapprove a project than does a
responsible agency. Then it goes on to say, quote, for example, an air quality management district acting as a responsible agency would not have the authority to disapprove a project for water pollution effects that were unrelated to air quality aspects of the project regulated by the district, close quote.

So I think that answers the question directly. CEQA is extremely clear that the responsibility of the responsible agency is limited -- limited to your jurisdiction. And the facts before you today are that we -- you have a project that has very small impacts, very large mitigation, and is required to meet standards that no other highway project in the state has been required to meet. Dr. Bob.

MR. ANDERSON: Before you go, one last question. Wouldn't you agree given the importance of those resources that are downstream where the water goes out and the public use of those that it is good that you're meeting those.

MR. THORNTON: We think it's appropriate and that's why we are more than happy and willing to meet those standards and we're committed to meeting those standards. Thank you.

MR. STRAWN: Next we have Lesa Heebner.

MS. HEEBNER: Good afternoon, I'm Lesa Heebner,
Council Member of the City of Solana Beach. First, I must state that I am stunned that we are here again talking about the Toll Road. I attended the Coastal Commission hearings back in '08. I opposed the Toll Road then and I'm here to today to oppose it again in it's repackaged mini-road format.

At that time, the Toll Road was ultimately denied by the Coastal Commission as inconsistent with the Coastal Act, and subsequently rejected by the US Secretary of Commerce. And this is board also rejected the TCA's application for the full maxi footprint for the Foothill South Toll Road, but here we are again. And I understand that the reasons is how we got this far is because the lead agents TCA, can approve their own documents and proceed straight to the permit stage which is what bring us here today.

You, the water board, are the first independent review of this proposal. I believe the project segment before you, both violates CEQA and harm the beneficial uses of adjacent watersheds as well as nearby coastal resources.

First, it is common knowledge that CEQA does not allow a project to be piecemealed, but what is before you is a short five-mile segment of a piece of a larger project, obviously as this five-mile stretch does
go nowhere. Were you to approve this, not only would it be to approve a project that violates CEQA, giving a project momentum to be built in its entirety without it being reviewed in its entirety --

MR. STRAWN: Excuse me, could you go a little slower, the recorder is --

MS. HEEBNER: You know what, I will hand you my remarks, how's is that. Okay.

Were you to approve this, not only would it be to approve a project that violates CEQA giving a project momentum to be built in its entirety without being reviewed in its entirety, but built all the way down to San Onofre State Beach, a park located entirely within San Diego County. If the entire road is built, and obviously that is the intent, it will destroy one of Southern California's remaining stretches of coastal wild lands and will impair coastal access to the public. Both are resources that might constituents have made clear they want to see preserved.

Second, it is my understanding the San Juan Creek Watershed is already degraded. Would not approval of this five-mile stretch, which would pave the way to the entire 16-mile Toll Road project, previously rejected, violate your own policies, including HMP and MS4, written to ensure beneficial uses of waterways?
Finally, how will additional erosion within the San Juan Creek Watershed impact the coast where it meets the ocean? Another area of water quality board responsibility.

Given your mission to develop and enforce water quality measures and implement plans that will protect the area's water, I respectfully ask this board to reject adopting the tentative Water Discharge Requirements for the proposed Tesoro Extension. Please reject the WDR.

Additionally, I do have the remarks of Mayor Teresa Barth if you would like me to read them they're very short and I will go slowly. She was the Mayor of Encinitas who had to leave earlier.

MR. STRAWN: We did have a speaker card for her.

MR. ABARBNEL: Yes.

MR. STRAWN: Go ahead with that?

MR. ABARBNEL: Yes.

MR. STRAWN: By the way you're already a minute over so that only gives you a minute left for her.

MS. HEEBNER: She says that as an elected official who cares about natural resources, water quality and recreational opportunities in the greater San Diego region, I'm concerned that the construction of
this first section of road is simply an attempt to
circumvent the prior rejection by the Coastal
Commission, US Secretary of Commerce and CEQA, which
prohibits piecemealing of projects to avoid
environmental review.

If the entire road is eventually constructed it
would destroy a unique and special place. Many of my
constituents have told me that they have enjoyed
San Onofre State Beach, located entirely within
San Diego County, with family and friends for
generations.

As the population of California continues to
grow, the loss of one of the last remaining stretches of
coastal wild lands and valuable recreational resource
unacceptable.

I urge you to reject the WDR. Thank you for
your continued service to protecting California's
waterways.

MR. STRAWN: Donna, you're next. Donna Frye.
And then Sam Allevato from -- the mayor from San Juan
Capistrano will be next.

MS. FRYE: Thank you. I want to thank this
board for sitting so long. I feel your pain. I'm
feeling it right now. This difference is I can leave.
You can't.
I don't want to repeat the other speakers, but I do want to bring to your attention some of the things that I'm -- I'm wondering because I -- I ask a lot of questions and I wonder things. And you have to base your decision based today on who do you believe is giving you the most reliable and the most adequate information. And so you have a number of issues to weigh in that regard.

One of the things that I'm wondering is how can an agency such as the TCA stand before you and say that they are proud of their public noticing for their hearing on the environmental document when they called a special meeting so they could not have to comply with the 72-hour noticing provisions. They seem to be proud of the fact that they called a special meeting and made it very difficult if not impossible for members of the public to attend which is why this hearing is so important for us.

The other question is, is they're saying it's a project, but I was looking at some of their information related to this project and they say that the board only approved the conceptual design, the conceptual design. So they're coming before you saying they want you to make final decisions on a conceptual design and they say it's not the final decision of the project; they're
going to take a whole lot of other actions. In other words, they are saying in their own documentation they don't even know if it's a project.

I, as a former elected official, would certainly not want to take a final decision on waste discharge requirements and orders based on a concept. I would certainly want to make sure that it was a complete project and it had been identified, but if there is any question about which side seems to be most forthright, I was interested when I heard the TCA's comments related to their bond documents because Fitch recently rated some of the Foothill/Eastern transportation corridor revenue bonds. This was on June 14th, 2013.

They're not very good as far as their ratings. They are BBB minus and BB minus. Those are not -- they're stable. Let's put it this way. I have other names for them, but the reason I bring this to your attention, it's also interesting what agency tells one group of people and how they represent the project to another group of people. And so as I was looking at some of the reasons why their bond ratings are not particularly good, their Fitch talks about the ratings sensitivity.

And specifically the one that sort of drew my attention was this particular statement. It said, "A
decision to increase leverage to support the Foothill South protect without commensurate financial mitigants."
I take that to mean that TCA absolutely plans to go forward with this project, that they will go through this project in its entirety and that they are representing to other entities in order to get money, they are telling them that they will be building these projects.

I would suggest that at a minimum, somebody pull the preliminary official statements and at least take a look at them and see what they are representing to the bond markets in order to receive their bonds. And since everybody is quoting people, I thought I would quote a really great jazz musician, Ben Sidran to sum this all up. "It's brand-new music but it's the same old song."

If you don't have any questions, thank you for sitting for so long, but I'm not going to be joining you.

MR. ALLEVATO: Good afternoon. Good afternoon, Chairman Morales and board members. I'm Sam Allevato. I'm the Mayor Pro Tem for the City of San Juan Capistrano. I'm also director of the San Juan Capistrano Water District, which is a member agency of the San Juan -- San Juan basin authority. As well as
the director on the board of the Foothill/Eastern TCA.

My city is the one that has been disparaged, as nowhere
by the California attorney general when she says the
Teso Extension is the road to nowhere.

San Juan Capistrano has more than 35,000
residents and 14,000 dwelling units are planned directly
to the east of us across the street from our city limits
creating a future city the side of San Juan Capistrano.
We have attractions from a premier equestrian center to
the famous Mission of San Juan Capistrano, the
birthplace of Orange County. So we’re pretty far from
nowhere.

The reason I'm telling you about my great city
is that the Tesoro Extensions proposed terminus will be
just north of Ortega near San Juan Capistrano. This
route will serve as an independent utility to provide
traffic relief and regional mobility for my constituents
and the 30,000 plus new residents moving into the Rancho
Mission Viejo.

Our groundwater recovery plant produces five
million gallons a day of drinking water to our
residents. Our City Council which is responsible for
this water source has been -- has voted to support this
project because they're confident that TCA's run-off
management plan and the best management practices will
protect this resource.

This provides 100 percent of our drinking water in the winter, nearly 50 percent of our drinking water during the summer. Quite simply, as a stand-alone project, the Tesoro Extension complies with CEQA and all State laws and regulations. I encourage you to accept your staff's recommendation and approve the waste discharge permit for this five and a half mile route that is near my historic city, not the beach.

Thank you very much for giving me the opportunity to speak to you this evening -- this afternoon.

MR. STRAWN: Charles Puckett, Mayor Pro Tem of Tustin. He'll be followed by Diane -- Steve Lamont is next.

MR. PUCKETT: Good afternoon. Chairman Morales and members of the water board, I'm Chuck Puckett, Mayor Pro Tem of the City of Tustin.

My constituents use the 241 toll road frequently and as a result, it was very important to them that I made the trip to San Diego to emphasize the importance of this extension project. Today if one wishes to go to San Diego from Tustin, the only one route is the I-5 freeway. You're fortunate in San Diego that you have several east/west alternatives and
north/south alternatives. In north -- north San Diego County, you've got the 76, the 78 which goes east and west, you've got the 52, you've got the 8, you've got the 94 and the 54. You've also got I-15 north and the I-5. Those are very important in case of emergencies.

As we found out last week when a propane tanker overturned on the I-5 freeway in San Clemente, very critical that there's no escape route. The freeway was shut down for four hours, people were standing around on the freeway, nothing to do, no way to get out, and fortunately there were no medical emergencies but there certainly could have been. The only alternative they had was to sit and park and wait until the freeway was cleared.

Once the Tesoro extension is completed and built and Avenue La Pade is connected, folks will have another way to get in and out of the area, but we need your approval for the water quality permit. Please approve this permit so we can build this project and provide an alternative route to commuters through this region. Thank you.

MR. STRAWN: You have an elected official that kept to his time.

Next will be Lisa Bartlett and then Francine Hubbard.
MS. BARTLETT: Good afternoon, Chairman Morales and board members. My name is Lisa Bartlett, and I'm the Mayor Pro Tem of Dana Point and I also serve as chairwoman of the Foothill/Eastern Board of Directors and Transportation Corridor Agency.

Because I spoke in support of the TCA permit at your meeting in March, I understand that the comments today are limited to CEQA. A few important items that you should consider when it comes the CEQA, since we last spoke in March, our Foothill/Eastern TCA Board of Directors voted unanimously to approve the addendum to the CEQA document. The 5.5 mile Tesoro extension is an independent utility. It serves local and regional mobility needs as an important and critical stand-alone project.

In 1981 -- or since 1981, TCA, Cal Trans and County of Orange have prepared a certified three environment impact reports. After 32 years of study and analysis, it's time to move this project forward. Your staff has thoroughly reviewed the water quality aspects of this project that the water quality mitigation as well as the CEQA compliance is adequate and recommend approval. Please accept the recommendation of your staff and approve this project.

With regards to mitigation, TCA is proposing a
mitigation ratio of 20 to one, whereas the average project of this scope is about three to one. So we're going over and before what is necessary.

And with regard to the comment earlier with regard to the rating agencies, the three rating agencies of Fitch, Moody and Standard and Poor's have provided the Foothill Transportation Corridor Agency with an investment grade rating. And I just wanted to note that.

Thank you very much for your time and consideration today.

MR. LAMONT: Good afternoon, Chairman Morales and board members. My name is Steve Lamont and I'm a representative with Assemblywoman Diane Harkey. We represent the South Orange County cities Aliso Viejo, Coto de Caza, Dana Point, Ladera Ranch, Mission Viejo, Laguna Hills, Laguna Niguel, Rancho Santa Margarita, San Clemente and San Juan Capistrano.

As word of TCA's plan to build the Tesoro extension, I traveled around the community. Ms. Harkey had received a significant response from residents and businesses throughout our district. Residents and business owners alike are passionately in favor of this Tesoro extension. Our constituents have cited a variety of reasons why they support this road including safety,
traffic relief and mobility.

They have also praised TCA for their continued focus on the environmental -- on the environment and ensuring that the road will actually enhance water quality in the region. Our constituents conveyed unwavering confidence in the process that TCA has used to allow sufficient opportunity for public review and comment. They cited hundreds of public meetings and hearings that have been conducted over offer the last three decades.

Furthermore, constituents expressed concern and disappointment that this important infrastructure project could be delayed by a perceived need for a new EIR. The message from our districts have been clear. TCA has fully mitigated any water quality impact and the project fully complies with CEQA. On behalf of Assemblywoman Diane Harkey, I strongly encourage you to approve TCA WDR application. Thank you.

MS. HERBARG: Good morning, Chairman Morales and board members. My name is Francine Herbarg and I represent Kristina Shea, Irvine councilwoman. She could not be here today and asked me to read her comments into the record.

The 241 toll road was placed on the master plan of arterial highways in 1981. In the 32 years that have
passed, TCA Cal Trans and the County of Orange have
prepared, analyzed and certified no less than three
environment impact reports. The most recent certified
EIR was certified in 2006. It studied 38 alternatives
to extend 241 south of its current determinant at Oso
Parkway, including several alignments that stopped short
of connecting directly to the I-5 freeway. The fact
that in 2006 the Coastal Commission rejected one of
those 38 alternatives does not invalidate the other 37
alternatives that were also certified in the EIR.

The proposed Tesoro extension is the 5.5 mile
road that serves as an independent utility and will
relieve traffic and provide an alternative -- alternate
route from hundreds of thousands of commuters with
40,000 homes and five million square feet of commercial
space on construction in Mission Viejo. This is an
important and essential piece of the infrastructure
puzzle in south Orange County.

The addendum to the EIR that was unanimously
approved by the TCA board shows that water quality
impacts have been fully studied and fully mitigated.
I'm sure your staff will agree that the mitigation
measures from Austin sand filters, vegetative swales to
the flow filters and porous asphalt represents the gold
standard of water quality mitigation for roadway
The TCA board's approval of the CEQA document was appropriate and legal because this project clearly operates as an independent utility. You should not only approve this project because it is CEQA compliant and because it fully mitigates water quality impact, but because Orange County needs traffic relief alternative like the Tesoro extension will help provide.

Thank you very much.

MR. MORALES: Lucille Kring, a councilwoman from Anaheim.

MS. KRING: Chairman Morales and board members. My name is Lucille Kring and I'm a councilwoman from the City of Anaheim, the largest city in Orange County with a population close to 350,000 homeowners. We are the home to Disneyland, the Angels and the Ducks and over 20 million visitors each year that come from around the world to visit our great events. We would not be able to be such a hub of business and tourism if we had just one way in and one way out of the city.

The Tesoro extension is crucial for not only traffic relief, but as an emergency route and also for good movement throughout the region. This project has undergone three EIRs over the past 30 years, all three of which were certified. Our board approved an addendum
to the most recent CEQA document and we look forward to
your approval of the water discharge permit so we can
continue down the regulatory process toward the eventual
construction of the five and a half mile extension that
has been decades in the making.

And all the mayor and four council members
absolutely support this project. The 241 begins in
Anaheim at the north end of the 241, and when our
residents go to the 241 and they can't complete the
process down to Cow Camp, it's very difficult for them
to move over to the 5. We can only widen the 5 so much.
It costs billions of dollars to put one more lane and
then all of the homes and businesses that would have to
be taken. So the Tesoro extension is a means to an end
and we appreciate your support. Thank you.

MR. ABARANEL: May I ask you a question?

MS. KRING: Sure. I went too fast?

MR. ABARANEL: No. Everybody from Orange
County thinks this is a great idea. Can you give us
some reasons why you think this is a really bad idea?

MS. KRING: Oh, my goodness. Well, personally,
I don't think -- I'll give you -- all honesty, I live in
the flats of Anaheim. Anaheim is a very long city.
It's 20 -- it's 50 square miles. It's 23 miles long.
And we're a narrow city, so my side of the city, we go
down the 5. The east side of the city, they have the 241. And all honesty, I do not use the toll roads because I hardly ever leave Anaheim since I'm a councilwoman there and try to do all my shopping and business there.

And other people keep telling me that without the 241, it's very difficult to -- 241 has been a major relief for traffic. They love it. They get there. They have cell towers now. They get great cell service. So I really can't think of any reason why you should not support this. Its mobility, just heard about the tanker truck, the propane tanker truck that had a problem the other day and closed the freeway down for four hours.

On the news reports they kept saying well, you can go over the 52 -- I mean, the I-15. Well, it's a two lane, very old road to get there and you can't force that many cars and trucks in the 5 when they're stuck in traffic and force them to get to the 15. It just isn't time sensitive. So the only reason I can think of is -- the best way -- I can't think of any reason why you should not approve this.

Basically, they have done all the mitigation, the standard of water quality is gold standard, they have gone to much, much more level than anybody has requested. That's the way TCA does things. They do it
to the best that they can and always above what they're requested to do.

MR. ABARANEL: Thank you.

MR. STRAWN: Gary Felien, Oceanside City Council. And he'll be followed with Rhonda Riordan.

MR. FELIEN: Thank you very much for hearing my remarks. I just want to come down and say that I as a councilman, the majority of Oceanside City Council supports this project. It is on record for doing so because in the City of Oceanside, we have thousands of commuters who go up to jobs in Orange County every day and anything that helps relieve traffic on I-5 will be a huge help.

The commuters in our city, certainly I have family and relatives where I commute up to Ocean -- Orange County on a regular basis, and there's always a bottleneck going through San Clemente. So anything that helps relieve traffic there would be a help. And certainly I would like to ask this board to make sure that any decision you make is based on science and based on the law and not based on hysteria.

And I'm not an engineer. I'm not a lawyer.

But it seems to me this project has met every hurdle that has been asked of it in terms of water quality and what it needs to do to protect the environment. Whether
or not the five-mile extension makes sense as a business
decision of the corridor and basically that's their
call. And bond holders will decide whether they made a
good investment or not, but it does seem it's a
stand-alone project.

To me, I'm surprised that no one's discussed
the huge commuter flow that comes over Ortega Highway
into Orange County every day and having an alternative
to go north which this project will provide, will
provide more relief of I-5. So I urge you to support
your staff's recommendation which recognizes that this
project has met every environmental quality and CEQA
requirement that is required and that you vote yes.
Thank you very much.

MR. ABARANEL: Can I ask you a question?

MR. FELIEN: Yes.

MR. ABARANEL: If this were the project
proposed in 2006, would you support that?

MR. FELIEN: Well, is that a way of asking
would I support the whole project?

MR. ABARANEL: Yes, it is.

MR. FELIEN: Well, I certainly support the
whole project and always have, but the issue of whether
or not it's incremental and should be or shouldn't be.
That's a lawyer's decision and I'm certainly not
qualified to answer that question. But whether or not it's a stand-alone, you know, business decision and it meets the legal requirements seems to me that the rest the bait is for another day.

I certainly hope that project goes through and I would look forward to seeing that because I think certainly one thing that improves the environment is having roads that flow smoothly and aren't clogged with traffic. But I think an electric car that protects the environment needs an open freeway and anything that will help provide smoother flowing traffic protects the environment. And traffic congestion does not.

I certainly would be happy to compare air quality where freeways are flowing smoothly, air quality where there's congestion, and I think we all know what the answer to that would be. Thank you very much.

MS. RIORDAN: My name again, I'm Martha Riordan, Chairman Morales. And you know, it's a little cooler up here than it is back there. It's also a lot cooler in the library. You may want to think about going over there for little while. But thank you very much. I just want to thank you for letting us come and speak to you. This is the second time I was at the meeting in Costa Mesa in March.

And I just want to tell you that as Mayor of
Mission Viejo, I have to look at things from a very realistic perspective. I cannot -- I cannot think about what my personal preferences are. I have to look at things -- everything from a broader perspective. I got 95,000 residents and so that's why I'm here today. All right.

Our residents are strongly supportive of the 241 extension, the Tesoro extension. 71 percent. I just checked with our latest survey. 71 percent of the residents in Mission Viejo support the Tesoro extension and that's all we're going down to is Cow Camp Road. There is no other alignment, so we can't go any further than that at this point and I understand what the concerns are.

Not only will this project offer our residents -- my residents an alternative route north and south, but it will also bring additional customers to our businesses in Mission Viejo in case some people haven't -- don't remember we are economic recession. So you're purview here is clear today. Does this project fully mitigate any water quality impacts? And I think the answer is yes.

This project sets a new gold standard for water quality protection. It will have Austin sand filters. I have seen pictures of those. I don't know -- I
haven't seen them in -- in -- I can't touch them, and 
vegetative swales -- I know what a swale is -- to hold 
and treat the water close litter to control the rate of 
runoff flow and porous pavement. Now, that's an 
interesting concept and it's actually reality. That is 
designed to filter the rain water prior to runoff. 
These are all water quality issues. I wish all roads 
could be this environmentally sensitive. 

Your second question is does this project 
comply with CEQA. I had that asked of me the other day 
at our council meeting by one of council members. 

MR. STRAWN: Your time is up. 

MS. RIORDAN: I got two more sentences. The 
answer is yes. I serve on the TCA board and we approve 
the addendum to the CEQA document since the March 
regional board hearing in Costa Mesa. I encourage you, 
please, to listen to your staff which is recommending 
approval of this permit so we can continue to move 
forward in the planning process and thank you so much. 
Very much. 

MR. STRAWN: Mark Swain, council member from 
Yorba Linda. And you will be followed by Steven Lamont. 

MR. SWAIN: Good afternoon, Mr. Chairman, 
members of the board. My name is Mark Swain. I'm on my 
17th year as a member of the Yorba Linda council. I've
served four of those years as mayor. I'm also a --
Yorba Linda's representative to the transportation
corridor agency, Foothill/Eastern crew.

I strongly urge your approval of our permit to
build the extension five and a half miles further to Cow
Camp Road. It will serve to alleviate traffic in the
new development. Rancho Mission Viejo, it will give
people coming over Ortega Highway inland empire an
alternative route to central/north Orange County. We
will provide an alternate to I-5 north of that section
where traffic jams on I-5 and it has been mentioned
several times today, the propane truck accident of just
a week or so ago.

There are many, many people that flow both
north and south. It's imperative that we have a second
alternative route, at least as far as Cow Camp Road.
Thank you very much. Hope I was as brief as possible.

MR. STRAWN: Under a minute. Thank you. Steve
La Mont. He already spoke. How about Jeff Turner?

MR. TURNER: Good afternoon, Chairman Morales
and board members. My name is Jeff Turner and I
represent the associated general contractors as their
2013 president. I'm also a third generation Southern
California resident and out of San Diego. I'm here
today to -- to advocate for Tesoro Extension Project on
a number of bases.

Number one, the project is in compliance with CEQA regulations and it's in compliance with outreach requirements and the general requirements of moving forward on a project of this magnitude. The AGC would like to commend the TCA for its leadership in creating a model for environmental and water quality standards for a necessary and economically feasible California highway system, which is the Tesoro extension. On behalf AGC, we advocate for you to move forward with the approval of the project.

MR. MORALES: How many jobs are we talking about, ballpark?

MR. TURNER: Construction jobs or total impact jobs as a result of the economy?

MR. MORALES: Construction because you represent them.

MR. TURNER: Impact jobs is the directly outcome of the economy, thousands. Directly to the project and the correlation factor of how that spans out in the community and the adjacent businesses, they're affected by construction, not to mention the fall on economic benefits of smooth mobility in the thousands.

MR. ANDERSON: And I think the analysis that has 16,000 jobs, too many.
MR. MORALES: That would be the construction of the development and all of that --

MR. TURNER: Right.

MR. ANDERSON: Am I wrong on that?

MR. THORNTON: I don't have that figure. And go ahead.

FEMALE SPEAKER: Just briefly I'd like to answer your question. The Tesoro extension of 5.5 miles creates 2,400 jobs just for that extension, $17.7 million the State and local taxes, and $380 million the, economic output.

MR. MORALES: Is that yearly? Sorry. Is the State and local taxes, is that per year, the 17.4? Just curiosity. The jobs, when you said for the extension itself, that's just the folks that are actually building the extension; is that right?

FEMALE SPEAKER: Well, it encompasses all jobs. Construction jobs and non-construction jobs, which is great for California. You know, we still have a high unemployment rate as you know.

MR. STRAWN: Heather Baez? Heather Baez, going once, going twice. Next up will be a Martin Pane.

MS. BAEZ: Good afternoon, Chairman Morales and board members. My name is Heather Baez and I represent Senator Mark Wyland who represents the 38th district.
Our district includes South Orange County, Coto de Caza, Dana Point, and Ladera Ranch, Mission Viejo, Rancho.
And North San Diego County including Carlsbad and Encinitas, Escondido, San Marcos, Palm Beach and Vista.

My pleasure to be here today to speak in support of the Tesoro extension. I'm aware that there are several lawsuits that have been filed against TCA for everything from piecemealing the evaluation of the project to failing to prepare a new EIR.

TCA did not piecemeal the analysis of potential environmental impacts of future extensions of State Route 241. During the CEQA process, the certification of the 2006 final subsequent EIR, the TCA evaluated 38 alternatives for extending -- they brought 241 south of the Oso Parkway.

As for the claim that TCA failed to prepare a new EIR, the Tesoro extension is a modification of the project described in the 2006 final subsequent EIR. CEQA prohibits agencies from preparing a subsequent or supplemental to a previously certified EIR unless changes to the project or changed circumstances were will result in new significant environmental effects or an increase in the severity of the significant effect identified in the prior EIR.

On behalf of Senator Wyland and those of who
live and work in the 38th district, I urge you to
approve the TCAs waste discharge requirement application
and to enhance mobility through our region. Thank you.

MR. STRAWN: After Mr. Paine will be me Vermica
Requez.

MR. PAINE: Good afternoon, Chairman Morales,
board members. My name is Martin Paine. I'm the
district director for California State Senator Mimi
Walters. She represents the 37th district, coastal
region, the South Orange County. I would like to stand
here in support on behalf of Senator Walters of the
Tesoro extension.

The senator and I, as we all are now, are very
aware of the lawsuits that are coming about.
Unfortunately, these lawsuits are another delay for a
critically needed route for south Orange County. I am
one of the -- I think I'm the only representative from
the state side that previously represented the mountain
range communities during the big fire and am well aware
of the need of an expedient access route of fire prone
area.

These 14,000 homes that are on the list to be
built in the eastern region of Orange County. There are
families that are living in an urban interface area that
need to -- that may need to get out in an event of a
fire. And unfortunately, those routes are very limited right now and it is critically important that this extension get through there on a public safety basis alone.

The Tesoro -- Tesoro extension is a modification of the project -- in the 2006 final subsequent EIR, CEQA prohibits as has already been mentioned, the agencies from preparing subsequent or supplement to a previously certified EIR unless there are changes in the project or changed circumstances that result in significantly new environmental effects or an increase in severity of significant effects identified by the prior EIR.

On behalf of Senator Walters and the 940,000 rep -- citizens she represents in her district, we urge you to support the extension of the TCA WDR application and we very much appreciate your time this afternoon.

Thanks very much.

MS. YRIQUEZ: Chairman Morales and board members, good afternoon. It is just a pleasure to be here today in front of your board. My name is Veronica Yriguez and I'm here on behalf of Orange County Supervisor Pat Bates who represents the fifth district which encompasses all of South Orange County.

The supervisor is extremely proud of the
extensive transportation infrastructure improvements that have been built and planned in South Orange County under her watch, not only for the traffic congestion relief that they provide, but for the way they have addressed environmental mitigation as part of the planning and construction process.

The Tesoro extension is a critical component to traffic relief for South Orange County and she served on the board that approved the original CEQA document as well as the board that approved the addendum for the Tesoro extension because.

Because the Tesoro extension is an independent utility as you have heard today, it can be approved without identifying the location of any potential subsequent sediment. Whether the roadway is eventually extended and where that extension would take place is another argument for another day. Because the Tesoro extension provides the regional traffic relief as a stand-alone option and because the TCA board has approved the addendum to the CEQA document, it is now incumbent upon you to vote on the waste discharge permit to the merits of water quality mitigation of this project only.

On behalf of Orange County Supervisor Pat Bates, please approve this permit so the roadway...
infrastructure project can be built. And, again, thank you for your time.

MR. STRAWN: I understand I had missed Esther Sanchez, mayor of Oceanside, and I -- was it red card or a green card because I can't find it.

MS. SANCHEZ: I'm not sure. Somebody else --

MR. MORALES: It's right here.

MS. SANCHEZ: Okay. Thank you.

San Diego Regional Water Quality Control Board, my name is Esther Sanchez, and I'm a council member for the city of Oceanside. I rise to speak in opposition to this project. Our city was so concerned about the unacceptable environmental impacts and critical loss of recreational and coastal resources, that we took a position against this project when originally presented, an official position that exists today.

I incorporate that position by reference and happen to submit a copy of that action by e-mail within a few minutes if I can be provided with your e-mail address. Nothing has changed with respect to this project except that is now coming to you in an attempt to get approval on an illegal piecemeal basis. With no CEQA analysis of the plan intuitive impact that the final project will have.

This continues to be a self-certifying
development inducing project with significant unmitigable impact. There is no way that the developer can recreate the same or similar unique and precious water-based resource, including five significant native American culture and archeological sacred sites.

There are reasonable and superior alternatives to this. This project is simply meant to increase development opportunities and would therefore stimulate and create more and unacceptable traffic and transportation impacts and congestion than sought to address, which is inconsistent with State and regional smart growth policies.

Simply put, this is a regurgitation of the same project, but in an unlawful piecemeal manner. The developer admits that this is one segment of the original project and that it is the original project that they are pursuing. And it pretty boldly states that a lot of projects are built in segments. They may be built in segments but they are studied, reviewed and approved as an entire project, not piecemeal.

It is certainly alarming that most if not all toll roads have filed for bankruptcy protection, pushing the cost to our taxpayers. The first segment on its own has no independent use, yet it will have unequivocal environmental impact to the San Juan Creek watershed.
In 2005, the Army Corps of Engineers concluded that additional degradation such as this is project will cause failure of existing water and sewer lines and disappear of the watershed altogether.

As an elected official, the City of San Diego -- of the city -- of the city in San Diego County closest to the project who cares about our region's national resources and water quality, I am tremendously concerned that what is before you is a devious attempt to obtain an approval for a project that has already been turned down, a project that will destroy one of our region's few remaining coastal wild lands and public coastal recreational resources.

We in Oceanside are always thankful for Camp Pendleton, which serves as buffer and definite change from the horrible urban sprawl and bad planning of Orange County. Your mission and authority are to develop, implement and enforce water quality goals that protect our region's water resources which is the most precious resource we have in Southern California.

This entire project has already been rejected once by the California Coastal Commission and the Bush administration. I respectfully urge you to exercise your independent review and reject this plan for water discharge requirements to propose the Tesoro extension.
241 project. Thank you.

MS. WITTE: Mr. Chairman, can we take a short break so I can empty my recorder, please.

MR. MORALES: All right. Let's take a five-minute break. And what I am going to ask -- we'll -- we'll give you the lineup for when we come back, but during that break as I mentioned earlier, if there are any groups of you that want to sort of pool your position, please let us know because it's getting late. It's almost 5 o'clock.

MR. STRAWN: When we come back, it will be Brett Robertson, Penny Maynard.

(Recess.)

MR. MORALES: Would you please take your seats. First up will be Penny Maynard, followed by Brett Robertson.

MS. MAYNARD: Good afternoon, Chairman Morales, also board members. My name is Penny Maynard and I represent the San Clemente Chamber of Commerce. There seems to be misinformation circulating about CEQA compliance, so that's what I'll focus my comments. The Tesoro extension is an independent stand-alone project and this segment alone will reduce traffic congestion. TCA has gone above and beyond to follow alternatives in possible environment impacts and to
encourage public participation in every level. EIRs for the entire project were completed and evaluated 38 alternatives to extend 241 toll road south of Oso Parkway, including alignment that stopped short of I-5.

It is very common and an accepted practice for transportation projects to be evaluated and constructed in an independent utility segment. Over the last three decades, TCA has conducted hundreds of public meetings on the SR-241 extension. TCA has participated in multiple meetings with the environmental groups. Other State and local agencies have also conducted public hearings.

Clearly there has been sufficient opportunity for public review and comment. TCA approved the addendum regarding the Tesoro extension in a meeting noticed in accordance with California open meeting laws. The addendum was made available to the public well before the regional board hearing and before the TCA -- TCA board's approval of the addendum. I urge you to approve TCA's waste discharge requirement application and I thank you very much.

MR. ANDERSON: While speakers are coming up. Just real quickly, the employment number that I had came from a chart that described the employment that was going to be generated by the 14,000 homes, not the toll
road extension. Sorry about that.

MR. ROBERTSON: Good afternoon. My name is Brett Robertson and thank you for listening. Chairman Morales and fellow board members, I'm here representing Mayor Anthony Beall from the City of Rancho Santa Margarita. I have been asked to record a letter into the record, so I have a copy for the clerk as well.

"Dear Chairman Morales, I have the pleasure of serving as both the mayor of Rancho Santa Margarita and director on the Foothill/Eastern TCA board. As mayor, my key priorities include ensuring a high quality of life, continued economic growth and the overall vitality of the community. The Tesoro extension is crucial to the mobility of our 50,000 residents and the economic growth of our local business community.

"The Rancho Santa Margarita City Council has repeatedly and unanimously supported the extension of the 241. In my role as director, I approve the addendum that clearly demonstrates the Tesoro extension will not have any new significant impacts and will in fact reduce the impact of the preferred alternative evaluated and the final subsequent EIR between Oso Parkway and Cow Camp Road.

"The Tesoro extension changes the prior diamond interchange at Cow Camp Road to a simpler T-intersection
configuration and includes shift to minimize impact to surface waters and to avoid an existing reservoir used for Rancho Mission Viejo ranch operations. The Tesoro extension avoids impacts to the Corporation of Engineers' jurisdictional wetlands and limits permanent impacts to waters of the state to four-tenths of an acre.

"I also want to clarify any misunderstanding related to the claim of piecemeal evaluation of the extension of the 241. The TCA did not piecemeal the analysis of the potential environment impact of the future extensions of the 241. During the CEQA process leading the certification of the 2006 final subsequent EIR, the TCA evaluated 38 alternatives for extending the 241 south of Oso Parkway.

"The alternatives included multiple alternatives for extending the 241 one to the I-5 alignments that stopped short of the I-5, such as the Tesoro extension and alternatives such as improvement to the I-5 and surface streets.

"Thus, the environmental impacts of both short and full-length extension of the 241 have been evaluated and disclosed to the public as required by CEQA. The Foothill/Eastern TCA is going above and beyond to ensure that this roadway is built to the highest environmental
standards while providing the needed regional mobility and traffic relief that is required for residents and businesses throughout Southern California.

"On behalf of the 50,000 residents of Rancho Santa Margarita, I urge you to support the TCA's waste discharge requirement application and to allow the Tesoro extension to move forward. The Tesoro extension is crucial to the economic growth and improve mobility throughout the south Orange County.

"Sincerely, Anthony Beall."

MR. STRAWN: Mark Bodenhamer. Next will be a Sean Acuna.

MR. BODENHAMER: Good afternoon, Mr. Chairman and board members. We've been asked to speak for the majority of the people who are here today speaking on behalf of the toll road. In the interest of everyone's time, we realize a lot of people are repeating the same things and so we would like to consolidate it and then ask people to stand up and join us in supporting it and others who want to speak, obviously that's up to you.

MR. MORALES: Much appreciated.

MR. BODENHAMER: Absolutely. My name is Mark Bodenhamer. I'm here representing the San Juan Capistrano Chamber of Commerce where I served as CEO. I want to point out that earlier a speaker asked you to
decide which side is being more forthright today. I would ask you to do opposite, actually. I don't think that that's something that you guys can fairly determine.

And I think the most appropriate course of action is to just take the facts to consider this project as the independent project that it is, the Tesoro extension. That's all we're here to talk about today and I would hope that you guys will give it a fair and thoughtful consideration that it deserves because it's an important project. It's critical to our local economy and it's a good project. It's compliant with CEQA. TCA has gone above and beyond in their mitigation efforts.

This project won't just benefit our community. Orange County is the fifth largest county in the country. With a population of over three million, we are larger than 20 US states. The existing traffic infrastructure was built to serve far fewer people than are there now. I-5 and regional highways that don't quite connect to each other simply cannot and do not adequately serve the needs of residents and businesses.

Some proponents have great concerns about whether TCA followed CEQA guidelines and allowed sufficient opportunity for public review. I can tell
you in my role, I've been involved in many public meetings and hearings that were conducted to inform and engage the surrounding communities. There have been plenty of opportunities for the public to learn about this project, ask questions and raise those concerns. Now is the time for action.

On behalf of the Chamber of Commerce of San Juan Capistrano and the 300 local businesses we represent, I respectfully urge you to support the TCA's waste discharge requirement application and get the Tesoro extension on the road to completion. Thank you.

MS. BUCKNUM: Hi. I'm Wendy Bucknum, and I have spoke before, so I will focus on different talking points than I have before out of consideration and your request.

I am a resident of Mission Viejo, so I actually am protected by the lack of the finishing of this little section, and the finishing of this portion will actually impact Mission Viejo as our mayor Julie stated.

So I am also speaking on behalf of the South Orange County Economic Coalition this afternoon. And the Coalition was formed to study and support when appropriate infrastructure projects that will enhance economic growth and the quality of life in the region. So we look at both things. Our board of directors which
is made up of many of the top business leaders in
Southern California encourages your support for the TCA
close discharge requirement permit application.

While the benefits of the Tesoro extension are
extensive, I would like to focus my comments
specifically on the CEQA compliance portion of it. The
opposition claims that since the 5.5 mile extension is
shorter than the extension approved by the TCA in 2006,
that the TCA required to prepare a supplement to the
2006 final subsequent EIR. We heard that quite a bit
today. This is completely false. Since the Tesoro
extension is a modification of the project described in
the 2006 final subsequent EIR, CEQA prohibits the
agencies from preparing a subsequent or a supplemental
to a previously-certified EIR unless changes to the
project or changed circumstances will result in
significant new environmental effects.

A quote is also saying that TCA can approve --
approve an extension of SR 241 without first approving a
route for connecting SR 241 with the I-5. The truth is
that it's not all that unusual for a transportation
agency to complete a CEQA analysis for a segment of a
larger project while continuing to study of the location
of subsequent segments.

Two of the many recent examples include the
California High Speed Rail Project and the Exposition Quarter Light Rail Project in Los Angeles. On behalf of the South Orange County Economic Coalition as well as people that I would ask at this point to please rise and -- that are in support of this, the staff's recommendation.

We encourage you to approve the TCA waste discharge requirement application and I thank you so much for your time. Thank you.

MR. MORALES: I do appreciate that, but I would ask, if any of you that just stood up didn't like sign the sheet outside that stated you were in favor or didn't fill out a form, please find some way for us to have the record reflect your position. Thank you.

MR. ACUNA: Good afternoon, board members. My name is Sean Acuna and I am representing the United Coalition to protect Panhe. As one of the founding members of the organization, the United Coalition of -- to Protect Panhe, the grassroots alliance of the Acjachemen people dedicated to the protection of our sacred rite Panhe.

We are here to voice our strong opposition to the project before you today. Please refer to our written comments submitted Friday, July -- June 7th, 2013 for more detailed information on our position. In
summary, you see UCPP urges the board to deny this project on the following grounds:

The proposed five-mile extension will impact five cultural archaeological sites and potentially impact sites listed on the sacred lands inventory maintained by the California Native American Heritage Commission. This proposal forward -- put forward by the TCA is just an attempt to bypass State and federal agency's decision and public opinion.

The five-mile extension is literally -- I'm going to scratch that.

The Regional Water Quality Control Board must examine the cumulative environmental and cultural impact of the whole road and not merely the five-mile segment proposed here. The TCA has not provided sufficient notice of the project proposal to tribes with ancestral territories within the project boundaries, traditional cultural practitioners and representatives from local tribal communities and organizations. State and federal law requires lead agencies to consult in good faith with any active Americans in this instance. Good faith consultation includes adequate notice.

State and federal policies and procedures regarding Native American sacred places and cultural resources have substantially changed since the 2006
Environmental Impact Report that the TCA relies on for this project. The addendum does not address these changes. TCA as a lead agency must comply with the these changes in policy and procedure before moving forward.

Panhe, which is located in State parks, is 9,000-year-old Acjachemen Village, sacred place and burial grounds. It is one of the few remaining Acjachemen sacred sites where our community can gather and for ceremonial and culture practices. The proposed toll road would destroy our sacred site. The project must be denied. Every one of the cities supporting this project have talked about the end result, the end result being that it links up to the 5 south of this project. That's what they're talking about. We're talking about our indigent impact in this area. We ask you to deny it. Thank you.

MR. MORALES: There have been references been made a couple of times today to the Native American sites.

MR. ACUNA: There are archaeological sites. There are along -- in that area where it was referenced, and I'm going to refer to you, board member Henry, where we're talking about in A-1, where they were talking about the wheel -- the creek along that area and they're
located along that creek. And all those areas where there was creek, or there was a river that ran through the ocean, there were sites of Acjachemen. Acjachemen would go from -- from Camp Pendleton, continue north to Newport Beach, inland to Santiago Canyon. These were all cultural resource areas for us.

MR. MORALES: Are the sites listed on --

MR. ACUNA: They are listed. They are listed.

MR. MORALES: -- in the registry?

And I guess the last question, how often are cultural -- I guess ceremonies held at Acjachemen?

MR. ACUNA: Panhe.

MR. MORALES: Panhe. Sorry.

MR. ACUNA: Since 2000 and -- since 2001, not as much because much of the site is off limits to us at this point. We're working with -- with the Department of Navy on getting access to our ceremonial site, but it is registered with them, this is an area of practice. We do still gather there as a ceremonial site off site and we register that with the State and Federal governments.

MR. MORALES: Thank you. Acjachemen, how do you spell that?


MR. MORALES: Thank you.
MR. ACUNA: I'd also like to add that I'm also an honorary member of the Hawaiian Surf Club of San Onofre who directly opposes this.

MR. STRAWN: I had a couple more cards from the Chamber of Commerce folks. Were you included in that last group or do you want me to call you up separately, Mr. Cave and Leah Hemsey.

MR. MORALES: Let's do it this way. For those of you that filled out green cards that weren't part of the group that stood up or that still want to speak, can you just let us know how many there might be, just so we know with a show of hands.

Green card, so one, two, three, four. Okay.

MS. HEMSEY: And I'm Leah Hemsey from the San Diego Chamber of Commerce and I won't repeat the points made by others here today, but I just want to state for the record that on behalf of our 3,000 member businesses, we urge you to adopt the staff recommendation of the revised tentative order so construction can move forward on this vital addition on the regional transportation system. Thank you.

MR. ABARANEL: Can I ask you a question? You support the extension in 241 all the way to I-5?

MS. HEMSEY: We do.

MR. STRAWN: Thank you for being brief. Drew
Murphy. He was designated some additional time from a Howard Pippin, who I guess has left now.

MR. MURPHY: I'll be brief, try to be brief.

My name is Drew Murphy and I have taken the oath. And thank you, Chairman Morales, regional board, for this opportunity to speak.

I represent Trout Unlimited, the oldest, largest trout and salmon conservation organization in America with 10,000 members in the state, 700 in Orange County, and I serve as the chairman the state council as well as a board member in Orange County.

As a citizen, I'm a small business owner in Mission Viejo. Apparently I'm a minority of about 30 percent that doesn't agree with the mayor, but I have lived there 29 years so I got a pretty good handle. I fished, swam, hiked and camped in South Orange County. I came here in South Orange County to get a job as a citizen, raised my family there, so I got a real big vested interest.

To use testimony is always a little different than the Coalition. We support the Coalition as we have since 2009. We speak, as you know, for the fish. And one of the rarest forms of life and the only trout native to Southern California streams, and through our projects and the chapter we spent over $2 million of
public money. This is on Trabuco Creek primarily, to
reconnect the lower sections to the upper sections.

People can't believe it. They say well, there's no fish. Well, yes. There are. There's a
slightly -- just like the migratory forms like the swallows that come back every single year. We see them
every single year, and that's why I'm here today.

A few points that maybe weren't addressed is that, you know, we're here about the fish but we're also here about the watershed. And our staff, our program works, we try to protect, reconnect, restore and sustain. That means in the upper areas, especially public lands, you want to protect that from distraction industries, from development, from hydro and just make sure that everything is in place before it's built.

And that's where we're looking at the watershed from San Juan, top to bottom. Not just a segment. You have to look at it from top to bottom. All the way from head waters in the mountains. It's 20 miles long to the ocean out at Doheny. You can say the same thing for San Mateo because if it goes to San Mateo, we talked about San Mateo in 2005 and we're talking about San Juan in 2009. All these little trips up high, they're important.

They're important for water quality, they're
important for the sediment because we all live
downstream; right? Everything flows downstream. So
when it hits down in this project area, whatever happens
in that project area is also going to be flowing
downstream. So water quality, number one, is -- I mean,
CEQA has been talked about to death, but the water
quality, there's very little baseline data actually on
San Juan.

They set all these different sites, we got this
and this and that. And we did the first water quality
assessment in 2006, and that was the first baseline data
that Fish and Game ever had on that creek. So there's
not a whole lot of data. I've shared some tips -- some
information with Ray Armstrong, the Orange County Coast
Keeper. He said we're really starving for data on that.
So I'm not sure how much data they really have and --
in support of that. But this whole area is just natural
capital. We don't want to squander it.

We got some of the beautiful beaches -- some of
most beautiful beaches in the world, oldest, ancestral,
everything and we just, you know, from top to bottom, we
just have very, very precious open space. We urge you
not to pass this permit at this time. Thanks for your

MR. STRAWN: Next up would be Jim Moriarty from
Surfrider. There's 24 cards from Surfrider, so if you guys can figure out a way to maybe --

MR. MORIAERT: I'm smart enough that I don't speak for every one of them. I would like to thank you for your time and patience today. I would also like to offer a special heartfelt thanks to all of the people that are not paid today to come out.

I'm Jim Moriarty, the CEO of Surfrider Foundation. As you can see from the hundreds of people in this room and the overflow areas, this is a personal issue. It's a personal issue to many of us. I go by this issue twice -- this area twice a day and as much as I can, I stop and I surf this area. This is an odd meeting. I think we're living in parallel universes.

I go back to something that someone much smarter than me said. When we were talking about Trestles, they said what country in the world has the highest, most stringent environment standards. One could argue it's the United States. What state within that country has the most stringent environmental standards. One could argue California. What designation within that state, within that country has the highest environmental standards. One would think it's a state park.

And so that's what is so strange about this.
We're here again and again talking about state parks. That seems strange. It should make us all pause. Why are we here talking about letting a private sea-based road through a state park? Wouldn't we allow the same thing in Yosemite? Would we put a toll bridge from one rim to the other in the Grand Canyon? Of course we wouldn't.

The road is a horrible idea. It's insulting to the very foundation of democracy. National parks and state parks are one of America's ideas and we are sitting here and we are about to throw that out. Splitting this road into pieces is a lie. And when we were kids, when we told a lie, it was a lie. If I told a lie to my mom in pieces, it was still a lie. This is a lie.

And the jobs angle is insulting as well. In the United States, it's a herring. The number one tourist -- the number one draw in California is its beaches. Second, tourism is one of the fastest-growing industry in the economy. And third, 41 percent of the United States -- United States gross domestic product is generated from coastal community. All of those stats, I got two weeks ago from Senator Stan Farr of California. This is the golden goose. So I understand --

MR. STRAWN: Your time is up. If you have
somebody to donate, thank you. We will need a name on those.

MR. MORIARTY: Roderick Michener, Craig Cadwallader --

MR. SKELTON: Don Skelton, he can have my time, too.

MR. MORIARTY: That's all the time I need. I have three sentences left.

I understand the pressures you're under. Still, skill we are talking about our collective legacy. What will you be remembered for? What will I be remembered for? What will our kids look up to us and be proud about? So I urge you to deny this discharge permit. I urge you to keep what's special about California special. Don't pave it. Leave it as it is. It's already a gem. We already have paradise. Why change that?

MR. STRAWN: Next up would be Alan Walti and Joe McCarthy. Jim Moriarty just spoke, and Joey McCarthy gave him some time.

MALE SPEAKER: No, I gave him time.

MR. MORALES: Joe, you're up then.

MR. WALTI: Alan Walti, and I've been a surfer for 55 years. First surfed San Onofre in 1958, probably before most of you guys were born. Anyhow, regardless
of that, you have all seen a lot of things happen over
time, a lot of things like Killer Dana. We now have
Dana Point Harbor. We got Limine, a prime surf spot
there. We got Limine, a family diner up by Ventura
about putting a freeway over that.

And this whole idea of the 241 extension in
pieces, sooner or later, maybe not today, maybe not five
years, ten years from now somebody is going to be in
here talking to you guys about going down to the beach
and eliminating San Juan and San Mateo Creek with
supplies, the sand to the beaches which makes these
breaks pristine.

Lower Trestles was rated one of the top ten
surf spots in the world. If this continues on like
you're talking now, you're going to eliminate one of the
ten top spots in the world. Because you're going to
eliminate the sands that fills in the rocks that makes
it a perfect break. So I think it's a real travesty,
and I hope you vote no on the extension. Thank you.

MR. STRAWN: Did we get Joe, or did we -- Joe
McCarthy? Kristen Brenner and next one will be Graham
Hamilton.

MS. BRENNER: My name is Kristen Brenner and I
live in Solana Beach. I'm here to voice my opposition
to the Tesoro Extension Project. Extension -- the PCS
plan to construct a toll road through the Trestles that we're speaking of. The plan is to construct the same toll road that was rejected in 2008.

THE REPORTER: Hold on. Start over.

MS. BRENNER: A plan to construct the same toll road was rejected in 2008 by both the Coastal Commission and the Bush Administration and there's no reason that a road should be built at this point. In the interest of time, I will skip through that. I urge the regional board to deny the WDC Tesoro Extension Project. Please respect the 2008 decision and the will of the people by not allowing the first section of this road to be completed. Thank you.

MR. STRAWN: Graham will be followed by a Lindsay Churrea.

MR. HAMILTON: Thank you very much for your time and your patience today. My name is Graham Hamilton. I'm the chairman of the West Los Angeles Malibu chapter of the Surfrider Foundation, and I'm sure you know how we all feel about this.

For centuries, people have been moving to California for the treasure of our lands and coastal resources, and I see a lot of people out here today with T-shirts that say "Good roads equal good jobs, equal good economies." But what I'm wondering -- I'm
wondering is how many quote, unquote good roads and good
jobs is it going to take before we pave over all of the
resources that have been the lifeblood of myriad
California economies from tourism to agriculture.

As it's been stated before, the traffic
problems in Southern Orange County are complex, and they
require sophisticated 21st Century solutions. I was
speaking with someone earlier who was in favor of this
extension and she said she is tired of hearing everybody
say no, but not offering any alternatives.

You guys are the Transportation Corridor
Agency. Transportation and alternative, build rail.
Please deny this permit.

MR. STRAWN: After Lindsay will be Sybil and
I'm going to skip that last name.

MS. CHURREA: Hello. My name is Lindsay
Churrea. Thank you for taking the time to hear us. I'm
an educator and a lover of clean water, and I'm here
from Los Angeles today because this is an important
issue. I thought I was here to talk to you about water
quality, but most people seem to be talking to you about
how you should manage traffic and I'm just going to
stick to my original plan.

If we are interested in approving projects that
mitigate damage and protect our areas' water and water
quality, I think we should be looking ahead to projects that not only mitigate impact, but that also consider how we're going to eliminate and reduce carbon emissions which we know will ultimately impact our water quality. If the TCA is coming to you today with their report, it's like my students coming to me with a report that's incomplete and was an outline prepared for a completely different subject altogether. And if they brought that report to me, I would come back to them and say go back and do the actual work and come back to me when -- when I know that you deserve a grade on this project.

And so if your interest, which your mission statement says, is to protect your local water areas and water quality for this generation and for the generations that follow, I believe -- I strongly urge you to not approve this permit. I believe it's a step in the opposite direction of protecting our water quality. Thank you.

MR. STRAWN: Cybil -- Cybil Oechsle, something like that. Any Cybil? Patti Meade and then you will be followed by Scott Fish.

MADDY: My name is actually Maddy. Patti had to get on a bus but she left a statement for you. I'd like to read it on her behalf and then leave it with
your court reporter if that's okay.

MR. MORALES: You can read the statement but we
are --

MADDY: Oh, okay. So this is -- this is from
Patti Meade. "To the residents of San Clemente. My
name is Patti Meade. All this talk of propane tanker,
it would not have helped because it was where the 5 and
241 would have already been combined. The reason Orange
County is for the toll road, which most residents
according to Patti are not for this toll road; it's
mainly the TCA -- is because the council people that
come before you are also on the board of the TCA and
have a conflict of interest.

"I live by one of the most polluted beaches in
the state." She lives in Posh, I believe? Thank you.
"I don't surf there or Doheny because of the polluted
water from the San Juan Creek which kept coming up
earlier today. I have been made very sick by poor water
quality, strep throat to bronchitis to pneumonia, which
they didn't discover until something" -- I'm sorry. I
can't read her handwriting and something related to
sinuses and related to her surfing activity.

"Trestles is not just a surfing place. It's an
escape from urban congestion. There are not" -- sorry
-- "there are wild oaks and deer and marshes and
wildlife. It is world famous and when I travel to 
Australia, when asked where I'm from, I say Trestles, 
and they all knew where that was. It's one of the few 
surf spots with clean water left. I raised my kids to 
respect nature and they have jobs as an environmental 
scientist and a geologist.

"Their jobs are cleaning up the environment.
This toll road is one big mistake." And she asked that 
you not permit TCA's request.

MR. STRAWN: Scott Fish, and you will be 
followed by Andrew Fish. I don't suspect you two could 
get together?

MR. A. FISH: I'm going to speak on behalf of 
the Fish brothers. My name is Andrew Fish. I would 
like to thank you all for taking the time to listen to 
us all. My name is Andrew. I drove down here with a 
group of well-educated working professionals. We woke 
up at 5:00 in the morning. We met at my house. We all 
took vacation days to be here, and we surfed, we woke up 
at 5:00, left L.A., surfed Trestles and continued here 
salty and hungry.

And I also work in the solar industry, and so 
when I look around and see good jobs and good economy, 
solar is one of the fastest-growing industries in the 
nation. And it's one of the fastest-growing industries
here in California. This is the leading nation for solar technology, so if we want good jobs, let's create good opportunities for these jobs in training them collectively.

With that, I would just like to applaud the extra hoops that the TCA is being put through with regard to this project. I would hope that all future projects, big or small, be analyzed in the same way that they are today. And that's the way we will have a much safer in terms of traffic and safety, if there's accidents and water quality for myself and for my future children, which I hope to have one day. So Thank you.

MR. ANDERSON: Was the surf good?

MR. A. FISH: The surf was actually fantastic. We got kicked by the grounds because they're having a contest of theirs, so we had to get out and go up to Upper instead.

MR. STRAWN: I have got to follow the Fish brothers with Mark West. Followed by a Jake Wyrick and a Mark Renchler.

FEMALE SPEAKER: Mark had to leave.

MR. WEST: I'm right here. I'm Mark West. I know you guys are busy today, that this is a long time coming so I'll make this quick.

Ladies and gentlemen, gentlemen of the public,
my name is Mark West. I am a retired naval officer, Surfrider activist, and resident of Imperial Beach. I appreciate the opportunity to speak before you on behalf of the San Diego Surfrider chapter. When I say "volunteers," we have volunteers. We have people who come out here and just like you, took time off of work, took time away from our families to come and talk about something that's very true to us.

We encourage people to get involved in these projects like these because we believe in the promise of Democratic process. The project which you are discussing today is one that received taxpayer money possibly, and public input needs to be respected in that process. We have endured working relationships with many people throughout the staff of the cities and counties.

We want to make sure that our coastline with the multitude of the issues associated with the iconic resources that is Trestles. Sorry. I ran up here, so I'm a little bit out of wind.

Make no doubt that surfing is an important component of this resource as anything else. Recently I returned from the global wave conference being held in Rosarita Beach, California North Bay. This conference attracted people from all over the world to discuss
items of threat, waves around the world.

One very interesting topic was what we called surfenomics. A new topic, you probably never even heard of it, but it's really a growing area of study relating to the economic impact that surfing has on our community and waves. The studies being conducted worldwide found that surfing is the biggest economic impact on the local economies. This -- this project that's one that's proposed has potential to destroy one of our classic Southern California waves. It's probably the best wave.

Our recent Surfrider surfenomics study found that Trestles direct economic impact on the City of San Clemente is anywhere from 8 to $13 million a year. That's direct economic impact from surfing. The economic value of surfing at Trestles is estimated at $26 million a year. These are huge numbers that surfing brings to San Clemente.

Jobs. Those are jobs. They're happening right now. If you like more information, I feel -- please, visit the Surfrider surfenomics web page. I'll wrap this by saying, you know, people, this has been an iconic place. The Beach Boys and Richard Nixon got together about this place. That's what they think about it.

The spot's been listed by surfing A list. Guys
like Robert August, Dewey Webber, Phil Edwards, Mike Doyle and Mickey Doral have all talked about it. This place is special. Please, please don't go down the slippery slope that this project is. Deny the permit. Keep Trestles safe. Thank you.

MR. WYRICK: Good afternoon, ladies and gentlemen. This is awesome. My name is Jake Wyrick, and I'm a law student at Duke University working Surfrider Foundation's legal department in the summer. I would like to offer you some brief comments about the purposes of CEQA and the revised tentative order currently under consideration.

Forty-three years ago, with crude oil still in the center of our channels and our thoughts, California demanded a dramatic new approach, the way we interact with our environment dedicated to the proposition that our government should not make decisions that impair our environmental treasures based only on optimism is unfounded assurances.

So our legislature enacted CEQA, which requires public agencies to collect and consider all relevant information giving prime consideration to preventing environmental damage before undertaking a project that may significantly affect our environment. An agency subverts the purposes of CEQA if it omits for
consideration material necessary to inform
decision-making and inform public participation.

Now, you are being asked to approve an order
informed only by a seven-year-old FS EIR that omits
necessary material and an addendum that blocked public
participation. Let there be no mistake. Improving this
order would subvert the purpose of CEQA. The FS EIR
cannot possibly allow the informed decision-making
required by CEQA because it omits crucial information
about the environmental consequences of this project.

According to the California Coastal Commission,
TCA did not follow standard protocols in preparing this
FS EIR. For example, TCA omitted from this FS EIR
analyses alternative from its 2004 draft EIR that the
federal highway associations concluded would provide the
same benefits as this toll road. TCA did not prepare
this FS EIR or addendum in the spirit of CEQA to inform
their decision.

This decision was made long before a word was
written. This revised tentative order relies entirely
on exactly the kind of post hoc rationalization that
CEQA prohibits, so I ask you as key members of this
board, does this FS EIR and the addendum really provide
you with all the material you need to make this
important decision.
I will leave you with this question which lies at the heart of CEQA and advice my parents gave me: You will never regret giving big decisions a bit more thought, but you will always regret not thinking them through enough. This is a big decision.

MR. STRAWN: Mark Renchler.

FEMALE SPEAKER: He left.

MR. STRAWN: He left? Okay. Julia Chen-Herr and then followed by Travis Newhouse and then Michael Lindsay.

MS. CHEN-HERR: Good afternoon, members of the board. Julia Chen-Herr. I'm a campaign coordinator for Surfrider San Diego. Appreciate your time today.

Question before you this afternoon is whether to issue a discharge permit for the very first segment of this road. The very language that they're using implies that it's part of a bigger project. Unless they're willing to sign off on some legally binding document suggesting that they will no longer extend the road or go further than this initial project, I don't think you even have a choice in front of you today because a full project, there was an alignment in 2008 that was rejected. They have had other previous alignments that they've thought of in the time since then.
Now they have a first segment. Obviously, the intention is to make a new alignment. And without analyzing the cumulative impact from the entire project, it's impossible to move forward from this point. The example they used with the rail project throughout California, yes, that project is analyzed and will be built in segments, but not without acknowledging all of the impacts to the entire project which is what we believe is legally necessary for this project today.

You have been made well aware of our concerns about the piecemealing, and the TCA doesn't exactly have the best track record with complying with the BMPs for managing water quality and storm water. We saw that with the 73. They really struggled to get these working properly.

This first segment of road is leading into one of the last undeveloped watersheds in California. You've heard me speak to you about the hydromodification and the MS4 permit. I would encourage you to stick with that watershed approach. That watershed includes a State park, also a campground at San Mateo that I grew up camping at and enjoying the open doors with my family and I hope future generations will be able to enjoy that as well. Thank you for your time.

MR. STRAWN: Do we have Travis?
MR. NEWHOUSE: Hi. I'm Travis Newhouse. Thank you for hearing my comments. I live in Encinitas and I grow up in Irvine. As a teenager, my friend's dad taught me how to surf at San Onofre State Beach. Every Saturday I would look forward to surfing with my friend and his dad and enjoying the natural beauty of the area. I have kids of my own now, and I hope when they're older, I will be able to take them and their friends to enjoy the unspoiled of San Onofre State Beach.

Today I urge you to deny the Tesoro permit. This extension will impact the San Juan Creek watershed that contributes to making San Onofre a special place. The proposed mitigation for two sites does not mitigate the impacts to an entire downstream watershed. Not only will this project itself have negative impact, but it will it continue to promote sprawling development that creates the traffic problem that it itself tries to solve and will adversely impact water quality in San Juan Creek watershed and the sediment flow. Thank you.

MR. STRAWN: Michael Lindsay and then Ginger Osborne and Tom Osborne and then Jack Eidt.

MR. LINDSAY: My name is Michael Lindsay. I live in Laguna Beach and the issues that I wanted to raise have been talked about a number of times here, so I will keep this brief.
I am deeply concerned about the CEQA compliance aspects of this. It would appear to me based on the testimony that I've heard today, the conversations that what we're looking at really is a 16-mile project, the entire project. And that it should be addressed in that way to take this as a segment and look at the water quality of just one piece of it. When we know that the rest of it is coming, that seems to me to be not in compliance with CEQA, and that I ask that you deny this -- this application until these issues are addressed. Thank you.

MR. STRAWN: Ginger.

THE AUDIENCE: Tom and Ginger both left.


MR. EIDT: Yes.

MR. STRAWN: And Craig Cadwallader, I know you donated your time, but we didn't really use it. If you want to speak, you can.

MR. EIDT: I had time donated by Carrie Stromboughtnie and Amy Jackson. So Jack Eidt and I I'm representing the Orange County Friends of Harbor, Beaches and Parks. I also am an urban planner with Wild Heritage Planners and do work out of San Juan Capistrano.

Real quick, I just -- because it's been said
before, I -- but I thought that Stephanie from Surfrider, her comments were not respected and finished properly. The point is, how can you approve a waste discharge permit without the baseline studies in place? It's -- it's -- as with just trust us, the BMPs will be in place, well, as was said Laguna Canyon is an example where trust was given and I don't think it came through. So I think that's a real important issue.

Another thing on the bigger picture of alternatives. I've done a number of alternatives with people in my group for -- for this very project and for Rancho Mission Viejo. When they approved what was a problematic EIR for Rancho Mission Viejo that covered the whole thing that they are now building in segments, they said that they did not need the toll road to build it. So now today, they're saying they absolutely need this toll road. It's imperative to build, particularly this five-mile stretch.

I would say this segment could be achieved by building a simple arterial heading south from the existing toll road if that's all they want to build. And -- and so the question remains, is this really an alternative for the I-5? The circuitous route heading north and then south to come back to the employment centers in Orange County are in Irvine, Santa Ana, these
areas, not Yorba Linda.

So what -- what we Wild Heritage Planners has said is they need to directly connect this development with the -- with the existing facilities they're heading north towards the 73, you know, we called it a beltway. These alternatives, there's a lot of talk about people getting together and meeting with TCA. We met with TCA numerous times and they ignored us. They said thank you very much, but we're going to build this. So if they're not looking at alternatives that solve the traffic problems and will become a real alternative to I-5 which also needs to be widened without a doubt and it can be done within the right of way. These are very important and necessary transportation improvements to be done first before building through the back country.

You know, piecemealing this EIR and this development short-changes the alternatives analysis which I'm referring to. And the needs of the community, we have comprehensive impacts to land, air and water. So Friends of Harbors, Beaches and Parks has been very connected to the movement towards the sustainable communities Climate Protection Act. That's SB-375.

We need sustainable alternatives, and we only have so much pollution to put out there. Carbon pollution, we got a major climate problem. The Global
Warming Solutions Act as well. We need to be smarter about everything that we do, so I -- and I know that you guys aren't -- aren't the -- the -- you're here standing in line for -- for this issue which isn't water, but unfortunately, you have been placed in this position. So I hope that you will reject this project and send them back to do a supplemental EIR and we will look into these alternatives, because I say there's a smarter way to build this stuff. So thank you very much.

MR. STRAWN: Excuse me. Could you tell me the names of the -- that donated their time to you.

MR. STRAWN: Amy Jackson and Carrie Stromboughtnie.

MR. MORALES: I want to reiterate. If any of you can lump your time together and choose one speaker, please do so because we still got approximately 35 speaker cards and folks, I think your positions for the most part have been registered. We want you to talk to the extent possible about modifications to the order of CEQA. Because at some point, there may be diminishing returns here because we still are going to have to do a fair amount of deliberation. Staff is going to have more time. I know counsel for the NGO's wanted to get in, you know, two, maybe three minutes prior to 6 o'clock because they have to catch a flight. That's
not happening, given the number of pink cards we have
got before us. So seriously, talk among yourselves,
please sir.

MR. CADWALLADER: Good evening. My name is
Craig Cadwallader. I'm the chair of the Surfrider
Foundation South Bay chapter, and I'll try to edit my
comments to get as short as possible. I understand
everybody is pressed for time. I too am pressed for
time. I spent a good deal of Monday, all day Tuesday in
the L.A. City Council meetings to try to ensure we get a
single use.

I followed that by meeting in Hermosa Beach on
the stop Hermosa Beach Oil, followed that by a meeting
in Manhattan Beach at the City Council meeting and then
came here. I'm here all day today. We got events
happening tomorrow. I'm an independent businessman and
I lose money by being here, but this is very important
to me. I love the ocean waves and beaches and it's one
of the reasons I'm as active as I am with the Surfrider
Foundation because that's Surfrider's mission.

These projects have a very serious potential to
impact our oceans, waves and beaches and I don't know
how you can do a permit without all the information. I
heard several comments today about information coming
later on. How can you do a permit unless you have a
final plan with all the documentation. The
hydromodification plan is the same as March, but you
don't have the documentation.

I urge you to not approve this permit and to
get full documentation to do the right thing. Thank
you.

MR. STRAWN: Okay. Patricia Marks.

MS. KALEMKIARIAN: I just want to make a
comment for the public. I don't know if you realize, we
don't want get paid either. I'm an independent
businesswoman. Mr. Morales is. There are folks here
who we all volunteer our time for the sake of water
quality. So when we say please consolidate your
comments, it's also because we're here an entire day as
really volunteers in the public service, and I don't
know that everybody realizes that.

MR. STRAWN: Patricia and then you'll be
followed by Catherine Stiefel and a Roger Kube.

DR. MARKS: Sara Real is donating this time to
me, and I'm not going to use all of it. I want to thank
Chairman Morales and the board for the opportunity to
speak. I'm hoping that I can clarify a few things about
the archaeological sites. I'm Dr. Patricia Marks. I'm
a Professor Emeritus at California State University Los
Angeles where I teach anthropology and archaeology, and
I'm president of the California Cultural Resources
Preservation Alliance.

And you have heard that there are five sites, archaeological sites within the area of potential effect of this five-mile segment of the project and that these sites are important to the Native American community. Some of the sites -- all of the sites are recorded at the information center at Cal State Fullerton. Locations of the sites are confidential and so you won't see a lot of maps showing where the sites are located.

On a need-to-know basis for development, they can be -- the location can be noted. The reason you're not hearing a lot about these sites is because probably the TCA is going to say that they don't meet State or federal requirements for significance. And if they do, we can mitigate them by scientific excavation to retrieve a sample, an archaeological sample of data. Usually it's like one percent of the entire site and then it's blown away.

This does not meet any mitigation for any Native American religious and culture sites. This is a traditional cultural property area with traditional landscape, and it's very important to this community. And even more important is the sacred sites that's located in San Mateo campground near San Onofre State.
Beach, and this site has -- it's 9,000 years old, has burials. And the plan was for the toll road to go over this site, put pillars in and put it over.

And I ask you, would you like to put a toll road over one of your cemeteries? This -- you know, this is just a really hurtful thing for these people. So obviously, this thinking of the mitigation for scientific -- and I'm a scientist and I appreciate the data and the information that can be learned from these sites, but I also appreciate that here are people that have lost everything, their culture, their lands and the dissemination of these people. To them, these sites have real important meaning to them. That's all that's left of their roots.

And these -- all these mitigations for these sites is avoidance and preservation. So I ask you not to approve this permit because it will result in the destruction of five more sites. And they have lost hundreds due to modern development and these toll roads.

Thank you.

MR. STRAWN: I guess we don't have a Catherine Stifel. Roger Kube? Jason Fetters.

MR. KUBE: I'm going to keep this real brief. My name is Roger Kube. I'm chair of the Surfrider Foundation, San Diego County chapter. On behalf of
approximately 2500 San Diego County members and about
13,000 documented San Diego County supporters of our
organization, I just want to let you guys know we're
opposed to this project.

Surfrider's mission is the protection and
enjoyment of our oceans, waves and beaches through a
powerful activous network. And in alignment with our
mission, the significant concerns about the impact this
project will have on water quality and the San Juan
Creek and the surrounding watershed.

Along with my fellow Surfrider activists, I
stood before you a few months ago and gave comment at
the MS-4 hearing. I want to applaud you with your
unanimous decision to approve that permit. That
demonstrates your commitment to clean water and our
watersheds. I respectfully implore you to do the right
thing again here today and deny the TCA waste discharge
permit. Thank you.

MR. STRAWN: Joseph Fetters. Shannon Quirk,
and then a Scott Thomas.

MS. QUIRK: Hi. My name is Shannon Quirk.
Thank you for taking the time to listen to everyone
speak. On behalf of the Surf Channel's Television
Network and all of our viewers, since I'm the editor in
chief, I've had to read many letters and comments and
see the traffic that has been just outstanding because
of this Tesoro extension.

I have never seen the entire industry unite on
anything so powerfully, and I also hope that you can
think about every person that has ever surfed at
Trestles. And please protect it. Thank you.

MR. STRAWN: Gary Scott Thomas and Alex
Mintzer. And a Sharon Koch, Michael Takayama. Any of
those folks here? How about if we change notes -- there
were a couple of green cards that we held out. How
about you take a turn here? Give me your name and I'll
find you in the pile.

MR. SANDZIMIER: My name is Rick Sandzimier,
and I had some prepared statements, but having listened
to all the testimony today, I'm going to change gears
just a little bit and try and focus on some things that
I think we're losing sight of.

Good afternoon, Chairman Morales and honorable
board members. My name is Rick Sandzimier. I'm a
resident of the City of Mission Viejo for the past 20
years, a resident of Orange County for the past 32
years. Incidentally, the 32 years is the same year I
moved to Orange County from San Diego County is when
this road was put on the plans. So it's been in the
works for a long time.
I'm a professional planner with more than 28 years of experience in the community development transportation planning -- strategic planning and I've served as the planning transportation commissioner and I know what it's like to hear testimony like you're hearing today. I currently serve as a board member involved in workforce investment, creation of jobs, economic development and public safety non-profit.

I come here tonight before you because we're already at night now, with all due respect, to ask you to approve the project that is before you. And this is where I'm changing gears. I had some prepared testimony, but I just want to put in context some of the things that I know as you as an urban planner for 28 years. And I want to focus on the independent utility of the facility and the request before you today is the 5.5 mile segment.

It has standing as a former resident of San Diego County and a resident of Orange County, I've got family that lives in Temecula. I travel out to Riverside County and San Diego County for business. I know that this road has independent utility because it proves access to the 74. I have been involved in major investment studies in Orange County. Looking at the board between Riverside County, San Diego County and
L.A. County and I can tell you that there's a challenge on all fronts. It's no different than what you experienced down in San Diego where the 78 and the 15 intersect, and the improvements that were so recently done on the 15.

I travel those all the time. I've got family that comes out and takes alternative routes on the Ortega Highway, the 76 or the 78 to come visit me and vice versa. This project provides a benefit to them. There is a real development going on in San Juan Capistrano. 40,000 homes approved the 5.5 mile segment that independent utility provides benefit to that development.

It removes the traffic off the 5 Freeway, improves traffic flow and congestion relief for the people that are traveling on the 5. It also provides better access to those people who want to get to Riverside County, whether they want to go down the 74 or they want to travel down the 241 out to the 91 or the 15 or wherever else they want to go in the Inland Empire.

In 1993, I worked for a community that had the experience the Laguna Beach fires. I'll try to wrap up real quick. This is an important one. But for public safety standpoint, the independent utility of this facility in Laguna Beach and Irvine, when they were on
fire, there was limited access to the Canyon Road and some small roads, and it was a nightmare to try to evacuate people.

This road provides better opportunity to get people in and out of this new community -- existing community. I'll stop at that if you want to ask me some questions. I can go into a whole lot of -- but with all due respect, I'm asking for you to approve this project.

Orange County is investing its sustainability development. Billions of dollars are going to transit improvement. I have the pleasure to work on those. I can talk to you about that. We are looking at a multi-mode improvement strategy. This is just one piece if that puzzle. Thank you very much.

MR. STRAWN: Don Skelton, Paul Hernandez and a Patricia Colburn in that order.

MR. SKELTON: My name is Don Skelton. I live in Oceanside, California. I'm a surfer, and I'm here because I'm concerned about the fact that I think this is -- this is really going to be a 16-mile project. And I think it was kind of deceptive the way they segmented this application.

We have had so many bad situations with traffic polluting our oceans, people getting sick, I myself have had a fungus from being out in the ocean and I think a
lot has to do with the runoff. And the other thing that I think needs to be done on this particular issue is that because it has been changed to a five-mile portion of the road, that I really think the original CEQA document needs to be supplemented and resubmitted and therefore I would ask that you deny this application. Thank you.

MR. STRAWN: Paul Hernandez. Patricia Colburn. Ivan Ascary. And should be followed by Dan Jacobson, it looks like, and then a Chad Nelson.

MS. COLBURN: Good afternoon. I would like to thank all those who have opposed this freeway expansion through the decades of however long it's been proposed and whatever forms it's been proposed for their tenacity, for their perseverance to protect a national treasure.

I'm a big fan of surfers. When I was younger, they played a big part in my world view and their influence continues in how I live my life today, and I'm also a big fan of Marines. When it comes to rough men and women who stand ready to use violence on our behalf, I sleep like a baby.

My hope today is this board demonstrates leadership similar to that which denied the quail brush plant for being an unnecessary taxpayer burden. Will
you protect the comments? Will you preserve a natural
wonder, or will you take a page from the Duke Cunningham
School of Civic Duty.

This is about credibility and a councilwoman
earlier today touched on this and coincidentally, we
were probably reading the same materials because it did
sound familiar. But I want to tie it back because she
is gone and her rebuttal is gone, and I kind of want to
tie it together before we leave today. This is about
credibility. And this should be the easiest no vote of
your tenure today or on the board.

Last week the L.A. Times reported that rating
agencies give TCA the lowest investment grade rating
while $206 million of TCA notes are rated speculative or
junk. Maybe in 2008 the mainstream public didn't know
what a speculative bond is, but I can assure you we all
know what a speculative bond is in 2013. We have been
paying a heavy price in careers and loss of homes.

My understanding from Patti earlier today,
though, I spoke about TCA is already renigged on a -- on
a highway in Laguna. So they have a history of market
failure. Furthermore, according to the L.A. Times
article, ridership on California toll roads and highway
expansion have never reached predictions, so we build
them and no one comes. Thank you.
MR. JACOBSON: Good evening, Mr. Chairman and honorable members of the board. My name is Dan Jacobson. I'm from Tustin in central Orange County. I'm a retired member of the Board of Directors of the Richard and Donald O'Neil Land Conservancy and I was a close friend of Richard O'Neil, the patriarch of Rancho Mission Viejo.

I rise here today to speak against the requested permit. Any analogy to the high-speed rail, I think has to be rejected for a couple of reasons. One, that's going through multiple districts. This subproject is going through just your district. And two, that was planned to be built in segments. This was planned to be built all as one, a little over 16-mile route. And then it was rejected and now it's being built in segments.

So I think that the analogies simply do not work. And I think you don't have before you today the project. You have a subproject before you. And CEQA requires that you pass on the project, so I would encourage you to reject the permit until you have the project before you.

And I leave with a quote from Richard O'Neil in a letter he wrote to the Coastal Commission on January 31st, 2008. He said, "I built self-sustaining
communities that have greatly enhanced the future.
Building for the future is the right thing to do.
Building to destroy the future is the wrong thing to
do." Building the 241 extension is the wrong thing to
do. Thank you.

MR. STRAWN: Again, I may have butchered this
name, but Mahgum Asgarian.

FEMALE SPEAKER: He went.

MR. STRAWN: Chad Nelson.

FEMALE SPEAKER: He had to leave.

MR. STRAWN: Eva Lydick and then Andy Quinano.
Izzy Anderson. Going through them fast now. There's a
Kira Monahan. Devon Howard. Okay. So after Devon,
there's a Fred Mertz, if he is here. I didn't make that
up. And a Gisla Cosner.

MR. HOWARD: There's not much more I can say.
I feel that I'm opposed to it. I help run a $38 million
dollar business here, 20 years. I just have a quick
question and I guess if I can, when I think of toll
roads and think about what was done with Laguna was this
selling this idea of helping traffic and really what it
did was it opened up a tremendous amount of development
which impacts water quality.

So I'm wondering if this thing goes through all
a way, do we look a little bit forward and think about
the development that comes as a result of because a lot of the permitting for that development, it can't happen if the infrastructure's not there. Yes, there are some in the works, but they stop there. Once this things goes all the way through and we all know that this is a pig with lipstick. It is going to go through eventually if passed.

Do we think that far ahead about the water quality issues that are caused by the future development that will be based off of this and keep in mind there's water quality issues and we are in a water crisis. Lack of water. So those are the things that concern me and that's why I'm opposed, and I was just wondering, maybe a yes or no, are you allowed to look that far forward on future water quality issues based off the tremendous development, based around that road? Is that a yes or no?

MR. MORALES: I think we said we'll all base our decisions on the record before us.

MR. HOWARD: I thought I would try. Thank you. Appreciate it.

MR. STRAWN: One more time. Fred Mertz. Gisla Cosner. Steve Williams. He'll be followed by Marty Beson. And then Bond, just Bond.

MR. WILLIAMS: Thank you. Thank everybody for
the recitations. I know it's a long, long session here. I'm Steve Williams. I'm a conservation biologist and also an executive committee member of Surfrider West L.A. Malibu. Came down with a bunch of folks.

As I came down in 2008, when I got this cool shirt and I'm wearing here again and I'll wear it again and again until this thing is put to rest. So anyway, I believe the currently proposed upper watershed segment of the project is piecemealing of the entire 16-mile project, which is to be considered as such and is a violation of CEQA.

I also think that the baseline water quality studies one to two years minimum needs to be precluded from any portion of the project rather than be conducted concurrently with the project. These studies should target predicted impacts such as brake dust, petroleum products, et cetera, associated with highway runoff as well as sedimentation rates from increased impermeability -- impermeable surfaces of highways.

In my 15 years of monitoring water quality and sensitive species in coastal Southern California streams, my experience is this: Where you have roads along the creek corridor, you have trash, water quality degradation can introduce invasive species. For example, where I work in the Santa Monica Mountains,
Louisiana crayfish have been introduced along Malibu and Topanga Creek Highways in the creek there and are devastating the populations of native amphibians as their eggs are a delicacy for crayfish. That's one example of many.

Also, while doing biannual creek cleanups with volunteers along these creek corridors and along these roads, we removed thousands of pounds of auto-ejected trash and roadside dumping sites. I often wonder what the creek would be like --

MR. STRAWN: Your time.

MR. WILLIAMS: I'm sorry. Well, just like to wrap up to say -- okay. Please deny the TCA permit.

Thank you very much.

MR. BENSON: My name is Marty Benson. Thanks for your patience in letting me speak. I want to start with the elephant in the room or at least it appears to me and speak to the independent utility issue.

Roads create traffic. Anyone with a cursory understanding of the history of automotive transportation can see that when you build a road, it gets congested. So this road segment only has utility for the TCA, not the overall mobility of the community. It's going to create congestion.

And second of all, I actually attend all of the
TCA meetings and most of their financial committee meetings, and their failed experiment. They were supposed to monetize roads by incurring debt and then pay off the debt with the tolls from the road by 2040. No scenario that they can currently articulate allows them to do that.

They have the impunity and monopolistic advantage of a public entity and that avarice greed and salesmanship of a private corporation. To allow them to spend another dollar of revenue on PR, attorneys and lobbying is a fraud on the people of California. I really hope that you will deny this permit. Thank you.

MR. STRAWN: No, that's all they wrote down. Ryan Wiggins. Then a Mark Babski and an Israel Adina.

MR. WIGGINS: Good evening. I'm Ryan Wiggins. I'm the climate change director for an organization called Transforming California. I'd just like to say that this project is really a 20th Century band-aid for a problem that really requires a 21st Century solution.

A lot has changed since 2008. We now have a state climate change law, AB 32 which is in effect, and we also have complimentary piece of legislation which is called SB 375. SB 375 is our state's recognition that we must reduce urban sprawl and we also must provide alternatives to traditional automobile traffic in order
to combat climate change.

This project here is really a 20th Century planning relic. We need to go do -- move forward is to actually invest in public transportation, biking and walking corridors, such as trains. These are the type of solutions we really need to look forward to. We have a saying in the transportation planning community which says that fighting congestion by adding a highway capacity is like fighting obesity by losing your thumb.

What that really means is if you build or expand a freeway, yes, yes you will release some congestion. But give it a couple of years, give it four or five years. Empirical studies actually show that you will get induced traffic from induced development and you'll be back to square one.

And in terms of water quality, what will this get us? This will get us more parking lots, this will get us more roads, this will get us a lot more sprawl, which is going to get us more urban runoff. And that will directly impact this region, and then they will come back to you and they will say, we need this next section to move forward. And they will -- they will show the study about the traffic that was induced from this, and they will make the same case again.

And we can go ahead and decide whether to go
ahead and build a new segment or we can say at this point, no. We need to look at real alternatives, we'll create real solutions to this problem. Thank you.

MR. STRAWN: Mark Abski or Israel Adina. Scott Harrison. Dan Sulberg.

MR. HARRISON: Thank you for staying late tonight. I'm a volunteer as well and through that process, I've become involuntary --

MR. STRAWN: Your name, sir?

MR. HARRISON: Scott Harrison.

MR. STRAWN: You took the oath?

MR. HARRISON: I will give my opinion whether it's good or not. I signed the sheet, but I didn't have -- do we have to tell the truth here? Well, I appreciate your staying late and hopefully, make this briefer than it already has been usurped on from that part right there.

But three points that I would like to cover. They have been covered today already. One of the major arguments for the road is the jobs. The jobs will be temporary. The roads will be permanent and the damage to the environment will be permanent, so when the jobs are long gone, the road will still be here and causing the problems that we're here to try to figure out if the road will actually cause these problems.
Number two, what brings us sort of unsavory
pall over the proceedings today are the fact -- and you
have seen it here in San Diego -- is toll roads. That
the toll roads eventually, they're bankrupt. Esther
talked about this a little bit. All the monies being
made up front; therefore, I can see the enthusiasm by a
group like TCA, well, let's build a toll road; big money
grab.

They -- the local toll roads have actually gone
down because the use has gone down. The toll roads in
the other parts of the state went bankrupt and had to be
taken over by municipalities to recover those costs to
the taxpayer, so we all pay for those types of things.

Marty talked about an elephant. I'm more the
800-pound gorilla that's here to talk about the clean
water. You have all heard the saying, all stuff flows
downhill and mitigation, filtration, CEQA, NEPA, swales,
whales, all that stuff, when you come to a significant
reign event, the stuff is going to continue to flow
downhill anyway. And just about everything that we
value here today, we're talking about is downhill from
this road.

Please deny the permit and thanks for staying
late again tonight.

MR. STRAWN: There are about five more here.
This one, I just can't make -- actually, I'll go down the person that signed the oath is Eleanor Robbins. There might be a Norris Robbins or something. No? And just calling everybody once. If I called your name and -- Valerie Johnson, followed by a something Richmond.

MS. JOHNSON: Hi. I'm Valerie Johnson. I'll keep it short because I know everybody wants to get home. Thanks for your patience.

I listened to many of the comments in the other room from the elected officials. I couldn't help but feel that the claim that is only about a short segment that Tesoro extension is at best disingenuous, and I couldn't help but be struck by how many who were representing City Council were also part of the TCA board. It doesn't seem to me that these folks could possibly be unbiased about this.

It sounded really good on paper. The thing about safety and more access and weighs out in case of an emergency. Who wouldn't be in favor of that? The problem is that every place toll roads have been built, development has followed. And as many as the forms the speakers have said is more detail, the sprawl, the development follows and then so does the traffic. It's at best a Band-aid.

I also want to say that it makes me feel a bit
strange to be here speaking on the opposite side from so many representatives of unions that I see here, since I'm a proud union member myself. But I think that this jobs versus conservation dichotomy that has been set up is a very false one. We need to have the jobs, but they should be jobs that are sustainable and contribute to a better environment. Taxpayer money should not be spent on something that is going to degrade our environment. Instead it should be spent on increasing solar energy and perhaps some of the people, you know, the taxpayer money could be much better spent helping to much more quickly truck out the toxic awful that was left behind by San Onofre nuclear generating station. Thank you.

MR. STRAWN: Charles Richmond and then John Holder and a Larry Smith, and then we have T.M. Johnson. And was there any other green cards that didn't -- actually, why don't you come up next.

DR. LOCKREED: My name's Dr. Bill Lockreed. I'm currently retired, but I spent 45 years in the aerospace industry as an engineer and 25 of those as a program manager, relatively large programs. And I'm just amazed. I got prepared notes, but as I heard for this last hour some of the bizarre comments. Number one, taxpayer dollars being used for this. There's no taxpayer dollars being used. Number
two, just going through a state park. It's not going
through a state park. Number three, it's going to be 16
and a half miles long. It's not. It's 5.5 miles long.
What you got in front of you, the CEQA which your staff
reviewed, which you -- you're supposed to vote on only
the CEQA.

What we've got here, you got a gold standard on
how a highway will be built. It's got this porous
pavement which is very high tech. It's got a very
sophisticated filtration system. They have done -- the
rest of California will look at this as the best highway
in the State of California. So forget all this other
stuff you're hearing, because most of it is just
hyperbole.

The important thing is 5.5 miles, the CEQA
study was approved after extensive study by your own
staff. Go ahead and approve this thing and let's move
on and get on with this thing and approve what your
staff is recommending. Thank you.

MR. STRAWN: T.M. Johnson.

MR. JOHNSON: Sir, once again, I want to thank
you for your time and your committed efforts to see one
way or the other the truth of the matter and for your
diligence in giving a good report on it.

I've sat in the back from the beginning since
this morning and I've listened to both sides and I'm for it. I've seen growth. And I'm from San Diego and I know what it did when 805 went over the 8. When nobody had to drive 163 to go north. And so with that is going to come production. There's going to come jobs. There's going to be more schools. We have a state that everybody wants to live in. We have kids who want to own their own homes one day. We have to put them somewhere.

So we have to do something to make that available for them. I want to know how many people in this room do not drive a car. If we're going to get down to the brass tacks of it all, it's about traveling. The best direct approach to a situation is forge straight through. This is a hurdle we can get over it or we can let it stop us. But we've got to do one thing or the other. Stop production or make room for others.

I've seen road rage. I know what it's looks like. I've been in L.A. where the traffic was stopped for longer than a half hour to go five miles. So if this helps a community grow and it gives them the time they need to get to where they're going without leaving a half hour earlier, we need to help them.

If it's about the environment, we waste more gas sitting still than we do traveling. That's going to
help everyone in the long run. I'm tell you what. I wouldn't want to go five miles to the grocery store over a dirt road to get there and get back on bicycle. Just telling you, man.

MR. MORALES: Okay. Those are all the public comment cards that we got.

MR. SMITH: You called me and you didn't let -- give me the opportunity to speak. I was walking up, so...

MR. STRAWN: Your name?

MR. SMITH: My name's Larry Smith. I presently reside at Provonda, which most folks know as Long Beach in Signal Hill area, and I'm obviously here to ask you to deny the permit. I've been indigenous for over ten years, and I probably spend about 99 percent of my time reporting on the genocide or forms of genocide perpetuated against indigenous peoples and their respective first nations.

And one document that this board may or may not be familiar with that does apply, is the United Nations declaration under the rights of indigenous people and was passed by the nation's general assembly on September 13th, 2007. And I want to refer to two articles. Article 8, Section 1 specifically states that "Indigenous people, individuals have the right not to be
subject subjected to forced assimilation or the
destruction of their culture."

Article 11, Section 1 specifically states,
"Indigenous people have the right to practice in and
realize their culture, traditions and customs. This
includes the right to maintain, protect and develop the
past, present and future manifestations if their
cultures such as archaeological and historical sites,
artifacts, designs, ceremonies, technologies and visual
and performing arts and literature."

Now, there are 20 more articles that equally
apply in this situation, and I wanted to ask that all of
you in this room, staff, the board here, members of the
TCA community members, not be complicit in committing an
act of genocide by allowing this part of the toll road
to destroy a portion of what's remaining of the nation.
If you destroy the nation, you destroy the culture,
that's called genocide. So I'm asking you to deny the
permit. Thank you.

MR. MORALES: Okay. That's it for the public
comments. I think we have been going for a while and
our court reporter probably needs to rest her fingers.
Yeah, I know that NGO's might.

Okay. I'm going to give you guys two or three
minutes max. I'm going to add it to your time if you
wish to add that because we do believe that you used
your 30 minutes.

MR. WHITE: I have no objection to that. Thank
you. And I appreciate your patience. I will try to
make it brief. I want to bring it back. We heard a lot
of testimony today -- bring it back to the issues that
you're faced with today, the issues that pertain to your
jurisdiction and what your options are today.

But first I want to respond to a couple of
misconceptions that have been floated out there, a
couple of important ones anyway. The first is with
respect to the SAM. We heard that because the TCA has
looked at the SAM and tried to comply with the SAM, that
we shouldn't be complaining about the HMP and having to
do additional HMP conflicts with the timing of that.

The SAM is a planning level document. It's not
a project level document. It's not intended to be a
project level document. I think you heard from one of
authors of the SAM, PWA last time that this was not
intended to govern project level decisions. It's
exactly what the county HMP requirements are designed to
do. That's why your staff is recommending that those be
complied with. What we're saying is until that analysis
is done, you should not be hearing this application.

So this one, we think is a no-brainer. You
should just -- you should deny this application, require
they do the analysis before taking any further action.
To get back to the larger issue, the issue of what is
the project and whether the project has independent
utility.

I think the biggest misconception that we have
so far tonight is that this 5.5 segment of toll road is
needed to serve the Rancho Mission Viejo development.
The Rancho Mission Viejo development was approved by
Orange County. It has its own transportation plan. The
county itself determined that the toll road was not
necessary, was not a necessary part of the
transportation plan for that project. The
transportation will be adequately served for those
14,000 units if and when they're ever built by that
transportation plan as part of the project.

It includes an arterial called F Street which
as TCA itself has noted, is -- would serve generally the
same purpose as the toll road. It's a multi-mobile full
access road that people can drive on, they can walk on,
they can ride their bike on, they can access it from
side streets unlike the toll road.

It is a complete fallacy that the toll road is
needed at all to serve Rancho Mission Viejo. That is a
critical point that you have to understand. So back to
what are your options or what are your obligations at this point. I think I've already mentioned that you're required by CEQA to make findings before you approve the project with respect to the significant impact. This is something that you're not -- there is no definite of the TCA on these findings. They have to be independent findings.

I should -- CEQA provides -- TCA is wanting to use the 2006 EIR for this project. There is a process under the CEQA regulations for using an EIR from another project for a separate different project. Those regulations say if you want to do that, you take the EIR, you circulate it the way you circulate all the EIRs, you recirculate it for 30 days. You have to respond to comments just like you would under a normal CEQA process.

If TCA wanted this to be a separate project, they could've taken advantage -- if they wanted to use the 2006 EIR, they could have taken advantage of that process and done that. They chose not to. Instead they chose to call this a segment or a -- a phase or whatever you want, of the original project. They relied on the 2006 EIR, and that's all you have before you to make your findings. That EIR has over a dozen water quality related significant impacts.
You found in 2008 that the mitigation provided for those impacts was not enough to mitigate those significant impacts. You should do the same thing today. It's not a difficult decision. They want to make this a separate project, let them go through that process. They haven't done it yet. They've only given you one option and that is to make mitigation findings for the project as a whole. We urge that you do what you did in 2008 and reject the project. Thank you very much.

MR. MORALES: Break, folks. And as soon as we come back, we're going to start with TCA and then we will go to staff.

(Recess)

MR. MORALES: Please take your seats. Okay. Folks, the lights will come on. It's not from -- it's not from the -- it's just an energy-saving timer. It should indicate how long we have been going. So I think that Mr. Thornton, you're your okay starting in semi-darkness.

MR. THORNTON: No problem, Mr. Chairman and members of the board. We appreciate your patience very much. I want to bring this hearing back to where it began, Mr. Chairman. Your introductory comments indeed with having witnesses take the oath was, I think it's
Why is it that witnesses before a water board hearing on the WDR are required to take the oath because you're sitting as quasi-adjudicatory body. You're not sitting as a transportation policy entity, you're not sitting for the transportation commission, you're not sitting for the water quality entity, you're not sitting as a greenhouse gas entity, you're not sitting as a legislative body. You're the regional water quality control board and your obligation is to apply the rules and regulations of the State of California applicable to waste discharge. That's your role and responsibility.

That's why as the chairman appropriately noted this morning, there are restrictions on ex-parte communications because you're sitting as a quasi-adjudicatory body. So your obligation is to decide this matter on the basis of not emotion, not policies about growth in California, not whether some of us would prefer to have a population of less than 38 million people, but rather to fairly apply the laws of the State of California as they apply to water quality and the regulations of the State of California as they apply to water quality and has been articulated in your basic plan and the water committee quality facts of this matter.
And the facts of this matter are as your staff has articulated that you have a project before you that involves the impact to four-tenths of an acre in stated waters that has 15 to one mitigation ratio, an unheard of mitigation ratio, but your staff has drafted a tentative weight discharge order that requires this agency, this public agency by the way, public agency that represents two million people live in Orange County.

To me, the highest water quality standards of any highway in the State of California. That's what your staff is requiring. So your obligation is to apply the law to the facts -- to the facts presented, and there have been no facts presented here today to contradict the findings of your staff. And I refer to paragraph Roman 2, dash, K on Page 8 of the tentative order where your staff findings are through compliance -- quote, through compliance with the waste discharge requirements of this order, the project will not result in State water quality standards being violated.

And in Roman two, dash L, on Page 9 of your tentative order, your staff says, quote, the order contains waste discharge requirements to ensure beneficial uses are maintained or enhanced through mitigation and monitoring requirements for impacts to
waters of the State.

With regard to the CEQA issue, your council has advised you that you are obligated as a matter of law to presume that the CEQA documentation prepared by the TCA complies with CEQA. Now lawsuits have been filed. There is another entity, the judicial branch of our water system whose authority and jurisdiction is to review the TCA CEQA determinations. And they will do that in due course.

And a judge -- Superior Court judge and perhaps a court of appeals will decide that issue, but that's an issue to be decided in that venue, not in this venue. Your council has advised you that there are no -- there is no basis to require additional environmental documentation.

Now, we have heard testimony on a variety of matters. Again, we have been here a long time today. This project comes nowhere close to Trestles, has nothing to do with Trestles. It's not going to impact Trestles. It's nowhere to Panhe. It's ten miles away from Panhe. There are no sacred sites. There are no burial sites. There are no facts to suggest that this project will have those impacts but again, refocusing on the water quality issues, there's been no facts presented to you today that contradict your staff's
recommendations to approve this WDR.

Finally, I just want to respond briefly to suggestions that determination by the opponents that the denial without prejudice in 2008 somehow constituted some kind of binding determination. Again, let's focus on the law. The State water board's regulations Section 3831H provides denial without prejudice, means inability to grant certification for procedural rather than substantive reasons.

This form of denial carries with it no judgment, so the suggestion again that the denial without prejudice of the certification in 2008 has any applicability to this proceeding is simply wrong as a matter of law. I submit to you, Mr. Chairman and members of the board, that you have before you a project that meets all of the applicable water quality standards protects the beneficial uses.

That's the role of the water board and we urge your approval of this WDR. Thank you for your time and patience. Thank you very much.

MR. MORALES: Are there any further comments by staff at this point?

MR. BRADFORD: Thank you. In closing, I would like to clarify a few pieces of information brought up today. Approving projects based on a refined conceptual
design plan at the time the WDR are issued is common practice by the water board. Therefore, approving the WDR for this project during this stage is appropriate.

Project impacts to water have been avoided and minimized to the maximum extent practical. The order contains requirements that are specific and enforceable. Staff finds that the mitigation requirement of the order adequately replaced aquatic resources that would be impacted by discharges of fill associated with the project.

The compensatory mitigation sites must be maintained and protected in perpetuity in a manner that maintains or improves the functions and values of the sites for the variety of beneficial uses of water that it supports. The order requires that TCA provide annual reports for compensatory mitigation sites until the sites be all long-term success criteria identified in the approved mitigation and monitoring plan that it met to satisfaction the San Diego Water Board.

Moreover, TCA must provide financial assurances for the mitigation sites acceptable to the San Diego Water Board. The financial assurances instrument shall -- shall allow the San Diego Water Board to immediately draw on the financial assurance if the San Diego Water Board determines in its sole discretion
that TCA has failed to meet the mitigation obligations.

There were some comments made about cultural
and archaeological impact. Please keep in mind impacts
to archaeological resources are impacts that pertain to
the adequacy of the environmental documents prepared by
TCA and to resources outside the board's purview.

There were also comments regarding the runoff
management plan. Revised tentative order requires that
the updated runoff management plan comply with the
Orange County HMP and water quality management plan.
These requirements must be met regardless of when the
runoff management plan is updated and submitted to the
water board.

A suite of BMPs -- a suite of appropriate BMPs
will be installed to reduce the discharge of fluids in
the project runoff. Incorporation of the BMPs into the
on-site drainage system will result in acceptable runoff
water quality before entering the receiving water.

Staff has considered the testimony given today
and maintains its recommendation to adopt the revised
tentative order. Thank you.

MR. MORALES: I think that concludes all of the
testimony that we are going to be receiving on this
matter, so at this point we go into our deliberations;
correct.
MS. HAGAN: So Chair Morales, so formally closing the public hearing?

MR. MORALES: Yes. At this point, we are formally closing the public hearing. Thank you all.

So we have heard staff's recommendation and think — oh, boy, the board -- where are we, folks?

MS. KALEMKIARIAN: I'll start. I'll start because I know we all want to get home. And I first want to thank both sides of the issue because this was very helpful to me today, and I feel that while we got sidetracked sometimes on transportation policy and good serving spots, we did get a very good exposition of the issues.

I guess what's most persuasive to me, being -- not having been here in '08 when this was last reviewed, was reading through the attorney general's complaint or writ, actually, because I do not believe that the project is Tesoro, and I think that the project has been presented is the entire highway. And the reason I think that is that there have been no alternatives at all brought forth by the TCA to tell us well, this is the first segment that's needed because we've got these homes here. It's not going to have an environmental impact. The water quality standards will be met, but the rest of it, what's happening there?
There's been no explanation. And from what I can gather from all the evidence that was presented to us, that was a very big issue in 2008, and it's still an issue. And there's not alternatives being presented. I think the staff has done a wonderful job. I don't -- I don't question the staff's conclusion that this segment meets water quality standards. That's not why I'm going to vote against the staff's recommendation. It's because I think that is not the project. In honesty, it is not the project.

If this had come forward as the entire highway, or an alternative to the entire highway and the environmental impact and the water quality -- not the -- the water quality issues, the discharge permit had been everything that we evaluated, I'm not going to do transportation policy. I'm not elected official in Orange County. You are correct, sir, our job is as an adjudicating body and as regulators, and I do not think we were provided with the project, and I think the staff evaluated what it was presented with and did a great job, but we have a different function.

So I can't approve the staff's recommendation. Now, I'm persuadable otherwise, but I just don't believe that we have been given the project. So as the attorney general says in her first cause of action, it's not been
explained, the environmental impacts or the evaluated
for the entire project and the water quality standards
by definition as well.

MR. MORALES: Anybody else or should we vote?

MS. KALEMKIARIAN: Am I standing alone perhaps?

MR. STRAWN: I wish I could totally agree with you. Because I don't like this project. I don't like the toll road through the hill. I don't like what it does to endangered species. I don't like the fact that it's disturbing some tribal sites. But as the water quality control board of San Diego region, those cannot be the deciding factors. If we were to decide using those factors, our ruling would be appealed and I think we would lose it.

So just maybe it's blinders on, but looking at the project that we were presented, and I -- likewise, I don't think we can expand it to some potential larger project, even though we might believe that could happen. Looking at the evidence that's in front of us and looking at the revised tentative order and what it is we're approving, I reluctantly think I need to vote in favor.

MR. ANDERSON: Well, I'm not afraid of slippery slopes. This is a 5.5 mile section serving a fairly large planned community, and I will support the --
second your -- is that a motion?

MR. MORALES: Net yet.

MR. ANDERSON: I would support you on support the -- I think it's a whole other discussion for when we do move through the sacred sites and when we do go down towards the I-5 connection, and I'm -- I agree that will be a project and it's part of the project. In this case, I feel we're -- 5.5 well mitigated, and so I will support the staff's position on this.

MR. ABARANEL: I think the project that's in front of us is actually pretty clear. It's the project that was presented here in 2008 and rejected by the people of California in the United States of America. I have heard from Orange County elected officials more or less heard from the counsel, Mr. Thornton, that the project is the entire extension from where 241 ends now to somewhere intersecting Interstate 5 and the environmental impact report that is before us -- that's not actually before us -- it was before us. Clearly evaluates the whole project -- that project was rejected and I don't see any reason to accept part of it.

I feel as though somebody came before this board and the Coastal Commission and the Department of Commerce basically the people of California and the United States some years ago and said we want to build a
bridge and that was rejected. And somebody is coming back now and saying let's build a quarter of the bridge. It's not going to impact traffic. Right. Not going to cost as much. It's not going impact this or that now, but the whole project is clearly identified as impacting water quality and many other things.

I think our obligation here is not to be blinded by a representation of part of the project, but to recognize that the entire project impacts water quality in a way that this board should not support. Some people might say I made up what the project is, but I went to the website of the Transportation Corridor Authority and it shows the project going all the way through Interstate 5, somewhere kind of in San Diego County. I don't know if that's where they're going to do it.

But that's the goal of their project and they're asking us to support that, and I cannot.

MR. MORALES: Wow. I'm really torn on this one because while I got to say it's a -- a story. Having traveled on the 241 often, but the -- the time I recall actually traveling on the 241 was during one of the big fires that we had when my wife and I were at a conference in the desert and our two young children were with a good family friend at our home here in San Diego
and fires raged all over the county. And the only way that we were able to get home to our kids with all the roads shut down was by taking a portion of 241.

So I understand personally the utility of a number of roads for safety reasons. And I personally benefitted, you know, by it. I'm grateful for that. But that really can't be a part of my decision and the decision will be based on the information I have before us. I think my decision actually might be different if it were the entire segment, frankly. But as a five and a half mile, I guess, portion of the overall project, I really am sort of the same mind as two of my fellow board members.

And -- and I -- I think -- and I've said many times that we have the best staff in the state and they do excellent work and, you know, I take them at their word, and I know that their work and analysis is thorough and is as good as we're able to get, but we have to make some sometimes difficult decisions and I don't know anyone who's ever surfed at Trestles. I've never been there. I don't go to Trestles and, you know, okay, folks. It's going to impact Trestles.

I don't know. As I see it, the project as envisioned may end up there; may not. I don't know. I do think it's more than five and a half miles, though.
I was torn with a lot of the questions about CEQA and TCA, you know. They went -- they provided us with an NOD, which -- which I think is very, very helpful.

But I think there are some ambiguity in what we are required to do and not do in terms of our analysis, and I know there are arguments that go both ways. And we are a semi-adjudicative body and while the threat of litigation is always a possibility for us, quite frankly, it's going to happen no matter what we decide. So you know, it is with frankly a lot of reluctance that I can't support the staff.

MS. KALEMKIARIAN: I want to take a stab, if I might. But are you finished, Chair?

MR. MORALES: I am.

MS. KALEMKIARIAN: Because really, it's only when I put this in my mind in context because I was wavering back and forth because when I looked at the way the AG analyzes it, it hit on -- the nail on the head for what was bothering me. And that is the description as the project in quotes as consisting only as the Tesoro extension. I'm reading from the complaint -- the grid -- as the first 5.5 mile segment is contrary to decades of representation by the TCA as well as its most recent characterization of the Tesoro extension as the first step towards completion of the entire Foothill
South extension.

This is not an adequate project description and that's what bothers me. To say that this has an independent beneficial review, I have to refer to counsel for the NGO, said look, there's already been a transportation plan approved. And it's not my business whether there's been an independent beneficial use. That's a transportation question.

My business is have I been given a project description that's accurate to make a water quality decision in it, and I don't think that was the staff's task, frankly. They had their application. They reviewed the application. From a public policy perspective, I do not believe that the project description is genuine. And if that project description is the entire highway, show me the entire highway and then we make a decision if water quality standards are going to be compromised. We were not presented with that, which Mr. Abaranel said.

And it's not that I like it. I'm not a big fan of big highways. I'm not sure that I wouldn't prefer to see there be less growth, but, you know, the gentleman from the union who spoke last was very eloquent. We can't just stop growth in the state, and that's what I'm not about. But I do think you have to be genuine and
accurate and I do not believe the project description is accurate the way it's being presented and that's my problem. So...

MR. MORALES: I know. Okay. So what do we do here, folks? I get a motion either way. Anybody?

MR. ABARANDEL: I move we do not approve tentative order R92013 triple 07.

MS. KALEMKIARIAN: Second.

MR. MORALES: We have a motion that we not approve the tentative order before us. All of those --

MS. HAGAN: Mr. Chair, may I make a suggestion just for you to consider. If that motion were -- the board is inclined to go -- one -- one option is for the board to allow staff to draft a resolution stating the board's reasons for not approving the project, that would be brought back at the next meeting, but it's not required but it would give an opportunity to more clearly refine the reasons for that action.

MR. ABARANDEL: May I respond. That's always possible, but I think the reasons with one exception that I have, I tried to articulate. I hope they're on the record. If it's the opinion of counsel and the senior staff, that would be very important to do, I would be happy to go along with it. But if it's not so important, I just as soon proceed now.
I do have another item that's important to me
and maybe that would be -- which I haven't articulated
yet. It's not important as the one that I did
articulate, so I would like to know just how big a deal
this is.

MS. KALEMKIARIAN: I -- we were both just
discussing it, and I do think you, the board members,
have fairly clearly stated their views in their
deliberations, so I don't think a resolution is critical
at this point.

MR. MORALES: I'm all for not punting. I --
like I said, that's why we make the big bucks.

So there is a motion and a second that the
tentative order not be approved, and I guess I'll call
for a vote. So all those in favor of the motion as
stated nonapproval of the tentative order, signify by
saying aye.

IN UNISON: Aye.

MR. MORALES: Those opposed?

MR. ANDERSON and MR. STRAWN: No.

MR. MORALES: Three, two, motion carries. I
think that's it for tonight.

(Whereupon the hearing was concluded at
7:15 p.m.)

* * *
I, Johnell M. Gallivan, Certified Shorthand Reporter for the State of California, do hereby certify:

That the hearing was taken by me in machine shorthand and later transcribed into typewriting, under my direction, and that the foregoing contains a true record of the hearing proceedings.

Dated: This day of ____________, 2013, at San Diego, California

__________________________
Johnell M. Gallivan
CSR No. 10505
EXECUTIVE OFFICER SUMMARY REPORT
June 19, 2013

ITEM: 9


PURPOSE: To consider adoption of revised Tentative Order No. R9-2013-0007, Waste Discharge Requirements for the Foothill/Eastern Transportation Corridor Agency (F/ETCA), Tesoro Extension (SR 241) Project, Orange County.

RECOMMENDATION: Adoption of the revised Tentative Order No. R9-2013-0007 is recommended.

DISCUSSION: This Executive Officer Summary Report (EOSR) supplements the EOSR and Supplemental EOSR provided for Item 8 of the March 13, 2013 San Diego Water Board meeting (Supporting Document No. 1). At that meeting, the San Diego Water Board opened a public hearing to consider adoption of the Tentative Order for the Tesoro Extension (SR 241) (Tesoro Extension or Project), which was attended by over 200 people. The San Diego Water Board heard extensive testimony on the Tentative Order from a large diverse group of stakeholders including San Diego Water Board staff, F/ETCA, Save San Onofre Coalition (SSOC), elected officials, and other interested persons. The testimony included concerns that F/ETCA’s Final Subsequent Environmental Impact Report (FSEIR) is not a valid final California Environmental Quality Act (CEQA) document that the San Diego Water Board can rely upon in considering adoption of the Tentative Order.

At the conclusion of the hearing proceedings on March 13, 2013, the San Diego Water Board continued the public hearing to today’s meeting to allow staff and counsel adequate time to 1) evaluate the comments submitted on CEQA compliance, 2) prepare responses to the remaining issues, and 3) draft revised conditions and/or additional
findings as appropriate for inclusion in the Tentative Order.

As directed by Board Chair Morales at the March 13, 2013 Board meeting, San Diego Water Board member questions (Supporting Document No. 2) were sent to F/ETCA and SSOC and responses were required by March 29, 2013. Timely written responses were received from F/ETCA and SSOC on March 29, 2013 (Supporting Document Nos. 3 and 4). Additional questions posed by Board members during the March 13 Board meeting will be addressed during the Board staff and F/ECTA presentations at today’s meeting.

On April 18, 2013, the F/ETCA Board of Directors adopted Resolution 2013F-005 entitled, "A Resolution of the Board of Directors of the Foothill/Eastern Transportation Corridor Agency Approving Addendum to Final Subsequent Environmental Impact Report and Approving Conceptual Design of the Tesoro Extension Project" (Supporting Document No. 5). In adopting the Resolution, the Board of Directors approved a conceptual design plan for the Tesoro Extension Project and adopted an Addendum to the Final Subsequent Environmental Impact Report (FSEIR) which can be used to fulfill the environmental review requirements of CEQA for the Tesoro Extension (Supporting Document No. 6). F/ETCA filed a Notice of Determination regarding the approval and adoption of the Resolution with the State Clearinghouse on April 19, 2013 for state agency review as required under CEQA Guidelines Sections 15205 and 15206 (Supporting Document No. 7). San Diego Water Board counsel has reviewed the information submitted in responses to the Board’s CEQA questions and considered the findings and conclusions of the F/ETCA Board of Directors in their adoption of Resolution 2013F-005. Based on these and other considerations, San Diego Water Board counsel has concluded that the CEQA documentation provided by F/ETCA is adequate for the San Diego Water Board, as a responsible agency, to rely upon in considering adoption of the revised Tentative Order.

The testimony of participants at the March 13, 2013 Board meeting also included concerns with the Tesoro Extension Project meeting the coarse (bed material) sediment supply preservation requirements of the 2011 Southern Orange County Hydromodification Management Plan (HMP). The testimony focused on how the construction of the Tesoro Extension would affect the supply of bed material sediment
to Chiquita Creek, Gobernadora Creek, and San Juan Creek. F/ETCA testified that the findings and conclusions of the *Baseline Geomorphic and Hydrologic Conditions Report* for Rancho Mission Viejo (PCR, PWA, and BHI, 2002), demonstrated that constructing the Tesoro Extension through the headwater channels in Chiquita Creek and Gobernadora Creek would not adversely impact the supply of bed material sediment to those streams. The SSOC maintains that neither the overall purpose nor the detailed findings of the *Baseline Geomorphic and Hydrologic Conditions Report* support F/ETCA’s assertion.

Tentative Order No R9-2013-0007 has been revised to address concerns regarding Project impacts to the coarse bed material sediment supply to downstream receiving waters. The Tentative Order now requires F/ETCA to submit and implement an updated Runoff Management Plan by October 31, 2013, prepared and certified by a properly qualified engineer, that clearly indicates the means for compliance with all of the requirements in the HMP, including those regarding coarse bed material sediment supply. The HMP contains provisions for avoiding coarse sediment yield areas and implementation of measures that allow coarse sediment to be discharged to receiving waters to prevent sediment deficit. A detailed discussion of this issue can be found in response to Comment No. 1 in the San Diego Water Board Revised Response to Comments document (Supporting Document No. 8). This document replaces and updates the previous version that was prepared for the March 13, 2013 Board meeting. The Revised Response to Comments document addresses all timely submitted comment letters that were received by March 1, 2013.

**Final Revisions to the Tentative Order**

San Diego Water Board staff is proposing final revisions to the Tentative Order for the San Diego Water Board’s consideration. These revisions are shown in redline/strikeout text in the Revised Tentative Order (Supporting Document No. 9) and include:

1. A requirement to update, certify, and implement the Runoff Management plan (RMP) (See section V.B of the Revised Tentative Order);

2. A requirement to develop and implement a monitoring
program to protect water quality and assess compliance with the receiving water limitations of the Tentative Order (see Finding G and section VIII.A of the Revised Tentative Order);

3. Changes to the CEQA findings to acknowledge that the CEQA documentation produced by F/ETCA is adequate for the San Diego Water Board, as a responsible agency, to rely upon in considering the adoption of the Tentative Order (see Finding N of the Revised Tentative Order); and

4. Corrections of typographical errors and incorporation of suggested text by stakeholders.

By letter dated May 30, 2013 the Revised Tentative Order was released for public review and comment. Consistent with the direction provided by Board Chair Morales at the March 13, 2013 Board meeting, further written comments are limited to: 1) revisions to the Tentative Order since March 13, 2013; and 2) comments pertaining to the Revised Tentative Order and CEQA. Comments on the Revised Tentative Order must arrive no later than 5:00 p.m. on June 7, 2013. San Diego Water Board staff responses to comments received on the Revised Tentative Order and any errata for the Revised Tentative Order will be addressed during staff’s presentation at today’s meeting.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

1. EOSR and Supplemental EOSR for Item 8 of the March 13, 2013 San Diego Water Board meeting.
2. San Diego Water Board Member Questions for Written Response Due March 29, 2013 by 5:00 p.m.
5. A Resolution of the F/ETCA Board of Directors Approving the Addendum to the Final Subsequent Environmental Impact Report and the Conceptual Design of the Tesoro Extension Project. (Resolution
No. 2013F-005), dated April 18, 2013.
6. Addendum to the South Orange County Transportation Infrastructure Improvement Project (SOCTIIP) Final Subsequent Environmental Impact Report, dated February 2013.
EXHIBIT 8
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO – NORTH COUNTY DIVISION

CALIFORNIA STATE PARKS FOUNDATION, et al.,

Petitioners,

vs.

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY, a Joint Powers Agency; BOARD OF DIRECTORS OF THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY; and DOES 1 through 40, inclusive,

Respondents.

THE PEOPLE OF THE STATE OF CALIFORNIA, et al.,

Petitioners,

vs.

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY, a joint powers authority, et al.,

Respondents.

Case No: GIN051194 and GIN051371 (Consolidated)

ASSIGNED FOR ALL PURPOSES TO: THOMAS P. NUGENT, DEPT. 30

PROPOSED STIPULATED ORDER APPROVING INTERIM SETTLEMENT WITH TOLLING AGREEMENT AND DISMISSAL WITHOUT PREJUDICE, AND RETAINING THE COURT'S JURISDICTION TO SET ASIDE DISMISSAL AND ENFORCE INTERIM SETTLEMENT

Date: January 14, 2011
Time: 10:00 a.m. [status conference]
Dept: 30 [Hon. Thomas P. Nugent]

Date Action Filed: March 23, 2006
Trial Date: Not Set

[PROPOSED] STIPULATED ORDER APPROVING INTERIM SETTLEMENT, ETC.
STIPULATION

A. WHEREAS petitioners ("Petitioners") in these consolidated proceedings (case numbers GIN 051194 and GIN 051371) and respondents ("Respondents"), including Foothill/Eastern Transportation Corridor Agency ("TCA"), and proposed intervenors ("Proposed Intervenors") (each a "Party," and collectively, the "Parties") have agreed to an interim settlement of these proceedings, as memorialized in this stipulation ("Interim Settlement");

B. WHEREAS Petitioners in these proceedings have alleged that Respondents' February 23, 2006 decision to certify the Final Subsequent Environmental Impact Report ("EIR") for the South Orange County Transportation Infrastructure Improvement Project ("Project") and to approve the Project violates the California Environmental Quality Act, Public Resources Code § 21000 et seq. ("CEQA");

C. WHEREAS the TCA represents that it is currently engaged in ongoing settlement discussions with various stakeholders, including but not limited to representatives of the Petitioners herein, in an effort to resolve various disputes over the Project;

D. WHEREAS these proceedings had been stayed pending these ongoing settlement discussions, but it is the Parties' understanding that the Court will grant no further extensions of the current stay, which was scheduled to expire on September 10, 2010;

E. WHEREAS the Parties wish, by means of this Interim Settlement, to conserve the resources of the Court as well as that of the Parties, pending the outcome of the ongoing settlement discussions -- while preserving each of the Parties' respective rights and positions in these proceedings in the meantime;

F. WHEREAS the Interim Settlement, as more fully set forth below, permits this Court, as a means of effectuating a stay of these proceedings, to dismiss the proceedings without prejudice, subject to the terms and conditions set forth herein, including the right of any Petitioner to reinstate these proceedings in accordance with Local Rule 2.1.13, and subject to this Court's continuing jurisdiction to enforce the Interim Settlement;

G. WHEREAS Local Rule 2.1.13, as a means of effectuating a stay of proceedings, authorizes the Parties to an action to stipulate to a dismissal of the proceedings without prejudice, while
expressly reserving the Court’s jurisdiction to set aside the dismissal and reinstate the proceeding nunc pro tunc when the stay is no longer in effect;

H. WHEREAS Code of Civil Procedure section 664.6 independently authorizes, and the parties hereby request, this Court to approve the Parties’ Interim Settlement, and to retain jurisdiction to enforce its terms and conditions in order to ensure full performance;

I. WHEREAS the Interim Settlement provides for, and is contingent upon, among other things, (a) the Court’s approval of the Interim Settlement as set forth herein and its retention of jurisdiction to enforce the Interim Settlement pursuant to Code of Civil Procedure section 664.6, (b) the Court’s dismissal of these proceedings without prejudice and reservation of jurisdiction to set aside the dismissal pursuant to Local Rule 2.1.13, and (c) the entry of the stipulated order below;

J. WHEREAS, each person signing below represents and warrants that by executing this stipulation, the person is authorized to bind the Party on whose behalf the person is signing; the Party has relied on legal advice from the Party’s attorney in entering into this stipulation; the terms and conditions have been completely read and explained to the Party; and the Party fully understands the terms and conditions;

K. WHEREAS the Interim Settlement, as memorialized in this stipulation, is in lieu of, and extinguishes and supersedes, any other communication by or between the Parties relating thereto; each of the Parties acknowledge that no other Party, or agent or attorney for any other Party, has made any promise, representation, or warranty whatsoever, express or implied, not contained herein, to induce the other Party to execute this stipulation, and each Party acknowledges that it has not executed this stipulation in reliance upon any promise, representation or warranty not expressly contained herein; this stipulation comprises the entire understanding of the Parties with respect thereto; and this stipulation may only be modified or amended by a mutual agreement of the Parties in writing and signed by the Parties;

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between all Parties in these consolidated proceedings, through their respective counsel of record, that the Court should approve the Interim Settlement as memorialized in this stipulation, and enter an order incorporating the following terms and conditions of the Interim Settlement:
1. Pursuant to Code of Civil Procedure section 664.6, the Court approves the Interim Settlement of all Parties as memorialized in this stipulated order, including the following settlement terms expressly incorporated into this stipulated order.

2. To effectuate a stay of these consolidated proceedings (case numbers GIN 051194 and GIN 051371), the proceedings are hereby dismissed without prejudice pursuant to Local Rule 2.1.13, and the Court expressly reserves its jurisdiction to set aside the dismissal and reinstate these proceedings nunc pro tunc when the stay is no longer in effect. The stay shall terminate and no longer be in effect upon the written request filed in Court by any Petitioner in either of the consolidated proceedings to set aside the dismissal and reinstate the proceedings, following notice to all Parties hereto through their counsel of record. Upon such request, the dismissal shall be set aside, and the proceedings shall be reinstated without the necessity to refile the pleadings or other papers filed in the proceedings prior to the dismissal, all of which shall be deemed filed as of their original filing dates. Until such request is made by Petitioners, the stay shall remain in effect, except as expressly provided herein. The request by any Petitioner to set aside the dismissal and reinstate the proceedings shall not be filed in Court prior to 30 calendar days following personal service of written notice from such Petitioner(s) to undersigned counsel of record for each of the Respondents herein of the intention of Petitioner(s) to file such a request ("Request Notice"), but if Respondents have already served Petitioners with a Construction Notice (defined in paragraph 4 herein), Petitioners shall not be required to serve a Request Notice.

3. Any period applicable to Petitioners within which Petitioners may be required to prosecute or complete legal proceedings for their claims in these consolidated actions shall be deemed tolled in favor of Petitioners during all periods in which a stay of proceedings was or has been in effect, including but not limited to the period between dismissal and reinstatement of the proceedings.

4. Respondents shall, prior to start of construction of the Project in reliance on the approvals challenged in these proceedings (i.e., certification of the Final Subsequent EIR ("EIR") for the Project...
and approval of the Project, give written notice of 60 calendar days by personal service to undersigned
counsel of record for each of the Petitioners herein of Respondents' start of construction of the Project
("Construction Notice"). Respondents may give the Construction Notice at any time in their discretion
that is in excess of 60 days prior to the start of construction of the Project, including any time when
Respondents may not yet have any scheduled date for the start of construction. For the purposes of this
paragraph, the term "construction" does not include design activities or the evaluation of any of the
following: the impacts of the Project, mitigation measures or alternatives to the Project. For the
purposes of this paragraph, the term "Project" includes the Project as previously approved by TCA and
any variation thereof or alternative thereto, and the term "construction" means (1) the issuance of a
"notice to proceed" with construction, or equivalent direction, by Respondents to any construction
contractor for the Project or to any public entity undertaking such activities, including but not limited to
TCA, or (2) grading of the Project alignment, including any vegetation clearance in preparation for
grading of the Project. Unless Petitioners and Respondents otherwise agree in writing, Petitioners and
Respondents shall meet and confer within 15 days of personal service of the Construction Notice to
discuss the proposed action and whether and under what conditions the action could be undertaken
without the need to reinstate these proceedings while avoiding prejudice to Petitioners' right to
challenge the Project and the EIR for the Project, but this meet and confer requirement shall only apply
to the extent that it would not duplicate any meet and confer conference that was previously held
pursuant to paragraph 2, in order to avoid duplication of requirements. If, following the required meet
and confer conference, the Petitioners and Respondents have not otherwise stipulated in writing,
Petitioners shall reinstate these proceedings within 90 days of personal service of the Construction
Notice, or else Petitioners shall be deemed to have forfeited their right under Paragraph 2 of this
stipulated order to reinstate the proceedings. In addition to the Construction Notice, Respondents shall
provide by mail service to Petitioners' counsel (a) a copy of any notice of preparation of a supplemental
environmental impact report or subsequent environmental impact report regarding the Project, and (b) a
copy of any addendum to the EIR.

5. Respondents and Proposed Intervenors waive, and shall not assert, any defense to
Petitioners' claims based on (1) the non-prosecution of these proceedings during the period between
dismission and reinstatement of the proceedings or any other period in which a stay was in effect, (2) a challenge to the Court’s authority to set aside the dismissal and reinstate the proceedings in accordance with this stipulated order, or (3) any other claim, argument, defense, or challenge that would undermine the intent of the Parties to permit Petitioners, in accordance with the terms and conditions of this stipulated order, to reinstate these proceedings without prejudice as if the dismissal had not occurred. This waiver includes, but is not limited to, any defenses against Petitioners of statutes of limitations, laches, or the five-year dismissal statute (Code Civ. Proc., § 583.10).

6. Except as expressly provided, nothing in this Interim Settlement or order shall prevent any of the Petitioners from reinstating these proceedings or otherwise pursuing their claims herein, at any time for any reason, including but not limited to, any action by the TCA to implement any aspect of the Project. Respondents and Proposed Intervenors further agree that Petitioners’ right to reinstate these proceedings shall not be limited by Petitioners’ failure to bring an administrative or judicial challenge to a future action taken by Respondents in reliance on the EIR or in furtherance of the Project, including but not limited to the approval by TCA of a subsequent or supplemental EIR for the Project, an addendum to the EIR, or any amendment or modification of the Project, and Respondents and Proposed Intervenors hereby waive any defense to the claims in any reinstated proceedings based on Petitioners’ failure to challenge such future actions.

7. Attorneys Fees.

   a. Because the dismissal of these proceedings is for the purpose of continuing the stay of litigation, this stipulated order does not reflect in any way on the merits of Petitioners’ claims or Respondents’ defenses. Except as expressly provided in section 7(b) below, this stipulated order does not support or prejudice any Party’s claim for attorneys fees or costs, whether incurred before or after the entry of this stipulated order (“Entry Date”), and nothing in this stipulated order shall be construed as an admission or denial by any Party as to the validity of any claims for such attorneys fees or costs, or as prejudicing any Party’s ability to assert any and all of its rights and positions in support of, or in opposition to, any future claim for such attorneys fees or costs.
b. Petitioners reserve any rights that may exist independently of this stipulated order to seek and be awarded (and the TCA reserves its rights to oppose) attorneys' fees and costs incurred in these proceedings (whether incurred before or after the Entry Date).

8. Pursuant to Code of Civil Procedure section 664.6, in approving this Interim Settlement as memorialized in this stipulated order, the Court expressly reserves jurisdiction over the Parties to enforce their Interim Settlement, until (a) performance in full of the terms of the settlement has occurred through reinstatement of these proceedings, forfeiture by all Petitioners of their right to reinstate these proceedings, or a final settlement among all of the Parties of the matters in dispute in these proceedings, and (b) all disputes as to whether such performance in full has occurred have been finally resolved by agreement of the Parties or by a final, non-appealable judicial order.

9. Except as expressly provided in this Interim Settlement as memorialized in this stipulated order, all Parties expressly preserve all of their respective rights and positions in these proceedings. If and when these proceedings are reinstated, all Parties may assert any and all of their respective rights and positions, and fully litigate these proceedings to final judgment, as if the Interim Settlement had never occurred.

IT IS SO STIPULATED.

Dated: December 2010

NOSSAMAN LLP
ROBERT D. THORNTON
JOHN J. FLYNN III
SCOTT N. YAMAGUCHI

By: Scott N. Yamaguchi
Attorneys for Respondents,
The Board of Directors of the Foothill/Eastern Transportation Corridor Agency

[signatures continued on the following page]
Dated: December __, 2010

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY;
THE BOARD OF DIRECTORS OF THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY

By: [Signature]
Tom Margro
Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency;
authorized representative on behalf of
The Board of Directors of the Foothill/Eastern Transportation Corridor Agency

Dated: December __, 2010

SHUTE, MIHALY & WEINBERGER, LLP
WILLIAM J. WHITE

By: [Signature]
William J. White
Attorneys for Petitioners,
California State Parks Foundation;
Endangered Habitats League;
Laguna Greenbelt, Inc.;
Natural Resources Defense Council, Inc.;
Sea and Sage Audubon Society;
Sierra Club; and
Surfrider Foundation

Dated: December __, 2010

CALIFORNIA STATE PARKS FOUNDATION

By: [Signature]
Elizabeth Goldstein
President

Dated: December __, 2010

ENDANGERED HABITATS LEAGUE

By: [Signature]
Dan Silver
Executive Director

[signatures continued on the following page]
Dated: December __, 2010  

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY;  
THE BOARD OF DIRECTORS OF THE  
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY

By: __________________________ 
Tom Margro  
Chief Executive Officer,  
Foothill/Eastern Transportation Corridor Agency;  
authorized representative on behalf of  
The Board of Directors of the Foothill/Eastern  
Transportation Corridor Agency

Dated: December __, 2010  

SHUTE, MIHALY & WEINBERGER, LLP  
WILLIAM J. WHITE

By: __________________________ 
William J. White  
Attorneys for Petitioners,  
California State Parks Foundation;  
Endangered Habitats League;  
Laguna Greenbelt, Inc.;  
Natural Resources Defense Council, Inc.;  
Sea and Sage Audubon Society;  
Sierra Club; and  
Surfrider Foundation

Dated: December __, 2010  

CALIFORNIA STATE PARKS FOUNDATION

By: __________________________ 
Elizabeth Goldstein  
President

Dated: December __, 2010  

ENDANGERED HABITATS LEAGUE

By: __________________________ 
Dan Silver  
Executive Director

[signatures continued on the following page]
Dated: December __, 2010

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY;
THE BOARD OF DIRECTORS OF THE
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY

By:________________________________________

Tom Margro
Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency;
authorized representative on behalf of
The Board of Directors of the Foothill/Eastern
Transportation Corridor Agency

Dated: December __, 2010

SHUTE, MIHALY & WEINBERGER, LLP
WILLIAM J. WHITE

By: __________________________________________

William J. White
Attorneys for Petitioners,
California State Parks Foundation;
Endangered Habitats League;
Laguna Greenbelt, Inc.;
Natural Resources Defense Council, Inc.;
Sea and Sage Audubon Society;
Sierra Club; and
Surfrider Foundation

Dated: December __, 2010

CALIFORNIA STATE PARKS FOUNDATION

By: __________________________________________

[Signature]
President

Dated: December __, 2010

ENDANGERED HABITATS LEAGUE

By: __________________________________________

Dan Silver
Executive Director

(signatures continued on the following page)
Foothill/Eastern Transportation Corridor Agency:
The Board of Directors of the Foothill/Eastern Transportation Corridor Agency

By: Tom Margre
Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency, authorized representative on behalf of
The Board of Directors of the Foothill/Eastern Transportation Corridor Agency

Dated: December __, 2010

SHUTE, MHALY & WEINBERGER, LLP
WILLIAM I. WHITE

By: William I. White
Attorneys for Petitioners:
California State Parks Foundation
Endangered Habitats League
Laguna Coastkeepers, Inc.
Natural Resources Defense Council, Inc.
Sea and Sage Audubon Society
Stern Cliffs and
Sycamore Foundation

Dated: December __, 2010

CALIFORNIA STATE PARKS FOUNDATION

By: Elizabeth Goldsmith
President

Dated: December __, 2010

ENDANGERED HABITATS LEAGUE

By: Dan Silver
Executive Director

(signatures continued on the following page)
Dated: December ___, 2010

LAGUNA GREENBELT, INC.

By: ________________
   Elisabeth Brown
   President

Dated: December ___, 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: ________________
   Joel Resnick  
   Senior Attorney

Dated: December ___, 2010

SEA AND SAGE AUDUBON SOCIETY

By: ________________
   Scott Thomas
   Vice President

Dated: December ___, 2010

SIERRA CLUB

By: ________________
   Hersh Kelley
   Executive Committee Chair, Los Angeles Chapter

Dated: December ___, 2010

SURFRIDER FOUNDATION

By: ________________
   Jim Moriarty
   Chief Executive Officer

[signatures continued on the following page]
Dated: December ___, 2010

LAGUNA GREENBELT, INC.
By: ____________________________
   Elizabeth Brown
   President

Dated: December ___, 2010

NATIONAL RESOURCES DEFENSE COUNCIL, INC.
By: ____________________________
   Joel Reynolds
   Senior Attorney

Dated: December ___, 2010

SEA AND SAGE AUDUBON SOCIETY
By: ____________________________
   Scott Thomas
   Vice President

Dated: December ___, 2010

SIERRA CLUB
By: ____________________________
   Hersch Kelley
   Executive Committee Chair,
   Angeles Chapter

Dated: December ___, 2010

SURFRIDERS FOUNDATION
By: ____________________________
   Jim Moriarty
   Chief Executive Officer

[signatures continued on the following page]
Dated: December 2010

LAGUNA GREENBELT, INC.

By: ____________________________

Elisabeth Brown
President

Dated: December 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: ____________________________

Joel Reynolds
Senior Attorney

Dated: December 2010

SEA AND SAGH AUDUBON SOCIETY

By: ____________________________

Scott Thomas
Vice President

Dated: December 2010

SIERRA CLUB

By: ____________________________

Hersh Kelley
Executive Committee Chair,
Angeles Chapter

Dated: December 2010

SURFRIDER FOUNDATION

By: ____________________________

Jim Moriarty
Chief Executive Officer

[signatures continued on the following page]
Dated: December __, 2010

LAGUNA GREENBELT, INC.

By: _______________________
   Elisabeth Brown
   President

Dated: December __, 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: _______________________
   Joel Reynolds
   Senior Attorney

Dated: December __, 2010

SEA AND SAGE AUDUBON SOCIETY

By: _______________________
   Scott Thomas
   Vice President

Dated: December __, 2010

SIERRA CLUB

By: _______________________
   Hersh Kelley
   Executive Committee Chair,
   Angeles Chapter

Dated: December __, 2010

SURFRIDER FOUNDATION

By: _______________________
   Jim Moriarty
   Chief Executive Officer

(signatures continued on the following page)

[PROPOSED] STIPULATED ORDER APPROVING INTERIM SETTLEMENT, ETC.
Dated: December 27, 2010

EDMUND G. BROWN, JR., ATTORNEY GENERAL
MATT RODRIGUEZ, CHIEF ASSISTANT ATTORNEY GENERAL
KEN ALEX, SENIOR ASSISTANT ATTORNEY GENERAL
BRIAN HEMBACHER
HELEN G. ARENS
OLIVIA W. KARLIN

By: Brian Hembacher
Attorneys for Petitioners,
The People of the State of California, ex rel.
Attorney General Edmund G. Brown, Jr.;
State Park and Recreation Commission

Dated: December ___, 2010

STATE PARK AND RECREATION COMMISSION

By: Caryl Hart
Chair, State Park and Recreation Commission

[signatures continued on the following page]
EDMUND G. BROWN, JR., ATTORNEY GENERAL
MATT RODRIQUEZ, CHIEF ASSISTANT ATTORNEY
GENERAL
KEN ALEX, SENIOR ASSISTANT ATTORNEY GENERAL
BRIAN HEMBACHER
HELEN G. ARENS
OLIVIA W. KARLIN

By: __________________________
Brian Hembacher
Attorneys for Petitioners,
The People of the State of California, ex rel.
Attorney General Edmund G. Brown, Jr.;
State Park and Recreation Commission

STATE PARK AND RECREATION COMMISSION

By: __________________________
Caryl Hart
Chair, State Park and Recreation
Commission

(signatures continued on the following page)
Dated: December 27, 2010

ALVARADO SMITH
THIERRY R. MONTOYA

By: Thierry R. Montoya

Attorneys for Proposed Intervenors
Orange County Business Council; Orange
County Hispanic Chamber of Commerce; South
Orange County Chamber of Commerce; Black
Chamber of Commerce of Orange County; Los
Angeles and Orange County Building and
Construction Trades Council; Orange County
Taxpayers Association

Dated: December __, 2010

ORANGE COUNTY BUSINESS COUNCIL

By: Lucy Dunn

Dated: December __, 2010

ORANGE COUNTY HISPANIC CHAMBER OF
COMMERCE

By: Joel Ayala

Dated: December __, 2010

SOUTH ORANGE COUNTY CHAMBER OF COMMERCE

By: Duane Cave

[signatures continued on the following page]
1
2 Dated: December __, 2010
3 ALVARADO SMITH
4 THIERRY R. MONTOYA
5
6 By: __________________________
7 Thierry R. Montoya
8 Attorneys for Proposed Intervenors
9 Orange County Business Council; Orange
10 County Hispanic Chamber of Commerce; South
11 Orange County Chamber of Commerce; Black
12 Chamber of Commerce of Orange County; Los
13 Angeles and Orange County Building and
14 Construction Trades Council; Orange County
15 Taxpayers Association
16
17 Dated: December __, 2010
18 ORANGE COUNTY BUSINESS COUNCIL
19
20 By: __________________________
21 Lucy Dunn
22
23 Dated: December __, 2010
24 ORANGE COUNTY HISPANIC CHAMBER OF
25 COMMERCE
26
27 By: __________________________
28 Javier Meir
29
30 Dated: December __, 2010
31 SOUTH ORANGE COUNTY CHAMBER OF COMMERCE
32
33 By: __________________________
34 Diane Cave
35
36 [signatures continued on the following page]
Dated: December __, 2010

ALVARADO SMITH
THIERRY R. MONTOYA

By: __________________________
    Thierry R. Montoya
Attorneys for Proposed Interveners:
Orange County Business Council; Orange
County Hispanic Chamber of Commerce; South
Orange County Chamber of Commerce; Black
Chamber of Commerce of Orange County; Los
Angeles and Orange County Building and
Construction Trades Council; Orange County
Taxpayers Association

Dated: December __, 2010

ORANGE COUNTY BUSINESS COUNCIL

By: __________________________
    Lucy Dunn

Dated: December __, 2010

ORANGE COUNTY HISPANIC CHAMBER OF
COMMERCE

By: __________________________
    Joel Ayala

Dated: December __, 2010

SOUTH ORANGE COUNTY CHAMBER OF COMMERCE

By: __________________________
    [Signature]

(signatures continued on the following page)
STIPULATED ORDER

The "[Proposed] Stipulated Order Approving Interim Settlement with Tolling Agreement and Dismissal Without Prejudice, and Retaining the Court's Jurisdiction to Set Aside Dismissal and Enforce Interim Settlement," having been fully considered by the Court, and with good cause being shown to the satisfaction of the Court, it is hereby ordered as follows:

1. The stipulated terms and conditions set forth in full in paragraphs 1 through 9, inclusive, of the foregoing Interim Settlement are hereby adopted as an order of the Court and are expressly incorporated herein.

2. Counsel for Respondents shall give notice of entry of this stipulated order.

Dated: December __, 2010

______________________________
Hon. Thomas P. Nugent
JUDGE OF THE SUPERIOR COURT
Dated: December __, 2010

BLACK CHAMBER OF COMMERCE OF ORANGE COUNTY

By: 

Bobby McDonald

Dated: December __, 2010

LOS ANGELES AND ORANGE COUNTY BUILDING AND CONSTRUCTION TRADES COUNCIL

By: ________________________________

Richard Slanseth

STIPULATED ORDER

The "[Proposed] Stipulated Order Approving Interim Settlement with Tolling Agreement and Dismissal Without Prejudice, and Retaining the Court's Jurisdiction to Set Aside Dismissal and Enforce Interim Settlement," having been fully considered by the Court, and with good cause being shown to the satisfaction of the Court,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The stipulated terms and conditions set forth in full in paragraphs 1 through 9, inclusive, of the foregoing Interim Settlement are hereby adopted as an order of the Court and are expressly incorporated herein.

2. Counsel for Respondents shall give notice of entry of this stipulated order.

Dated: December ___, 2010

JAN 12 2011

THOMAS P. NUGENT

Hon. Thomas P. Nugent
JUDGE OF THE SUPERIOR COURT
PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action; my business address is Nossaman, LLP, 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-1602.

On January 10, 2011, at my employer’s above-stated place of business, I served the foregoing document(s) described as [PROPOSED] STIPULATED ORDER APPROVING INTERIM SETTLEMENT WITH TOLLING AGREEMENT AND DISMISSAL WITHOUT PREJUDICE AND RETAINING THE COURT’S JURISDICTION TO SET ASIDE DISMISSAL AND ENFORCE INTERIM SETTLEMENT on interested parties in this action by placing ( ) the original (X) a true copy thereof enclosed in a separate sealed envelope to each addressee as follows:

[SEE ATTACHED SERVICE LIST]

(X)  (By U.S. Mail) I am readily familiar with my employer’s business practice for collection and processing of correspondence for mailing with the United States Postal Service. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit. I deposited such envelope(s) with postage thereon fully prepaid in a collection box from where it would be placed in the United States Mail at Los Angeles, California that same day in my employer’s ordinary course of business.

( )  (By Personal Service) I caused to be delivered by hand true and correct copies thereof on the interested parties in this action by having the messenger service personally deliver same in a sealed envelope to the office of the addressee(s) as above indicated.

( )  (By Facsimile) I served a true and correct copy by facsimile pursuant to C.C.P 1013(e), to the number(s) listed above or on attached sheet. Said transmission was reported complete and without error.

( )  (By Federal Express) I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. A true and correct copy of the Federal Express or other overnight delivery service airbill is attached hereto.

(X)  (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

( )  (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 10, 2011 at Los Angeles, California.

[Original signature]

Judith Robbins
## SERVICE LIST

San Diego County Superior Court Case No.: GIN051194 (Consolidated)

<table>
<thead>
<tr>
<th>Parties</th>
<th>Attorneys</th>
</tr>
</thead>
</table>
| William J. White, Esq.  
SHUTE, MIHALY & WEINBERGER, LLP  
396 Hayes Street  
San Francisco, California 94102  
Telephone: (415) 552-7272 Facsimile: (415) 552-5816  | Attorneys for Petitioners CALIFORNIA STATE PARKS FOUNDATION, ENDANGERED HABITATS LEAGUE, LAGUNA GREENBELT, INC., NATURAL RESOURCES DEFENSE COUNCIL, SEA AND SAGE AUDUBON SOCIETY, SIERRA CLUB, and SURFRIDER FOUNDATION  |
| Joel R. Reynolds, Esq.  
NATURAL RESOURCES DEFENSE COUNCIL  
1314 Second Street  
Santa Monica, California 90401  
Telephone: (310) 434-2300 Facsimile: (310) 434-2399  | Attorneys for Petitioner NATURAL RESOURCES DEFENSE COUNCIL  |
| Michael D. Fitts, Esq.  
1718 Esplanade, Apt. 523  
Redondo Beach, California 90277-5339  
Telephone: (310) 947-1908 Facsimile: (323) 908-3543  | Attorneys for Petitioner ENDANGERED HABITATS LEAGUE  |
| EDMUND G. BROWN JR., Attorney General  
MATT RODRIGUEZ, Chief Assistant Attorney General  
KEN ALEX, Senior Assistant Attorney General  
BRIAN HEMBACHER  
OLIVIA W. KARLIN  
Deputy Attorneys General  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
Telephone: (213) 897-2638 Facsimile: (213) 897-2802  | Attorneys for Petitioners THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. ATTORNEY GENERAL EDMUND G. BROWN JR. and STATE PARK AND RECREATION COMMISSION  |
| Ruben A. Smith  
Keith E. McCullough  
Thierry R. Montoya  
Reginald Roberts, Jr.  
ADORNO YOSS ALVARADO & SMITH  
1 MacArthur Place, Suite 200  
Santa Ana, California 92707  
Telephone: (714) 852-6800 Facsimile: (714) 852-6899  | Attorneys for Intervenors, ORANGE COUNTY BUSINESS COUNCIL, et al.  |
The purpose of this meeting is for the San Diego Water Board to obtain testimony and information from concerned and affected persons and to make decisions based on the information received. Persons who want to submit written comments or evidence on any agenda item must comply with the procedures described in the agenda and agenda notes. Persons wishing to speak at the meeting should complete an attendance card (see Note F, attached to this Notice). The San Diego Water Board requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the San Diego Water Board members and staff have the opportunity to review and consider written material, comments should be received in the San Diego Water Board's office no later than noon on Tuesday, June 4, 2013* and should indicate the agenda item to which it is applicable. If the submitted written material is more than 5 pages or contains foldouts, color graphics, maps, etc., 15 copies must be submitted for distribution to the Board members and staff. Written material submitted after 5:00 P.M. on Tuesday, June 11, 2013, will not be provided to the Board members and may not be considered by the San Diego Water Board (See Note D, attached to this Notice).

*PLEASE NOTE THAT SOME ITEMS ON THE AGENDA MAY HAVE BEEN PREVIOUSLY NOTICED WITH EARLIER DEADLINES FOR SUBMITTING WRITTEN COMMENTS OR MAY HAVE A SEPARATE HEARING PROCEDURES DOCUMENT THAT ESTABLISHES DIFFERENT DEADLINES OR PROCEDURES FOR SUBMITTING WRITTEN MATERIALS. IN THOSE CASES THE DIFFERENT DEADLINES OR PROCEDURES APPLY.

Comments on agenda items will be accepted by E-mail subject to the same conditions set forth for other written submissions as long as the total submittal (including
attachments) does not exceed five printed pages in length. E-mail must be submitted
to: rb9agenda@waterboards.ca.gov. Type the word “Agenda” in the subject line.

Pursuant to Title 23, California Code of Regulations, section 648.4, the San Diego
Water Board may refuse to admit written testimony or evidence into the record if it is
not submitted to the San Diego Water Board in a timely manner and shall refuse to do
so if admitting it would prejudice any party or the board, unless the proponent
demonstrates that compliance with the deadline would create an unreasonable
hardship.

NOTE D, attached to this Notice, refers to the procedures that will be followed by the
San Diego Water Board in contested adjudicatory matters if a separate Hearing
Procedures Document has not been issued for a particular agenda item. Parties
requesting an alternate hearing process must do so in accord with the directions in
NOTE D. Any such request, together with supporting material, must be received in the
San Diego Water Board’s office no later than noon on Tuesday, June 4, 2013.

Copies of the agenda items to be considered by the San Diego Water Board are
posted on the San Diego Water Board’s website at
http://www.waterboards.ca.gov/sandiego/board_info/agendas

Except for items designated as time certain, there are no set times for agenda
items. Items may be taken out of order at the discretion of the Chairman.

1. Roll Call and Introductions.

2. PUBLIC FORUM: Any person may address the Board regarding a matter
within the Board’s jurisdiction that is not related to an item on this Meeting
agenda and is not scheduled for a future Meeting. Comments will generally
be limited to three minutes, unless otherwise directed by the Board
Chairperson. Any person wishing to make a longer presentation should
contact the Executive Officer at least ten days prior to the meeting.


4. Chairman’s, Board Members’, State Board liaison’s and Executive Officer’s
Reports: These items are for Board discussion only. No public testimony will be
allowed, and the Board will take no formal action.

Consent Calendar: Items 5 through 7 are considered non-controversial issues.
(NOTE: If there is public interest, concern, or discussion regarding any consent
calendar item or a request for a public hearing, then the item(s) will be removed
from the consent calendar and considered after all other agenda items have been
completed.)

5. Waste Discharge Requirements Addendum: Modification of Order No. 99-74,
Waste Discharge Requirements for the Sycamore Landfill Inc., A Subsidiary of
Republic Services Inc., Sycamore Landfill, San Diego County. (Amy Grove)
6. Rescission of Waste Discharge Requirements: Order No. 94-07, Hanson Aggregates Pacific Southwest Region, Otay Plant, San Diego County; and Order No. 93-82, Buena Sanitation District, Shadowridge Water Reclamation Plant, San Diego County (Tentative Order No. R9-2013-0056 rescinding Orders No. 94-07 and 93-82). (Tyler Kirkendall)


Remainder of the Agenda (Non-Consent Items):


9. Waste Discharge Requirements: Foothill/Eastern Transportation, Corridor Agency Tesoro (SR 241) Extension, Orange County (Tentative Order No. R9-2013-0007). (Darren Bradford) PLEASE NOTE: The Board will not consider this item prior to 1:00 p.m.

10. CLOSED SESSION

The Board may meet in closed session to consider personnel matters [Authority: Government Code section 11126(a)], to deliberate on a decision to be reached based upon evidence introduced in a hearing [Authority: Government Code section 11126(c)(3)], or to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation [Authority: Government Code section 11126(e)]. Litigation items that may be discussed are listed below by the type of item:

Civil Actions (Judicial and Administrative, other than Petitions for Review filed with the State Water Board)

a. People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Edward Drusina, an individual in his capacity as Commissioner of the International Boundary and Water Commission, United States Section, et al., Complaint for Violations of the Clean Water Act and Related State Law Claims. United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS) (filed February 2001). (David Gibson)

Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority adopted on January 24, 2007. Test Claim filed by San Diego County, et al., with Commission on State Mandates, No. 07-TC-09 (filed June 2008). (Catherine George Hagan)


f. Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016 (NPDES No. CAS0108766) adopted November 10, 2010, County of Riverside, Riverside County Flood Control and Water Conservation District, and the Cities of Murrieta, Temecula and Wildomar, Co-Claimants, filed with Commission on State Mandates, No. 11-TC-03 (filed November 2011). (Catherine George Hagan)

Petitions for Review Pending Before State Water Resources Control Board

h. Petitions of the National Fireworks Association and Fireworks & Stage FX America Inc., Coastal Environmental Rights Foundation, and San Diego Coastkeeper (General National Pollutant Discharge Elimination System (NPDES) Permit Order No. R9-2011-0022 (NPDES No. CAG999002) for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks), SWRCB/OCC Files A-2164(a)-(c), filed June and July 2011. (Michelle Mata)


n. Petition of South Laguna Civic Association for Review of Order No. R9-2012-0013, NPDES No. CA0107611, NPDES Permit Reissuance: South

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2 Petitions for review of San Diego Water Board actions or inactions filed with the State Water Board being held in abeyance by the State Water Board are not listed in the agenda. The titles of these matters are available at the San Diego Water Board. Please contact Catherine George Hagan at chagan@waterboards.ca.gov or 858-467-2958 for more information.
NOTIFICATIONS

A. **Completed Cleanup Action – 30-day Notice.** The San Diego Water Board intends to issue a no further action letter for completion of cleanup of pollutants from a leaking underground storage tank (UST) system at 728 North Escondido Boulevard, Escondido, California. This notification is made pursuant to California Code of Regulations, Title 23, section 2728. The information relied upon by the San Diego Water Board indicates that the pollutants associated with the UST system at this facility have been remediated. Groundwater pollution from the adjacent gas station, however, has migrated beneath portions of this property. A deed restriction has been placed on the property to restrict land use until such time as the remediation of the adjacent gas station has been completed and any potential risk to human health and environment has been mitigated. Additional details about this case are available on the GeoTracker website at: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0607302298. Provided no significant issues arise during the public notification period, the San Diego Water Board will issue a no further action letter in July 2013. (John Anderson)

B. **Completed Cleanup Action – 30 Day Public Notice.** The San Diego Water Board intends to issue a no further action letter for completing a Human Health Risk Assessment (HHRA) at the former Lane Field site located at 970 Broadway Avenue in San Diego, California. This public notice fulfills the San Diego Water Board’s obligation to inform the public of the proposed actions pursuant to the State and Regional Water Quality Control Boards' Public Participation guidance document. Redevelopment plans at the site currently include the construction of two hotel towers and a nearly two-acre public park and open air plaza. The HHRA concluded that the residual concentrations in soil, soil vapor, and groundwater do not pose a risk to human health and the environment pursuant to the redevelopment plans. The residual concentrations in soil vapor in the southwest corner of the site, however, may pose a risk to
human health if a building is placed directly over the impacted area. According
to the redevelopment plans the proposed park will occupy this area. The no
further action letter will include a provision that no buildings will be built on top
of the impacted area unless the elevated soil vapor concentrations are further
mitigated to be protective of any future land use (e.g., residential dwellings, day
care facilities, and commercial/industrial buildings). Additional details about this
case are available from the GeoTracker website at:
https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000002
492. Please note that the final version of the HHRA will be uploaded into
GeoTracker by May 31, 2013. Provided no significant issues arise during the
public notification period, the San Diego Water Board will issue a no further
action letter in July. (Tom Alo)

C. **Follow the Board Meeting on Twitter:** Updates on the progress of the San
Diego Water Board meeting will be posted on Twitter at
www.twitter.com/SDWaterBoard. The San Diego Water Board’s use of Twitter
is a courtesy and is for informational purposes only. It is not always reliable,
and is not a substitute for personal attendance at a Board meeting.

**DIRECTIONS TO MEETING**

**From Downtown:** I-15 north – take the Aero Drive exit – turn left (west). Proceed to
the 3rd stoplight, which is Ruffin Road – turn right. Turn left on Sky
Park Court (stoplight). Our building is located at the end of the
court – veer to the right into the parking lot.

**From the North:** I-15 south – take the Balboa Ave. exit – turn right (west). Proceed
to the 2nd stoplight, which is Ruffin Road – turn left. Turn right onto
Sky Park Court (stoplight). Our building is located at the end of
the court – veer to the right into the parking lot.
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION  
Summary of Board Actions and Proceedings  
At the May 8, 2013, Board Meeting

MINUTES

Minutes of the April 10-11, 2013, Board Meeting

REGIONAL BOARD ACTIONS

Approval of the minutes was postponed until the June Board meeting.

NON-CONSENT ITEMS

General NPDES Permit Issuance: General Waste Discharge Requirements for Discharges from Boatyards and Boat Maintenance and Repair Facilities Adjacent to Surface Waters within the San Diego Region (Tentative Order No. R9-2013-0026, NPDES No. CAG719001). (Kristin Schwall and Michelle Malkin)

Approved Order No. R9-2013-0026, NPDES No. CAG719001.

Administrative Civil Liability: Settlement Agreement and Stipulation for Order and Administrative Civil Liability Order, City of San Diego, Sanitary Sewer Overflow to Los Peñasquitos Creek, Peñasquitos Lagoon, and the Pacific Ocean. Settlement to resolve violations of Order Nos. 2006-0003-DWQ and R9-2007-0005 as set forth in Tentative Order No. R9-2013-0032. The Settlement would impose monetary liability of $1,245,414 against the City of San Diego, of which $622,707 in liability would be paid to the State Water Resources Control Board's Cleanup and Abatement Account and $622,707 in liability would be suspended upon successful completion of an Enhanced Compliance Action as described in Tentative Order No. R9-2013-0032. (Barry Pulver)


Approved Order No. R9-2013-0001
NOTES:

A. GENERAL STATEMENT
The primary duty of the San Diego Water Board is to protect the quality of the waters within the region for all beneficial uses. This duty is implemented by formulation and adoption of water quality plans for specific ground or surface water basins and by prescribing and enforcing requirements on all domestic and industrial waste discharges. Responsibilities and procedures of the Regional Water Quality Control Board come from the State's Porter-Cologne Water Quality Act and the Nation's Clean Water Act.

The purpose of the meeting is for the Board to obtain testimony and information from concerned and affected parties and make decisions after considering the recommendations made by the Executive Officer.

All interested persons may speak at the San Diego Water Board meeting and are expected to orally summarize their written submittals. Testimony should be presented in writing prior to the meeting and only a summary of pertinent points presented orally. Oral testimony (i.e., direct testimony or comment) will be limited in time by the Board Chair (typically 3 minutes for interested persons and no more than 10 minutes for designated parties). A timer may be used and speakers are expected to honor the time limits.

B. PROCEDURE FOR CONSENT (UNCONTENDED) CALENDAR (see also 23 C.C.R. § 647.2)
Consent or uncontested agenda items are items for which there appears to be no controversy and which can be acted upon by the San Diego Water Board with no discussion. Such items have been properly noticed and all interested parties consent to the staff recommendation. The San Diego Water Board Chair will recognize late revisions submitted by staff and will then call for a motion and vote on all of the consent calendar items by the San Diego Water Board.

If any San Diego Water Board member or member of the public raises a question or issue regarding an item that requires San Diego Water Board discussion, the item may be removed from the consent calendar and considered separately in an order determined by the Chair. Anyone wishing to contest a consent item on the agenda is expected to appear in person at the San Diego Water Board meeting and explain to the San Diego Water Board the reason that it is contested.

C. PROCEDURE FOR INFORMATION ITEMS (see also 23 C.C.R. 649, et. seq.)
Information items are items presented to the San Diego Water Board for discussion only and for which no San Diego Water Board action or vote is normally taken. The San Diego Water Board usually will hear a presentation by staff, but may hear presentations by others. Comments by interested persons shall also be allowed. Members of the public wishing to address the San Diego Water Board on the topic under discussion should submit an attendance card.
beforehand indicating their request to speak to the San Diego Water Board. Comment from the public should be for clarification or to add to the San Diego Water Board's understanding of the item, such comment must not be testimonial in nature or argumentative, as speakers are not under oath and the proceeding is not adversarial. Time limits may be imposed on interested persons.

D. PROCEDURES FOR NON-CONSENT (CONTESTED) AGENDA ITEMS
Non-consent or contested agenda items are items to which the parties involved have not consented and the staff recommendation is in dispute. The procedure that applies to such items depends on the nature of the matter. Matters before the San Diego Water Board may be quasi-legislative or quasi-judicial (adjudicative proceedings). Such items may require a public hearing and all interested persons will be provided an opportunity to make comments.

Contested Adjudicative Matters

Contested agenda items that are adjudicative, not quasi-legislative, are governed by the rules for adjudicative proceedings. State Water Resources Control Board (State Water Board) regulations setting forth the procedures for adjudicative proceedings before the State and Regional Water Boards are codified in Title 23, California Code of Regulations, Division 3. Adjudicative proceedings before the State and Regional Water Boards are governed by State Water Board regulations as authorized by Chapter 4.5 of the Administrative Procedures Act (commencing with section 11400 of the Government Code). State Water Board regulations further provide that, with certain exceptions, adjudicative proceedings will be conducted in accordance with sections 800-805 of the Evidence Code and section 11513 of Chapter 5 of the Government Code. (Other provisions of Chapter 5 of the Government Code do not apply to adjudicative proceedings before the State and Regional Water Boards). A copy of those regulations and Chapter 4.5 of the Administrative Procedures Act, section 11513 of the Government Code and sections 801-805 of the Evidence Code can be found at http://www.waterboards.ca.gov/laws_regulations/.

An adjudicative proceeding is a hearing to receive evidence for determination of facts pursuant to which the State or Regional Water Board formulates and issues a decision. A decision determines a legal right, duty, privilege, immunity or other legal interest of a particular person or persons. Examples of adjudicative proceedings include hearings to receive evidence concerning the issuance of waste discharge requirements or National Pollutant Discharge Elimination System (NPDES) permits, concerning cease and desist orders, and concerning orders imposing administrative civil liability. Adjudicative proceedings are not conducted according to the technical rules of evidence, and the San Diego Water Board will accept testimony and comments that are reasonably relevant to the issues before the Board. Testimony or comments that are not reasonably relevant, or that are repetitious, will be excluded.

In some adjudicative matters, most frequently administrative civil liability matters, a separate Hearing Procedures Document has been issued. In those
cases, the procedures set forth in that Document will apply, subject to
discretionary modification by the Chairman. For other adjudicatory matters, 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 San Diego Water Board must affirm the truth of their
testimony and are subject to questioning by the Board Members.

Absent a separate Hearing Procedures Document, the Board normally conducts
adjudicative proceedings in an informal manner. That is, the Board does not,
generally, require the designation of parties, the prior identification of witnesses,
prior submission of written testimony, or the cross examination of witnesses.
Any requests for an alternate hearing process should be directed to the
Executive Officer and must be received by the San Diego Water Board by the
deadline set forth on pages 1-2 of the Agenda.

When the San Diego Water Board determines that a hearing will be formal (as
opposed to informal, as described above), participants in a contested agenda
item are either "designated parties" or "interested persons." Only designated
parties will have the right to cross-examination, and may be subject to cross-
examination. Interested persons (i.e., nondesignated parties) do not have a
right to cross-examination, but may ask the San Diego Water Board to clarify
testimony. Interested persons may also be asked to clarify their statements at
the discretion of the San Diego Water Board.

Designated parties include:

- Discharger or Responsible Party
- Persons directly affected by the discharge
- Staff of the San Diego Water Board (if specified in the applicable hearing
  procedures)

All other persons wishing to testify or provide comments for a formal hearing are
"interested persons" and not "designated parties." Such interested persons may
request status as a designated party for purposes of the formal hearing by
submitting such request in writing to the San Diego Water Board no later than
the date specified at the beginning of the Agenda Notice or in the applicable
Notice of Public Hearing or Hearing Procedures Document. The request must
explain the basis for status as a designated party and, in particular, how the
person is directly affected by the discharge.

All persons testifying must state their name, address, affiliation, and whether
they have taken the oath before testifying. The order of testimony for formal
hearings generally will be as follows, unless modified by the San Diego Water
Board Chair:

- Testimony and cross-examination of San Diego Water Board staff
- Testimony and cross-examination of discharger
- Testimony and cross-examination of other designated parties
- Testimony by interested persons
- Closing statement by designated parties other than discharger
- Closing statement by discharger
- Closing statement by staff
- Recommendation by Executive Officer (as appropriate)
- Close hearing
- Deliberation and voting by San Diego Water Board

Closing statements shall be for the purpose of summarization and rebuttal and are not to be used to introduce new evidence or testimony. After considering evidence, testimony, and comments, the San Diego Water Board may choose to adopt an order regarding a proposed agenda item.

**Quasi-legislative Matters**

Quasi-legislative matters include rulemaking and some informational proceedings. These matters may include hearings for the adoption or amendment of regulations, water quality control plans, and hearings to gather information to assist the State and Regional Water Boards in formulating policy for future action. They are not adjudicative proceedings and are subject to different procedures. (See PROCEDURE FOR INFORMATION ITEMS, above, and Cal. Code Regs. Tit. 23, § 649, et seq.)

**E. CONTRIBUTIONS TO SAN DIEGO WATER BOARD MEMBERS**

Persons applying for or actively supporting or opposing waste discharge requirements or other San Diego Water Board orders must comply with legal requirements if they or their agents have contributed or proposed to contribute $250 or more to the campaign of a San Diego Water Board member for elected office. Contact the San Diego Water Board for details if you fall into this category.

**F. PROCEDURAL INFORMATION**

The San Diego Water Board may meet in closed session to discuss matters in litigation, including discussion of initiated litigation, significant exposure to litigation, or decisions to initiate litigation [Authority: Government Code § 11126(e)]; deliberate on a decision to be reached based upon evidence introduced in an adjudicatory hearing [Authority: Government Code § 11126(d)]; or to consider the appointment, employment or dismissal of a public employee to hear complaints or charges brought against a public employee [Authority: Government Code §11126(a)].

The San Diego Water Board may break for lunch at approximately noon at the discretion of the Chairman. During the lunch break San Diego Water Board members may have lunch together. Other than properly noticed closed session items, San Diego Water Board business will not be discussed.

Agenda items are subject to postponement. A listing of postponed items will be
posted in the meeting room. You may contact the designated staff contact person in advance of the meeting day for information on the status of any agenda item.

Speaker Cards. All persons desiring to address the San Diego Water Board are required to fill out a speaker card. Cards are normally provided near the entrance to the meeting room. San Diego Water Board staff can assist you in locating the cards.

Please fill out a separate card for each item you plan to speak on. All relevant sections, including the oath, must be completed. Please use the appropriate color card, as indicated below:

Blue: Public Comments (for items requiring no San Diego Water Board action - Public Forum, status reports, etc.).
Green: Public Testimony, in support of the tentative action.
Pink: Public Testimony, opposed to the tentative action.

G. AVAILABILITY OF EXECUTIVE OFFICER’S REPORT AND AGENDA MATERIAL
Visit our website at www.waterboards.ca.gov/sandiego to view the Executive Officer’s Report over the internet two days prior to the San Diego Water Board meeting. A copy can also be obtained by contacting the staff office. A limited number of copies are available at the meeting.

Copies of most agenda items to be considered by the San Diego Water Board are posted on the San Diego Water Board’s website at http://www.waterboards.ca.gov/sandiego/board_info/agendas.

Detailed concerning other agenda items are available for public reference during normal working hours at the San Diego Water Board’s office. The appropriate staff contact person, indicated with the specific agenda item, can answer questions and provide additional information. For additional information about the Board, please see the attached sheet.

H. PETITION OF SAN DIEGO WATER BOARD ACTION
In accordance with California Water Code section 13320, any person affected adversely by most decisions of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) may petition the State Water Resources Control Board (State Board) to review the decision. The petition must be received by the State Board within 30 days of the San Diego Water Board’s meeting at which the adverse action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I. HEARING RECORD
Material presented to the Board as part of testimony (e.g. photographs, slides, charts, diagrams etc.) that is to be made part of the record must be left with the Board. Photographs or slides of large exhibits are acceptable.
All Board files, exhibits, and agenda material pertaining to items on this agenda are hereby made a part of the record.

J. ACCESSIBILITY
The facility is accessible to people with disabilities. Individuals who have special accommodation or language needs, please contact Ms. Chris Witte at (858) 467-2974 or cwitte@waterboards.ca.gov at least 5 working days prior to the meeting. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

K. PRESENTATION EQUIPMENT
Providing and operating projectors and other presentation aids are the responsibilities of the speakers. Some equipment may be available at the Board Meeting; however, the type of equipment available will vary dependent on the meeting location. Because of compatibility issues, provision and operation of laptop computers and projectors for Power Point presentations will generally be the responsibility of the individual speakers. To ascertain the availability of presentation equipment please contact Ms. Chris Witte at (858) 467-2974 or cwitte@waterboards.ca.gov at least 5 working days prior to the meeting.