Linda S. Adams

California Regional Water Quality Control Board

Los Angeles Region



Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013

Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Notice of Public Meeting/Hearing

Thursday, December 10, 2009 9:00 a.m.

Meeting Location:

Metropolitan Water District of Southern California
Board Room
700 North Alameda Street
Los Angeles, California

Agenda

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

To ensure a fair hearing and that the Regional Board Members have an opportunity to fully study and consider written material, unless stated otherwise, written materials must be provided to the Executive Officer not later than 5:00 p.m. on November 25, 2009. Please consult the agenda description for specific items, because certain items may have an earlier deadline for written submissions. If you are considering submitting written materials, please consult the notes at the end of the agenda. Failure to follow the required procedures may result in your materials being excluded from the hearing record; however, failure to timely submit written materials does not preclude a person from testifying before the Board.

INTRODUCTORY ITEMS

- Roll Call.
- 2. **Order of Agenda.** The agenda items are numbered for identification purposes only and may not necessarily be considered in this order.
- 3. Approval of November 5, 2009 draft Meeting Minutes. [Ronii Harris, (213) 576-6612]
- Board Member Communications.
 - 4.a. Ex Parte Disclosure. Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code section 11430.40.
 - 4.b. Board Member Reports. The Board Members may discuss communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction.
- 5.a Executive Officer's Report.
 [Tracy Egoscue, (213) 576-6605]
- 5.b Board Checklist.

5.c Update from State Board. [Fran Spivy-Weber]

6. Public Forum. Any person may address the Board regarding any matter within the Board's jurisdiction provided the matter does not appear elsewhere on this agenda, has not been scheduled to appear on a future agenda, and is not expected to be imminently scheduled for the Board's consideration. Remarks will be limited to five (5) minutes, unless otherwise directed by the Chair.

UNCONTESTED ITEMS

(Items marked with an asterisk are expected to be routine and noncontroversial. The Board will be asked to approve these items at one time without discussion. Any Board member or person may request that an item be removed from the uncontested calendar. The Chair will determine the appropriate time to consider an item removed from the consent calendar.)

Waste Discharge Requirements that Serve as Individual NPDES Permits Renewal-

- *7. ExxonMobil Oil Corporation (Southwestern Terminal Area 1), Terminal Island; NPDES Permit No. CA0003689 (Comment submittal deadline is November 30, 2009) [Mazhar Ali (213) 576-6652]
- *8. BP Pipelines (North America), Inc. (Long Beach Marine Terminal 2), Long Beach; NPDES Permit No. CA000042. (Original comment submittal deadline was October 15, 2009) [Raul Medina, (213) 620-2160]

Termination-

*9. City of Fillmore (Fillmore Wastewater Treatment Plant), "C" Street and River Street, Fillmore; NPDES Permit No. CA0059021. [Raul Medina, (213) 620-2160]

Other Business

*10. Consideration of a Tentative Resolution approving the County Sanitation Districts of Los Angeles County's proposed Special Study for the Joint Water Pollution Control Plant. (Comment submittal deadline was October 22, 2009.) [Rebecca Christmann, (213) 576-6756]

INFORMATION ITEM

11. Staff from Boeing, National Aeronautics and Space Administration (NASA) and the Expert Panel will discuss the Interim Source Removal Action (ISRA) status and issues. The ISRA actions are proceeding pursuant to the California Water Code section 13304 Order to Perform Interim/Source removal Action of Soil in the Areas of Outfalls 008 and 009 drainage Areas. The Boeing Company Santa Susana Field Laboratory, Canoga Park, CA (SCP No. 1111, Site ID No. 2040109) [Cassandra Owens, (213) 576-6750]

ACTION ITEMS

Earth-bottom Waste Discharge Requirements

County of Los Angeles, Maintenance Clearing of Engineered Earth-bottom Control Channels; File No. 99-011 WDR. (Comment submittal deadline was November 12, 2009) [Valerie Carrillo, (213) 576-6759] [This item is being continued to the February 4, 2010 meeting]

Non-NPDES State Discharge Requirements

13. Cerritos Bahia Marina Maintenance Dredging, Long Beach, Los Angeles County; File No. 09-164 (Comment submittal deadline was November 17, 2009) [Michael Lyons, (213) 576-6718]

Municipal Storm Water Permit (MS4)

Consideration of Proposed Modification to the County of Los Angeles Municipal Separate Storm Sewer System Permit (Order No. 01-182 as amended by Order No. R4-2006-0074 and Order No. R4-2006-0042) to Incorporate Provisions of the Los Angeles River Trash TMDL. (Comment submittal deadline date was November 9, 2009.) [Ivar Ridgeway, (213) 620-2150]

12-2

CLOSED SESSION

- 15. As authorized by the Government Code section 11126, the Regional Board will be meeting in closed session. Closed session items are not open to the public. Items the Board may discuss include the following: [Michael Levy (MJL), (916) 341-5193; Jennifer L. Fordyce (JLF) (916) 324-6682]
 - Cities of Los Angeles, City of Burbank v. Los Angeles Regional Water Quality Control Board, Los Angeles County Superior Court, Case Nos. BS 060957 and BS 060960. [Challenging the Burbank, Tillman, and Los Angeles-Glendale Water Reclamation Plants' NPDES permits]. (MJL)
 - County of Los Angeles et al. v. Commission on State Mandates et al. and City of Artesia et al. v. State of California, Los Angeles Superior Court Nos. BS 089769 & BS089785, Second District Court of Appeal No. B183981 [Alleging that the Los Angeles MS4 Permit created an unfunded state mandate]. (MJL)
 - In re Halaco Engineering Company, United States Bankruptcy Court, Central District of California, Northern Division, No. ND-02-12255 RR [Regarding a CDO and CAO at the Oxnard Propertyl. (JLF)
 - 15.4 Cities of Arcadia et al., v. Los Angeles Regional Water Quality Control Board, Orange County Superior Court No. 06CC02974 [Challenging the 2004 Triennial Review]. (MJL)
 - 15.5 Cities of Bellflower et al., v. Los Angeles Regional Water Quality Control Board et al., Los Angeles Superior Court No BS101732 [Challenging the Los Angeles River and Ballona Creek Metals TMDLs]. (MJL)
 - County of Los Angeles et al v. Los Angeles regional Water Quality Control Board and State Water Resources Control Board, Los Angeles County Superior Court, Case No. BS122724 [Challenging the incorporation into the MS4 Permit of the Waste Load Allocations from the Santa Monica Bay Beaches Bacterial TMDL]. (MJL)
 - 15.7 In re: Petition of the Boeing Company for Review of Order No. R4-2009-0058 [Challenging the waste discharge requirements for the Santa Susana Field Laboratory] (MJL)
 - 15.8 In re: Petition of Committee to Bridge the Gap for Review of Order No. R4-2009-0058 (Challenging the waste discharge requirements for the Santa Susana Field Laboratory) (MJL)
 - In re: Petition of the Building Industry Association of Southern California, Inc., et al for Review of Order No. R4-2009-0057 [Challenging the Ventura County MS4 Permit] (MJL)
 - 15.10 Consultation with counsel about:
 - (a) A judicial or administrative adjudicatory proceeding that has been formally initiated to which the Regional Board is a party;
 - (b) A matter that, based on existing facts and circumstances, presents significant exposure to litigation against the Regional Board;
 - (c) A matter which, based on existing facts and circumstances, the Regional Board is deciding whether to initiate litigation. (JLF)
 - 15.11 Consideration of the evaluation of performance about a public employee. (MJL)
 - 15.12 In re Lyondell Chemical Company, et al., United States Bankruptcy Court, Southern District of New York, Case No. 09-10023 [Regarding remediation obligations at the former Weber Aircraft site in Burbank].(JLF)
- Adjournment of Current Meeting. The next meeting will be held on February 4, 2010, beginning at 9:00 am, at the Metropolitan Water District of Southern California, located at 700 North Alameda Street, Los Angeles, California.

NOTICE

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

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

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

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

Administrative Record: Material presented to the Board as part of testimony that is to be made part of the record must be left with the Board. This includes photographs, slides, charts, diagrams, etc. All Board files pertaining to the items on this Agenda are hereby made a part of the record submitted to the Regional Board by staff for its consideration prior to action on the related items.

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

Availability of Complete Agenda Package: A copy of the complete agenda package is available for examination at the Regional Board Office during regular working hours (8:00 a.m. to 5:00 p.m. Monday

through Friday) beginning 10 days before the Board meeting. Questions about specific items on the agenda should be directed to the staff person whose name is listed with the item.

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

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

Electronic Information and Updates: Our web site address is www.waterboards.ca.gov/losangeles/. The site can also be accessed through the State Water Resources Control Board's web site at www.waterboards.ca.gov/, then clicking on "Regional Boards". Information available online includes the Regional Board's meeting schedule, a list of the Regional Board members, past and present Executive Officer reports, program information, a list of staff and phone numbers arranged by their work unit, and links to the Santa Monica Bay Restoration Commission's home page and other governmental agencies. Last-minute changes to the agenda, such as the continuance of an item, will be posted electronically. If you need further information, please contact Jack Price at (213) 576-6669.

Pending Water Quality Certifications: A listing of pending water quality certification applications currently on public notice pursuant to Section 401 of the Federal Clean Water Act may be obtained by calling Valerie Carrillo at (213) 576-6759.

Settlement of Enforcement Actions: A listing of settlement enforcement actions can be accessed by the following link: http://www.waterboards.ca.gov/enforcement/index.html

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

Los Angeles Region

Board Members	City of Residence	Appointment Category
Mary Ann Lutz, Chair	Monrovia	Municipal Government
Madelyn Glickfeld, Vice Chair	Malibu	Recreation, Fish & Wildlife
Steve Blois	Camarillo	Industrial Water Use
Francine Diamond	Pacific Palisades	Water Quality
Maribel Marin	Woodland Hills	Water Quality
Maria Mehranian	La Canada	County Government
Vacant		Irrigated Agriculture
Vacant		Water Supply
Vacant		Water Quality

REGIONAL BOARD STAFF

Executive Office

Tracy Egoscue, Executive Officer (213/576-6605)

Deborah Smith, Chief Deputy Executive Officer, Surface Water Division, (213/576-6609)

Samuel Unger, P.E., Assistant Executive Officer (213/576-6607)

Stephen Cain, Senior Environmental Planner, (213/576-6694)

Ronji Harris, Executive Assistant, (213/576-6612)

Michael Levy, Senior Staff Counsel, State Water Resources Control Board, 1001 'I' Street, Sacramento, CA, 95814 (916/341-5193)

Jennifer Fordyce, Staff Counsel, State Water Resources Control Board, 1001 'I' Street, Sacramento, CA, 95814 (916/324-6682)

Jeff Ogata, Staff Counsel, State Water Resources Control Board, 1001 'I' Street, Sacramento, CA, 95814 (916/709-5231)

Pat Guokas, Staff Services Manager II, (213) 576-6611

Administrative Services

Dolores Renick, AGPA (Lead), 576-6629 Carolina Lopez, AGPA, 576-6630 Gwendolyn Monroe, AGPA, 576-6631 Leticia Aguilar, AGPA, 576-6628 Elsa Aquino, SSA, 576-6632 Lucinda Flores, MST, 576-6633 Martha Pinto, OA, 576-6800 Torie Chairez, OA, 576-6635

Information Technology

Jack Price, Sr. WRCE, 576-6669 Alex Carlos, 576-6726 Khalid Abdullah, 576-6675 Kee Fong, 576-6677

Water Quality Data Program

Mary Ann Jones, EG (Lead), 576-6692 Laura Gallardo, AGPA, 576-6636 Rosie Villar, SSA, 576-1364

GROUNDWATER PROTECTION DIVISION

Underground Tanks

Yue Rong, Ph.D. Chief, (213/576-6710) Maria Bambico (OT), 576-6709

Greg Kwey, UST- San Gabriel River, (213)576-6702

Nhan Bao, 576-6703 John Chiang, 576-6708 Noman Chowdhury, 576-6704 Ahmad Lamaa, 576-6716 Joe Luera, 576-6706 Ha Nguyen, 576-6658 Yi Lu, Ph.D., UST-Los Angeles River, (213)576-6695

Magdy Baiady, 576-6699 Chandra Cansler, 576-6782 Arman Toumari, 576-6741 Jimmie Woo, 576-6698 Maryam Taiedi, 576-7154

Weixing Tong, Ph.D. (213) 576-6715, UST Coastal,

Daniel Pirotton, 576-6714 Mercedes Hsu, 576-6712 Jay Huang, 576-6711 David Bjostad, 576-6713

REMEDIATION

Arthur Heath, Ph.D., Chief (213/576-6725) Vacant (OT)

Su Han, 576-6735, Site Cleanup I
Peter Raftery 576-6724
Thizar Tintut-Williams, 576-6723
Ana Townsend, 576-6738
David Young, 576-6733
Niann-Jen (Ann) Chang, Ph.D., 620-6070

Luis Chang Kuon, 576-6667 Gregg Crandall, 576-6701 Adnan Siddiqui, Site Cleanup III, (213)576-6812

Angelica Casteneda, 576-6737 Noori Alavi, 576-6659 Steve Rowe, 576-6755 Daniel Gillette, 576-5730 Afshin Amini, 576-6744 Teklewold Ayele, 576-6743

Dixon Oriola, Site Cleanup II, (213)576-6803

Curt Charmley, 576-6774
Carlos Ortez, 576-6751
Don Indermill, 576-6811
Lawrence Moore, 576-6730
Pinaki Guha-Niyogi, 576-6731
Greg Bishop, 576-6727
Bizuayehu Ayele, 576-6747

GROUNDWATER PERMITS/CLEANUP

Wendy Phillips, Chief (213/576-6618)
Vacant (OT)

Rodney Nelson, Land Disposal Unit (213)620-6119

Enrique Casas, 620-2259 Douglas Cross, 620-2246 Wen Yang, 620-2253 Kwang-il Lee, Site Cleanup IV (213)576-6734

Paul Cho, 576-6721 Robert Ehe, 576-6740 GuiJun (Jeffrey) Hu, 576-6736 Mohammad Zaidi, 576-6732 Henry Jones, 576-6697 Ann (Biu) Lin, 576-6781

Rebecca Chou, GW Permitting Unit (213)620-6156

Toni Callaway, 620-2259 Elizabeth Erickson, 620-2264 Orlando Gonzalez, 620-2267 Dionisia Rodriguez, 620-6122

SURFACE WATER DIVISION

Watershed Regulatory

David Hung - Chief (213/576-6616) Michael Lyons, Contaminated Sediments, 576-6718 Juanita Gallegos, 576-6617 (OT)

Rebecca Christmann, Lead (213) 576-6756 Veronica Cuevas-Alpuche, 576-6662 Don Tsai, 576-6665 Raul Medina, 620-2160

Cathy Chang, 576-6664

Augustine Anijielo, General Permitting (213) 576-6657

Vilma Correa, 576-6794 Namirai Jain, 620-6003 Gensen Kai, 576-6651

James Tang, 576-6696

Cassandra Owens, Industrial (213)576-6750

Mazhar Ali, 576-6652 Rosario Aston, 576-6653 Jau-Ren Chen, 576-6656

COMPLIANCE & ENFORCEMENT

Paula Rasmussen, Chief (213/576-6791) Al Novak, Permit Coordinator (213/576-6650)

Hugh Marley, Enforcement (213) 620-6375

G. Russell Colby, 620-6373 Lala Kabadaian, 620-6370 (Leave) Jose Morales, 620-2273 Mercedes Merino, 620-6369 Kristie Kao, 620-6368 Pansy Yuen, 620-6367

Ejigu Solomon, Stormwater Compliance & Enforcement 620-2237

Alex Alimohammadi, 620-2243 Wei-ling (Wendy) Liu, 620-2219 Enrique Loera, 620-2244 Aniela Zaszkodna, 620-2120 Sean Lee, 620-2122 Harumi Goya, 620-2283

REGIONAL PROGRAMS

Renee Purdy, Chief (213) 576-6783 Shirley Birosik, Watershed Coordinator, 576-6679 Theresa Rodgers, Associate Government Program Analyst, 576-6789 Sandra Kelley, 576-6619 (OT)

L.B. Nye, Standards & TMDL (213) 576-6785

Ginachi Amah, 576-6685 Valerie Carrillo, 576-6759 Dana Cole, 576-5733 Thomas Siebels, 576-6671 Man Voong, 576-6808

Jenny Newman, TMDL 3 (213)576-6691

C.P. Lai, 576-6951 Yangie Chu, 576-6681 Rebecca Veiga Nascimento, 576-6784 Elisha Wakefield, 576-6763

Eric Wu, WRCE-D, TMDL 2, (213) 576-6683

Stefanie Hada, 576-6804 Thanhloan Nguyen, 576-6689 Kangshi Wang, 576-6780

Xavier Swamikannu, Stormwater Permitting Unit, (213) 620-2094

James (Jim) Covin, 620-2229 Ivar Ridgeway, 620-2150 Carlos Santos, 620-2093 Tracy Woods, 620-2095

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

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Representing: City of Carson

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

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Unless exempted by the Board, comments are limited to three (3) minutes.
State of California Environmental Protection Agency Water Resources Control Board Los Angeles Regional Water Quality Control Board
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Los Angeles Regional Water Quality Control Board

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State of California
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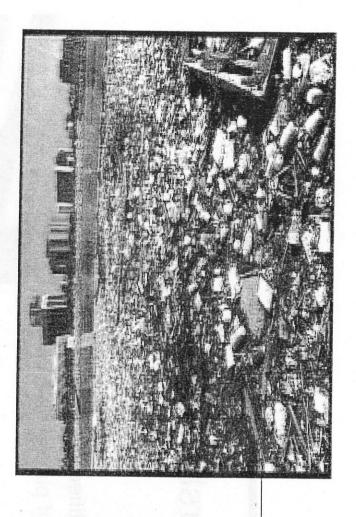
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LA County MS4 Permit:

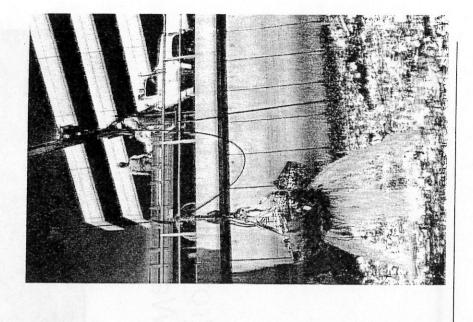
Implement the Los Angeles River Watershed Trash -imited Reopener to Incorporate Provisions to **Fotal Maximum Daily Load**

Item 14 December 10, 2009



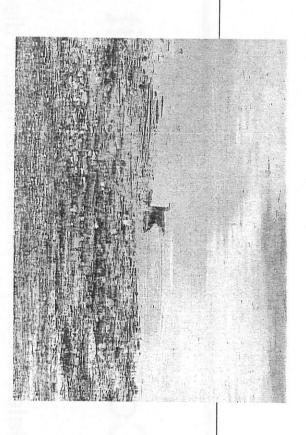
LA River Watershed Trash TMDL: History

- 1 1996 Impairment identified
- J 1998 Trash impairment placed on CWA 303(d) List
- 2001 First Trash TMDL adopted; two separate challenges
- 2003 City of LA & County Settlement (1st Challenge)
- 2006 First TMDL set aside (2nd Challenge)
- ☐ 2007 Current Trash TMDL adopted
- ☐ 2008 TMDL in effect; first compliance deadline
- ☐ 2009 Two compliance deadlines passed



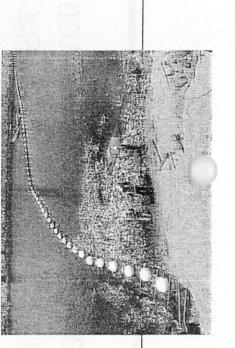
Limited Re-opener of MS4 Permit Summary of Proposed Action:

- allocations (WLAs) in LA River Watershed Trash TMDI ☐ Incorporates effluent limitations based on wasteload
- Provides for a variety of trash control strategies
- Allows options for determining compliance
- Provisions cover urban runoff and stormwater discharges within the Los Angeles River Watershed

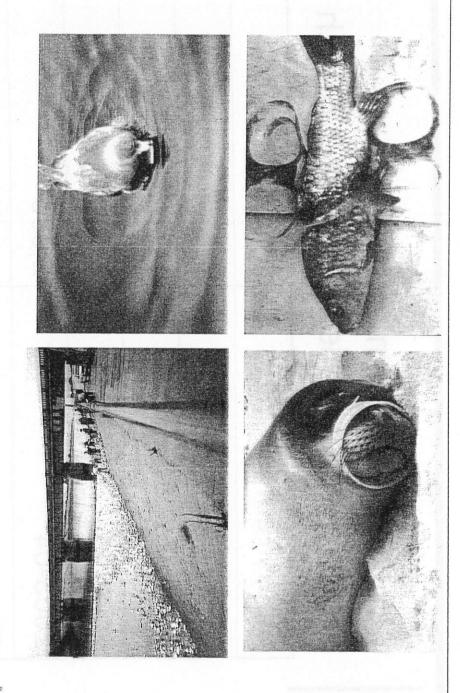


LA County MS4 Permit

- Regulates urban runoff and stormwater discharges
- 85 Co-Permittees & County Flood Control District
- Adopted in 2001; required attainment of Water Quality Standards in Receiving Waters
- Instrument for implementing TMDLs, including WLAs assigned to MS4 discharges
- Santa Monica Bay Beaches TMDL (2006)
- Marina del Rey Harbor & Mothers' Beach TMDL (2007)



Trash Impacts Addressed by TMDL

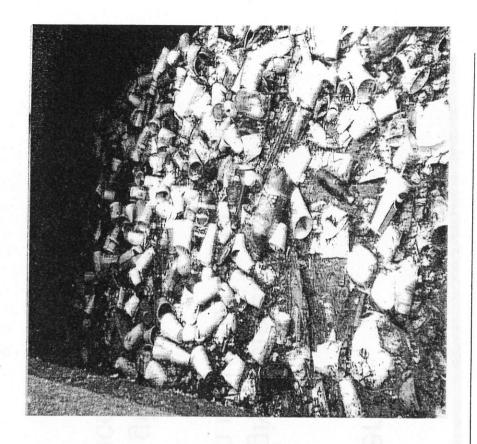


Storm Debris Collection, Long Beach Continued Impairment:

Storm Year	Total (tons)
2000-01	4,437
2001-02	1,858
2002-03	4,630
2003-04	2,636
2004-05	12,255
2005-06	2,591
2006-07 (1st 3 quarters)	1,462

LA River Watershed Trash TMDL

- ☐ TMDLs are not selfexecuting
- ☐ MS4 Permit was identified as primary instrument for implementing WLAs



Authority for Re-opener

- re-open a permit when required by the permit's □ 40 CFR 122.62(a)(7) gives States authority to re-opener clause
- to re-open permit to incorporate amendments to Permit Provision 6.1.1 gives authority to Board the Basin Plan

Legal and Regulatory Requirements

- ☐ Permits must be consistent with available WLAs
- requirements of any available waste load allocation limits ... are consistent with the assumptions and □ 40 CFR 122.44(d)(1)(vii) - Requires that effluent for the discharge.
- the Basin Plan [including TMDLs] are implemented in ☐ Cal. Water Code 13263 — Requires that provisions of

Key Elements of TMDL: Waste Load Allocations

- ☐ Assigned to each jurisdiction within watershed
- □ Baseline WLA =

Summation of: Land use area x trash generated (by land use) [for each jurisdiction]

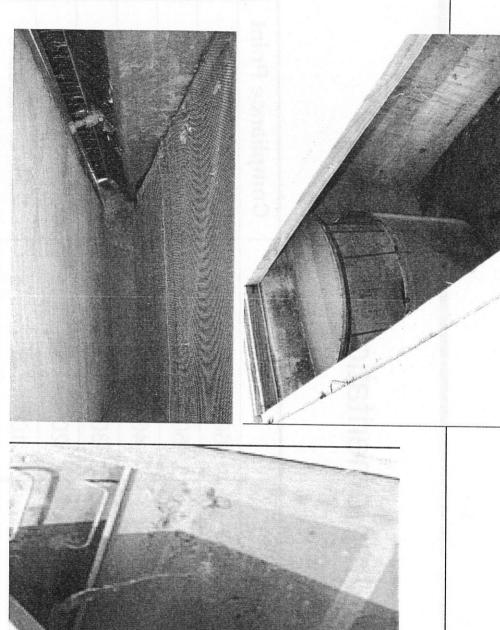
- ☐ Interim WLAs =
- % reductions of the Baseline WLA
- Final WLA = 100% reduction of baseline = no trash discharged to river from MS4

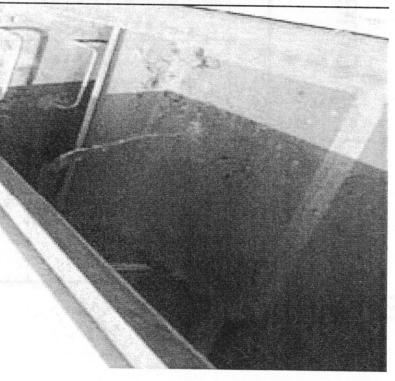
WLA Compliance Strategies

- □ Full capture systems
- drainage area (subject to proper operation Installation results in full compliance for and maintenance)
- □ Partial capture systems
- Compliance determined by annual calculation of trash discharges
- □ Institutional controls
- Also requires annual determination of trash discharges

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Examples of Full Capture Systems





TMDL Implementation Schedule

Date	WLA	Compliance Point
Sep 30, 2008	60% of Baseline	60% of Baseline
Sep 30, 2009	50% of Baseline	55% of Baseline
Sep 30, 2010	40% of Baseline	50% of Baseline
Sep 30, 2011	30% of Baseline	40% of Baseline
Sep 30, 2012	20% of Baseline	30% of Baseline
Sep 30, 2013	10% of Baseline	20% of Baseline
Sep 30, 2014	0% of Baseline	10% of Baseline
Sep 30, 2015	0% of Baseline	3.3% of Baseline
Sep 30, 2016	0% of Baseline	0% of Baseline

Proposed Amendments to Permit

- □ New Part 7 TMDL Provisions
- Effluent Limitations for trash based on TMDL Compliance Points
- ☐ Compliance Options (incl. full capture certification)
 - Monitoring & Reporting Requirements
- ☐ Part 5. New Definitions added
- □ Part 4. Requirement to comply with Part 7 provisions added

Approach to Implementing WLAs: Numeric Effluent Limitations

- ☐ Based on the TMDL WLAS
- Consistent with federal regulations
- Approach at discretion of Regional Board, per recent State Board Order 2009-0008
- □ Permit Provisions
- Provide 6 years from incorporation into permit to achieve final compliance
- TMDL are revised (*after a 50% reduction is achieved Allow for re-opening the permit if the WLAs in the and sustained in the watershed)

Compliance Deadlines for Effluent Limitations

Sep 30, 2010 50	Findent Finntation
	50% of Baseline
	40% of Baseline
Sep 30, 2012 30	30% of Baseline
Sep 30, 2013	20% of Baseline
Sep 30, 2014 10	10% of Baseline
Sep 30, 2015 3.3	3.3% of Baseline
Sep 30, 2016 0°	0% of Baseline

Compliance Options

- □ Full capture systems
- Eight systems currently recognized
- Authorizes EO certification of additional full capture systems
- Allows for targeted implementation
- Presumes compliance with effluent limitations for drainage areas serviced by certified systems
- □ Partial capture devices
- Allows options for compliance determination
- □ Jurisdiction specific performance data
- п Estimation of actual trash discharges using mass balance

Alternative compliance monitoring approaches w/ EO approval

☐ Institutional controls

Other Provisions

- ☐ Compliance Monitoring Requirements
- Trash discharges
- Records of installation/maintenance
- ☐ Monitoring and Reporting Requirements
- Annual reporting
- □ Determining Violations of ELs
- If Interim or Final ELs not met, then in violation of permit provisions

Public Input

- □ Public Workshop July 29, 2009
- Two-week solicitation after workshop
- Received 27 comment letters
- □ Public Notice October 8, 2009
- Received 14 comment letters
- □ Today's hearing

Significant Comments & Responses: Use of Numeric Effluent Limitations

- ☐ Comments:
- WLAs should be incorporated by reference to Best Management Practices (BMPs), or as Municipal Action Levels (MALs), not as effluent limitations
- □ Staff Response:
- installation & maintenance of full capture systems BMP-based approach provided for through
- MALs have no basis in the water quality standards that the WLAs are designed to attain; not applicable to impaired waterbodies

Use of Numeric Effluent Limitations (cont.)

- □ Staff Response (cont.):
- State Authority
- contain provisions consistent with Basin Plans; □ Cal. Water Code 13263 requires permits to **TMDLs are part of Basin Plans**
- □ Order WQ 2009-0008 "Whether a future municipal water quality control board's findings supporting implements a storm water wasteload allocation will need to be decided based on the regional storm water permit requirement appropriately either the numeric or non-numeric effluent limitations...

Jse of Numeric Effluent -imitations (cont.)

- □ Staff Response (cont.)
- challenges to numeric effluent limitation identified TMDL and Permit provisions address all three by the Storm Water Panel
- Consistent with EPA guidance
- State discretion to express WLAs as numeric limits in permits
- supports that BMPs are sufficient to achieve WLA п Allowance to express WLAs as BMPs if record

Cost of Incorporating TMDL into Permit

- □ Comments:
- Regional Board should consider the cost associated with the TMDL
- Strictly complying with the final trash limit is unreasonable and not economically achievable
- □ Staff Response:
- Cost was considered during TMDL adoption

Cost of Incorporating TMDL into Permit (cont.)

- □ Staff Response (cont.)
- incorporating adopted TMDL into permit No additional cost associated with
- Full and partial capture installations already underway in several cities and the County
- installation of full capture devices in all publicly State Board grant of \$10 million to facilitate owned catch basins of 15 Gateway Cities within Watershed

Joint & Several Liability

- ☐ Comment:
- LA County Flood Control District cannot lawfully be made liable for actions of other Permittees
- ☐ Staff Response:
- District is Principal Permittee & responsible for facilitating activities necessary to comply with Permit requirements
- District owns catch basins within Permittees' jurisdictions
- District may be held jointly & severally liable if it installation/maintenance of trash controls denies necessary authority for timely

Joint and Several Liability (cont.)

- □ Staff Response (cont.):
- District's liability limited to violations related to drainage areas serviced by Districtowned catch basins
- will consider mission and responsibilities of Burden is on Permittee & Regional Board the District

Timing of Re-opener

- □ Comments:
- "The term of the existing NPDES Permit expired on December 12, 2006"
- TMDL provisions should not be incorporated into the permit until it is reissued
- □ Staff Response:
- Terms and conditions of permit are administratively extended, including re-opener provision
- enforceable until a replacement permit is adopted" applications - 2001 Permit remains "in effect and □ July 2006 Regional Board responses to renewal

Timing of Re-opener (cont.)

- □ Staff Response (cont.)
- incorporate modifications to Basin Plan, Federal regulation allows re-opener to including TMDLs (40 CFR 122.62)
- Compliance with Interim WLAs is required before LA MS4 can be reissued
- (September 30, 2008; September 30, 2009) Two compliance deadlines already passed

TMDL Reconsideration

- □ Comment:
- TMDL reconsideration at sustained 50% reduction should be acknowledged and provided for in reopener
- □ Staff Response:
- requiring its reconsideration after a sustained 50% Finding 50 acknowledges TMDL provisions reduction is achieved in the watershed
- WLAs are revised during the TMDL reconsideration Finding 50 provides for re-opening the permit if the

Recommendation

□ Adopt amendments to Parts 4 and 5 and proposed with change sheet (12/3/09) add Part 7 to implement WLAs as

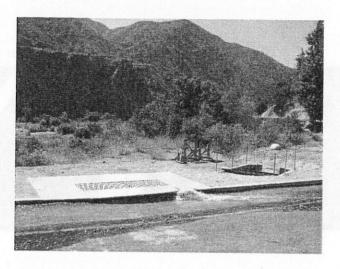
Los Angeles County Flood Control District

Gary Hildebrand, P.E. Assistant Deputy Director

Key Points

- FCD is committed to the goals of this TMDL
- A primer on catch basins
- · Joint and several liability is inappropriate

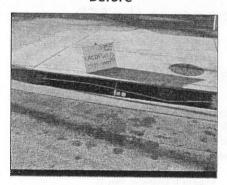
Testing facility located at San Gabriel Dam (Azusa, CA)



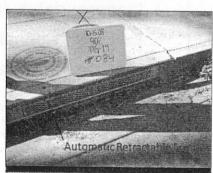
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Retrofitting a catch basin Exterior View

Before



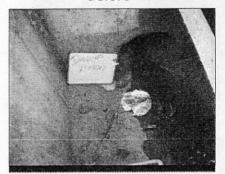
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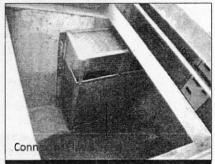
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Retrofitting a catch basin Interior View

Before



After



5

Joint and Several Liability

- Unnecessary and Confusing
- Inappropriately focuses on the FCD
- Exceeds Regional Board's authority
- Not Regional Board's responsibility

"...it is not the responsibility of the Regional Board to determine which Permittees have legal authority over parts of the MS4 physically within their jurisdictions versus the Flood Control District."

- Response to Comments, Page 18

6

Joint and Several Liability Part 7.1.B(3)

Staff's proposed language

"Each Permittee shall be held liable for violations of the interim or final effluent limitations assigned to its jurisdiction. Any Permittee whose compliance strategy includes full or partial capture devices, that demonstrates that it has failed to comply with the effluent limitations in Appendix 7-1 because the Los Angeles County Flood Control District (District) has without good cause denied entitlements or other necessary authority for the timely installation and/or maintenance of such devices in parts of the MS4 physical infrastructure that are under the authority of the District, may be held jointly and severally liable with the District for violations of the interim or final effluent limitations assigned to that jurisdiction. The District's liability, however, shall be limited to violations related to the drainage areas within the jurisdiction where the District has authority over the relevant portions of the MS4 physical infrastructure. In determining whether the District's action was without good cause, the burden shall be on the Permittee making the claim, and the Regional Board will consider the mission and responsibilities of the District, and any reasons the District may present for its decision. Nothing in this Order, or a determination as to good cause in an order to enforce the terms of this Order, shall affect the right of either the District or the jurisdiction to seek indemnity or other recourse from the other as they deem appropriate."

FCD's proposed language

"Each Permittee shall be held liable for violations of the Waste Load Allocations assigned to its jurisdiction in Appendix 7-1. Any Permittee whose compliance strategy includes full or partial capture devices and who chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity is responsible for obtaining all necessary permits to do so. Nothing in this Order shall affect the right of that public entity or a Permittee to seek indemnity or other recourse from the other as they deem appropriate."

7

Conclusion

- FCD is committed to the goals of this TMDL
- FCD recommends that the Regional Board adopt the FCD's proposed language for Part 7.1.B(3)

8

MS4 Permit to Incorporate Provisions Consistent Proposed Modification to Los Angeles with Los Angeles River Trash TMDL

Larry Forester, Council Member, City of Signal Hill Richard Watson, Richard Watson & Associates Ken Farfsing, City Manager, City of Signal Hill Jim Dear, Mayor, City of Carson Patricia Elkins, City of Carson Presented by

to the

Los Angeles Regional Water Quality Control Board Hearing December 10, 2009 Los Angeles, CA

Outline of Presentation

- Overview of Cities' concerns with proposed amendment
- Numeric limits should not be incorporated into MS4 permits to implement TMDLs
- The Board has clear discretion to not include numeric effluent limits in the MS4 permit
- EPA Headquarters and the State Board have recommended the use of a BMP approach in MS4 permits in lieu of numeric effluent limitations
- A performance-based BMP approach is a better way to implement the Trash TMDL than the use of numeric limits
- proven the benefits of a BMP approach over the use of numeric Progress since the adoption of the original Trash TMDL has
- Conclusions and recommendations

City Issues with Incorporating the Trash TMDL into the MS4 Permit

- exercise that is a waste of the Board's and local governments' Inserting numeric limits from the TMDL into the Permit will likely require an expensive "trash counting," and "reporting," resources and which will trigger the need for a cost/benefit analysis. (CWC 13225(c) and 13267.)
- Inserting numeric limits directly into the MS4 Permit may result in expensive third-party litigation against many cities.
- unemployment in Los Angeles River watershed communities. The Regional Board should be sensitive to the severe budget problems Cities face due to the economic recession and high
- required by federal law, California law must be complied with. Because inserting numeric limits into the MS4 Permit is not (See CWC 13263, 13241 and 13000.)

TMDL into the MS4 Permit (Continued) City Issues with Incorporating the Trash

- numeric effluent limits into the MS4 permit, which will, among other The Regional Board should be working with the Cities to develop an alternative performance based BMP approach, rather than inserting things, subject the Cities to Mandatory Minimum Penalties and unnecessary third party lawsuits.
- The performance-based BMP approach would streamline the work load of both the Regional Board and City staff.
- The proposal to insert numeric limits into the NPDES Permit will set a bad precedent for future TMDLs, including Bacteria and Metals.
- The use of a performance based BMP approach is a better alternative.
- The Cities request that the Regional Board continue the hearing and direct the staff to return to the Board in 30 days with a performance based BMP approach for the Permit Amendment.

EPA Guidance Memorandum on Establishing TMDLs WLAs for Stormwater NPDES Permits (11/22/2002)

discharges are due to storm events that are highly variable in be expressed as BMPs, and that numeric limits will be used believes that in these situations, permit limits typically can construction storm water discharges. . . . Therefore, EPA "EPA's policy recognizes that because storm water frequency and duration and are not easily characterized, only in rare instances." (EPA Guidance Memo, p. 4.) only in rare cases will it be feasible or appropriate to establish numeric limits for municipal and small

(Emphasis added)

- storm water programs and the emphasis on BMPs in lieu of numeric "In prior Orders this Board has explained the need for the municipal effluent limitations." (State Board Order No. 2000-11, p. 3.)
- "While we continue to address water quality standards in municipal storm water permits, we also continue to believe that the iterative approach, which focuses on timely improvements of BMPs, is appropriate." (State Board Order No. 2001-15, p. 8.)
- "Federal regulations do not require numeric effluent limitations for discharges of storm water." (State Board Order No. 2006-12, p. 17.)
- MS4 discharges in the form of either numeric or non-numeric effluent "Recently, the State Board concluded that the regional boards should determine the most appropriate approach to implementing WLAs for limitations and should support their determination in the permit findings (Order WQ 2009-0008)." [Fact Sheet, p. 15]

(Emphasis added)

the same there were

No Permit Amendment For The TMDL Should Be Adopted Until the Arcadia Appeal Is Final

- 13241/13000 factors as to Stormwater of all Water Quality Standards 06CC02974 (presently on appeal) requires a review of the CWC The Writ/Judgment in Arcadia v. State Bd., OCSC Case No.
- The Arcadia Writ/Judgment requires all "potential uses" in Basin Plan 13241/13000 (i.e., "probable future" uses and "demands to be made"). applicable to Stormwater be deleted and revised consistent with CWC
- The Trash TMDL was developed to protect improperly designated developed for Stormwater in accordance with CWC 13241/13000. "potential uses" and was not based on Water Quality Standards
- "potential uses" have been deleted and the CWC 13241/13000 analysis The Trash TMDL should therefore not be incorporated into the Permit until the Arcadia Case is final and, if Plaintiffs prevail, until the of the Water Quality Standards has been completed.

Performance-Based BMPs Rather Support for Requiring Than Inserting Numeric Limits into the MS4 Permit

Approach Will Expand Upon What Is Already Implementing a Performance-Based BMP Happening in the Watershed

- been installed within the watershed and thousands more are Thousands of certified "full capture" devices have already scheduled for installation in the next two years.
- controls have been implemented throughout the watershed. In addition, many "partial capture" BMPs and institutional
- Executive Officer-approved BMP work plans would include specific provisions in order to require that current programs are continued and enhanced to ensure progressive water quality improvements during an iterative BMP process.

Recommended Components of Executive Officer-Approved BMP Work Plans

A framework for implementing the Trash TMDL in a specific subwatershed, city, or group of cities A customized set of BMPs, including full-capture BMPs, partial-capture BMPs, and institutional measures

Funded programs such as the City of Los Angeles, County of Los Angeles, and Gateway IRWM JPA

A BMP implementation schedule

Provision for BMP work plan updates for Executive Officer's approval

Applicable penalties would apply for not meeting implementation schedule

Numeric Limits Do Not Have to Be Inserted EPA Region IX Recognized that TMDL into MS4 Permits

- As EPA Region IX said in its comments on the San Francisco Bay assumptions and requirements of all applicable TMDL Waste (WQBELs) in NPDES permits must be consistent with the Regional Permit, "Water Quality-Based Effluent Limits Load Allocations (WLAs) approved by EPA."
- permits, but they have not asserted that numeric limits must be inserted into MS4 Permits. EPA Region IX may prefer that TMDLs be incorporated into

(Emphasis added)

Courts Have Upheld Board Discretion to Require a BMP Approach

Cal. App. 4th 866,874, citing 33 USC Section 1342 (p)(3)(B)(iii) & numeric effluent limits and instead to impose 'controls to reduce the discharge of pollutants to the maximum extent practicable."" Defenders of Wildlife v. Browner (9th Cir. 1999) 191 F.3d 1159, "With respect to municipal storm water discharges, Congress requirements to meet water quality standards without specific (BIA v. State Water Resources Control Board (2004) 124 clarified that the EPA has the authority to fashion permit

standards is necessary to control pollutants, or to require less than discretionary authority under '33 U.S.C. Section 1342(p)(2)(E) to determine that ensuring strict compliance with state water-quality strict compliance with state water quality standards, such as a BMP approach' (Defenders of Wildlife v. Browner, 191 F.3d "The federal courts held that the permitting agency has 1159 (9th Cir., 1999) [Fact Sheet, p. 12]

Expressing Trash TMDL Requirements in the Los Administrative Record Is Adequate to Support Angeles MS4 Permit as Non-Numeric

- required, needs to support that the BMPs are expected to be EPA's 2002 TMDL Guidance states, "when a non-numeric administrative record, including the fact sheet when one is water quality based effluent limit is imposed, the permit's sufficient to implement the WLAs in the TMDL."
- evidence and the fact sheet can be revised to reflect this The administrative record has the necessary supporting
- performance-based BMP approach for implementing the Findings 48, 49, 51, and 57 provide support for a Frash TMDL.

Legal Issues Detailed in Written Comments

- Cities have several legal concerns with the proposal to incorporate numeric limits from the Trash TMDL into the MS4 permit.
- November 6, 2009 written comments submitted by Rutan These legal issues are addressed in July 27, 2009 and & Tucker, LLP.

Progress Since Adoption of the Original Trash TMDL

County of Los Angeles, and Caltrans Ongoing Efforts by Cities, the

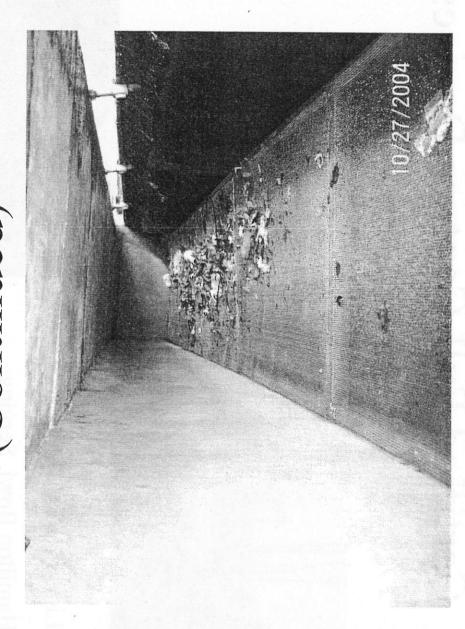
- When the TMDL was first approved in 2001, there was only one certified full-capture device, the expensive vortex separation unit.
- efforts continued to make the Trash TMDL more workable. During the period since the original TMDL was adopted,
- Flintridge, Pasadena, Long Beach, Los Angeles, and Signal Several full-capture devices were developed through the Hill; the County of Los Angeles; and Caltrans, and were efforts of the Cities of Burbank, Glendale, La Cañada certified by the Regional Board.
- CPR cities developed the Catch Basin Prioritization and Protection Plan (CBPPP).
- Los Angeles Gateway IRWM received a \$10 million grant for installation of full-capture devices and inlet screens. 16

Certified Full-Capture Devices



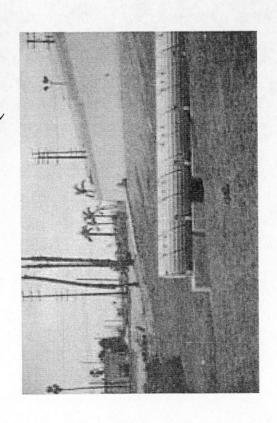
CDS Unit Near Hamilton Bowl in the City of Long Beach

Certified Full-Capture Devices (Continued)

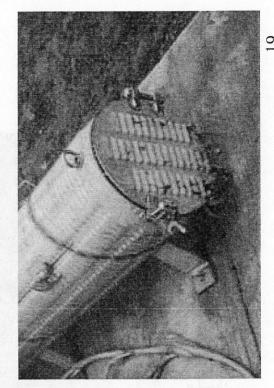


Burbank, Glendale, La Cañada-Flintridge, and Pasadena Catch Basin Insert

Certified Full-Capture Devices (Continued)



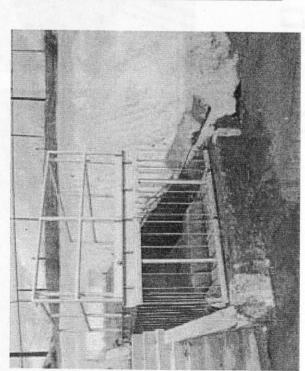
Linear Radial Device in Hamilton Bowl, Serving Signal Hill

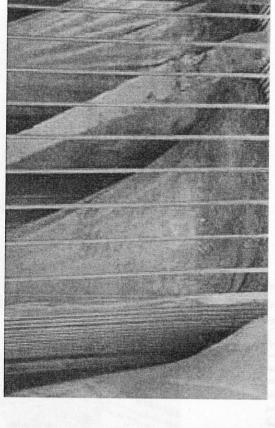


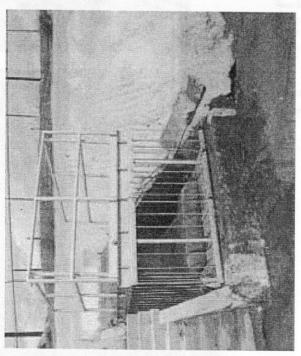
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Certified Full Capture Devices (Continued)

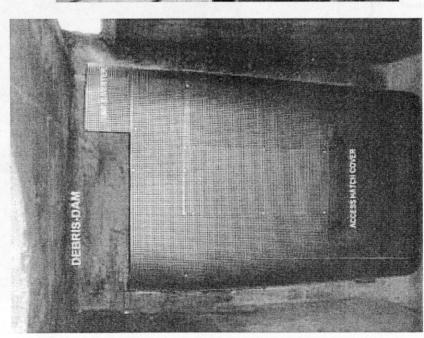


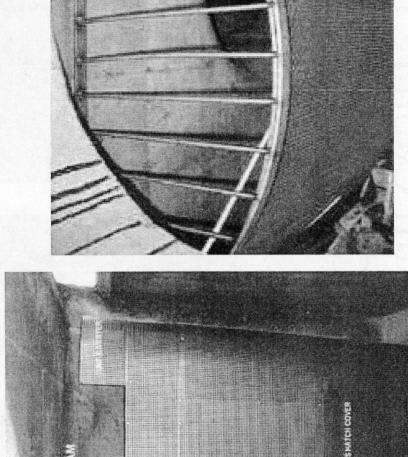




Netting System in Hamilton Bowl, Serving Signal Hill

Certified Full-Capture Devices (Continued)





County of Los Angeles Catch Basin Insert

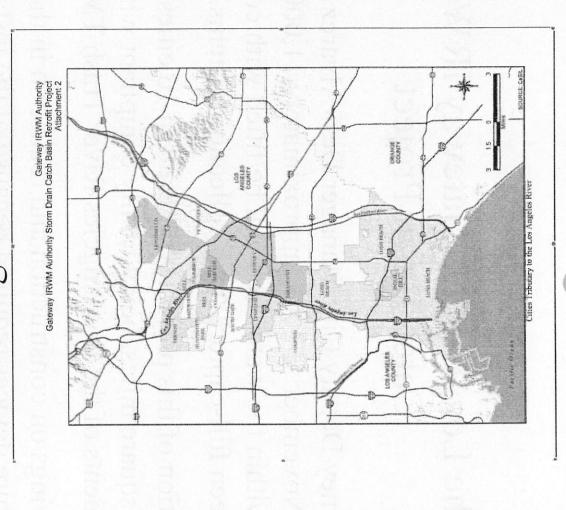
City of Los Angeles Catch Basin Insert

21

The Los Angeles Gateway IRWM Catch Basin Project

- As Downey Deputy City Manager Desi Alvarez reported to basins within the watershed will be fitted with connector you on November 5, 2009, approximately 11,000 catch pipe screen full-capture trash collection systems.
- Completion of this project will result in 16 cities, covering over 82 square miles, being totally compliant with the requirements of the Los Angeles River Trash TMDL.
- Cost savings on construction and reduction in the number of catch basins to be fitted with automatic retractable screens. full-capture netting systems will allow about 60 % of these full-capture devices required because of the installation of

Gateway IRWM Cities Discharging to the Los Angeles River



Cities Discharging to Los Angeles River Getting Full Capture Storm Drain Inserts Through Gateway Region IRWM JPA Grant

	Watere	Watershed Area
City	selim bs	Percentage
Bell	2.74	3,32565%
Bell Gardens	2.48	3.01007%
Commerce	6.56	7.96219%
Complon	8	10.43816%
Cudahy	CV T	1.35939%
Оожпеу	5,66	6.86977%
Hunlington Park	£0/£	3,67763%
Long Beach	16.88	20.22090%
Lynwood	4,85	5,88664%
Maywood	9	1,43221%
Montebello	96'9	10.14686%
Jaramouni	ā	5,26763%
Pico Rivera	CH CO	3.78697%
Signal Hill	0 F.	1,37153%
South Cate	₽¥. Ł	9.07877%
Vernon	60.0	6,16580%
otal	200	400 00 k

82 square miles is a significant part of the watershed.

Prioritization in BMP Work Plans Will Help Entities Using the Implementation Alternative "Partial-Capture"

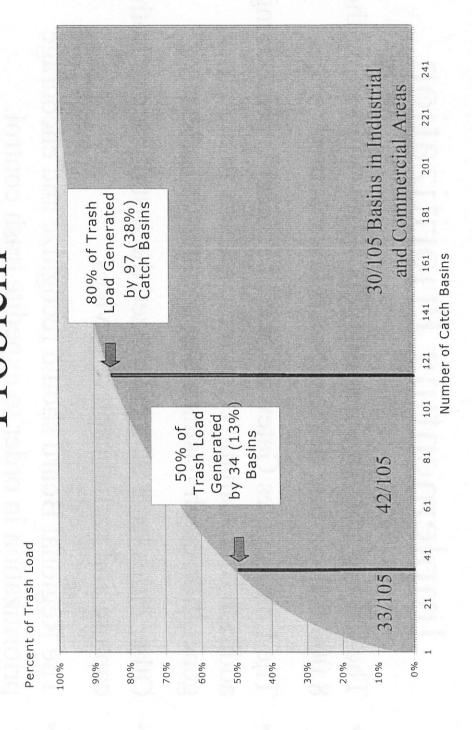
Why Prioritization?

- An EPA funded study, "Market Based Strategies for Reducing Trash Loading to Los Angeles Area Watersheds," published in March 2006, demonstrated the importance of prioritization.
- Prioritization will facilitate a faster reduction of trash in the receiving waters in a cost-effective

Market-Based Strategies Study Prioritization: Findings of the

- Ballona Creek Watersheds indicates that less than 15% of storm drain inlets account for 50% of waterborne Monitoring data from the Los Angeles River and
- Waterborne trash reduction can be achieved by targeting most trash rather than prioritizing based on land use the catch basins that historically have generated the
- Significant pollutant reductions and cost savings can be achieved by first focusing on controlling trash at the 15% of storm drain inlets that account for the most

A Few Basins Are Most of the Problem



Source: Market Based Strategies for Reducing Trash Loading to Los Angeles Area Watersheds, 2006

Implementing Prioritization

- The City of Los Angeles used this approach in siting the 8,000 full-capture devices that it has installed.
- The Los Angeles Gateway IRWM Project is prioritizing the addition of automatic retractable screens to high trash generation catch basins along commercial arterials.
- Other cities have also prioritized the installation of both fullcapture and partial capture devices.
- The Regional Board should recognize and encourage prioritization in order to expedite trash control.
- Prioritization could be a component of BMP work plans in order to facilitate faster reduction of trash in the Los Angeles River.

City of Carson Example

City of Carson

- 19.2 square miles
- <0.2 square miles drain to LA River (Reach 1)
- Recently approved correction to the .88 sq miles indicated in the TMDL
- <1.9 square miles drain to Machado Lake
- >17.1 square miles drain to Dominguez Channel

Catch Basins in Carson

- 2,058 total owned by various agencies
- 12 drain to LA River Reach 1
- 222 drain to Machado Lake
- 1,824 drain to Dominguez Channel

Excellent Existing BMPs

Sweep every street every week city-wide - at least for the past 25 years, and likely longer.

\$731,420 annually

Clean all catch basins twice a year

Utilize Keep America Beautiful anti-litter campaigns

Halloween example

Existing Conditions for LA River Trash TMDL

12 catch basins with standard curb openings 8 ½ "

-5 @ 28

-2(a) 21;

-1(a) 10.2°

-3(a) 7.25°

- 1@ 5' (shallow w/ pipe directly beneath curb opening) All located in clean, high rent business parks and near young evergreen or semi-deciduous trees w/ one exception

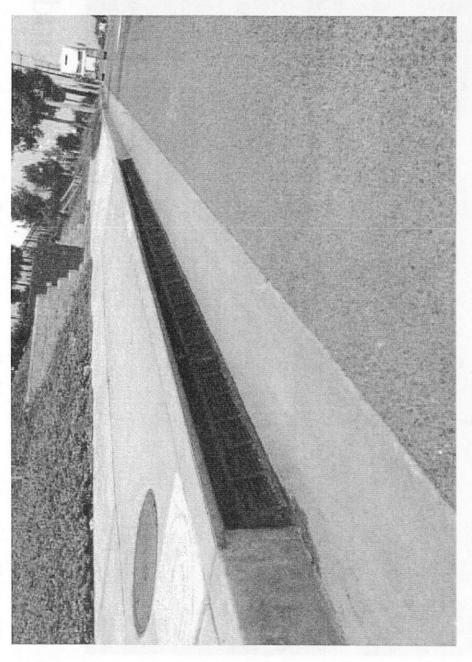
BMP Selection

June 2008 - installed Trident Curb Screens on all 12 catch basins (all owned and maintained by Carson)

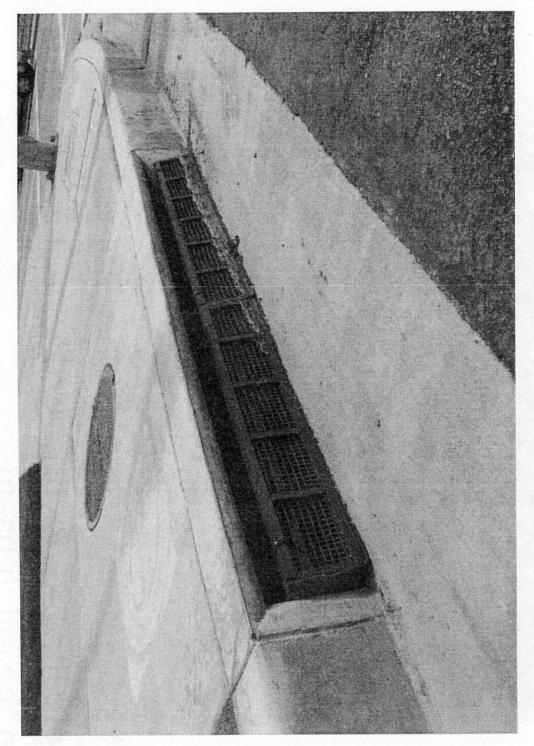
Monitor weekly since installation

Result = 0 trash noted in the catch basins

Trash Generation Rate Study

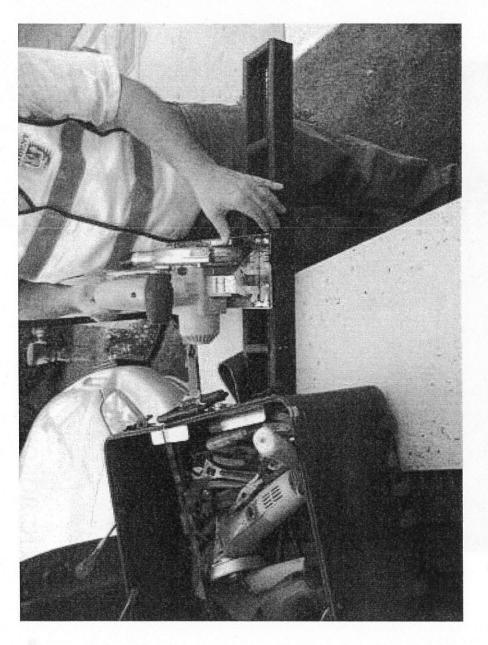


screen, and, therefore, does not accumulate Trash and other debris does not pass the in the catch basin.



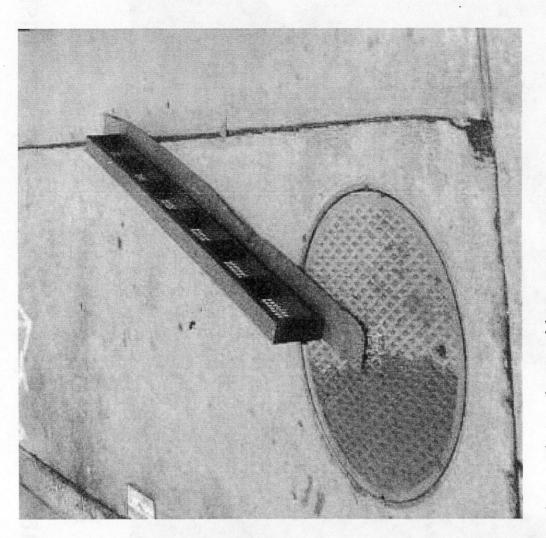
Overflow limits the potential for flooding.

Easily removed in case of emergency.



- Any length two standard heights
- Relatively inexpensive and simple to install

Made of recycled plastic, not metal



• Fabric adsorbs oil

Shows standard 4' length with fabric

LA River

- Trident curb screens combined with weekly street sweeping have resulted in:
- no flooding
- no trash inside catch basins
- no trash on the street
- no added costs beyond installation
- Pilot project was successful.

Proactive Prioritized Installations

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Machado Lake 27%

Dominguez Channel 2%

Total

12 of	12	\$11,800	
Jo 09	222	\$35,900	
42 of	1,824	\$28,300	
114 of	2,058	\$76,000	

The estimated cost to install curb screens on all 2,058 catch basins in Carson is approximately \$1.5M.

Continued Performance Monitoring

- Summer 2009 results of a 6 week intensive field study indicated that:
- Trash and leaves were almost always swept up
- Trash and leaves did not get into the catch basins

Goal: Zero Trash Generated from Carson

- Continue to install Trident Curb Screens
- appropriate/cost effective devices at their facilities Partner with others (like Caltrans) to install
- upstream of the pump station that serves 64 catch solutions – a trash collection device (trash net) Evaluate feasibility/cost effectiveness of other basins in our city and additional catch basins outside our city

Conclusion

- Carson supports the goals of the Trash TMDLs
- HOWEVER, if numeric limits are incorporated into the Permit, it will
- effective solutions like Trident Curb Screens coupled Discourage clean cities like ours from trying costwith frequent street sweeping, and
- Force clean cities to waste scarce public resources install full capture-devices.
- We need flexibility to comply with TMDLs. Incorporating numeric limits into the Permit eliminates that flexibility.

The Regional Board Has Options for Exercising Its Discretion

A BMP Option Is Acceptable

- municipal stormwater permits, and the courts have found Congress has not required numeric effluent limits in that BMP approach is appropriate.
- The MS4 Permit could include language parallel to the North cooperative watershed or sub-watershed programs like the Orange County Permit for stakeholders involved in Gateway IRWM grant program:

Fig. 1 community conditions and

TMDLs for San Diego Creek and Newport Bay. In the event that any discharge requirements or waivers of waste discharge requirements." "As long as the stakeholders are participating in and implementing the approved Cooperative Watershed Program, they will not be in Regional Board will exercise its option to issue individual waste violation of this order with respect to the nitrogen and selenium of the stakeholders does not participate, or if the collaborative approach is not approved or fails to achieve the TMDLs, the

Option of MOU for Implementing BMPs

- compliance with TMDLs in its Water Quality Control Policy for Addressing Impaired Waters: Regulatory Structures and EPA has recognized the use of MOUs and the State Water Board has recognized the alternative of voluntary Options.
- The Board could enter into Memoranda of Understanding with Cities for implementing BMP-based effluent limits.
- MOUS could include an agreement for a schedule of BMP implementation during the five year permit cycle.
- MOUs could include the requirement for an Executive Officer-approved BMP Work Plan.

Conclusions and Recommendations

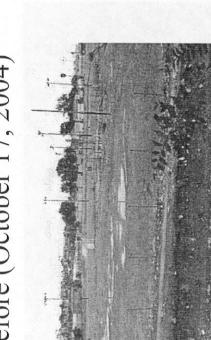
Harbor and Beaches Cleaner Than Expected After Recent Storm - BMPs Working

Photos Following December 7, 2009 Rain Event Date of Photos: December 8, 2009

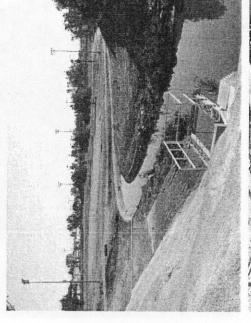
Downtown Los Angeles - 0.94 in. Long Beach Airport - 1.42 in. 24 Hour Rainfall Totals: Signal Hill - 1.1 in.

Hamilton Bowl Trash BMP Program

Before (October 17, 2004)



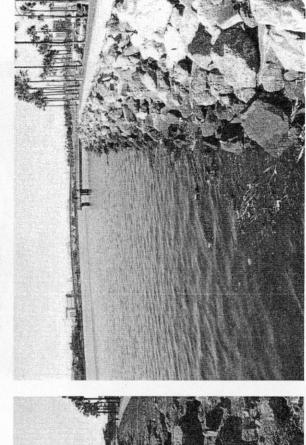
After (December 8, 2009)

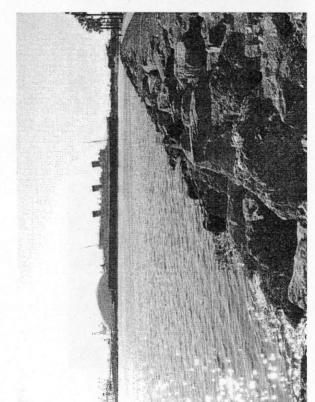




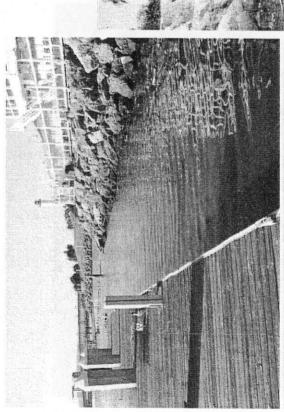
Party was the first

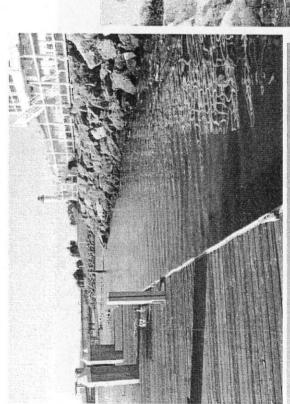
Mouth of the Los Angeles River December 8, 2009

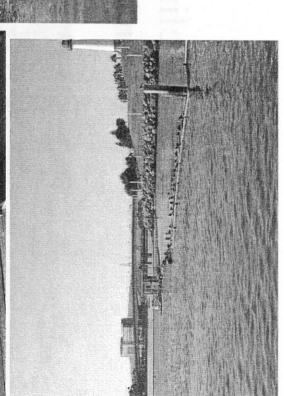




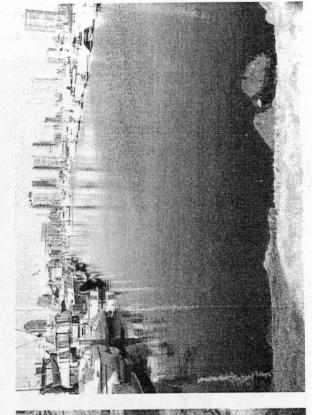
Rainbow Harbor Trash Boom December 8, 2009

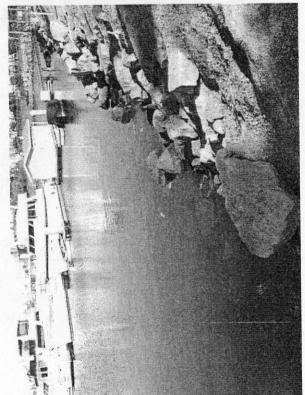




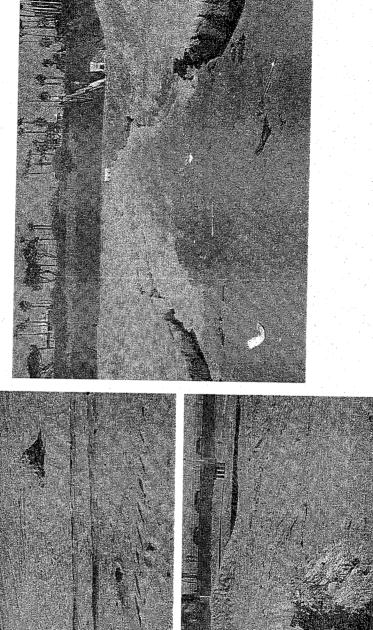


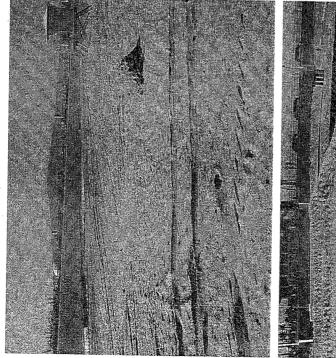




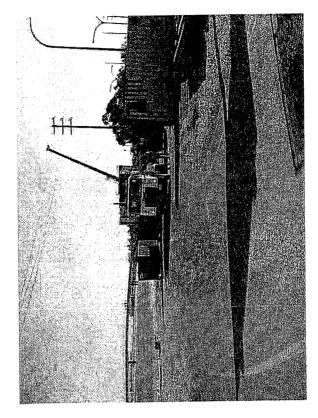


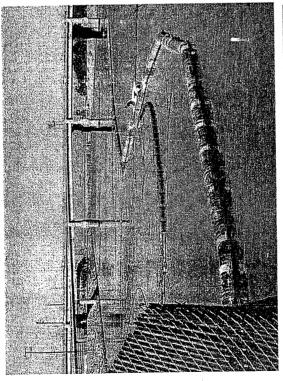
Beach and Tidal December 8, 2009

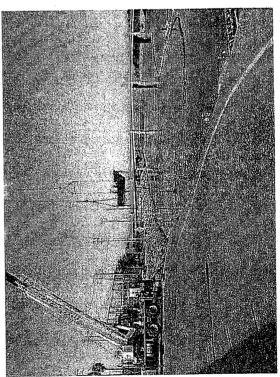




Los Angeles River Trash Boom







Conclusions and Recommendations

- Numeric limits from TMDLs are not required to be and should not be incorporated into MS4 permits.
- The Regional Board has discretion on how to handle TMDLs
- EPA and the State Water Board both allow permits to be consistent with TMDLs through BMPs.
- through a performance-based BMP approach in which the The Regional Board should implement the Trash TMDL Executive Officer would approve BMP work plans that include specific requirements and schedules.
- will discourage the development of additional cost-effective Inserting the numeric limits for Trash into the MS4 Permit BMPs that may be better suited for cities.

Conclusions and Recommendations (Continued)

- trash, and thus may have no choice but to install full-capture Many cities may be unable to gamble that partial capture devices combined with other controls will result in zero devices throughout, even if this is unnecessary.
- approval could be submitted by individual cities or groups of watershed cities, identifying performance based BMPs to be Trash BMP Workplan Updates for the Executive Officer's utilized to implement the TMDL under the MS4 Permit
- hearing and direct the staff to work with the cities and return to the Board in 30 days with a BMP-based non-numeric The Cities request that the Regional Board continue the implementation plan.

Presentation for Los Angeles Regional Water Board Reopening of the NPDES Permit for the LA River Trash TMDL December 10, 2009

Ву

Larry Forester, City Council Member, City of Signal Hill

Vice Chair Glickfeld, Board Members and staff, my name is Larry Forester, Council Member from the City of Signal Hill. We want to thank you in advance for the presentation time today. We believe that the permit reopener has a very significant long term impact on our communities and we have come to request your assistance. Our presentation features a series of speakers, representing a number of cities. I will speak on the global policy issues that you confront today and the consequences on local governments in the watershed.

I believe that our local Cities have made significant progress in implementing the Trash TMDL, on our own over the last five years, without the permit reopener. We question the need to reopen the municipal NPDES Permit at this time and the need to insert "numeric limits" or "waste load allocations" into the Permit. We have taken trash reduction seriously in our communities and devoted significant resources to improving the environment. Cities are not opposed to a goal of "zero" trash in storm water. However, we are concerned when this "zero" goal is transformed into an absolute numeric effluent limit in our Muncipal Storm Water Permit.

Our Cities have learned much in implementing this TMDL. The iterative Best Management Practices process has been shown to work best. Our original concerns were that the Cities wanted to avoid wasting scare local government resources in a trash counting exercise instead of focusing on outcomes. This concern has only grown with the severe budget impacts of the current economic recession, the longest and steepest of our lifetimes. The Board should be especially sensitive to the severe budget problems facing the Cities and the State.

The on-going State-wide fiscal emergency should give impetus to the Board to work with us to find a cost-effective alternative to imposing numeric effluent limits. The alternative should streamline the workload of both the Regional Board and the Cities and allow for the continued development of cost-effective BMPs. We believe that inserting the numeric limits for trash into the NPDES Permit will discourage the development of additional cost-effective BMPs that may be better suited for many cities. Many cities may be unable to gamble that partial capture devices combined with other controls will result in Zero trash, and thus may have no choice but to install full-capture devices throughout their city, even if this is unnecessary.

In addition, inserting numeric limits into the Permit sets a bad precedent for future TMDLs, including Bacteria and Metals. It is clear, as EPA and the State Board have recognized, that for Municipal Storm Water Permits, implementation of TMDLs only requires a "Best Management Practices" approach, and it is critical that appropriate time be given for the

Presentation before the Water Board Council Member Forester, Page 2

iterative process to work.

Our Cities are suggesting that the Board consider utilizing a performance based BMP approach to implement the TMDL, rather than the use of numeric effluent limits. Our presentation will focus on the benefits of the performance based BMP approach for both the Board and the Cities.

The Board gave two mandates to your Executive Director when she accepted her position. The first was to reach out to the Cities and the second was to improve enforcement. We believe that our performance based BMP approach will more easily allow the Board to determine whether a city is or is not in compliance, rather than having the city engage in a futile trash counting exercises and the Board then debate the results of that exercise with the city.

The Fundamental Issue

The fundamental issue before you today is not the propriety of the Trash TMDL but how to implementation of the TMDL through the Municipal NPDES Permit. There is no requirement that TMDLs be added into the NPDES Permit as numeric effluent limits. There is only a requirement that NPDES permits be <u>consistent</u> with the TMDLs.

The issue of inserting numeric limits into the Municipal NPDES Permits has far reaching consequences and even though EPA Region (may prefer to see numeric limits in Municipal Storm Water Permits, in 2002, EPA Headquarters carefully thought through these consequences. EPA's written guidance provides that "on in rare cases will it be feasible or appropriate to establish numeric limits for municipal...storm water discharges." There is a host of good reasons for this, including Southern California's history of severe and short duration rain storms. EPA went on the state that "numeric limits will only be used in rare instances." We need to ask ourselves, what is the "rare instance" with this TMDL?

There are several State Water Board orders that support the broad discretion given to this Board to adopt a non-numeric approach to permit implementation. In fact, the State Board has consistently found that for Municipal Storm Water Permits, "the emphasis should be on BMPs in lieu of numeric effluent limits."

Finally, we would ask that non TMDL be incorporated into the Municipal Storm Water Permit until such time as the Triennial Review/Basin Plan litigation (i.e., the Arcadia v. State Board case, has been finally decided on appeal, and if the Cities prevail, until the water quality standards in the Basin Plan have been properly reviewed and revised.

Let me now turn the presentation over to Mr. Richard Watson who will cover some of the more technical areas of our presentation.

Presentation before the Los Angeles Regional Water Board Reopening of the NDPES Permit for the Trash TMDL

By

Ken Farfsing, City Manager, City of Signal Hill December 10, 2009

Thank you Patricia.

The BMP Option is Acceptable

We want to emphasize that the Regional Board has great discretion and you are not required to insert the numeric effluent limits into the Municipal Storm Water Permit. The Santa Ana Regional Board has adopted a Best Management Practices approach to implement the TMDLs for the San Diego Creek and Newport Bay. The cities are required to participate in a collaborative plan based on Best Management Practices. You have the perfect opportunity to implement the Trash TMDL through BMPs, considering that the Gateway grant provides funding and a schedule to protect all 11,000 catch basins in 16 communities covering 82 square miles of the watershed. Similar collaborative language should be added to our NPDES Permit.

Option of MOU for Implementing the BMPs

EPA and the State Board have recognized that alternatives exist to inserting numeric effluent limits into Municipal Storm Water Permits. Although we are proposing a BMP approach, the Regional Board could enter into Memoranda of Understandings with the Cities to implement the BMPs.

Conclusions and Recommendations

We believe that the new cost-effective BMP devices installed since the TMDL was adopted in 2001 have resulted in significant improvements to the Los Angeles River, the harbor and beaches. The 2001 TMDL limited the Cities to one type of full capture device which is expensive and has limited application.

The success of these new cost effective BMP devices can be seen in the most recent storm event on December 7, 2009, just this past Monday, when the watershed experienced a major 24-hour rain event. Rainfall at the Long Beach Airport was 1.42 inches in 24-hours. Rainfall totaled .94 inches in Downtown Los Angeles. Signal Hill experienced 1.1 inches of rain. In the past this storm would have deposited significant trash loads in the River and on the downstream beaches.

Hamilton Bowl Trash BMP Program

The State and Regional Water Boards assisted Signal Hill in installing 9 trash catching BMPs in the Hamilton Bowl in 2006. The Hamilton Bowl is a storm water retention area that services the greater Long Beach and Signal Hill communities. I visited the Hamilton Bowl on the morning of December 8th in order to determine if the trash catching BMPs were working.

As you can see from these photographs, the devices are working remarkable well. The first photo on the left shows the Hamilton Bowl after a storm in 2004 (prior to the BMPs being installed). The top right photo illustrates how the Bowl looked the morning after the storm, prior to any crews being dispatched to perform trash pickup. The photo in the bottom left shows one of the trash nets. It is about two-thirds filled with trash, leaves and debris. All 9 BMPs performed very well.

Mouth of the Los Angeles River

I also toured the areas of the Los Angeles River, the beaches and harbors that have in the past been inundated with trash after rainstorms. This tour was also on the morning of December 8th, less than 24 hours after the rains. I wanted to determine if the thousands of BMP devices installed by Caltrans, Los Angeles County, the City of Los Angeles, Signal Hill, Long Beach and other communities were having a measurable impact.

I expected with this major storm that the River, beaches and harbor would be filled with mountains of trash. As these pictures show, the River's mouth was amazingly clean. I did find some vegetation and minor amounts of trash adjacent to the river's bank.

Rainbow Harbor Trash Boom

One of the BMPs includes a trash boom installed at the entry of Rainbow Harbor in Long Beach to prevent river trash from entering the harbor. I did find some trash and debris had accumulated adjacent to a dock at the river bank. As you can see from the picture, there is very little trash at the boom and Rainbow Harbor appeared very clean.

Shoreline Marina

Trash and debris has been a historic problem in the boat marina adjacent to the Los Angeles River after major rain events. As you can see from these pictures, much of the Marina was very clean. Some minor amounts of trash had accumulated adjacent to the jetty. It was impossible to tell if this trash had been blown into the Marina from the major windstorm that started after the rainstorm front moved through the area. According to the U.S. Weather Service, Long Beach experienced sustained winds of 14.5 mph and gusts of 20 mph, beginning in the early afternoon of December 7th.

Beach and Tidal Trash

In the past staff has shown pictures of trash piled high on the beaches in Long Beach after major rain events. These staff pictures were taken prior to the adoption of the TMDL in 2001 and prior to the installation of thousands of BMP devices. I toured the beaches on December 8th to determine if major amounts of trash were still being deposited after major rain events. The maintenance crews had almost completed their clean up by 11 a.m. They had finished grooming the beach into to piles of sand, trash and vegetative debris. You can see from these

recent pictures one of the debris piles. There is more sand than debris. I also looked for evidence of tidal trash, but only found some minor marine debris.

Los Angeles River Trash Boom

Senator Alan Lowenthal secured State funding to install a trash boom BMP north of the Rainbow Bridge. You have seen pictures of the boom taken prior to 2001, with major amounts of trash and debris. These most recent pictures were taken around noon on December 8th, when the public works crews had made significant progress in removing the trash and debris.

You can see the trash boom in the photo in the upper left hand side, the lower left side shows the crane and bucket in action. The photo on the bottom right shows the various bins lined up to be hauled off to the landfill. The trash boom BMP appears to be working very well, even during a major storm event.

Conclusion and Recommendations

These pictures illustrate that the thousands of BMP devices installed to date are having a noticeable positive impact on the Los Angeles River, the harbor and the beaches. It only stands to reason that the installation of thousands more of these BMP devices will result even a greater positive effect on the environment. This is clear evidence that Best Management Practices are sufficient to implement this TMDL, as opposed to numeric effluent limits.

The Regional Board has the discretion and should exercise this discretion by implementing the Trash TMDL through a performance-based BMP approach. The Regional Board staff has approved several full capture devices that could become the cornerstone of the BMP work plan. Inserting the numeric limits in the NPDES Permit will discourage the development of additional cost-effective BMPs. Many cities will be forced to install full-capture devices in clean neighborhoods. Clean cities should be able to implement partial capture devices.

The cities respectfully request a meeting with the Board staff to develop the work plan consistent with the TMDL and the NPDES Permit. We are requesting that the Board continue the hearing for 30 days and direct staff to return to the Board with a BMP-based, non-numeric effluent limit, implementation plan.

Council Member Forester began the presentation by mentioning the significant progress that our communities have made in reducing trash in the Los Angeles River. You have seen evidence of this improvement today. UCLA recently reported that the unemployment in our region will remain high for years to come. He also noted the severe, on-going fiscal emergency faced by the State and our communities. This fiscal emergency will take years to correct, requiring that the State and Cities work together to implement this important TMDL.

The Board needs to continue to work with the Cities on cost-effective BMPs that may be better suited to our communities. We believe that the performance based BMP option is the superior approach to implement this TMDL, rather than relying on numeric effluent limits.

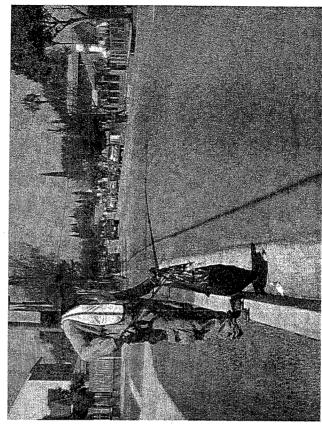
Thank you for your time. I would be happy to answer any questions that you have.

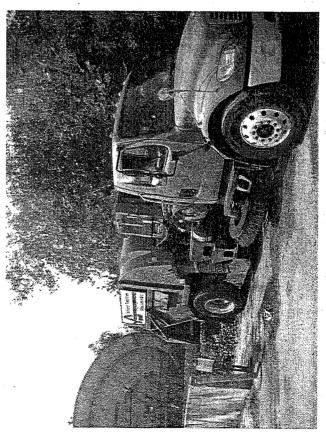
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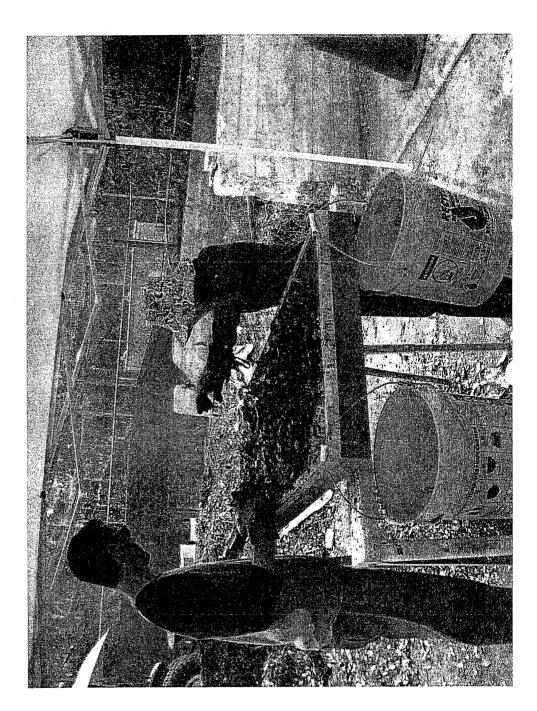
During the summers of 2008 and 2009 DGR studies were conducted for several cities

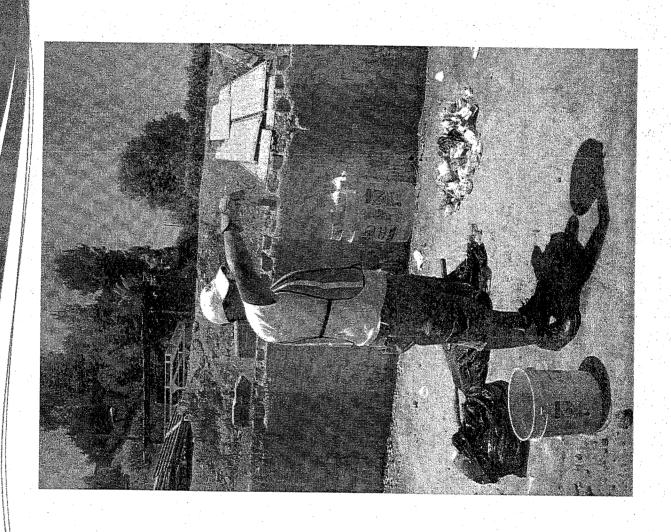
Field collection





Sorted at collection centers





Calculation

Residential Area

 $W_R = 11 lbs$

Weight of trash collected for residential area

 $C_R = 15$

Total swept residential curb miles

T_R= Total residential miles

Number of days since last sweeping

7

Weight per curb mile per month =

 $[(W_R/C_R)/L_S]*31$ [(11/15)/14]*31

1.6 lbs

Weight per curb mile per month =

DGR=

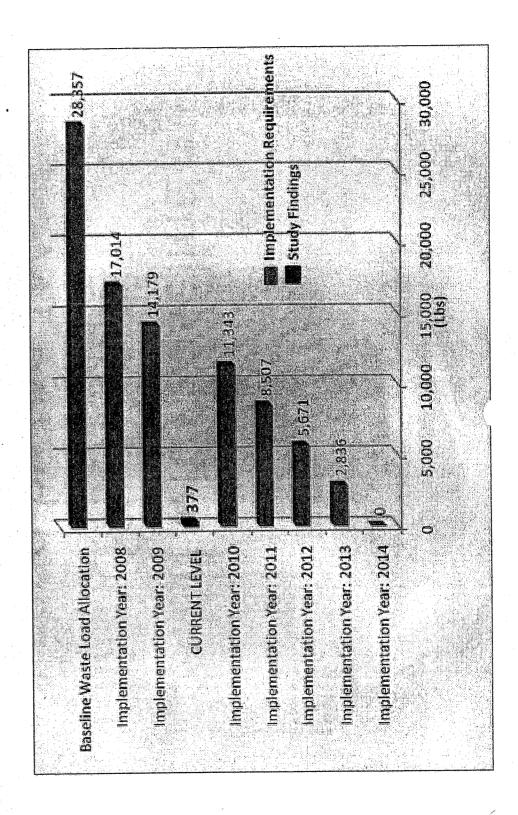
Final Residential DGR=

4.5 lbs/day

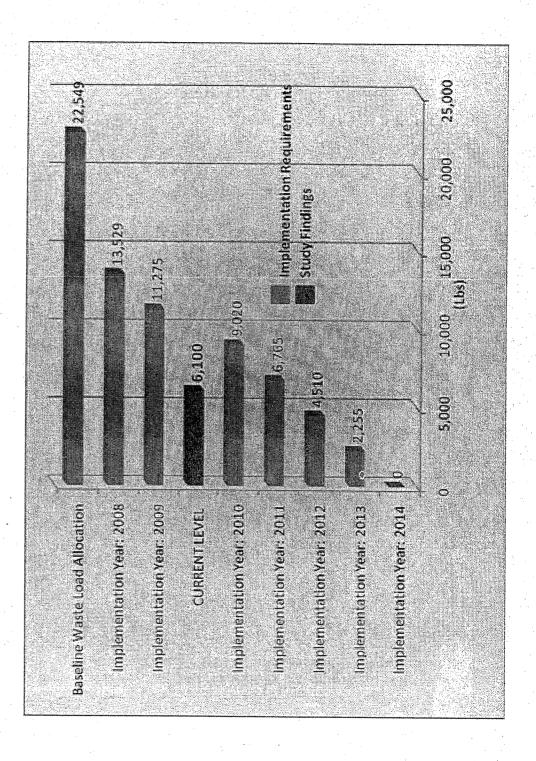
 $[(1.6)*(T_R)]/31$ [(1.6)*(85)]/31

Compared with baseline and established by the TMDL compliance schedule

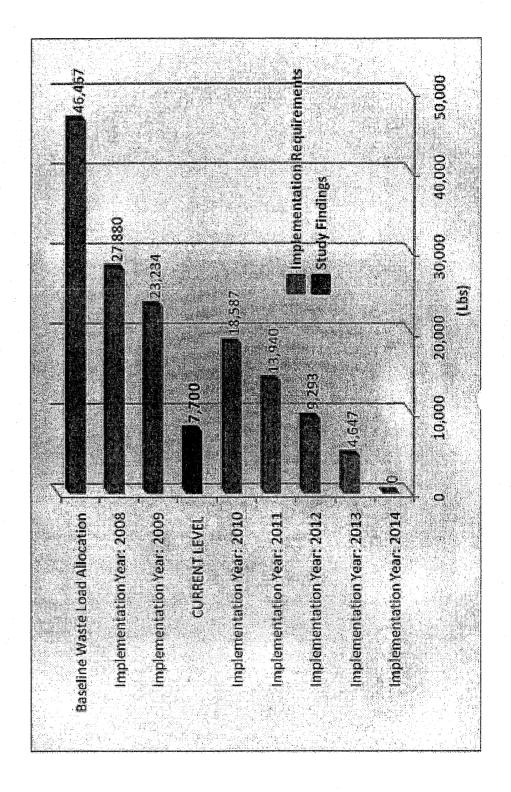
South Pasadena



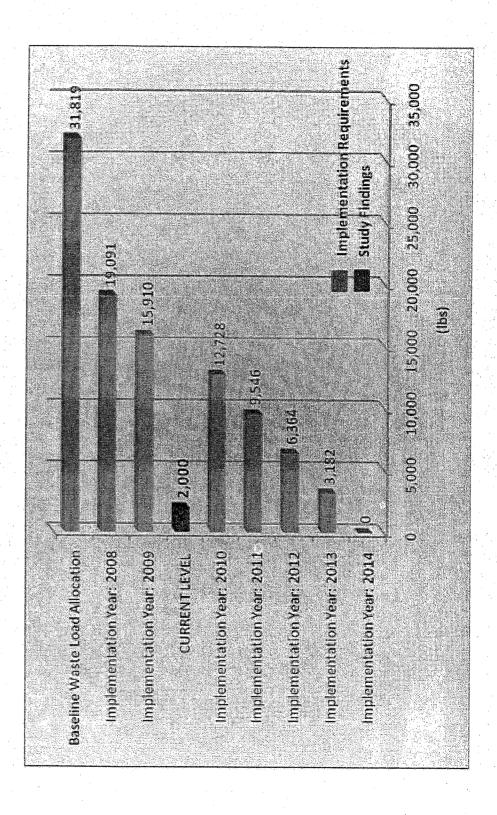
Pico Rivera



Lynwood

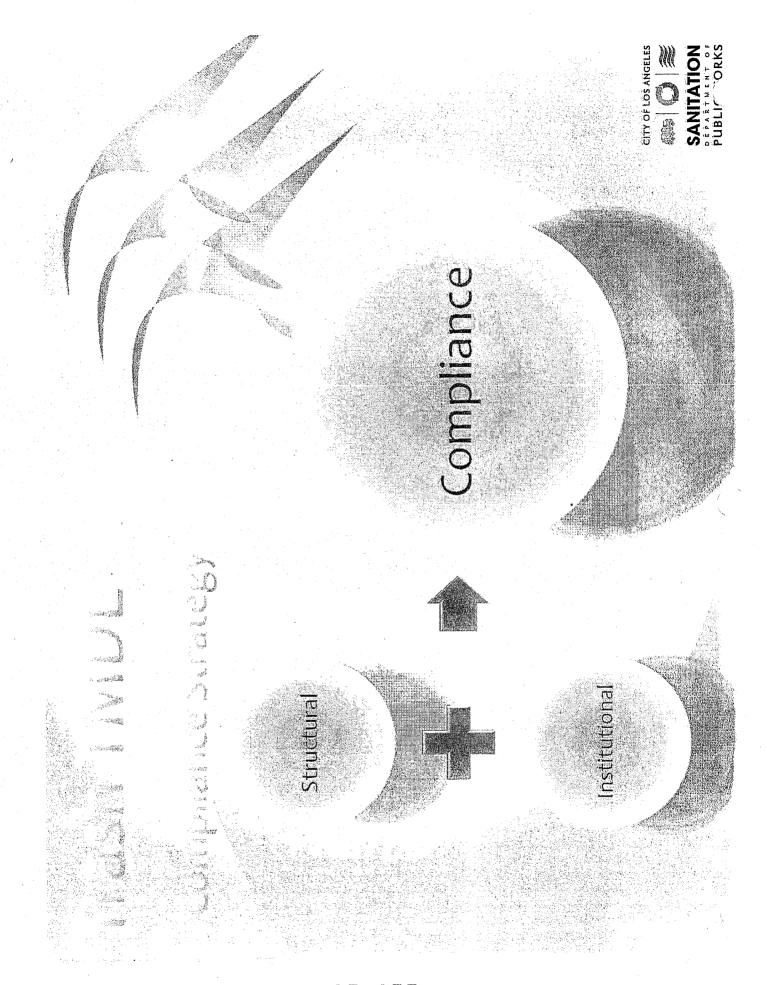


Temple City



comments received from Regiona subsequent studies based on mprovements made to **Board staff**





Structural Strategy Implementation Status

CB inserts

Hydrodynamic Devices

Netting Systems

15 in operation

7,800 installed

6 in operation

CB Opening Screen Covers 29,000 installed



Street Sweeping Francisco Comment Enforcement

Public Outreach

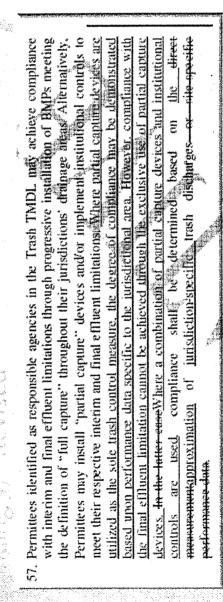
Fig. 1. The second of the colorist confirmation and the colorist c

Catch Basin Maintenance



TWDLM	TMDL MILESTONE	CTVS	TATUS BY BLE	CITY STATUS BY ELEMENT - 2 REDUCTION	TION	
		STRUC	STRUCTURAL	INSTITUTIONAL	TIONAL	COMPOSITE
VEAR	XREDUCTION	LAR	98	LAR	BC	% MEDUCITION %
2009	. 50	% 09				
2.010	09	70 % (estimate)	80% (estimate)	1		
2011	70	90 % (estimate)	.90 % (estimate)	10% – 15% (or greater)	10%=15% (or greater)	001
2012	80					(full compliance)
2013	06					
2014	97.5					
2015	100					

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(b) Reporting Compliance based on Partial Capture

(1) Using Site-Specific Performance Data:

Permittees identified in Appendix 7-1 shall provide (i) site-specific performance data for the applicable device(s). (ii) information on the number and location of such installations, and the drainage areas addressed by these installations, and (iii) calculated compliance



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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

MARY ANN LUTZ, CHAIR

In the Matter of:

THE REGIONAL BOARD PUBLIC MEETING/HEARING

TRANSCRIPT OF PROCEEDINGS, taken at Metropolitan Water District of Southern California, Board Room, 700 North Alameda Street, Los Angeles, California, commencing at 9:13 a.m. on Thursday, December 10, 2009, reported by KIMBERLY ANTON, CSR No. 12881, a Certified Shorthand Reporter in and for the State of California.

2

APPEARANCES:

Mary Ann Lutz, Chair

Madelyn Glickfeld, Vice-Chair

Francine Diamond, Board Member

Jeanette Lombardo, Board Member

Maria Mehranian, Board Member

Steve Blois, Board Member

Kennedy Court Reporters, Inc. 800-231-2682

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4

1	When we do so, I need to announce that I will not be here
2	for the the session following the session following is
3	regarding the trash TMDL and how it relates to the MS4
4	permits.
5	In my other hat as a mayor for the city of
6	Monrovia, that does pose a conflict, so I will not be here
7	during that item and the remaining part of the meeting will
8	be run by our Vice Chair, Ms. Glickfeld.
9	So for myself, I'd like to wish you all a very,
10	very happy holiday and joyous times to you and your
11	families.
12	May we have a report of the closed session, and
13	then we will break.
14	MS. FORDYCE: Yes. During Closed Session, the Regional
15	Board will discuss the following items: 15.1, 15.2, 15.3,
16	15.4, 15.5, 15.6, 15.10 subdivision C, and 15.11.
17	CHAIR LUTZ: Thank you.
18	(Lunch recess)
19	MS. GLICKFELD: Can I call the meeting to order, please?
20	Please take a seat. We're about to call the meeting to
21	order.
22	So I'm going to make an I'm going to make the
23	opening statement now. It's going to take a few minutes.
24	This is the opening statement for the proposed
25	reopener of the Los Angeles County Municipal Stormwater

Discharge Permit, Order Number 01-182, NPDES Number CAS 004001.

And the proposed — this is the time and place for the hearing in the matter of this same hearing to incorporate provisions that implement the waste load allocations from the L.A. River Watershed Trash TMDL.

I'm Madelyn Glickfeld, I'm the Vice Chair of the Regional Board, and I will be presiding at this hearing. It you wish to address the Board today, please fill out a speaker card. Please print so I can read it, and promptly hand it to the Board's clerk. Ronji Harris is over here in the yellow, she's seated right over there.

The deadline for submitting written comments and documented evidence was November 9th, 2009. On December 2nd, 2009, I issued an order addressing the various requests for materials to be included in the administrative record.

If you use speaking notes or visual aids that illustrate previously submitted evidence with your presentation, please leave a copy with staff as you leave so that they can be incorporated into the record. No other documentary evidence will be accepted into the record unless I make a specific ruling allowing it.

The Notice of Public Hearing dated October 8th, 2009, designated as parties to this proceeding, the

Los Angeles County Flood Control District, which is the principal permittee under the MS4 permit, and the County of Los Angeles.

2.2

The Notice also invited other co-permittees and interested parties to participate as parties to submit their requests to the Regional Board.

Pursuant to my orders of October 22nd and October 26th, 2009, the following entities have also been designated as parties to this proceeding. They include the following cities that are co-permittees under the MS4 permit: Arcadia, Bell, Commerce, Hidden Hills, Irwindale, Los Angeles, Monrovia, Monterey Park, Pasadena, San Fernando, San Marino, Signal Hill, South El Monte, South Gate, and Vernon.

Several cities were not granted party status either because they are not subject to the provisions of the L.A. River Watershed TMDL or did not submit their request timely. In addition, Heal the Bay also requested and was granted party status to this proceeding.

Any persons or entities that I did not just identify are deemed interested persons, and they may present comments to the Regional Board at the appropriate time.

Regional Board staff is neither a party nor interested person to this proceeding. The staff's sole function here is to advise and assist the Regional Board in its

1 consideration of the proposed permit amendments.

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So, with that, the order of proceedings of this hearing will generally be as follows: First, the staff will present the proposed permit amendments items to the Board.

The staff presentation will be followed by testimony from interested persons. We're trying to accommodate the public and not having to have you wait as long as some of our prior hearings where people had to wait hours to give just a few minutes of testimony.

Then after the interested -- the parties will be allowed to testify, the parties will be called in the following order: First, the L.A. County Flood Control District and the County of Los Angeles, then cities that are not part of the joint presentation, then a joint presentation on behalf of the city of Arcadia, Carson, Commerce, Irwindale, Monterey Park, Signal Hill, South El Monte, South Gate, and Vernon coordinated by Richard Montevideo. The joint presentation is also on behalf of Downey, who is not a party to this proceeding. Following the joint presentation, Heal the Bay will be called.

Pursuant to timely request, the joint presentation by the cities represented by Mr. Montevideo has been allocated 45 minutes. Heal the Bay has been allocated 30 minutes. All other parties or interested persons will be

allocated three minutes to make their presentations. 1 Please note that to ensure that everyone has an 2 opportunity to be heard, no person or entity will be allowed 3 to testify more than once. Any entity's comments must be contained entirely within that entity's allocated time. 5 Please adhere to the time limitations. Parties and 6 interested persons with similar concerns or opinions are 7 encouraged to choose one representative to speak and may be 8 allocated additional time at the discretion -- at my 9 discretion. 10 Any other commenters interested in making a joint 11 presentation should indicate so on their speaker cards and 12 advise Steve Cain -- where is Steve Cain? Is Mr. Cain here? 13 MR. UNGER: He should be in momentarily. I can serve in 14 his stead. 15 MS. GLICKFELD: All right. Then Mr. Unger will receive 16 any cards that haven't been submitted as of this point. 17 Speakers may also simply state on the card that 18 they agree with the previous speaker without repeating their 19 comments. Repetitive comments are not helpful to the Board. 20 Following interested person and party 21

Following interested person and party presentations, the Board may ask questions of stakeholders followed by questions of staff.

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If you are presenting matters of fact that the Board might want to question you on -- to ask questions of

you, I encourage you to wait until that point in the proceeding.

After questions of any stakeholders, the hearing will be deemed closed and the Board may ask questions of staff and will deliberate. It is expected today that the Board will either adopt, reject, or modify the recommendations of staff.

I would like to remind everyone that the validity of the L.A. River Trash TMDL -- L.A. River Watershed Trash TMDL is not the issue before the Regional Board in this proceeding. By nature, regulations like TMDLs must be adopted in separate proceedings and the proceedings where they are incorporated into permits.

Stakeholders have had an opportunity to comment upon the TMDL when it was adopted. The proceeding is limited to the manner in which the TMDL that was already adopted should be implemented.

While stakeholders are free to submit any new information about the TMDL or the water quality standards to staff at any time, such submittals and any argument about the validity of the TMDL or the water quality standards and implements are outside the scope of and don't — and are not relevant to this proceeding. I would ask that all stakeholders restrict their presentations accordingly.

I would also like to bring to your notice that

As you can see, at times there is a blanket of

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In an L.A. Times article earlier this year, the City of Long Beach, which is at the bottom of the L.A. River watershed, reported that it collects an average of 4,500 tons of trash and debris each year that is washed from upstream cities and ends up on Long Beach's shorelines, and this does not include the trash that does not get collected and makes its way to the ocean.

Many cities in the watershed are making progress towards controlling discharges of trash from the storm sewer system to the Los Angeles River and its tributaries in anticipation of meeting the TMDL deadlines.

These include the County of Los Angeles, the City of Los Angeles as well as others. In fact, a number of permittees have received funding to implement trash control measures to meet these TMDL requirements.

Most recently, the gateway cities Irwin (phonetic)
Authority was awarded \$10 million under the federal stimulus
program to help 16 cities within the watershed meet the
trash TMDL requirements. However, there is still a long
ways to go towards solving the problem.

In 2001 and again in 2007, the Regional Board considered and adopted the trash Total Maximum Daily Load

for the Los Angeles River Watershed to address this continuing problem.

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However, TMDLs, because they are regulations, are not self-executing. They must be incorporated into permits or other mechanisms in order to be implemented. The trash TMDL identified the MS4 permit as the implementation vehicle for the TMDL. In today's action, staff is recommending that you incorporate provisions to implement the TMDL into the Los Angeles County Municipal Separate Storm Sewer Permit.

The Regional Board's efforts to remedy the trash impairments in the Los Angeles River Watershed have been going on for over 13 years. These began back in 1996 when the impairment of trash was first identified in the Los Angeles River Watershed and its tributaries. In 1998, that trash impairment was placed on the Clean Water Act 303(d) list of impaired waters.

In 2001 the first trash TMDL was adopted. After it was adopted, there were two separate challenges that were brought against that TMDL. In 2003, there was a settlement regarding the first challenge. In 2006, the first TMDL was set aside as a result of the second challenge. Then in 2007, the trash TMDL was adopted, the current trash TMDL that is in effect at this time.

In 2008, that TMDL went into effect and the first compliance deadline passed on September 30th of 2008. We're

here in 2009 having had two compliance deadlines passed and, therefore, that's why we're bringing this action before you today.

2.1

2.4

Today's action is the next step towards addressing the trash impairment by reopening the MS4 permit to incorporate provisions to implement the TMDL. Specifically, the reopener before you today incorporates effluent limitations based on the waste load allocations in the L.A. River Watershed Trash TMDL provides for a variety of trash control strategies and allows options for determining compliance.

Additionally, the provisions cover urban runoff and stormwater discharges within the Los Angeles River Watershed. This includes 41 jurisdictions and unincorporated county areas.

As I said earlier, the L.A. County Municipal Separate Storm Sewer System Permit, or we refer to it as the MS4 permit, was identified in the TMDL as the primary vehicle for implementing the trash TMDL.

The L.A. MS4 permit regulates urban runoff in stormwater discharges within Los Angeles County and provides coverage for a total of 85 permittees and the County Flood Control District.

The current permit was adopted in 2001. The current permit contains requirements that discharges should

have been meeting receiving water limitations, which are equivalent to water quality standards in receiving waters such as the Los Angeles River since 2001.

These receiving water limits include those for trash. Where receiving water limits are not met through the standard permit provisions that have been in place since 2001, as has been the case with trash, TMDLs provide a means to ensure that water quality standards are achieved.

The 2001 fact sheet for the L.A. County MS4 permit highlights the fact that waste load allocations will be incorporated into the permit in the future, including those for the Los Angeles River Watershed Trash TMDL, and the Board has incorporated waste load allocations from two TMDLs already, the summer dry weather waste load allocations from the Santa Monica Bay Beaches Bacteria TMDL in 2006, and the summer dry weather waste load allocations for the Marina Del Rey Harbor TMDL in 2007.

The L.A. River Trash TMDL was developed to solve a long-standing and serious problem, which I stated earlier was first formally identified by the Board in 1996.

Trash impacts many beneficial uses of the Los Angeles River, its tributaries, and downstream waters, including beaches and the ocean.

As you can see by these photos, wildlife is harmed and often dies by ingesting trash and becoming entangled in

it. Trash degrades and eliminates the available habitat for aquatic life and wildlife. It contributes to sediment contamination. It discourages recreational use of the river, estuary, and downstream beaches, and it poses health risks.

2.4

In addition, it hampers the L.A. River revitalization efforts that are underway right now and also imposes significant costs on downstream communities who have to bear the burden of collecting and disposing of the trash.

It's been eight years since the adoption of the 2001 permit, which prohibited discharges from the MS4 that cause or contribute to violations of water quality standards, and it's been eight years since the original TMDL was adopted, yet the trash impairment continues in the L.A. River Watershed.

The City of Long Beach has to use an enormous trash boom to remove and dispose of from 2,000 to 12,000 tons of trash each year that is washed down the river from upstream communities. This is at significant financial cost to the City as well as to the County.

In addition, during the L.A. River Clean-Up this Spring organized by the Friends of the Los Angeles River, over 37,000 pounds of trash were removed from the River over just a two-day period.

As I said earlier, many of the permittees have made

commendable progress towards controlling their trash 1 discharges in response to the TMDL, but clearly based on 2 these data, there is still significant progress to be made. Therefore, it's critical to incorporate the requirements of the TMDL into the permit in order to fully implement the waste load allocations and remedy the trash impairment. The TMDL identified the MS4 as the primary source

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of trash to the Los Angeles River and its tributaries, and you can see, this photo is a picture of trash being discharged from the storm drain.

Because of this, the TMDL states that this TMDL will be implemented through the stormwater permit, hence the need for today's action.

In order to incorporate TMDL provisions into the permit, we must first reopen the existing permit.

Under federal regulation, the Regional Board has authority to reopen a permit when required by the permit's reopener clause. Permit provision 6.I.1 of the current permit gives authority to the Board to reopen the MS4 permit to incorporate provisions to implement amendments to the Basin Plan including TMDLs.

Furthermore, when incorporating TMDL provisions, we must recognize that federal regulation and State law requires that permits and their effluent limitations are consistent with available waste load allocations established

1 in TMDLs.

Next I'll talk briefly about the key elements of the TMDL which must be implemented through the permit.

Each jurisdiction within the Watershed is assigned an initial or baseline waste load allocation for trash that is based on the baseline monitoring program that was conducted by the County from 2002 to 2004.

The baseline represents an estimate of the amount of uncontrolled trash generated within the jurisdiction.

Interim waste load allocations are established as progressive reductions of trash from the baseline. The final waste load allocation for all responsible jurisdictions is a 100 percent reduction of the baseline, meaning that there is no trash discharged to the river from the MS4.

Compliance with the waste load allocations is measured within the jurisdiction prior to discharge to the MS4. This is because, as I stated earlier, the TMDL established that the principal source of trash to the L.A. River and its tributaries was the MS4.

For that reason, the TMDL made the linkage that by controlling trash into the MS4, trash discharges into the MS4, water quality standards could be achieved in the river.

The TMDL provides for a broad range of compliance strategies which include full capture systems, partial

capture devices, and institutional controls.

1.0

Where full capture systems are installed and maintained, the drainage area is considered in full compliance.

partial capture devices, which are structural devices that don't meet the performance standard of full capture, are another option. With partial capture devices, compliance may be determined either using jurisdiction-specific performance data or by calculating annual trash discharges.

Finally, institutional controls, such as street sweeping and catch basin clean-outs may be employed in which case compliance may be determined by calculating the annual trash discharges from the jurisdiction as with the partial capture devices.

And these are some examples of catch basin inserts that have been developed by the City of L.A., the County, and four cities, including Burbank, Glendale,

La Canada/Flintridge, and Pasadena, which have been certified as full capture and which are being used to achieve full compliance with TMDL requirements.

This table shows the implementation schedule for the waste load allocations. Again, waste load allocations are expressed as percentages of the baseline waste load allocation. Note that as I mentioned earlier, the first two

compliance deadlines have already passed.

Compliance with these waste load allocations is based on three-year rolling averages of the waste load allocations. These are identified as compliance points on the far right side of the table.

For example, the compliance point for the storm year ending in 2010 is the average of the waste load allocations for the storm years '07-'08, '08-'09 and '09-'10

The rolling averages provide flexibility in implementation by accommodating fluctuations in trash discharges that may occur as a result of variations in annual rainfall patterns.

With those key TMDL elements in mind, the proposed amendments to the permit include the addition of a new Part 7 that contains effluent limitations for trash equivalent to the TMDL compliance points that I just showed you, a variety of compliance options, including full capture, partial capture, and institutional controls, and monitoring and reporting requirements along with some new definitions related to the TMDLs, which are added to Part 5, and the addition of a provision in Part 7 requiring compliance with -- excuse me. The addition of a provision in Part 4 requiring compliance with the provisions of Part 7 for the permittees within the Los Angeles River watershed.

The proposed approach to implementing the waste 1 load allocations through numeric effluent limits is 2. consistent with federal regulations. Also, the State Board 3 has recently concluded that Regional Boards should determine the most appropriate approach to implementing waste load 5 allocations for MS4 discharges in the form of either numeric or nonnumeric effluent limitations. Therefore, the approach is at the discretion of the Regional Board. The permit provisions provide six years from 9 incorporation into the permit to achieve final compliance 10

The permit provisions provide six years from incorporation into the permit to achieve final compliance and allow for reopening the permit if the waste load allocations in the TMDL are revised.

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Following are the compliance deadlines for achieving the interim and final effluent limitations that are proposed. These deadlines are the same as those established in the TMDL. The first permit compliance date will come up in September of 2010, September 30th, 2010.

The permit provisions allow a range of compliance options and any combination of strategies to preserve permittees' flexibility to choose the compliance approach that best suits its circumstances.

Provisions -- the permit provisions as drafted recognize eight full capture systems and authorize Executive Officer certification of additional full capture systems in the future. The provisions also allow for targeted

implementation.

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Finally, the provisions include the presumption of compliance with the effluent limits for drainage areas that are serviced by certified full capture devices.

For partial capture devices, the provisions allow options for compliance determination, including jurisdiction-specific performance data, the estimation of actual trash discharges using mass balance, or alternative compliance monitoring approaches that have been given Executive Officer approval.

For institutional control, the provisions allow the estimation of discharges as with the partial capture devices.

Other provisions that are proposed today include compliance monitoring requirements for measuring trash discharges and for maintaining records of installation and maintenance of full capture and partial capture devices, annual reporting requirements, and they also include a description of the conditions under which the violations of the interim and final waste load -- excuse me. Effluent limits will be determined.

Permittees and other interested parties have been offered several opportunities to provide input on the reopener. These include a public workshop, which was held on July 29th, 2009, and there was a two-week written

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solicitation period following that workshop in which we received 27 comment letters on the proposal.

Then there was the public notice of the draft documents, which was issued on October the 8th, 2009, and we received 14 comment letters by the deadline on those proposed documents, and then there's today's hearing at which you're also going to hear public comments.

Responses to all the written comments were provided to you in your Board package.

In the next few slides I will cover the most significant comments and responses that we received.

A number of permittees stated that the TMDL waste load allocations should be incorporated into the permit by reference to BMPs such as full capture systems.

Another option proposed was to incorporate the waste load allocations as MALs or Municipal Action Levels.

Commenters further stated that incorporating numeric effluent limitations as proposed to implement the waste load allocations is contrary to the State Board Stormwater Panel Report and USEPA guidance.

Commenters claimed that numeric effluent limitations go beyond Clean Water Act requirements and that there is not State authority for incorporating numeric effluent limits into permits.

In response, I want to first point out that a

BMP-based approach to determine compliance is provided for in the permit provisions, for if certified full capture devices are properly installed and maintained, the drainage area serviced by the system is deemed to be in compliance with the TMDL.

With regard to the suggestion that waste load allocations should be incorporated as Municipal Action Levels, the derivation of the municipal action level is based on outfall sampling and does not take water quality standards into consideration; therefore, while Municipal Action Levels may be an effective means of assessing program effectiveness, they do not bear any relationship to the water quality standards that TMDL waste load allocations are designed to attain.

Since federal regulations require that permits must contain effluent limitations consistent with available waste load allocations incorporating the waste load allocations as MALs instead of numeric effluent limitations would be contrary to federal regulation.

In addition to federal requirements to include effluent limits consistent with the waste load allocations and permits, the California Water Code, Section 13263 requires that the permit contain provisions consistent with the basin plans. As I mentioned earlier, TMDLs are adopted as amendments to basin plans.

Furthermore, I also want to point out that the State Board recently issued an order regarding the incorporation of TMDLs into stormwater permits and said that whether a future municipal stormwater permit requirement appropriately implements stormwater waste load allocations as numeric or nonnumeric effluent limitations is up to the discretion of the Regional Board and findings have been included in the proposed reopener supporting the staff's proposal to incorporate the waste load allocations as numeric effluent limits.

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As for the consistency with the State Board -- the State Stormwater Panel recommendations to the State Board, the Panel's recommendations are largely inapplicable to trash. The Panel noted three challenges, all of which have been addressed in the case of the trash TMDL and the incorporation of the waste load allocations into the permit.

Specifically, the TMDL has identified the level of control that's necessary to protect beneficial uses. It also -- the proposed permit provisions also include a clear methodology for monitoring compliance through the use of annual storm event discharge calculations or alternative methods.

And, finally, the permit also establishes the BMP performance standard that we have shown to be sufficient to meet the waste load allocations.

In addition, contrary to the commenters' conclusions, the use of numeric effluent limits is not contrary to USEPA guidance. EPA has stated that the permit provisions and effluent limits must be consistent with available waste load allocations as I previously stated.

And EPA has clarified its 2002 guidance recently to say that the permitting authority has discretion to express permit conditions for MS4 discharges as numeric limits where appropriate.

EPA went on to say in its memo that effluent limits may be expressed in the form of BMPs only if the record supports that the BMPs are sufficient to achieve the waste load allocations, where with certified full capture systems we have found that those BMPs will be sufficient to support the -- the achievement of the waste load allocations.

That approach has been included into the permit, but there are other options for permittees to comply with the permit and, therefore, we're also including numeric effluent limitations.

We also received comments on the cost of incorporating the TMDL into the permit, that the Regional Board should consider the cost associated with the trash TMDL and that strictly complying with the trash limit is unreasonable and not economically achievable.

I want to note, as the Chair did at the beginning,

that the cost of the TMDL isn't a consideration here because that was considered a part of the Board's consideration when you adopted the TMDL.

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In litigation over the TMDL, the Court of Appeal upheld that the Board's analysis was sufficient to comply with the requirements for economic considerations in California Water Code 13241. The TMDL discusses the cost of collecting and disposing of trash, the cost of various compliance measures, and compares the capital and operating costs.

What is at issue is the cost of incorporating the TMDL into the permit and there are no additional costs associated with that action.

Can you go onto the next slide, please?

Another comment that we received was that L.A.

County Flood Control District -- another comment received was that the L.A. County Flood Control District said that it can not lawfully be made liable for actions of other permittees.

In its capacity as the principal permittee under the MS4 permit and the owner and operator of significant portions of the MS4, the District is expressly charged with the responsibility to facilitate activities necessary to comply with the requirements of the permit, which may include the installation and maintenance of trash control

1 devices.

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In response to the District's comments and in view of subsequent communications with the District, we have proposed the modification to the provision on joint and several liability to better account for the District's obligations.

We also received a comment saying that the term of the existing permit expired on December 12th, 2006, and that incorporation of the TMDL provisions should not be done until the permit is reissued.

The statement that the term of the existing permit expired is a misconception because, in fact, according to federal regulations, if a permitting authority is not able to reissue a permit prior to its expiration date, then the permit's terms and conditions are administratively extended. These terms include any reopener provision.

The Regional Board's response to permittees' renewal applications, which were submitted in 2006, made it clear that the 2001 permit shall remain in effect and enforceable until a replacement permit is adopted.

Additionally, it should be noted that the federal regulations allow permits to be narrowly reopened to incorporate modifications to basin plans of which TMDLs are a part.

And as I stated earlier, compliance with some of

the interim waste load allocations in the TMDL is required before the L.A. County MS4 permit can be reissued. Acting now is critical, as we're already over a year overdue with two compliance deadlines already passed. Further delaying incorporation of the TMDL into the permit will discourage those permittees who are working to comply.

Commenters stated that the reopener should acknowledge and provide for the TMDL provision that requires reconsideration of the TMDL after a sustained 50 percent reduction is achieved in the watershed.

And I want to note that we do have in the reopener a finding, number 50, which acknowledges the TMDL reconsideration and provides for reopening the permit to revise the effluent limitations if the waste load allocations are revised.

So in closing, I would like to state that given that the standard permit provisions in place since 2001 have been inadequate to prevent continued impairment due to trash and that compliance with the TMDLs waste load allocations was required beginning September 30th, 2008, staff recommends that the Board reopen the permit to incorporate the proposed amendments to Parts 4 and 5 of the permit and the addition of Part 7 in order to effectively implement the waste load allocations established in the TMDL.

Thank you.

MS. GLICKFELD: Thank you.

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That concludes the staff presentation, and we're going to open up the public hearing. We have 19 interested parties going to speak. I've said before that you're going to have three minutes, but we just calculated that we would not end the hearing until 4:00 o'clock if we did that.

So I'm going to ask you to try to hold your comments to two minutes. If you can't -- if you can, and you've heard somebody else say what you want to say, just please waive your time.

I want to give maximum time to everyone, but we want to also -- we must conclude this hearing today and have some time for the Board to make its decision.

So with that I'd like to ask Mr. John Kemmerer from USEPA to come up, and following that, Stephanie Molen from Senator Fran Pavley's office.

MR. KEMMERER: Good afternoon, Board members. I appreciate the opportunity to testify before you this afternoon. My name is John Kemmerer. I'm Associate Director of EPA Region 9 Water Division, and, as I think many of you know, EPA Region 9 covers the state of California, Arizona, Nevada, and Hawaii.

I want to focus my time today, the short time I have, on simply on the issue of how TMDLs are incorporated into municipal stormwater permits.

In reviewing the comments I've been provided today, I've come across a lot of interpretations of what the Clean Water Act says and what EPA's national guidance says on the question of how TMDLs are incorporated into permits, and it's our position that your staff have taken the correct approach for appropriating the L.A. River Watershed Trash into this permit and we would like to recommend that you

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adopt the permit today.

In our review of municipal stormwater permits across our region, we have concluded that it's critical to include clear measurable and enforceable permit provisions in order to protect water quality.

We've supported the inclusion of numeric limits for incorporation of waste load allocations across California and appreciate that your region has provided important leadership in this area. We work closely with Regional Board staff on the Ventura MS4 permit encouraging the use of numeric limits there.

When this permit was reopened back in 2006 and 2007 to incorporate the TMDL for bacteria and numeric limits were used there, we were in support of the Board's actions.

And then most recently, when the -- the 2006 modification was challenged to the State Board on June 3rd, we wrote a letter to the State Board and then later testified at a June State Board hearing supporting the

approach this region had used back in 2006 in incorporating numeric limits into the L.A. County permit. We are gratified that the State Board upheld the Regional Board's approach in August of this year.

MS. GLICKFELD: Finish up, please.

MR. KEMMERER: I'd like to just, I guess, conclude by saying that we -- in many cases, we've been wary of approaches that have used non-numeric limits to incorporate TMDLs.

Renee went over the relevant EPA guidance which talks about the conditions that need to be present in order to use a non-numeric limit.

We believe that the approach that has been presented here, where the administrative record supports that the use of full capture systems will attain the waste load allocations completely, follows the national guidance on this issue, and by incorporating the TMDL as either the use of full capture systems or numeric limits, this permit is in sync with EPA's guidance on incorporating waste load allocations into MS4 permits, and I'd like to urge you to -- recommend that you adopt this permit this afternoon.

Thank you.

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MS. GLICKFELD: Thank you, Mr. Kemmerer. I hope that you could stay around in case there are any Board questions.

MR. KEMMERER: I'd be glad to.

CHAIR LUTZ: Ms. Molen, Stephanie Molen? Is Ms. Molen 1 2 here? Okay. The next person is Dan Medina, Mayor Pro-Tem 3 of City of Gardena. And I'd like -- now, I'm going to tell the next 5 person, the next person up is Suja Lowenthal, if you could 6 come to the -- to the -- close to the podium so that I can 7 get -- move people along, I'd appreciate it. MR. LEVY: Vice Chair Glickfeld, if you're -- if 9 somebody is not still here, would you indicate for the 10 record whether they indicated support or oppose? 11 MS. GLICKFELD: Stephanie Molen came in support of the 12 staff recommendation. 13 14 MR. LEVY: Thank you. MS. GLICKFELD: And she's representing Senator 15 16 Fran Pavlev. So Mr. Medina. 17 MR. MEDINA: Thank you. Thank you for allowing me to 18 speak. First of all, I'm Dan Medina, Mayor Pro-Tem for the 19 City of Gardena, and I support comments made by -- or some 20 comments that are going to be made by the Coalition for 21 Practical Regulation and also our stormwater consultant, who 22 hasn't spoken yet, but I'm sure you will hear from him. 23 I would also like to say that Gardena is a strong 24

supporter of preventing trash into the ocean -- entering the

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ocean, should I say (sic). Although Gardena is not subject to trash TMDL, last year, the City of Gardena installed 240 debris screens in its catch basins, and it did so because it was the right thing to do, and we at Gardena were able to do this on a limited general funds and federal water infrastructure grant to pay the program.

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Some of the catch basins that receive these devices are connected to the Willows Wetlands in the city of Gardena, which has had a serious problem with trash, and I understand that the debris screens have yet -- have reduced the trash problem significantly.

Our concern, as expressed by some and others, that the trash TMDL sets a precedent for putting a numeric limit on the NPDES permit. This would create a serious problem with metals and toxics TMDLs that Gardena would be subject to and are now being developed by your staff.

Using costs that L.A. River metals TMDL (sic), Gardena's cost obligation under the metal TMDL is expected to range somewhere between 364.71 million to 1.3 billion. Clearly, there's no way the City of Gardena can afford that even if we look at the cost for about 100 years.

Therefore, I ask -- I ask that you not place the numeric limits on the future of the TMDLs and that you work with Gardena and other cities to develop the effective and reasonable compliance alternatives.

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Thank you.

MS. GLICKFELD: Thank you, Mayor Medina.

The next person is Suja Lowenthal, Councilmember for the City Of Long Beach.

MS. LOWENTHAL: Thank you, Madam Vice Chair, and if I might have three minutes, perhaps. I will be the only speaker from Long Beach so if I might indulge your --

MS. GLICKFELD: Could we reset the clock, please?

MS. LOWENTHAL: My name is Suja Lowenthal. I'm a council member from the City of Long Beach. I also serve on the Metropolitan Water District here. Welcome to Metropolitan. Thank you for having your meeting here.

Long Beach is the second largest city in

Los Angeles County and the 36th largest in the nation. The

first slide your staff started out with, that is our front

yard and so if you can imagine, this is where we live, work,

and play. I'd like you to never forget that image.

Long Beach has the unfortunate distinction as the final destination for the trash from millions of upstream residents located at the mouths of the L.A. and San Gabriel River Watersheds. As a result, our beaches become trash dumps after every rain and marine debris can be seen in San Pedro Bay for weeks after a rain.

Each year, the Los Angeles River alone deposits upwards of 4,500 tons of debris on our beaches. Thus far in

2009, the City of Long Beach has had four beach closures and
153 water quality advisories due directly to contaminants
from the L.A. River.

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Trash causes significant impairments to the beneficial uses of the L.A. River. The massive amounts of trash floating down the L.A. River have been an incredible negative impact on the City of Long Beach, a city that truly does depend on visitors to its beaches and coastline.

Consequently, we have made it a priority to take necessary steps toward reducing trash that enters our waterways. Long Beach and the San Pedro Bay need your help.

Our city has a successful track record in installing catch basin screens and inserts to capture trash before it reaches the receiving body. Long Beach is doing our part, but much more work is needed.

We need the Regional Board to add the trash TMDL requirements into stormwater permit to help ensure that our bay and beaches get cleaned up.

The L.A. River Trash TMDL, adopted by your Board in 2001 and again in 2007, is a critical tool in reducing trash and marine debris and maintaining beneficial uses. The City of Long Beach is committed to preserving and maintaining the quality of our beaches, and we are well on our way to compliance with the L.A. River Trash TMDL.

As part of the Gateway Authority Application that

received Federal Recovery Act funds, Long Beach and the 15
upstream cities in the Gateway Authority received
\$10 million through the Water Board's Clean Water State
Revolving Fund to install water quality improvements and
catch basins that drain to the L.A. River.

As a result of this funding, approximately 12,000
connector pipe screens will be installed to fully capture
the trash. When the project is complete, those 16 cities
will be 100 percent compliant with the L.A. River Trash
TMDL.

Although this is a remarkable step forward, there
is still much work to be done. We strongly support the
L.A. River Trash TMDL being put into the municipal

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stormwater permit as proposed by staff. It is time we make those trash pollution limits enforceable to ensure upstream cities will prioritize trash reduction in our waterways.

I'm going to let it buzz, and if I might ask for a few more seconds.

MS. GLICKFELD: Please finish, quickly.

MS. LOWENTHAL: Although Long Beach has a separate MS4 and will presumably have this done at a later date, this action is critical to ensuring that the amount of trash entering our city is reduced.

This has been done before by your Board with other TMDLs, and there is no reason not to do the same for the

L.A. River Trash TMDL.

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The time for opposition, appeals, and litigation is over. We need to move forward as a region to stop the (unintelligible) of trash into our waterways. Cleaner water means a stronger coastal economy and a better future for us all.

I implore you to support your staff's recommendations. Long Beach is with you, we will always be with you. We appreciate your support. Every decision is a difficult one, especially when we line up as winners and losers, but I cannot imagine there would be any winners when you see a slide like that and seeing how much my city loses.

Thank you.

MS. GLICKFELD: Thank you.

I am going to call mayor -- Mayor Eugene Sun of the City of San Marino, and quickly following him, I will be calling Mayor Jim Dear of the City of Carson, if you could get ready to come up.

MR. SUN: Good afternoon. Thank you for allowing me to speak before your panel. My name is Eugene Sun, mayor of City of San Marino.

The city supports comments made by the Coalition For Practical Regulation and our stormwater consultant. San Marino recognizes the need to control trash to the Los Angeles River. Even before this TMDL was adopted, we

have endeavored to make our city the cleanest in the
San Gabriel Valley.

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Despite our limited resources, we sweep our streets and clean out our catch basins regularly. You will rarely find trash in our streets, residential or commercial. We also plan to install debris screens in our catch basins, starting with those located in our commercial district.

Our real concern is with having to comply with the numeric limit and other TMDLs subject to Los Angeles River, metals TMDL, which the city is also subject to.

According to Regional Board data, San Marino's compliance costs would range from \$202 million to \$797 million. It should be noted that our city's budget is only \$20 million annually. The metals TMDL could threaten to bankrupt our city, and we understand that this only is one of several TMDLs that would affect us.

I ask that you not include numeric limits for metals TMDL or any other TMDL. Instead, please consider other less costly alternatives.

Thank you very much.

MR. DEAR: Vice Chair Glickfeld and esteemed Board Members, good afternoon and happy holidays. My name is Jim Dear, I'm the mayor of the City of Carson. I support the comments made by the -- that will be made by the Coalition For Practical Regulations, Carson staff, and our

stormwater consultant.

Carson also supports the trash TMDL and its objective of preventing trash from reaching the ocean.

Carson is subject to two trash TMDLs, one for the Los Angeles River and one for Machado Lake. It has installed 12 debris screens in all of its catch basins connected to the L.A. River. It has also installed 60 screens in its 222 catch basins and are -- that are connected to Machado Lake. And even though there is no trash TMDL for Dominguez Channel, Carson has installed 42 screens on catch basins that flow into it.

I have personally inspected the length of the Dominguez Water Channel from the harbor through Carson to the protected natural wetlands in Gardena by boat, and I have personally participated in environmental clean-ups of the same as well as the L.A. River tributary known as Compton Creek.

Dominguez -- I mean, Carson is also concerned that the trash TMDL sets a precedent for establishing a stringent numeric limit into the NPDES permit. This would make it impossible for the city to comply with the nutrients TMDL for Machado Lake and with the metals and toxics TMDL for Dominguez Channel.

I also ask that you not place numeric limits on municipal stormwater permits and that you work with Carson

1	and other cities to develop effective and reasonable
2	compliance alternatives.
3	Thank you and have a good day.
4	MS. GLICKFELD: Thank you very much.
5	Ray Tahir followed by Vaikko Allen.
6	MR. TAHIR: Members of the Board, staff, good afternoon.
7	My name is Ray Tahir, I'm with (unintelligible)
8	Environmental, which represents several cities on stormwater
9	matters.
10	On behalf of my clients, some which are here today
11	and have already spoken, I would like to say the following:
12	My clients support the trash TMDL in principle and have no
13	objection to it being included in the MS4 permit, but my
14	clients, however, do object to having the numeric limit as a
15	compliance term included in the permit.
16	They would prefer compliance to be determined
17	instead by installing trash reducing BMPs, such as debris
18	exclusion screens or other BMPs but not the other way
19	around.
20	Several of my clients will explain or have
21	explained their cities have no difficulty meeting the final
22	TMDL numeric limit by installing debris exclusion controls,
23	it's an easy one.
24	Nevertheless, any numeric requirement incorporated
25	into the permit should be relegated as a goal, again,

instead of a hard and fast number to be strictly complied 1 with. My clients are concerned that incorporating the trash 2 ' TMDL numeric limit into the current permit would establish a negative precedent with respect to more costly TMDLs that are coming down the pipe, metals TMDL in particular. The metals TMDL for the Los Angeles River that was adopted in 2007 carries a huge compliance price tag, which

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was mentioned. Although this TMDL mentions street sweeping as a best management practice that can, to some extent, remove metals, it is apparent that this type of BMP would not be enough to meet that numeric limit. The conclusion that some regional board members have also come to.

The metals TMDL discusses sand filters and infiltration trenches such as structural BMPs that are capable of meeting wet and dry weather numeric limits. costs of such controls would range from 156,000 to 310,000 per acre. And that would be for the sand filters -- certain types of sand filters, and for infiltration trenches.

As a point of reference, the City of San Gabriel's cost to install less expensive infiltration trenches throughout the city would be about 243 million.

Before closing, I'd like to -- if I may? MS. GLICKFELD: Yes.

MR. TAHIR: Two things. Your staff did a great job in putting this item together under some very arduous

1 circumstances, working few hours per month and actually having to do -- deal with two contentious parties here. 2 3 One of the things that I would like to recommend is 4 that this Board consider, with respect to future TMDLs, a study that was -- a recommendation that came out of the 5 National Academy of Sciences Study that dealt with 6 7 stormwater. One of your own, Dr. Xavier (unintelligible) was a contributor to that study, and in it, it recommended that in 9 10 recognition that the trash TMDL program and the National NPDES Program are dysfunctional, that if you look at --11 12 MS. GLICKFELD: Can you wrap up, please? MR. TAHIR: -- look at some other more cost-effective 13 way of dealing with TMDLs rather than relying on strict 14 15 numeric limits. 16 Thank you very much for your time. Happy holidays. MS. GLICKFELD: Vaikko Allen followed by Jose Estreeola. 17 18 MR. ALLEN: Good afternoon. Vaikko Allen is my name. 19 I'm the regulatory manager for CONTECH. I'll keep my 2.0 comments quite brief here. 21 I'd like to look at the full capture definition 22 first and then trace how that impacts through the proposed 2.3 provisions here. 24 Full capture, as you know, is a requirement that 25 has two components. One being removal of five-millimeter

particles, the other being passage of the one year flow event. In the certifications of full capture devices so far, those two requirements have been considered separately.

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So if you have a perforated metal screen, for example, that captures five-millimeter particles and that screen in a clean condition can pass the one year flow, it's good enough to be certified.

However, when you install these things in the field, what you find is that -- what I've found in inspections of many of these devices, particularly the screens that go inside a catch basin, is that you get any amount of leaves and trash and the flowing water basically pins that material to the screen, and in short order, the screen becomes occluded or plugged with material and the screen effectively acts like a weer (phonetic).

I've done a lot of inspections of these inspections of these installations throughout Los Angeles, in particular, in the downtown city core and have found it to be an issue, where trash is basically flowing right over the tops of these things and continuing down through the outlet pipes.

Now, in Part 4, there are cleaner requirements for catch basins, referencing a 40 percent filling of the catch basin as a trigger point for needing to be maintained. I would submit to you that there needs to be some kind of a

1 requirement there for occlusion of the screen itself since. in most cases, people are relying on the screens to be doing 2 the actual work. 3 In my experience, I've found many basins where 1 there's an inch or two of material and a totally occluded 5 screen and obvious material passing over the top of these things. Also, as far as full capture devices constituting 8 9 full compliance, I'm happy with the BMP-based implementation, but there should be some way of looking to 10 make sure these things in aggregate, we're spending on the 11 12 order of \$100 million here in this area installing them, we 13 need to be sure that they're actually doing something. 14 some mass balance would be helpful. 15 Thank you. Thank you very much. MS. GLICKFELD: MR. ALLEN: 16 Thank you. 17 MS. GLICKFELD: Jose Estreeola followed by Angela Howe. 18 Is Jose Estreeola here? Angela Howe? 19 MR. LEVY: Could you indicate for the record --20 Vice Chair, could you indicate for the record --21 MS. GLICKFELD: Jose Estreeola wanted to speak in 22 support of the staff recommendation, and Angela Howe 23 followed by John Hunter. 24 MS. DIAZ: Angela Howe had to catch a train, she had to leave a little early, but she wanted me to read her 25

1	statement if that's permitted?
2	MS. GLICKFELD: Is that in accordance?
3	Yes, go ahead. And your name is?
4	MS. DIAZ: Sonia Diaz. And Angela Howe, she's the legal
5	manager of Surfrider Foundation.
6	"I'm the legal manager of Surfrider Foundation and
7	here today I'm here today to speak on behalf of our
8	30,000 California members dedicated to the protection and
9	enjoyment of our oceans, waves and beaches.
10	"In these interests, we ask you that incorporate
11	the L.A. River Trash TMDL into the L.A. County Municipal
12	Stormwater Permit.
13	"We also routinely help with Ballona Creek
14	Watershed Trash removed through our cleanups but, you know,
15	again, education cleanups are not enough to address this
16	problem.
17	"The we just strongly support the staff
18	recommendation of the MS4 permit."
19	Thank you.
20	MS. GLICKFELD: Thank you.
21	John Hunter followed by Shelly Backlar.
22	MR. HUNTER: All right. Thank you members of the Board.
23	The two minutes is going to be a tall order, but I'll do
24	what I can.
25	I represent I'm a consultant to represent

Τ	several cities in the
2	MS. GLICKFELD: Repeat your name for the record.
3	MR. HUNTER: I'm sorry?
4	MS. GLICKFELD: Repeat your name for the record.
5	MR. HUNTER: John Hunter. I'm a consultant to several
6	cities in the Los Angeles River Watershed.
7	We're concerned about the numerical limits and also
8	any numerical limits that include a hard ultimate goal of
9	zero. We think that will be somewhat infeasible to meet.
10	Nonetheless, I do want to talk about progress we've
11	made. Renee Purdy did talk about several compliance
12	measures that we can implement, and we want to talk about
13	one of them, the daily generation rate studies.
14	During the summers of 2008, 2009, DGRs were
15	conducted for several cities, and I'm going to talk about
16	Pico Rivera, Lynwood, and Temple City and South Pasadena.
17	We did a variety of field collection measures.
18	Sometimes we swept the streets and we analyzed the
19	sweepings. Sometimes we actually had to go out and pick up
20	the trash directly and, yes, the fellow on the right does
21	have a four-year college degree. I'm sure his mom would be
22	very proud of him right now.
23	Next slide.
24	MS. GLICKFELD: Mr. Hunter, you're at less than one
25	minute. I would suggest that you want to give us some of

your conclusions before you run out of time. I appreciate that you're trying to show us what you're doing but --2 MR. HUNTER: I will do that. I don't have too many 3 slides next. 4 Let's go to next slide and the next one and the 5 next one. And the next one. 6 Here we go. South Pasadena, they have a baseline 7 load allocation of 28,000 pounds per year. Right now they 8 are at 377 pounds per year. They have essentially met the 9 2014 goal. 10 Next slide. Pico Rivera, 22,000 baseline, 11 currently at 6,000. Lynwood, very similar, 46,000 was their 12 baseline, currently they are at a 7,700. And Temple City, 13 3.100 is their baseline, and they're currently at a 14 discharge rate of 2,000. 15 And this is my final slide. Improvements, we did 16 send these reports, at least most of them, to the 17 Regional Board. We did get some comments back and we have 18 been improving those based on conversations we have had with 19 the Regional Board staff. 20 Did I make the two minutes? 2.1 MS. GLICKFELD: Thank you. 2.2 MR. HUNTER: Thank you very much. 23 MS. GLICKFELD: Next will be Shelly Backlar, Friends of 2.4 the L.A. River, followed by Gwen Lattin. 25

MS. BACKLAR: Good afternoon. Thank you, yes, my name 1 is Shelly Backlar, I'm the Executive Director for Friends of the L.A. River, and I was pleased to hear the staff report 3 mention our L.A. River Clean-up. 4 We've done that event for 20 years. We started 5 with 30 people, we've grown to about 3,000 per clean-up. We 6 estimate that about 40,000 people have volunteered to take 7 out over 200,000 tons of trash. But as was just mentioned, 8 community clean-ups are not the answer. 9 We know that 80 percent of the trash that ends in 10 the ocean comes from land-based sources, and 90 percent of 11 that is plastic that never degrades and the North Pacific 12 Gyre continues to grow. 13 Friends of the L.A. River advocates for a 14 swimmable, fishable, boatable Los Angeles River, and trash 15 significantly impairs these beneficial uses, therefore, we 16 support the staff's recommendation and we hope that you 17 would include the L.A. River Watershed Trash TMDL in the 18 19 stormwater permit. Thank you. 20 MS. GLICKFELD: Thank you. 21 Gwen Lattin followed by Ida Talalla. 22 MS. LATTIN: Hi, I'm Gwen Lattin, with Algalita Marine

MS. GLICKFELD: Algalita --

Research Foundation.

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MS. LATTIN: Algalita Marine Research Foundation, their 1 main focus has been debris in the marine environment and its 2 watersheds, and over the past ten years, we've conducted 3 seven voyages out into the North Pacific Ocean as well as 4 doing numerous studies along the southern California coast. 5 Out of all those studies, when we've done our trials, every 6 single sample has had plastic in it. 7 So besides the spatial aspects of studying plastic 8 in the environment, we're also looking at the effects on the 9 organisms in the environment. We've been looking at birds, 10 and last year we found that there were fish that were 11 ingesting the plastic in L.A. Harbor, and we continue -- we 12

wanted to continue with that pilot study to expand it into a more monitoring-type program to understand what's actually going on near shore.

I was actually out in the gyre this last year and saw all different types of land-based plastics as well as the -- the fishing debris and shipping -- debris from the shipping industry.

So we would like to support the L.A. Trash TMDL. That's all.

MS. GLICKFELD: Thank you very much.

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Ida Talalla followed by Heather Wylie.

MS. TALALLA: Good afternoon. Thank you for allowing me to talk. My name is Ida Talalla, I'm the founder and

coordinator of Echo Park Trash Abatement Project. 1 The trash impairment situation is a disgrace. As 2 an Echo Park resident with Echo Park Lake just down the 3 road, I was appalled at the amount of trash that was conveyed into the lake itself by area storm drains, and we have Prop O, but if we don't keep that trash out, it is Prop O all over again. 7 Plastic trash is not just a coastal problem, it is a problem that is blighting our inland communities and 9 impacting lower income communities and communities of color. 10 11 Echo Park Lake is one of the most polluted bodies of water in urban Los Angeles, and I believe that the trash 12 13 problem and runoff has caused the demise of our beloved lotus. 14 15 Area storm drains exit into Echo Lake, which goes down into the L.A. River into the ocean. This is an 16 unacceptable journey. I urge you all to think of the future 17 18 generations to come and for the future benefits of all of California and the cities. 19 20 You need to please adopt trash pollution limits for zero trash, and I think you need to take this opportunity to 21 22 support the MS4 permit process. Thank you so much. Happy holidays. 2.3

Heather Wylie, please, followed by Gina Goodhill.

MS. GLICKFELD: Thank you, Ms. Talalla.

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MS. WYLIE: Hi, my name is Heather Wylie. I'm here to 1 speak on behalf of supporting the staff's recommendations to 2 incorporate this TMDL into the MS4 permit. I'm also here to 3 4 support the recommendations for including numeric effluent 5 limits. I'd also like to correct someone for misspeaking on 6 behalf of Xavier, who does support numeric effluent limits. EPA's guidance clearly supports numeric effluent 9 limits, and I would also like to point out that I am a 10 boater in the L.A. River and I am a surfer up and down the coastline, so I'm a direct recipient of the mass amounts of 11 garbage and it's a huge impact on our enjoyment of the ocean 12 and the river. So, you know, we really need to have zero 13 14 waste. We need to get to zero waste. When I take my child, when it grows up, down the 15 16 L.A. River, I hope that, you know, we don't have to climb 17 over shopping carts and over bottles to get into the river with our kayaks. That was -- that was really a dirty type 18 of experience in terms of entering the river. 19 2.0 You know, the river is a beautiful resource. valuable. It's not -- it's not a sewage dump. It's not a 21 22 place to put our trash, and it's definitely worth 23 protecting. So thank you for letting me speak today. 24

MS. GLICKFELD: Thank you. Heather, before you leave,

. 1	were you representing a group or were you representing	
2	yourself?	
3	MS. WYLIE: Oh, I'm just representing myself. Thank	
4	you.	
5	MS. GLICKFELD: And Gina Goodhill is representing	
6	Environment California followed by Raul Macias representing	
7	the Anahuak Soccer Association.	
8	MS. GOODHILL: Hello, and thank you again for continuing	
9	to listen to public comment. My name is Gina Goodhill and	
10	I'm the Oceans Advocate with Environment California, and we	
11	are a state-wide citizen-based environmental advocacy	
12	organization.	
13	And I'm here to express my strong support for	
14	putting the L.A. River Trash TMDL into the Municipal	
15	Stormwater Permit. One of the most overwhelming threats to	
16	California's oceans and coastlines is plastic pollution, as	
17	other people have mentioned, and it's something that's	
18	frequently found in the L.A. River.	
19	80 percent of the trash that is actually found in	
20	the ocean comes from land-based sources, and much of that	
21	trash finds its way into the ocean through storm drains	
22	through creeks and through rivers like the L.A. River.	
23	We're working to reduce the amount of plastic	
2.4	pollution, Environment California, as well as other groups,	

that's actually used on land as well as to eliminate the

1 most egregious types of plastic that's used. However, and 2 (unintelligible) such as Styrofoam.

The L.A. TMDL would be a critical step forward in reducing marine debris and one with a potentially huge impact, but if these trash limits are not enforced, then it doesn't make a lot of difference.

The trash that finds its way into the L.A. River has a much bigger environment to effect and a much longer life span than just its time in the river. Various types of plastic pollution that's found in the river end up existing in the ocean for hundreds of years.

They never fully biodegrade, they continue to release toxic chemicals into the water, and while in the ocean, as many slides have shown, marine animals can be harmed through suffocation, through entanglement, and the consumption. Over one million birds and 100,000 mammals die every year from plastic pollution.

Obviously, right now you have the power to actually close that loop, and I hope that you'll choose to do that. Thank you.

MS. GLICKFELD: Raul Macias? Is he here? It doesn't say whether he is in opposition or support of the item, but it does say he's a previous Water Quality Award recipient. I'll put that in the record.

The next person is Jeffrey Tipton,

Dr. Jeffrey Tipton, representing himself. 1 UNIDENTIFIED SPEAKER: He's not here, either. 2 MS. GLICKFELD: Not here, either. He's come here to 3 speak in support of the staff recommendation. 4 Evelyn Wendel, WETAP. MS. FORDYCE: I'm sorry, Vice Chair. I believe 6 Dr. Tipton wanted you to read something into the record. 7 MS. GLICKFELD: Oh, I apologize. 8 Could I do that before you have your time? Thank 9 you very much. 10 The statement is, "Number One" -- this is from 11 Dr. Tipton. "Number 1, I kayaked down the L.A. River last 12 year, and it was loaded with trash. Number 2, we do not 13 allow people to litter, yet the municipalities litter the 14 river every day. Number 3, the rivers deserve the same 15 litter enforcement as our parks because it is a park. And, 16 finally, please support the TMDL enforcement. Thank you, 17 18 Dr. Tipton." This is Evelyn Wendel. 19 MS. WENDEL: Wendel. Hi, yes. I represent a group that 20 is developing education programs. I'm working with a bunch 21 of very enthusiastic U.C.L.A. students who would like to see 2.2 a cleaner ocean, cleaner environment, like we all do, and 2.3 I'm developing a very simple and doable drinking water 24

infrastructure program, and I strongly support the future

comments of Heal the Bay that will be coming up, and I 1 strongly recommend a zero trash policy. 2 And we need strict enforceable regulations or we're 3 just not going to get anywhere, so I really hope that staff 4 makes the right decision. Thank you. 5 6 MS. GLICKFELD: Thank you very much. Now we're concluded with the interested parties' testimony. Thank you very much for your testimony and doing it as efficiently as you did. We're going to open up the 9 10 parties' comments with the County Flood Control District, and I'd like to call on either Mark Pestrella or 11 Gary Hildebrand representing the L.A. County Flood Control 12 13 District. I have a set up of three-minute presentation for 14 you. Is that going to work for you? 15 16 MR. HILDEBRAND: Well, I was going to request if I could 17 have six minutes being the principal permittee and --MS. GLICKFELD: I think since our interested parties 18 went fast, I can afford to do that. 19 20 MR. HILDEBRAND: Okay. Thank you. Okay. Good afternoon. I appreciate the 21 opportunity to be here to speak before the Board on this 22 23 issue. MS. GLICKFELD: Please start the clock. 24 25 MR. HILDEBRAND: Okay. First off, I would like to state that the Flood Control District is clearly committed to the goals of this TMDL. We realize the trash and debris have a significant impact to receiving waters.

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The Flood Control District is committed to cooperating with the other permittees as they work to satisfy their compliance obligations under the TMDL. Our only remaining concern is how the TMDL is being incorporated into the permit.

Catch basin retrofitting is a key element of this TMDL, and I would like to briefly touch on that issue of catch basin retrofits, and, lastly, the one key concern that is remaining for the Flood Control District is the issue of joint and several liability for the District.

One of the things the District has done in support of the compliance for the other permittees under this TMDL is we've conducted extensive testing of various BMP retrofit devices, a number of full capture devices, and we've also tested catch basins opening screen devices.

And, in fact, one of the eight approved full capture devices by the Regional Board is one of the devices that was developed by the District for use in retrofit of its catch basins.

Here's an example of a typical catch basin, typical side opening catch basin that you can see in the street, and on the right is an automatic retractable screen, which is

utilized to keep trash out of the catch basin during dry weather. Again, these are self-opening screens that open during storm events and allow the flows to occur unimpeded into the storm drain system.

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Next slide. This is an example of the typical connecter pipe screen. Again, the before photo shows the inside of a catch basin where the flows once entered the catch basin, they leave through a connector pipe. The connector pipe screen is actually a five-millimeter mesh screen placed in front of the catch basin connector pipe to capture trash as it enters the catch basin.

Well, in terms of the joint and several liability issue, the number of concerns that the District has with this. First off, we think it is unnecessary and actually confusing.

Part 7(1)(b)(3), which contains this language, begins by stating, "Each permittee shall be liable for violations within its jurisdiction"; however, it continues indicating, "A permittee fails to comply," it actually concludes somewhat confusing criteria that can cause the Flood Control District to become jointly liable with the permittee should the permittee have been unable to retrofit the District's MS4 infrastructure.

We'd like to point out that modifying the District's infrastructure is not the sole means of

compliance with this TMDL by a permittee. As was shown with the staff's presentation, there are other methods, source controls, partial capture devices, other BMPs that can be implemented, also, to assure compliance.

We also believe that this provision here exceeds the Regional Board's authority. The Regional Board shall be not in a position of regulating jurisdictional arrangements between other public agencies.

And, lastly, we do not believe that this is the Regional Board's responsibility. In fact, if you look at the staff's comments that were prepared in response to the comments received on this issue, and I'm going to quote from the -- from the staff's comments, they stated, "It is not the responsibility of the Regional Board to determine which permittees have legal authority over parts of the MS4 physically within their jurisdictions versus the Flood Control District."

That responsibility properly rests with the Flood Control District and the other co-permittees. Neither is it the responsibility of the Regional Board to mediate who should perform upgrades to the MS4 infrastructure as between independent governing bodies with complementary or overlapping authority within the same jurisdictional area.

In response to these concerns, the District is proposing alternative language for this section.

On the right is the proposed language by the 1 2 District. I'm just going to read this here quickly. permittee shall be held liable for violations of the waste 3 load allocations assigned to its jurisdiction in Appendix 7.1. 5 "Any permittee whose compliance strategy includes full or partial capture devices and who chooses to install a 7 full or partial capture device in the MS4 physical infrastructure of another public entity is responsible for obtaining all necessary permits to do so. 10 "Nothing in this order shall affect the right of that public entity or a permittee to seek indemnity or other recourse from the other as they deem appropriate." Last slide.

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In closing, I'd like to state that the Flood Control District is committed to the goals of this TMDL, and that we recommend that this alternative language be included as part of the permit.

Lastly, you know, we -- as I did mention, we support the efforts of the other permittees to comply with this TMDL through modification of the District's catch basins.

We've worked with many permittees over the years in issuing them the permits and approvals to allow our catch basin to be modified, and we are currently underway and working in that regard with many other cities, and over the

years we have never denied a permit to a co-permittee who 1 desires to retrofit a Flood Control District catch basin. Thank you. 3 MS. GLICKFELD: Thank you, Mr. Hildebrand, have you given that language to our staff? 5 MR. HILDEBRAND: Yes. MS. GLICKFELD: Mr. Frank Wu is here representing the Unincorporated County of Los Angeles. 8 I assume you're from the Department of Public 9 Works? 10 MR. WU: Yes. Good afternoon, Madam Vice Chair, and 11 members of the Board. My name is Frank Wu, and I am a 12 Senior Civil Engineer with the L.A. County Department of 13 Public Works, and today I am speaking on behalf of the 14 Unincorporated County of Los Angeles. 15 And the County has several small and noncontiguous 16 unincorporated areas and standards throughout L.A. River 17 Watershed, and excluding the National Forest in the upper 18 watershed, these unincorporated areas make up about eight 19 percent of the watershed. 20 Now, the County supports the L.A. River Trash TMDL. 21 In fact, we've been fully implementing it. We retrofitted 22 our first catch basin in 2003, and by next October, we will 23 have installed full capture devices on over 2,300 of the 24

4,300 catch basins within the unincorporated areas of the

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watershed, and that's ahead of the TMDL schedule, and -- but
my comments here today will focus on the issue of numeric
effluent limits and the need for a policy on incorporating
TMDLs into the MS4 permit.

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First, I want to commend your staff's work on this proposed permit, and we appreciate staff taking time to meet with us on November 3rd and for clarifying some issues with the language and also for hearing our concerns.

(Unintelligible) appreciate the changes that have been made to the permit in response to our written comments submitted on November 9th.

So onto the issue of numeric effluent limits. The County continues to assert that TMDL waste load allocations should be incorporated into the permit as BMPs or as action levels instead of any numeric effluent limits being proposed. The numeric effluent limits are not necessary and this is not the appropriate use of them.

We believe NELs are not necessary because the trash waste load allocations can be achieved without NELs. The TMDL itself does not adopt the waste load allocations as effluent limits, and there is no requirement that the permit turn these waste load allocations into effluent limits.

Instead, the permit can require compliance with the trash TMDL for BMPs and use recording and monitoring to determine if compliance is being achieved.

In reading staff's responses to the comment on this matter, it is clear that we disagree about some fundamental issues including the applicability of two key documents.

One is the 2006 report by the State Water Resources Control Board, and the other one is the 2002 EPA guidance memo on this issue.

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The State Water Board's panel report concluded that it is not feasible at this time to set numeric effluent criteria for a municipal BMP and, in particular, urban discharges.

And the 2002 EPA memo recommended that the NPDES regulated municipal stormwater discharges effluent limit should be expressed as BMPs rather than numeric effluent limits.

And, also, I want to bring out that what is clear in reading the staff's responses to comments is that TMDLs are being incorporated into the permit on a case by case basis, and it's a piecemeal approach in our opinion, and what's really needed here is an overarching policy to -- couple more seconds I'll finish up.

And -- and this was one of the issues in the Basin Plan Tri-Annual Review process that was initiated last October or November, and one of our comments was for staff to develop this policy to incorporate TMDLs into the permit, and we think this is a good time to elevate that as a very

high priority, and we urge your Board to postpone taking 1 this action today and instead direct staff to start a public 2 process to develop that policy, and we would be happy to be 3 a part of that policy developing process. 4 So that's it. That's my statement today. 5 6 for your time. 7 MS. GLICKFELD: Thank you. We have two cities that are here -- excuse me. 8 have two cities here that are not part of the joint 9 presentation. I'm going to give them each two minutes. 10 Ron Ruiz from the city of San Fernando, and the second 11 person would be Donna Chen from the city of Los Angeles. 12 MR. RUIZ: Good afternoon, Board Members. I'll be 13 brief. My name is Ron Ruiz. I'm the Public Works Director 14 15 for the City of San Fernando. 16 The City of San Fernando is an advocate for 17 eliminating trash to the Los Angeles River in which it discharges. We have an aggressive street sweeping and catch 18 19 basin clean-up program. 20 A daily generation rate study revealed that the city is currently in compliance with the numeric target for 21 2013. The city also plans to install debris exclusion 22 controls in its catch basins to meet the zero target. 23 The city's real or grave concern right now is 24 having to comply with the numeric limits and other TMDLs, 25

1	such as the metals TMDL. According to that TMDL,
2	San Fernando's cost (unintelligible) could range from
3	255 million to 506 million, and the city simply doesn't have
4	those funds. Our general fund is about 17 million, and as
5	you know, these are very difficult times for cities right
6	now due to the state of the economy.
7	In consideration of the foregoing, we are asking
8	that you not include the numeric limits for the metals TMDL
9	or any other TMDL, and we welcome the opportunity, we would
10	like to participate in the future for further discussion on
11	that matter to consider other alternatives which are less
12	costly.
13	Thank you.
14	MS. GLICKFELD: Thank you, Mr. Ruiz. You wrote on here
15	that you're both in support of and in opposition to, so it's
16	sort of ambivalent there.
17	MR. RUIZ: Support.
18	UNIDENTIFIED SPEAKER: And it's supporting the trash
19	TMDL but opposing the
20	MS. GLICKFELD: Please sit down. Thank you.
21	And Donna Chen from the City of Los Angeles.
22	MS. CHEN: Please skip to slide number six, please.
23	Good afternoon, I'm Donna Chen with the City of
24	Los Angeles. I appreciate the opportunity to comment. I

also want to let staff know, we appreciate all their work on

this reopener given the time constraints and the complexity of this.

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Just have one comment that I'd like to make, it's more of a clarification so that the City can continue our trash reduction program.

Our trash reduction program is comprised of two components, a structural component and an institutional component, and part of the structures that we use are piloted and tested to see how effective it is in a jurisdictional area. It's not site-specific. In other words, it's not address by address, which would be impossible for us to do.

So we have requested that language be changed from site-specific, which could imply an address, to a jurisdictional area, and that was done in one part in the finding, Number 57, but I believe it was just an oversight on staff's part.

We didn't see that change made in Part 7(1)C, so I wanted bring that to their attention, and hopefully that change will be made, otherwise it will be difficult for us to -- to do these pilot projects, and that's all I have for today.

MS. GLICKFELD: So that was one clarification that you wanted to make. You don't have any other statements about --

MS. CHEN: Yes. 1 MS. GLICKFELD: Okay. Thank you. MS. CHEN: Thank you. 3 MS. GLICKFELD: So we have now -- we've come to the 45 minutes that is being given to Mr. Montevideo and the 5 6 cities that he represents. 7 There are a number of speakers associated with this; is that correct? 8 MR. LEVY: That's s correct, Vice Chair. Also, on the 9 request of those folks coordinating that presentation, 10 you've taken, already, a couple of their speakers out of 11 order and they've asked that their time be reduced 12 accordingly, and I think that we're going to look and see if 13 14 they could reduce their time further to accommodate, so 15 please clarify with them. MS. GLICKFELD: So we had -- you took -- you had 16 17 45 minutes. You had two speakers at two minutes a piece, you have 41 minutes left, is there any way you could reduce 18 further so that we could --19 MR. FORESTER: I will try my best, but I can guarantee 2.0 the rest of --21 MS. GLICKFELD: And how many people are going to be 22 23 testifying with you? MR. FORESTER: How many people? Five of us. 24 MS. GLICKFELD: Okay. So I have --25

1	MR. WATSON: There will be four four speakers in this
2	presentation.
3	MS. GLICKFELD: Well, I only have three.
4	MR. WATSON: Larry Forester will begin, you'll see in a
5	moment. Then Richard Watson.
6	MS. EGOSCUE: No, Vice Chair. We need to have the
7	speakers identify themselves for purposes of the record
8	before they speak.
9	MR. WATSON: Excuse me. My name is Richard Watson.
10	There will be four speakers in this. Councilman Forester,
11	followed by Richard Watson, then followed by Patricia Elkins
12	and then followed by Ken Farsing.
13	MS. GLICKFELD: Okay. Well, I wanted to let you know
14	that I only have three speaker slips.
15	MR. WATSON: We were told by Michael that it was all
16	taken care of because it was on the one we were all part
17	of the same process.
18	MR. LEVY: They don't need individual speaker cards,
19	Vice Chair.
20	MS. GLICKFELD: Thank you. I appreciate that. I was
21	just trying to
22	MR. LEVY: Vice Chair, one more thing. You were just
23	given some language from the Flood Control District, and
24	we're trying to analyze the language that they gave us, and
25	so if the cities could also speak to the joint and several

issue in their presentation, staff would appreciate it. 1 2 MS. GLICKFELD: They had raised that concern as well? MR. LEVY: If they could speak to the County Flood 3 4 Control District's proposed changes in the language. 5 MS. GLICKFELD: Right. Okay. MR. LEVY: About joint and several liability. 6 MS. GLICKFELD: Did you understand his request? 7 MR. FORESTER: Yes, but it's not my preparation. 8 9 let the last speaker cover that. Okay. First of all, I'm Larry Forester --10 MS. GLICKFELD: Wait. Wait. Wait. I'm afraid 11 12 our court reporter has asked for a break now, so we're going to take a ten-minute break. I apologize. 13 14 (Recess) 15 MS. GLICKFELD: Could you please take your seats. think we have a quorum here. I would like to make an 16 17 adjustment to the time schedule. I am going to -- in light 18 of the time, and I've had requests from the Board to make 19 sure that I give them adequate time to debate and defer on this issue, so I'm going to rule that the group represented 2.0 2.1 by ROTAN (phonetic) will have 35 minutes for their presentation, and Heal the Bay will have 20 minutes for 22 23 their presentation. 24 MR. FORESTER: If I may start without starting, that is -- you're going to have a lot of disjointed conversations 25

by taking 10 minutes off. 1 MS. GLICKFELD: That's okay. Thank you. 2 MR. FORESTER: Can we get back to slide one. Now we can 3 go to slide two. MS. GLICKFELD: Set the time to 35 minutes. 5 MR. FORESTER: Vice Chair Glickfeld, Board Members, and staff, my name is Larry Forester, Council member from the 7 city of Signal Hill. We want to thank you in advance for 8 the presentation time you have given us. We believe that 9 the permit reopener has a very significant long-term impact 10 on our communities, and we have come to request your 11 12 assistance. Our presentation features a series of speakers 13 representing a number of cities. I will speak on the global 14 15 policies issues that you confront today and the consequences on local government in the watershed. 16 I believe that our local cities have made 17 18 significant progress in implementing the trash TMDL on our 19 own over the past five years without the permit opener 20 (sic). We question the need to reopener (sic) the municipal NPDES permit at this time and the need to insert numeric 21 22 limits or waste load allocations into the permit. 2.3 We have taken trash reduction seriously in our 24 communities and devoted significant resources to improving

the environment. Cities are not opposed to a goal of zero

trash in stormwater; however, we are concerned that when
zero goal is transformed into an absolute numeric effluent
limit in our municipal stormwater permit.

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Our cities have learned much in implementing the trash TMDL. The iterative best management practice process has shown it to work. Our original concerns were that cities wanted to avoid wasting scarce local resources in a trash counting exercise instead of focussing on outcomes.

This concern has grown with the severe budget impacts of the current economic recession, the longest in our time. The Board should be especially sensitive to the severe budget problems facing the cities and the state.

Slide number -- Next slide. Next one. The ongoing statewide fiscal emergency should give impetus to the Board to work with us to find cost-effective alternatives to imposing numeric effluent limits.

The alternatives should streamline the workload of both the Regional Board and the cities and allow the continued development of cost-effective BMPs. We believe that inserting numeric limits for trash into NPDES permits would discourage the development of additional cost-effective BMPs that may be better suited for many cities.

Many cities may be unable to gamble that partial capture devices combined with other controls will result in

zero trash, and thus may have no choice but to install full capture devices throughout their city even if it's unnecessary. In addition, inserting numeric limits into the permit sets a bad precedent for future TMDLs, including bacteria and metals.

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It is clear as the EPA and State Board have recognized that municipal stormwater permits implementation of the TMDLs only requires a best management practices approach, and it is critical that the appropriate time is given for the iterative process to work.

Our cities are suggesting that the Board consider utilizing a performance-based BMP approach to implement the TMDL rather than the use of numeric limits. Our presentation will focus on the benefits of a performance-based BMP for both the Board and the cities.

The Board gave two main (unintelligible) to your Executive Director when she was accepted in her position. The first was to reach out to cities, the second was to improve enforcement.

We believe that our performance-based BMP approach will more easily allow the Board to determine whether a city is or is not in compliance rather than having the city engage in futile trash counting exercises and the Board then debate the result of the exercises with the city.

Next slide. The fundamental issue before you today

is not the propriety of the trash TMDL but how to implement the TMDL through the municipal NPDES permit.

There is no requirement that the TMDLs be added into NPDES permits as numeric effluent limits. There is only requirement that the NPDES permits be consistent with the TMDL.

The issue of inserting numeric limits into the municipal NPDES permit has far-reaching consequences, and even EPA, who has referred to numeric limits in municipal stormwater, in 2002 went and said, basically, only in rare cases will it be feasible for the approach to establish numeric limits for municipal stormwater dischargers.

There is a host of good reasons for this, including Southern California's history of severe and short duration rainstorms.

EPA went on further to state, "Numeric limits will only be used in rare instances." We need to ask ourselves, is this a rare instance where we need this TMDL?

Slide six, next one. There are several Water Board orders that support the Board's discretion given to this Board to adopt non-numeric limits approach and approaches to these permits (sic). In fact, the State Board has consistently found that municipal stormwater permits, the emphasis should be on BMPs in lieu of numeric effluent limits.

Next slide. Finally, we would like to ask that the TMDL not be incorporated into the municipal stormwater permit such as this time (sic), the tri-annual review basin plan litigation is resolved; ie, the Arcadia versus State Board case, wherein it has been finally decided, and if the cities prevail, until the water quality standards in the basin plan have been properly reviewed and revised.

Next slide. Let me now turn to the presentation over to Mr. Richard Watson, who will give you some technical issues.

MR. WATSON: Thank you very much.

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I'd like to talk to you about two or three issues, and I'll try to go through these rather quickly.

Basically, implementing a performance-based BMP approach is really going to expand upon what's happening in the watershed today. We've had some discussion about that already. Thousands of certified full capture devices have been installed and thousands more are scheduled to be installed, plus a whole lot of full -- partial capture and a lot of institutional controls.

We're talking about this idea of a BMP-based and we think there could be some Executive Officer approved work plans that would include specific provisions in order to require the current programs actually be continued and enhanced.

Next, please. We have several components that we recommend that could be incorporated into such work plans. A framework for implementing the trash TMDL that's really specific to some watersheds, cities, or groups of cities, put a customized group of BMPs together, including the three types that were in the staff report, the various funded programs could be recognized in this. There could be a good BMP implementation schedule, provision for work plan updates, and applicable penalties would apply.

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Next, please. One of the things I think you should consider is that EPA Region 9 has actually recognized that numeric limits do not have to be inserted in the MS4 permits.

This is language from the San Francisco Bay
Regional Board where -- from EPA and the San Francisco Bay
Regional permits was adopted recently, and in their letter
there, they focussed on the idea of this, as we said
earlier, that permits must be consistent with the assumption
and requirements of the applicable TMDL waste load
allocations. They don't have to contain them, and,
actually, they've not made an argument that they have to be
in there.

Next, please. And the courts, too, have upheld the discretion of this Board and other boards to require a BMP approach rather than numeric limits. The first case was

cited by a couple different courts with respect to the municipal stormwater discharges, Congress clarified that EPA has the authority to fashion permit requirements to meet water quality standards without specific numeric limits and instead impose controls to reduce the discharge of pollutants to the MEP.

And then the second case that's cited on here, the federal courts went ahead and said, "The permitting agency has discretionary authority." In other words, you have discretion, and you could require less than strict compliance with State water quality standards such as a BMP approach, and that's what we're recommending.

Next, please. One of the things that you need to realize that you do have an administrative record that's actually quite adequate to express the trash TMDL requirements as nonnumeric. You've got a lot of material in your fact sheet and elsewhere.

I cite some findings in there, and this is what you would want to do is change your fact sheet and incorporate some of these things that are in the record.

Next, please. There are some legal issues that I won't go into today that are actually expressed in two written documents, one July 27th, 2009, one November 6th, which have been submitted to staff, and so those should be considered by you, also.

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Next, please. I want to talk a little bit quickly about the progress that's been made since the TMDL was first adopted.

Next. When the TMDL was first adopted or first approved in 2001, there was only one certified full capture device, and that was the rather expensive Vortec separation unit.

We really benefitted from the delay that we had in the -- during this period, other progress was made, and we have several full capture devices that have been approved, and we've had some discussion back in 2007 about a catch basin prioritization protection plan, and as we discussed earlier, we now have that \$10 million grant that's going to help a lot of cities.

Next, please. Let's just run through these quickly, just go through them right now. Just some of the examples of the full capture devices that have been certified.

I'd like to talk briefly about the -- the Gateway Project. On November 5th, you know, Deputy City Manager Desi Alvarez from Downey gave you a summation of the progress here, and it would be about 11,000 of these full capture devices in the 16 cities.

One of the things he may not have said, those

16 cities cover over 82 square miles of the watershed, and

they're going to be 100 percent compliant at the conclusion of the installation, which will take 280 days.

One of the things that's been really beneficial, if there can be anything about a downturn in the economy, is that because of cost savings, we're actually going to be able to put excluders on the inlets to this as well.

Next, please. This just shows the cities which discharge -- those 16 cities, not the whole of each city discharges into the L.A. River, but that's where the cities are, starting with the city of Long Beach and working upstream, so you see there's quite an area, 82-square mile area in there.

Next, please. This lists the cities, and I think 82 square miles is a pretty significant portion of the watershed, and that tells you the cities that are going to be 100 percent compliant at the end of the installation of these devices.

Next, please. We talked there about full capture, we also need to talk about partial capture and prioritization. Why prioritization? There was a study done back in 2006 which looked at -- EPA-funded study, which looked at how to prioritize to get the best bang for the buck.

Next, please. And this study used data from the L.A. River and Ballona Creek, and one of the key elements is

15 percent of the greens accounted for 50 percent of the waterborne trash in that study, and you can achieve the targeted reductions by focussing on those basins that generate the most trash.

Go to the next slide, please. This is a graph that came out of that study, and I find this really interesting and informational. If you look at that first bar, 33 out of 105 basins that were examined, 50 percent of the trash load generated by 13 percent of the basins.

The second bar, 80 percent of the trash load by 38 percent of the basins, so prioritization for those doing partial capture is really a significant element.

Next please. What's been happening thus far in prioritization, the city of L.A. has actually been prioritizing in their installation of the 8,000 full capture devices that they've installed so that they can target these high risk areas.

The Gateway Project is also doing that with the automatic retractable screens to provide additional protection. Other cities have been doing that that have spoken today.

We hope that you will recognize and encourage prioritization to expedite the trash control, and it could be a real component of the work plans that I mentioned earlier.

Now, I've been asked to talk about one other thing quickly, that was the joint several -- joint and several responsibility, I think it was. The language the County proposed.

We're not really in a position today to respond to that. We've just seen it. It hasn't been reviewed by the -- you know, we're speaking for 40 cities, so their cities -- their attorneys haven't looked at it, and we just need some more time, and we think we can work something out.

The County is due to come out with a policy that we've been talking about for two years on how this relates. So I think it could be worked out, but I don't think we can make that decision today.

Thank you.

MS. ELKINS: Good afternoon. I'm the Stormwater Quality Programs Manager for the city of Carson, my name is Patricia Elkins.

City of Carson has 19.2 square miles, of that, less than .2 square miles drain to the L.A. River. We have 2,058 catch basins. Only 12 of those drain into the L.A. River. We have excellent existing BMPs. We've been sweeping every single street in the city, city-wide for the past 25 years and probably longer. We clean all catch basins twice a year, and we utilize Keep America Beautiful anti-litter campaigns.

Within the L.A. River, we have 12 catch basins, as I stated, ranging from 28 feet long to 5 feet long. They are all located in very clean, high rent business parks and near young evergreen or some assiduous trees with one exception, of course. There always has to be the exception.

We selected trident curb screens, I brought a

We selected trident curb screens, I brought a sample with me, and installed them in June 2008. We have been monitoring them weekly since installation and the result has been zero trash noted in the catch basin. We also did the trash generation rate study.

The reason we like trident curb screens is because trash and other debris does not get in the catch basins, and it does not accumulate in the catch basin as a result, and we don't like seeing trash in our streets or in our catch basins because visual trash means it's okay to add more trash.

The overflow, which is about two-and-a-half inches when it's installed, limits the potential for flooding and it's also easily removed in case of emergency.

They're relatively inexpensive and simple to install, and they're made of recycled plastic, not metal, so they don't become missing overnight.

The fabric that's installed between the screen and the, sometimes irregular, gutter line prevents small amounts going underneath it, but it also absorbs oil.

As I stated, the L.A. River has 12 trident curb 1 screens in all of its 12 catch basins. We have, as a result 2 of this past winter and this current winter, no flooding, no trash inside the catch basins, no trash on the streets, and no added costs beyond installation because we sweep our streets so often.

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Having that pilot project successful, we went on and installed additional trident curb screens, the prioritized ones at Machado Lake for our Machado Lake Trash TMDL, and we've also started whittling away at our catch basins in Dominguez Channel. We do not have a trash TMDL with them.

The estimated cost to install curb screens on all 2,058 catch basins in the city of Carson is approximately \$1.5 million.

We have continued to monitor the performance of these catch basins. This past summer we did a six-week intensive field study, and we noted that all trash and leaves were almost always swept up, there's always a renegade leaf that doesn't want to go into the street sweeper, and trash and leaves did not get into the catch basin.

Our goal is to have zero trash generated from the city of Carson. We are going to continue to install trident curb screens. We are going to partner with others, like

CalTrans, to install appropriate cost-effective devices at 1 2. their facilities since we are literally surrounded by freeways and bisected by a freeway, the 405. 3 And we are also going to evaluate the feasibility 4 5 of other cost-effective solutions, such as a trash net in one of our pump stations that serves the 64 catch basins in 6 our city and numerous catch basins outside our city. 7 8 In conclusion, Carson adamantly supports the goals of the trash TMDLs; however, we're very concerned that if 9 10 numeric limits are incorporated into the permit, it will discourage clean cities like ours from trying cost-effective 11 12 solutions, like trident curb screens coupled with frequent 13 street sweeping, it will -- may force clean cities to waste 14 scarce public resources to install full capture devices. 15 We need flexibility to comply with the TMDLs. 16 Incorporating numeric limits into the permit may eliminate 17 that flexibility. 18 Our next speaker is Ken Farsing, City Manager, City 19 of Signal Hill. Thank you. 2.0 MR. FARSING: Thank you, Patricia, Honorable Chair Glickfeld, and members of the Board. I can go to 21 22 slide 46. 23 We want to emphasize that the Regional Board has great discretion, and you are not required to insert numeric 24

limits into the stormwater permit. The Santa Ana Regional

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Board has adopted a best management practices approach to implement TMDLs for the San Diego Creek and Newport Beach -- or Newport Bay. The cities are required to participate in a collaborative basin plan based on best management practices.

If you -- you have the perfect opportunity to implement the trash TMDL through BMPs considering that the Gateway Grant provides funding on a schedule to protect 11,000 catch basins in the 16 communities covering the 80 square files in the watershed. Similar collaborative language should be added to our permit.

Slide 47. EPA and the State Board have recognized that alternatives exist to concert (sic) the numeric effluent limits into the stormwater permits. Although we are proposing a BMP approach, the Regional Board could enter into memorandums of understanding with the cities to implement the BMPs.

Slide 49. Thank you. Conclusions and recommendations. We believe that the new cost-effective BMP devices installed since the TMDL was adopted in 2001 have resulted in significant improvements to the Los Angeles River, the harbor, and the beaches.

And as stated in 2001, the TMDL limited the cities to one type of full capture device, which is expensive and had limited application.

The success of the iterative process resulted in

1	new cost-effective BMP devices, and that can be seen in the
2	recent storm event that just happened on Monday,
3	December 7th, when the watershed experienced a major 24-hour
4	rain event.
5	Rainfall at the Long Beach Airport was 1.42 inches
6	in 24 hours. And rainfall totalled .94 inches in downtown
7	Los Angeles. Signal Hill had a 1.1-inch rainstorm in the
8	24 hours.
9	Now, in the past, this storm would have deposited
10	significant trash loads in the river and on the downstream
11	beaches.
12	Slide 50, please. The State and the Regional Water
13	Board assisted Signal Hill in installing nine trash catching
14	BMPs in Hamilton Bowl in 2006. The Hamilton Bowl is a
15	stormwater retention area that services the greater
16	Long Beach and Signal Hill communities.
17	I visited the Hamilton Bowl in the morning of
18	December 8th after the storm in order to determine if the
19	trash catching BMPs were working.
20	As you can see from these photos, the devices are
21	working remarkably well. The first photo on the left shows
22	the Hamilton Bowl after a storm in 2004, that's prior to our
23	BMPs being installed.
24	The top right photo illustrates how the Bowl looked

the morning after the storm prior to any crews being

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dispatched to perform trash pickup. The photo on the bottom
left shows one of the trash nets. It's about two-thirds
filled with trash, leaves, and debris. All 19 BMPs appear
to be performing very well.

51, please. Also, toward the areas of the Los Angeles River, the beaches, and harbors that have in the past been inundated with trash after rainstorms, this tour was also on the morning of December 8th, less than 24 hours after the rains.

I wanted to determine if the thousands of BMP devices installed by CalTrans, Los Angeles County, the cities of Los Angeles, Signal Hill, and Long Beach and the other communities were having a measurable effect.

I expected with this major storm that the river, beaches, and harbor would be filled with mountains of trash. As these pictures show, the river's mouth was amazingly clean. I did find some vegetation and minor amounts of trash adjacent to the river's bank.

52. One of the BMPs includes a trash boom installed at the entry of Rainbow Harbor in Long Beach to prevent trash from entering the harbor. I did find some trash and debris had accumulated adjacent to a dock at the riverbank. As you can see from the pictures, there is very little trash at the boom, and Rainbow Harbor appeared very very clean.

53. Trash and debris has been a historic problem in the boat marina adjacent to the Los Angeles River after major rain events. As you can see from these pictures, much of the marina was very clean. Some of the minor amounts of trash had accumulated adjacent to the jetty.

It was impossible to tell if this trash had been blown into the marina from a major windstorm that started after the rain front had moved through the area.

According to the U.S. Weather Service, Long Beach experienced sustained winds of 14.5 miles per hour and gusts of 20 miles per hour beginning in the early afternoon of December 7th.

54. In the past, staff has shown pictures of trash piled high on the beaches in Long Beach after major rain events. These staff pictures were taken prior to the adoption of the TMDL in 2001 and prior to the installation of thousands of BMP devices.

I toured the beaches on December 8th to determine if major amounts of trash were still being deposited after a major rain event.

The maintenance crews had almost completed their cleanup by 11:00 in the morning. They had finished grooming the beach into piles of sand, trash, and vegetative debris. You can see from these recent pictures one of the debris piles. Now, there is more sand than debris. I also looked

for evidence of title trash, but only found some minor 1 2 marine debris. Slide 55. Senator Alan Lowenthal secured State 3 funding to install a trash boom BMP north of the 4 Rainbow Bridge. You have seen pictures of the boom taken 5 prior to 2001 with major amounts of trash and debris. 6 These most recent pictures were taken around noon on December 8th when the Public Works crews had made 8 significant progress in removing the trash and debris. 9 10 You can see the trash boom in the photo in the upper left-hand side. The lower left side shows the crane 11 and the bucket in action. The photo on the bottom right 12 shows various bins lined up to be hauled off to the 13 landfill. The trash boom BMP appears to be working very 14 well even during a major storm event. 15 16 Slide 56. These pictures illustrate that the 17 thousands of BMP devices installed to date are having a noticeable, positive impact on the Los Angeles River, the 18 19 harbor, and the beaches. It only stands to reason that the installation of 20 21 thousands more of these BMP devices will result in even greater positive effect on the environment. This is clear 22 evidence that best management practices are sufficient to 23 implement this TMDL as opposed to numeric effluent limits. 24 25 The Regional Board has the discretion and to

exercise its discretion by implementing the trash TMDL 1 2 through a performance-based BMP approach. The Regional Board staff has approved several full 3 capture devices that could become the cornerstone of the BMP work plan. 5 Inserting the numeric limits in the NPDES permit 6 7 will discourage the development of additional cost-effective BMPs. Many cities will be forced to install full capture 8 devices in clean neighborhoods. Clean cities should be able 9 10 to implement partial capture devices. 11 Slide 57. The cities respectfully request a 12 meeting with the Board staff to develop the work plan 13 consistent with the TMDL and the NPDES permit. We are 14 requesting that the Board continue the hearing for 30 days and direct staff to return to the Board with a BMP-based 15 non-numeric effluent limit implementation plan. 16 17 Now, Councilmember Forester began the presentation 18 by mentioning the significant progress that our communities 19 have made in reducing trash in the Los Angeles River. You 20 have seen evidence of this improvement today. 21 U.C.L.A. recently reported that the unemployment in 22 our region will remain high for years to come.

This fiscal emergency will take years to correct,

Councilmember Forester also noted the severe ongoing fiscal

emergencies faced by this state and our communities.

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requiring that the city and the states work together to 1 2 implement this important TMDL. 3 The Board needs to continue to work with the cities on cost-effective BMPs that may be better suited to our 4 communities. We believe that the performance-based BMP 5 option is a superior approach to implement this TMDL rather 6 than on relying on numeric effluent limits. 7 Thank you for your time, and we'd be happy to 8 9 answer any questions that you would have. MS. GLICKFELD: Thank you, Mr. Farsing. You ended with 10 11 nine minutes, so it was a very coherent, smooth presentation. Thank you very much. Are you going to sum up 12 13 now? You're done. The next up is Heal the Bay. Start time over 14 again. Who's going to be testifying for Heal the Bay? 15 16 DR. GOLD: Myself and Steve Fleischli. 17 MS. GLICKFELD: And can you do this in 25 minutes? 18 DR. GOLD: 20. 19 MS. GLICKFELD: 20. You can do it even faster. 20 great. Give your name for the record, please. DR. GOLD: Sure. My name is Mark Gold, and I'm the 21 22 president of the environmental group Heal the Bay, also speaking for us will be Steve Fleischli, who's the attorney 23 2.4 who's representing the organization today. 25 All right. Next slide. Well, to start off with,

I'm ecstatic to see that the trash BMPs within the
Los Angeles L.A. River are making a difference. This
picture we've seen all too often within the L.A. River.

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I think we've heard from Councilwoman Lowenthal how much the City of Long Beach and their beaches end up bearing the brunt of the trash that's coming down the L.A. River and the San Gabriel River, and this scene was all too common.

So it's good to know that the trash TMDL, which has been in place for so many years now and we're at the 50 percent compliance period, is now we're starting to see some visual differences that are clear to see.

I do want to add that in looking at this is -- is to realize how well volunteer trash reduction and litter laws have been working. This is why you have a trash TMDL is because this is the state of the river. That is the state of our beaches.

So, really, you had to move to this point of having trash capture devices and the TMDL be mandatory, and I do want to remind you that no Gateway cities have implemented plastic bags or Styrofoam food container bans. So from the standpoint of source reduction, literally at the source, we really haven't seen much aggressive activity, really in the entire L.A. River Watershed, on that particular issue.

Next. This is a picture -- you didn't see one, I guess, of the last couple storms at Compton Creek. When we

see Compton Creek look like some of the photos that we saw 1 from CPR, I think we'll really have achieved something 2 major, but this is, unfortunately, typically what 3 Compton Creek looks like after a rainstorm. 4 5 Next. And to show you three months later, it's not 6 like it got better during that time period, and so this is probably the most trashed section of the Los Angeles River 7 Watershed. It's a tributary to the lower watershed. 8 9 Next up. Again, exemplifying the -- the size of the problem. As you know, we are the L.A. County 10 coordinators for Coastal Cleanup Day. This last year we had 11 a record Coastal Cleanup Day on September 20th, just this 12 year. We had 14,000 people volunteer and pick up over 13 300,000 pounds of trash just all in one day. 14 87,745 pounds of trash were removed from L.A. River 15 sites alone during our Coastal Cleanup Day events from 2006 16 to 2009. So this is the volunteers coming out there with 17 city support and making a difference picking up trash. 18 So clearly the problem, although it's improved as 19 you saw in the previous presentation, it certainly has not 2.0 21 been solved. Next. And, again, this is a picture we see all too 22 often. Whenever -- whenever it rains, our beaches end up 23 looking like landfills after a rain, and, of course, it's 24 the beach cities that end up having to bear 100 percent of 25

the cost of cleaning up that trash off the beach. 1 Next. And as you've heard from Algalita, who's 2 really been the pioneers in looking at these sorts of 3 issues, obviously, the marine debris impacts aren't just 4 limited to our own coastline but actually cause problems in 5 the entire northern Pacific. 6 So we are probably the largest source of marine 7 debris to the northern Pacific, and it's great that we're 8 finally starting to make a difference. 9 With that, Steve Fleischli. 10 MR. FLEISCHLI: Thank you, Mark. 11 Good afternoon, Vice Chair Glickfeld, members of 12 the Board. My name is Steve Fleischli, I'm an attorney 13 representing Heal the Bay today. 14 I'm going to talk a little bit about the legal 15 issues, and then I'm going to give it back to Mark on some 16 of these limitation issues, but I wanted to take you back a 17 18 little bit and give you a little bit more perspective on the historical situation here and how we got here today. 19 And I think Ms. Purdy did a pretty good job this 20 morning talking about that, but some of you might recall 21 10 years ago, 1999, Heal the Bay sued the Environmental 2.2. Protection Agency to establish TMDLs in the Los Angeles 23

When Heal the Bay brought that lawsuit, I think all

Region. They were actually supposed to be set in 1979.

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of us appreciated, and I was an attorney on that case, all of us appreciated that it would take some time to implement these TMDLs.

The trash TMDL was actually the first TMDL slated to be completed under the consent decree in that case. And I don't think -- I certainly didn't anticipate, in 1999, that it would take until 2009 to see that TMDL incorporated into this permit.

Unfortunately, as you're all too well aware, there's been a lot of litigation on this issue. It's gone back and forth, but I think the fact that we're here today is actually a testament to the power of persistence, and there's been a lot of people involved to make this day happen, to make this day possible, and I think it's important to recognize those efforts.

I think it's important to recognize the leadership of people like Dennis Dickerson (phonetic), Deb Self (phonetic), and David Nahai (phonetic), Susan Cloak (phonetic), John Bishop, and now this Board can show on this issue.

There's been persistence on this issue with this Board recognizing how important it is for us to clean up water pollution, particularly trash in the L.A. River as well as some of our other waterways, Ballona Creek and elsewhere.

As you know, other TMDLs have been developed and incorporated into the permit ahead of this trash TMDL, again, because of the litigation that we've seen on this issue. These other TMDLs sort of leapfrogged, if you will, to get into the permit a little quicker.

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The dry weather bacteria TMDL as well as the Marina Del Rey TMDL, and as you know, the Ventura permit incorporates them once they come into effect.

In terms of the law requiring this, next slide, please. The law requires that once a TMDL is developed effluent limits and NPDES permits must be consistent with the waste load allocations in the TMDL.

Here the waste load allocation is very clearly set forth in the TMDL, and I argue that if those waste load allocations and if those effluent limitations are not clear, measurable, and enforceable, then you have not achieved this legal requirement.

And I think what staff has put forth here today, it does achieve that requirement, and I think it's very, very important to remember what this TMDL says and how it was structured when it was developed, and it's really a hybrid approach.

It's not purely from my perspective, from Heal the Bay's perspective. It's not purely a water quality-based TMDL because of the compliance mechanism in the TMDL that

allows compliance to be demonstrated through full capture 1 devices, and in that sense, it's a technology-based requirement as well as a water quality-based requirement.

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So I think when we hear a lot about whether we should take a BMP-based approach or a water quality-based approach, this Board can feel confident, I think you've actually taken both approaches, and then that compromise was reached when the TMDL was developed, and so I think you're on very strong legal footing in terms of moving forward with incorporation of this TMDL into the NPDES permit.

Next slide, please. And in that regard, I know EPA has been brought up a few times here today, and I was delighted to see them testify in support of this, because I do think their policy is very consistent with what your staff is trying to do today.

In addition to the testimony we heard this morning, there was a letter sent by the Region 9 on the dry weather bacteria TMDL to the State Board that very clearly laid out that there are appropriate circumstances to adopt these times of limits, again, numeric limits and, again, this is a hybrid approach, so I think you're on solid footing in that regard.

Now, I'm going to turn it back to Mark to talk about implementation, and then I'm going to talk about some other legal issues.

DR. GOLD: And just to add on this particular issue where you've heard, I don't know, 30 times previously that, quote, numeric limits don't have to be in permits, I would just add, unless you actually want clean water and, really, the issue of beneficial use protection in receiving water standards, they have to be met. That's not discretionary, and so that's something to always keep in mind in these sorts of decisions.

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Next. All right. There's a lot of trash TMDLs within Los Angeles County. The L.A. River trash,

Ballona Creek, Nava Creek (phonetic), the lakes, as well as Machado Lake at the end, and I'm bringing up this issue, really from the standpoint of today only dealing with the L.A. River trash TMDL.

We hope sometime in the near future that the remainder of the TMDLs for trash are also added within the L.A. Stormwater Permit. We think that's too significant a change to deal with today, but it is something that hopefully you can come back with later on down the line as well as some of the other TMDLs that have also been in place for quite some time, so I just wanted to emphasize that.

Also, a little bit of history, and I think having Steve up here reminded me of that history, which is Steve and myself were actually representing the environmental community in -- in actually negotiating this hybrid.

And as you can imagine from the environmental community perspective, it was a really big deal to add this full capture device definition as part of the -- it's something that took us probably half a dozen meetings, dozens and dozens of hours involving a wide variety of folks from the City of L.A., the County, the Regional Water Board, and others to come up with a pretty creative approach that I think what you've seen, and this is what's been incredible about the testimony before you is, it sounds like all the cities are in full compliance.

And so I think, really, this is a time for you guys to feel pretty proud, and this includes especially staff, is that this TMDL is working, and, you know, all these statements that it would cost billions and billions of dollars and put every city out of business and all this other sort of stuff, it turns out there are real simple cost effective solutions to get to improved water quality and you're seeing it right here on the trash TMDL demonstrated clearly.

Next up. So this is just to remind you,

Ballona Creek, almost an identical TMDL, but let's -- let's

hopefully see that in front of this Board in -- in a meeting
in the very, very near future.

Next. A small clarification, and you may disagree with it, but we think it's pretty important in light of the

history of what's been going on in Compton Creek and the ambiguity of, is it part of this TMDL? Is it not part of this TMDL?

Clearly it's part of the TMDL. We just want to

Clearly it's part of the TMDL. We just want to make sure it's added within this stormwater permit under Part 7, Section 1(B)1(A)3.

The request is very simple, just please list the tributaries that are up on the screen and drainage areas of the L.A. River Watershed for clarification. It's in the fact sheet, but it's not actually in the reopener, and it really should be.

Right now it just talks about the L.A. River Watershed, and in light of the history, I think it's important to single out what those tributaries actually are.

Next. I was hoping the City of Los Angeles would have done this in their presentation, but unfortunately, they did not. I, along with Board Member Diamond, sit on the Prop O committee, the advisory committee for the city of Los Angeles, and they have a pretty compelling story to tell that they didn't tell today, and so I'll tell it for them.

Which is that for the L.A. River and Ballona Creek, with Proposition O, and the (unintelligible) is there, they've already installed 8,000 inserts, 6,000 screens for phase one. Then they did a phase two, which was an additional 6,400 screens, and then a phase three, which

they're now underway, which is about 9,579 screens installed.

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So you add that all up and they're pretty much at around 30,000 catch basins that they've put BMPs on and they're well over the burden of compliance. I think they're around 65 percent right now of their catch basins that they've actually put some sort of screen or device -- trash exclusion device on.

So I bring that up, again, as yet another example, the larger scale example, along with the County, to show you that -- how well this TMDL is working and don't be fooled for an instant to think that any of this would have happened if this wasn't required within the TMDL. This was not a voluntary effort on their part.

Prop O passed in the City of Los Angeles with 76 percent of the vote because the public cared about clean water and they cared about the fact that these were water quality requirements that had to be met. Everybody has known that there has been litter laws on the books for literally decades, but that was not been working.

Next. Just some examples that you've seen before of the sort of catch basin inserts and screens that are there. I think this actually -- I didn't think about it until Mr. Allen made his presentation, but I think you see a little bit of the flaw that he was talking about, which is

when the screen gets filled on the right-hand side, you can over top, and a lot of that trash can get into the system, so that's why I think he was so concerned about the performance issues just to demonstrate that from a previous discussion.

Steve.

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MR. FLEISCHLI: Lastly, on the implementation issues I wanted to raise a few legal questions -- a few legal issues with regard to some of the presentations you've heard here today and some of the comment letters you received in opposition to this TMDL incorporation into the permit.

I think it was pretty clear from many of the cities today that this TMDL is, in fact, achievable. Many of the comments that we've heard regarding their concerns about achievability were actually addressed toward the metals TMDL and the nutrients TMDL, which, as you well know, is not before this Board today and you don't have to concern yourself with that issue at this time.

So I would encourage you to take that off the table and those folks can bring those comments back at the appropriate time.

With regard to achievability, I think the statements of the Gateway cities themselves, four of whom surprisingly actually sent a letter in opposition to this testimony, I think the statements from the Gateway cities

speaks volumes about ability to comply with this TMDL, and I will direct you to their applications to the State Water Board wherein they sought \$10 million from the State Water Board. Actually, they were seeking 22 million but they only got 10, but they found a way to achieve full compliance with the \$10 million they got from the stimulus package.

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They have said in that -- they said in that letter that it would result in complete compliance with the trash TMDL.

In addition, they said that, in their application, they had found a way to retrofit over 9,000 catch basins in a cost-effective, regional comprehensive approach to stormwater pollution prevention.

Essentially, they've admitted to you that this is a reasonable approach in terms of catch basin protection and trash abatement.

I want to say, for the record, that I think that those cities that were part of the Gateway Proposal are precluded from opposing this TMDL under the doctrines of judicial and equitable estoppel.

You can laugh all you want in the audience; however, the essential function and justification of judicial estoppel is to prevent the use of intentional self-contradiction as a means of obtaining unfair advantage in a form provided for suit or seeking justice.

And here I think when folks come and stand before you after they've received \$10 million from the State of California to help them solve this problem where they've told the State that they can do an effective job and that they can comply with the TMDL, and then they stand before you and say that this is unfair and that they can not comply, it's unreasonable, and it's unachievable, I do think that is an intentional self-contradiction that this Board needs to take note of.

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In addition, I think many of the issues that they've raised have been addressed by the Court in the Arcadia 1 case, and I think they should be barred by res judicata and collateral estoppel, particularly the issues of 13241 applicability to this TMDL as well as the MEP and economic questions that were raised in that case.

So I would encourage you -- next slide, please -- particularly with regard to the cities that are listed up here, again, four of whom who criticized this TMDL incorporation, to not take the bate.

It doesn't pass the smell test. It doesn't pass the laugh test, and it certainly doesn't pass any sort of legal test that I'm aware of in terms of your obligation to change what staff has recommended in this situation.

Last slide, please. And as you know, last time
Desi Alvarez was here and he thanked you for that money. He

thanked you during the public comment period, and he said 1 that it looked like we're going to be able to install full capture devices on 100 percent of all catch basins in the cities that drain to the Los Angeles River.

We've heard other cities say out here today. I'm very surprised to learn that Carson only had 10 -- or 12 drains that discharge to the L.A. River and yet they've been fighting this TMDL for so long.

It's really discouraging, and I think at the end of the day what it really comes down to is not wanting to be held accountable, and I would encourage you, on behalf of the Heal the Bay, I would encourage you that because you gave them \$10 million, for that reason alone, you should hold them accountable for what they do with that \$10 million, but also because the law requires you to hold them accountable, you must do so by incorporating this TMDL into the NPDES permit.

Thank you.

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MS. GLICKFELD: Thank you. That concludes the public hearing portion unless Board members have questions of the stakeholders, and I'm going to start at this end with Ms. Mehranian.

MS. MEHRANIAN: Yes. I have a few questions. My first question is, how old is that picture that we put up that Councilwoman Lowenthal put up and you put up and the trash,

1	the four tons of trash that comes to Long Beach, and how
2	does that compare to the BMP applications before and after?
3	MS. PURDY: That photo was taken in 2001, so that was a
4	photo that was taken at the time that the TMDL was being
5	considered by the Board and adopted.
6	MS. MEHRANIAN: And there's no comparable picture now?
7	MS. PURDY: We do not have one now.
8	MS. MEHRANIAN: It would be really helpful to see, and
9	then we can understand. The picture of the trash
10	MS. GLICKFELD: Actually, what I did was ask, we're
11	going to go through two sets of questions. One first for
12	the stakeholders
13	MS. MEHRANIAN: And one for the staff? But I think she
14	put up there, too. She it was a part of her
15	presentation.
16	MS. GLICKFELD: Yeah.
17	MS. EGOSCUE: I would also like to add, if I may, that
18	we did have the data from the pickup from up to 2007 in the
19	city of Long Beach, so we provided that. It shows a pretty
20	consistent loading. Do you remember that spreadsheet? It
21	wasn't a picture. It was a spreadsheet of the
22	MS. MEHRANIAN: Yes. Yes. You know, I think the rest
23	of my questions are still for you. On I mean, I heard
24	from the stakeholders on EPA's position on numeric, I just
25	want to her from you, what is the EPA's position on numeric

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2 MS. PURDY: Okay. Well, I think that you had an 3 opportunity to hear that directly from EPA today, which I was really pleased they were able to come and speak on 4 behalf of this, but that is our interpretation as well.

You've heard that they submitted a letter recently, just in June of this last year, supporting the permitting authority, the Regional Board's authority to use numeric limits to implement waste load allocations in MS4 permits.

MS. MEHRANIAN: And then one more or two more questions. What is that -- on the -- on the BMP situation.

MS. PURDY: Sorry about that.

MS. MEHRANIAN: What has been your monitoring? Is there any monitoring measures that you had if there was no numerics and it's only the BMPs?

MS. PURDY: Well, the monitoring, so if a permittee chooses to pursue a certified full capture system approach, then, in that case, the type of monitoring that's required is, first of all, that device has to be certified and there has to be testing of that device and that information is submitted to us for EO certification.

Once the device is certified, then the monitoring that needs to be done is basically the recordkeeping of the maintenance of that device to show that it was properly installed and that it's being properly maintained.

they do their numbers it might be that they might

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overestimate the cost or there's a perception that this is
too costly for them to do and therefore, although they agree
with cleaning the water, they are not very enthusiastic
about this numeric measure.

What I'm trying to understand is, because of the availability of funds, okay, that's there, but how long does it take to let's -- this is not a question on every issue, but an overall, how long does it take them to access those funds?

How long does it take to get the technology and put it in place and do all that? So if any TMDL numeric measure is, let's say approved today, how do we -- what kind of headways or time line do we see this happening and, therefore, the monitoring and penalizing and all that, when would the clock go off if we were to adopt this?

MS. PURDY: Well, the first compliance deadline would be if -- if it was adopted into the permit today, the first compliance deadline that will be in the permit will be for September 30th of 2010 of next year.

And as you heard today, many of the permittees have already made significant strides in both securing money to implement these full capture systems and other trash control measures and are well on their way to doing that in many cases.

And the other thing that I want to point out is the

1 fact that the permit provisions allow another six years to come into full compliance with the proposed effluent 2 3 limitations. So there is time to continue to seek money to install these devices in addition to the 10 million that 5 they've already received through stimulus funds and other 7 funding that they've received through Prop O and other 8 things like that. There's time allotted to come into 9 compliance. So the way the TMDL was structured and the way the 10 11

So the way the TMDL was structured and the way the permit provisions are structured is to allow for progressive reduction to allow the time necessary to install all of these devices.

MS. MEHRANIAN: So this is my last question. Thank you. That's clear.

On -- do you agree with this thesis that if there was zero trash that meets their TMDL or not necessarily? If they had all these mechanisms put in place, every city, let's say, or the subject cities had put in place certain mechanisms that they capture -- and it's zero trash, does that necessarily automatically mean they meet their TMDL?

MS. PURDY: If there is no trash that's being discharged to the MS4 system, then that is equivalent to compliance with the TMDL requirements. Is that clear?

MS. MEHRANIAN: Yes.

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1	MS. GLICKFELD: So are you going to have questions of
2	stakeholders now?
3	MS. MEHRANIAN: No.
4	MS. GLICKFELD: Do you have questions of stakeholders?
5	MS. DIAMOND: No, not that I know of.
6	MS. GLICKFELD: I would just like to get through that
7	first. Let's do that first. Anybody have questions
8	well, you can as soon as we get through the stakeholders, so
9	I need to be able to close the public hearing.
10	So does anyone else have questions of stakeholders?
11	MS. LOMBARDO: No. I read every comment letter that was
12	provided, and it backed up
13	MR. BLOIS: Yes, I do.
14	MS. GLICKFELD: You do?
15	MR. BLOIS: Yeah. I have a couple of questions of the
16	joint cities folks.
17	MS. GLICKFELD: Who somebody come up and represent
18	the cities.
19	MR. BLOIS: Thank you for your presentation and thank
20	you for making it succinct. We appreciate that.
21	Does any of your cities or do you know if anybody
22	in the MS4 region who has institutes fines for not
23	cleaning, broom cleaning sidewalks in front of stores?
24	I ask that because I was on a recent field trip to
25	watch a football game near Chicago, and the city of Chicago

1 has large fines, to the point where their streets are spic and span, and I was really impressed with that. That might 2 3 be a suggestion we have here. I'm wondering if anybody utilizes something like that now. 4 MR. FARSING: I'm sorry. We don't know. 5 6 THE REPORTER: What is your name? MR. FARSING: Ken Farsing. MR. BLOIS: Back to the \$10 million that has been spent 8 9 so far, we've seen remarkable progress and I applaud you 10 guys, and as Mark Gold from Heal the Bay pointed out, it's a great success story and we'd all like it to continue to its 11 12 completion. Do any of you have an estimate of how much more it 13 will take to reach full compliance with the zero trash goal? 14 15 MR. FARSING: Well, I think it should be clear that the \$10 million is really a grant for go forward for those 16 17 16 communities. So from Long Beach all the way up to 18 Montebello, that map that we showed, that's to cover all, I 19 think is it 11,000 catch basins? 11,000 catch basins would be covered in that application. 20

Now, there's -- in the L.A. River Watershed, there's 42 entities, 40 cities, Los Angeles County, and CalTrans so that, you know, basically the cost of compliance, you have to basically go back to each community and ask them, what have they spent to date, what do they

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2 numbers before you in your presentation. MR. WATSON: Just one further comment on that. 3 16 cities constitute 13 percent of the watershed. 5 don't know are the percentage of the city of Los Angeles that's, you know, in this watershed and how much of theirs 6 7 is covered, but, you know, you could extrapolate, perhaps, that out that 10 million covers 13 percent of the 8 watershed. 9 10 THE REPORTER: What was your name? 11 MR. WATSON: Richard Watson. MR. FARSING: Just to add for Signal Hill --12 13 MS. GLICKFELD: Who is speaking again? MR. FARSING: Ken Farsing. Sorry. Just to -- for 14 15 Signal Hill, we're one square mile of drainage area for the Los Angeles River. We spent upwards to \$800,000 in best 16 17 management practices to date, so that's just for our area. 18 Now, other cities' experience may be different. 19 MR. BLOIS: Great. That gives me a good sense of that. 20 I apologize for asking for details that you didn't have. 21 One final concern or question I'd like to comment 22 on, I'm a little concerned to hear the manufacturer of one 23 of these certified devices say that it doesn't work 2.4 without -- we had some exceptions, but is that why -- I

anticipate to spend in the future. So you don't have those

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couple that with a lot of consternation on the part of your

presentation and others we've that heard from some of the permittees and co-permittees that you need to build in flexibility.

Is this one of the reasons why and how would that appear if we -- is that why you want to get rid of the NELs and go to some other function?

MR. FARSING: The -- I guess there's a couple part question there. In terms of the original TMDL in 2001 and one of the reasons we opposed it was that it really only had one device that the cities and County could use for full capture. It was a Vortex unit.

They're very expensive, between a half million dollars to over a million-and-a-half dollars to install.

Some communities have installed them and, actually,

Culver City is a good example. They've had to take them out for various reasons, and there's other issues with them.

They may work fine in certain circumstances.

So we wanted to see this TMDL have some additional flexibility where we could, through the iterative process, come up with ways to really cost effectively capture trash.

The County, the City of Los Angeles, our group, Signal Hill, we actually worked with manufacturers and the Regional Board went to testing labs, that iterative process, to actually design.

All the devices you looked at today were basically

done with the research money from the County and the cities and CalTrans, and it took a number of years, three to five years, in some cases, to get these things, these devices so we could use them.

In terms of the numeric units, obviously, we're concerned about the precedent as we move forward in terms of the other TMDLs, but we're also concerned with this one.

I think it -- from -- from what Carson was telling you was that they're generally a fairly clean community. They have installed partial capture devices, and they've done a lot of research to show that the trash isn't ending up in their catch basins.

But when you put numeric effluent limits into your permit, you're essentially saying that's not good when you get toward the end of the permit. You have to put in full capture regardless.

So what happened is the Gateway cities decided, well, we can't take the risk to install partial capture devices. We're just going to install all full capture devices, because we know when we get to zero that eventually you're just going to have to take out or modify your partial capture devices to get the full capture.

I think John Hunter, the consultant for South Pasadena and I think there was Pico Rivera, he basically showed that they're meeting the trash loads now,

1 but when they get further out, they're not going to be able to do it with institutional controls. They'll basically be going back to retrofit every catch basin with full capture 3 4 unless you give some flexibility. 5 And that's our concern with putting numeric limits into the permit is that you're limiting the flexibility of 6 7 yourself and also the cities in terms of coming up with these creative ways to comply. 9 Does that make sense? 10 MR. BLOIS: Yeah, it does. It helps me understand what 11 the problem is with the numeric limits. 12 MR. WATSON: Richard Watson again, just want to 13 supplement --MS. GLICKFELD: Just a second. Did you ask him a 14 question, Mr. Watson a question? 15 MR. BLOIS: Yeah, actually, I guess I kind of did. 16 17 MS. GLICKFELD: All right. 18 MR. BLOIS: I was just trying to respond --MS. GLICKFELD: I just want to know whether your 19 20 question was answered yet. You want him to continue? 21 MR. BLOIS: Yeah. Go ahead. Have him continue, please. 22 MR. WATSON: You were questioning originally the -- the 23 discussion about perhaps the BMPs don't work fully, but one of the things where flexibility comes in, some of the 2.4 25 cities, like city of Carson are experimenting with a

combination of the partial capture device that you saw and 1 the institutional. One of the things you do, if you sweep the streets 3 more and get that stuff right in front of those -- those 4 excluders, then that moves away from the excluder. It also 5 doesn't get down into the catch basin and clog something 6 there. 7 So it's sort of like a treatment train device in 8 part to reduce the maintenance if stuff really fills the 9 10 catch basins. So there's a need, as Ken said, for flexibility to 11 12 work out some of these arrangements, and ultimately, 13 perhaps, at the reopener, there might even be some sort of 14 allowance for the partial capture devices to let something 15 through. 16 Full capture can let five-millimeter trash through or small bits. Right now the partial capture is not allowed 17 18 to allow anything through. So, you know, there's some stuff 19 we have to study. MR. BLOIS: All right. Thank you very much. That's all 2.0 21 I have. 22 MS. GLICKFELD: Ms. Lombardo? 23 MS. LOMBARDO: My questions are just for staff. 2.4 MS. GLICKFELD: Okay. And let's see, Ms. Diamond.

MS. DIAMOND: I guess I can ask staff.

1	MS. GLICKFELD: Okay. So we're finished with the
2	question for stakeholders.
3	MS. MEHRANIAN: I just have one question for the group
4	again, this last person.
5	MS. GLICKFELD: All right. Ms. Mehranian would like
6	any particular person?
7	MS. MEHRANIAN: Yeah. You can answer it, probably.
8	MS. GLICKFELD: Mr. Montevideo.
9	MS. MEHRANIAN: I think and correct me if I'm wrong,
10	in your group somebody said that in BMPs we were you
11	know, we did so well and it's working and let's not have a
12	TMDL measure, and if we have that, everybody's going to get
13	discouraged and disappointed and not want to do the BMPs.
14	MR. FORESTER: Absolutely. Larry Forester.
15	MS. MEHRANIAN: And I want to understand why is that?
16	MR. FORESTER: Larry Forester, council member, city of
17	Signal Hill. Because, as you approach zero, as we keep
18	doing an iterative process, if you have a firm figure of
19	zero, every one of our cities is looking at a liability. I
20	have no money for liability.
21	As I once said to David Beckman (phonetic) at a
22	hearing up in Sacramento, look at, David. I'm an elected to
23	be fiscally responsible. What you're asking of me is not
24	fiscally responsible, and that's where I think the iterative
25	approach is soins to work host

If we were to take the next step in that the 1 Clean Water Act allows for third-party lawsuits. So I don't 2 care if I take everything out of it, if a wrapper blows in 3 and a third-party citizen says, that's Signal Hill, that's Downey, that's Long Beach, I'm sued. 5 And as an elected, I am looking at, what can I do to best clean up and do my part on the L.A. River within a 7 reasonable process, and I feel that iterative process that's 8 9 been established on the BMPs has worked best, and by putting an absolute zero in there has just caused major 10 consternation for myself and fellow electeds. 11 MS. MEHRANIAN: Thank you. 12 MS. DIAMOND: I have a question. 13 MS. GLICKFELD: Go ahead, Ms. Diamond. 14 MS. DIAMOND: My question is, I believe your city is one 15 16 of the Gateway cities; is that correct? 17 MR. FORESTER: Yes. MS. DIAMOND: And it was Desi Alvarez who came last 18 19 month, as you know, it's been stated today, to tell us that the \$10 million from the federal stimulus plan and 20 21 State Board is going to allow the Gateway cities, one of 22 which is yours as well as several other cities who are represented here today, to use full capture devices. 23 24 And full capture devices, just to clarify, are --

if you have a full capture device, it is deemed in

compliance with the trash TMDL. That means even if a gum 7 wrapper is blown into the L.A. River, if somebody dumps trash into the L.A. River, you are zero, and Desi Alvarez --3 4 MR. FORESTER: No. But if you enforce under Clean Water 5 Act --6 MS. DIAMOND: Let me finish my question. 7 So -- so that means that if you have full capture devices, you are in compliance with the trash TMDL by virtue 8 9 of having the full capture devices. And I have to say, I remember this very well, 10 11 because I, as you know, I was on the Board this 2001 when 12 this TMDL first occurred, and so you are in full compliance 13 once you have these full capture devices. 14 That's what Desi said on behalf of all of the Gateway cities, 16 of them, one of which is you, others here 15 16 today who are here with the joint presentation are being represented here, Signal Hill, Vernon, Alhambra, I made a 17 note of these, I'm sorry. 18 It's going to be Commerce, Signal Hill, South Gate, 19 Vernon, and Downey, all of which are getting part of that 20 stimulus money, our tax money, and so my question is, why do 21 you say you won't be able to comply? Why would you --22 23 MR. FORESTER: I'll turn it to Ken Farsing who helped on 24 the applications for those 16 cities.

MR. FARSING: Yeah. There's two questions. That's a

two-part question. One is, you know, in terms of 1 Signal Hill, we're one of 42 government entities between the 2 3 County and the cities. So, you know, we're just basically speaking for our communities. There are other communities -- I live next to the 5 city of San Marino, which really has clean streets. The 6 mayor was here, spoke to you. Basically, they're doing 7 8 partial capture and a lot of street sweeping. It seems to be sufficient. 9 And, basically, the question is, if you basically 10 now impose a numeric limit, when you get into 10 percent or 11 down to zero, what are cities like San Marino supposed to do 12 13 at that point? They're basically putting in full capture throughout all their storm drain systems. So that's 14 basically, you know, that basically is our concern. 15

MS. DIAMOND: Well, if they have full capture, they're in compliance.

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MR. FARSING: You've been involved on the Board since 2001, I've been involved with this since 2001 as well. I've seen a lot of turnover in staff and Regional Board members, can you, sitting there today, guarantee that the definition of full capture will not change?

MS. DIAMOND: I can -- I can tell you that the full capture devices that occur today are full capture devices. I think there will be more full capture devices.

MR. FARSING: But can you --MS. DIAMOND: That was one of my questions later for staff is, are there -- will there be an opportunity for new 3 technology and new full capture devices to be used? My 1 guess is that if they're required, they will come, and we 5 6 will have them and they will be used. So I'm just saying my understanding, as a Board member who was here for both the 2001 and then the again reissued 2007, is that full capture is a technology 9 equivalent of zero, and that your cities both have that, and 10 11. that's why I'm a little mystified as to why you are complaining that you can't be in compliance when you will 12 13 be. By incorporating zero into the NPDES 14 15 permit, you've now incorporated into the Clean Water Act, and I don't care what your definition of zero (sic), if you 16 17 can convince EPA under the Clean Water Act to accept that zero as a full capture devicing quality, I'd be happy. I 18 19 don't think you can do it. 2.0 MS. DIAMOND: Well, EPA was here in support of this. I do have one other question. 21 22 MS. GLICKFELD: Of the --23

MS. DIAMOND: Of you, and that is, are you of the opinion, and I guess maybe this is for you as the counselor, that the Clean Water Act requires the Regional Board to

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1 incorporate TMDLs into permits in order to be implemented? MR. FARSING: I think it should be clear that we're not 2 3 imposed to the TMDL. We've made presentations that really, as a goal, it's a great goal, but when you take the numeric 5 and put it into the permit, that's where we have concerns with it. 6 7 MS. DIAMOND: One last question. 8 MR. FARSING: If that helps. MS. DIAMOND: Yes. 9 MR. FARSING: Okay. 10 11 MS. DIAMOND: I think you've indicated that we are 12 legally obligated to incorporate the TMDL into a permit. 13 MR. FARSING: Right. But you do have discretion and 14 options on how you do that. 15 MS. DIAMOND: I understand that. And one other thing, 16 my last question is that you talk a lot about the iterative 17 approach, and that's what you are requesting that we do, that we use the iterative approach, which is basically if 18 one -- one BMP is not successful, then we move onto one that 19 20 is more successful. 21 And one of the problems with having been on the 2.2 Board for so long is I remember the origination of the BMP 23 iterative approach in the stormwater permit in 2000, 2001, 24 and my understanding is, and I guess I would ask you, is

that everybody wanted -- the cities all wanted the iterative

7 approach, and it made sense to the Board members, including 2 myself, and we approved of that iterative approach. It was 3 reasonable. It was cost-effective. And my question is, did you use the iterative approach in this stormwater permit, and I'm going to also 5 ask our staff if that was used? 6 7 MR. FARSING: Well, I can speak for Signal Hill in terms 8 of designing the -- the best management practices for the Hamilton Bowl, we spent almost three years working with the 9 10 testing labs, the manufacturers, and the Regional Board staff. That was an iterative process. 11 12 Actually, we can show you slides of the labs back 13 in, I believe it was Maryland, basically testing the nets to 14 make sure the nets wouldn't break, they were the right 15 design, and all of that. 16 So, yes, we've used the iterative process. 17 County showed you their testing lab. I think it was up in Azusa, up in the mountains or somewhere, where they test. 18 19 MS. DIAMOND: Well, I just want to say congratulations 20 to all of the success in implementing the TMDL. 21 MR. FARSING: Yeah. And we've done this, really, 22 voluntarily. We have not done this because --23 MS. GLICKFELD: Thank you. 24 MR. FARSING: So, anyway, just --25 MS. GLICKFELD: Are you finished?

1 MS. DIAMOND: Yes.

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MS. GLICKFELD: I have one question of the stakeholder before I close the hearing. You can sit down.

Mr. Gold or Mr. Fleischli might be able to answer this question, what are the reasons that -- do you think that the parties -- it seems like the parties are very, very concerned about third-party lawsuits. Has Heal the Bay ever instituted a third-party lawsuit on any of these TMDLs?

DR. GOLD: Never on a TMDL in the history of the organization, and I would like to bring up a couple things. One is to thank Board Member Diamond for so eloquently making the point, which is why I was jumping out of my chair, that if you install a \$700 to \$1,200 full capture device and make sure that you fully install them, you're in compliance, that was the whole point.

And the mythical gum wrapper argument has been shot down many, many times before. It's all what comes out of the storm drain system. It's not what people dump or floats into the storm drain system.

And then finally, I do want to clear up what Mr. Allen had said. No one was saying that those BMPs, Board Member Blois, weren't working. What I think the point was, it's pretty important to operate and maintain them, which is also a significant part of the permit.

So it's not like you put all these full capture

devices in, you go away, come back ten years later and you're in full compliance. You got to -- you got to operate and maintain them, and I think that was the significant point. He was just bringing out a small design flaw, that if you don't do operation maintenance, you get a major issue on them. So hopefully that clarifies those points.

MS. GLICKFELD: Thank you very much.

I'm going to close the public hearing now, and I'm going to entertain Board member questions of staff. Let's see, we started at that end, so Mr. Blois?

MR. BLOIS: I feel like, you know, it's boiling down to just one major issue, at least in my view, and that is whether or not we put in numeric effluent limits.

Has staff considered alternatives to the NELs, and if so, what would they be, what would they look like?

MS. EGOSCUE: I appreciate the opportunity to address numerics in particular, and I'd like to start by saying that it was the numerics that allowed the Gateway cities, and the City of Los Angeles, in particular, to have a degree of certainty when they asked for money and/or planned for compliance with the TMDL, and it is something that has given them a target. It has allowed them to say, for example, if I want to be in full compliance, I need \$20 million or \$10 million to install full capture.

The other side of the coin, though, that staff has

proposed, is if you do not want to put full capture in and you would like to have the flexibility to have some other means of compliance, this TMDL, since 2001, has had the provision to allow the cities the self-determination to go out and figure out what is their baseline of their city's trash and then start the reduction process.

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And, in fact, I was quite pleased to see Mr. Hunter here speaking about South Pasadena, because we have received the correspondence from that city indicating that they felt they were in compliance. We read it, we analyzed it, and we have been giving them feedback to try and get them to a point where they may be in compliance according to the Board that is not strictly putting full capture into their city's storm drain catch basins.

So in terms of numerics, we have considered other means, and it is in this TMDL, and there is a buffet of sorts for the cities to use to comply with this very important and instrumental goal of reducing floatables that deter the beneficial use of the Los Angeles River.

MR. BLOIS: I really only have one other question then, and that is, as I understand it that there is a, I don't know if you call it a reopener or not, but at some point, at 50 percent, we sit back, assess, see if it's working or not.

Will there be an opportunity at that point, and I think we predict that that will happen some time two to

three years from now, will there be a point at that time for 1 the cities, the permittees, the interested parties to reconsider? And I think there was some talk about the 3 anti-backsliding stuff to slacken, I guess, for lack of a 4 better word, some of the rules if it appears that it still 5 obtains the goals that we set? 6 MS. EGOSCUE: There is always an option for reopener, 7 and I think that what would be important in this instance is 8 that we would have real world examples to educate any kind 9 of process that the Board would choose to go through for a 10 11 reopener. 12 MR. BLOIS: Great. Thank you. That's all I have. 13 MS. GLICKFELD: Ms. Lombardo. MS. LOMBARDO: Tracy, I wanted to just ask you, is there 14 any requirements required for maintenance for the full and 15 partial capture units as far as how often they have to be 16 17 cleaned? What is the burden on the cities for that? 18 MS. EGOSCUE: Ginachi is going to speak to that. 19 My name is Ginachi Amah, I'm with the MS. AMAH: Abatement Planning Unit, and the TMDL and the proposed 20 permit provisions do require maintenance records to be kept 21 and the required maintenance is based on what was part of 2.2 23 the certification process, decertification process, these full captures were tried out under different conditions, and 24

the optimal operating conditions were determined, and based

on that, we will determine whether or not they were 1 2 maintained properly. And so the maintenance is part of the annual reporting requirement for the permit provision. MS. LOMBARDO: Okay. Great. I think -- well, you all are just getting to know me, so you don't know that I'm a banker, and I've done a lot of municipal finance. In that capacity, I've worked with cities, and I can understand some of their concerns that they've brought here today with what we're dealing with at the State level and the County level and the city levels.

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It seems like there is a lot of TMDLs that keep being put on and there is financial burden in implementing them, but I do agree with the gentleman from Heal the Bay that basically said that -- I sensed in reading all of these letters that their concern wasn't really with the trash but with the metals, and I am not aware of that being incorporated into the -- into this permit, and I just wanted some clarification on that.

MS. EGOSCUE: You're correct, Board Member Lombardo. This is a trash TMDL incorporation. It's nothing to do the metals TMDL today.

MS. LOMBARDO: I think that's all that I have.

MS. GLICKFELD: Ms. Diamond? I thought I'd let you go first in terms of questions, and then I'll take the last

1 questions.

MS. DIAMOND: I guess I really just have a couple of questions, most of them have been addressed. The reopener was one of them and that's something that we can do any time, whether we ask for it or a stakeholder or a city asks for it, it can be reopened.

And I guess what I -- I just want to ask is, is there -- is -- we are absolutely legally required to incorporate this, I understand that, and the flexibility that is being asked for is this hybrid notion that you can either do full capture or partial capture plus institutional practices; is that correct?

MS. EGOSCUE: My understanding that the flexibility that the cities that have been here today are asking for, with the exception of Long Beach and the city of L.A., I believe, is that there is no numeric limit in the reopener, but I could be wrong and I can --

MS. DIAMOND: Okay.

MS. EGOSCUE: What I'm answering, in terms of flexibility, is that staff believes there is sufficient flexibility with -- with the numeric limitation included in the reopener.

MS. DIAMOND: You went back and, I'm sure, looked at the -- the TMDL in 2001, and does this TMDL incorporation, does this basically incorporate the intention of the Board

in 2001 and then the other Board, it wasn't the same Board 1 in 2007, does this reflect the work and the analysis of the 2 3 Board, those two boards? 4 MS. EGOSCUE: We believe it does, yes. MS. GLICKFELD: Mr. Levy, did you want to add something? 5 MR. LEVY: Yes. My understanding of the flexibility 6 that the cities want is that they want to be deemed in 7 compliance for doing partial capture and institutional 8 9 controls as well. 10 And the way the permit was adopted, the TMDL was 11 adopted in 2001 and later in 2007, initially the permit relied on partial capture and institutional controls, and 12 13 then I think it was pointed out earlier, there were lawsuits that came about, and in accommodation to the cities in 14 cooperation with the County of Los Angeles and the City of 15 16 Los Angeles, we added this provision for full capture to 17 give them a safe harbor. 18 So that was the second part, which was the accommodation for the safe harbor from the full capture, and 19 20 so that's what's there now, which is the, of course, if you're willing to rely on any other permitting system. 21 you're going to rely on some means of ending the pollution, 2.2 you've got to monitor and demonstrate compliance. 23 But what they're saying is, don't hold us 24

responsible for it. Whether it's partial capture and

1 institutional controls or full capture, let us keep doing what hasn't worked from the 2001 permit of the receiving 2 water limitations and iterative approach. 3 That's what they're asking you to do is take out of 4 the permit the requirement that they actually be held 5 6 responsible. MS. DIAMOND: But that's different from what the TMDL 7 that was passed required. 8 9 MR. LEVY: The TMDL that was passed on two occasions and upheld by the Court of Appeal with review denied by the 10 California Supreme Court, instead you use partial capture 11 and institutional controls and meet your waste load 12 13 If you do full capture, you'll be deemed in allocations. 14 compliance. 15 So now, as you pointed out, we have eight, not just 16 one deemed in compliance mechanisms and a process for other cities to put forward other ones to be deemed in compliance 17 as well for the Executive Officer to review them to make 18 19 sure that they are compliant with the TMDL. 20 MS. DIAMOND: Okay. One last question. If new full capture devices come to you as Executive Officer, you are 21 22 authorized to -- to okay them? 23 MS. EGOSCUE: That is correct. I am authorized to 24 certify them. 25 MS. DIAMOND: Certify them. And so far we have seven

full capture, I think. The County has some --1 MR. LEVY: I think we have eight. 2 MS. DIAMOND: -- and so there -- there will possibly be 3 4 more. MS. EGOSCUE: Yes. MS. DIAMOND: And have you heard of any? Are there 6 7 any --8 I do not have anything pending in my MS. EGOSCUE: inbox, of that I can assure you. 9 MS. DIAMOND: 10 But you do not need to get back to us --11 MS. EGOSCUE: No, I do not. 12 MS. DIAMOND: -- regarding your authority. 13 MS. EGOSCUE: I can also assure that this Board has been very clear in directing me to answer my correspondence. 14 MS. DIAMOND: Okay. That's all I have. Thank you. 15 MS. GLICKFELD: Thank you. 16 17 One more question? 18 MS. MEHRANIAN: Just one --MS. GLICKFELD: Please identify yourself. 19 MS. MEHRANIAN: Maria Mehranian. At the same time, we 2.0 all have a big interest in cleaning the water and all that 21 22 stuff, and we've been listening to the issues from the cities, we are not trying, in my mind, I'm not trying to 23 enforce something that is going to create all this headache 2.4 for the cities and create, you know, a gridlock. 25

Having said all that, you thought that there is flexibility -- the flexibility that the cities are asking for, you thought is built in in what you are proposing. Can you say that, what it is and how you see that flexibility there?

MS. EGOSCUE: Yes. And I apologize if I wasn't clear before.

So if I'm a city manager and I'm as good as

Ken Farsing is, and the Deputy City Manager, Desi Alvarez

from Downey, I look at it and I say, how do I get my most

bang for my buck and ensure full compliance for my city for

the future, I install full capture.

One of the things that another city can do if they don't want to do full capture is start their baseline of what kind of trash they have now, and that was something that South Pasadena, Mr. Hunter presented, and then have a reduction from there and bring that to our attention and say, we have done these studies. We started with 37,000 pounds, now we're down to 7,000 pounds and the like. They can also do that.

So there are a variety of options. It's a sushi bar, and they can choose what kind they want to do to achieve it. The cities that tend to be the more conservative and to have the safest approach are going to do the full capture, because they do have, as

Councilmember Forester said, this idea that they're trying to minimize their liability from not just the Regional Board but from third-party lawsuits, which, by the way, just as an aside, that is a fundamental aspect of the Clean Water Act that the United States Congress put into law.

So it is something that we all need to be dealing with, but it is absolutely a right of every citizen to enforce the Clean Water Act.

MS. DIAMOND: Thank you.

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MR. LEVY: Just to follow-up on that point if I might.

MS. GLICKFELD: State your name.

MR. LEVY: I'm sorry. Michael Levy. If a gum wrapper blows into the system, that's not a violation of the city's storm sewer system permit. If a gum wrapper flies into the river, that's not something that any city can be held responsible for. They're responsible for discharges from their storm drain systems and only discharges from their storm drain systems.

MS. EGOSCUE: And if I may, it is the Board's -- the Board doesn't have an interest in spending a ton of resources in enforcing. The Board has an interest in having pictures like Ken Farsing showed you be the norm and not the rarity. So I think that if we can get to that place, then this all becomes somewhat irrelevant.

MS. GLICKFELD: Thank you, Ms. Egoscue.

Any more questions? If not, I'll entertain a 1 motion, and then I have something to say after that. 2 MS. EGOSCUE: Can I have one moment, just two seconds? 3 MS. GLICKFELD: Yes. 4 I do have one question, Ms. Egoscue. 5 MS. EGOSCUE: Can I pull up this slide while you're 6 asking my question? MS. GLICKFELD: Yeah. I want to know what your response is in terms of the legal liability language that the County 9 10 of Los Angeles --MS. EGOSCUE: That's where we're going. Thank you. 11 MS. GLICKFELD: And I also wanted to know whether you 12 were willing to incorporate the language on the tributaries 13 for L.A. River that was brought up by Mr. Gold, Dr. Gold. 14 15 MR. LEVY: We would recommend putting the footnote in the permit from the fact sheet that identifies the 16 17 tributary, and I'll give you that page number in a minute. 18 MS. GLICKFELD: Thank you. 19 MR. LEVY: In terms of the language the Executive Officer is bringing up, I spent some time with the 20 21 Flood District representatives out in the hall a little while ago, and this was some added language that we 22 23 discussed, and I believe it's acceptable to them, and I'd 24 like them to have the opportunity to tell you if it is or it isn't. This is their language, their suggestions, with two 25

extra sentences, and what we're trying to --1 2 MS. EGOSCUE: But right now -- sorry to interrupt --3 Renee is making a change. 4 MS. GLICKFELD: Look at this 5 MS. EGOSCUE: It's difficult for the court reporter to understand us when we talk over each other, so let's be 6 careful at this point. 7 8 MR. LEVY: I appreciate the correction from co-counsel, 9 Renee Purdy. 10 The language here, as presented, we think is completely -- it preserves -- it recognizes the relationship 11 of the Flood District to the various cities whose system 12 13 they operate, and we also think that it is consistent with the permit and still preserves our ability to address 14 15 concerns about the District getting in the way of the cities under other provisions of the permit. 16 17 Before I go into that, maybe you could -- if I could ask your indulgence to ask the District -- District to 18 19 confirm if this language would be acceptable to them. 20 MS. GLICKFELD: Would the Flood Control District please come up to the podium. Is that Mr. Hildebrand that's 2.1 coming? Would you identify yourself, please? 22 MR. HILDEBRAND: Yes. My name is Gary Hildebrand with 23 the L.A. County Flood Control District, and the change 24 25 is okay.

1 MR. LEVY: This is our iterative approach. 2 MR. HILDEBRAND: Let's see here. 3 MR. LEVY: And, Gary, just, while you're reading that, 4 Gary, when we were out in the hall, we were speaking with 5 your counsel, Howard Guest. Can Mr. Guest confirm that he's reviewed this language, too? 6 7 MS. GLICKFELD: Could Mr. Guest come up to the podium, 8 too, please. 9 Thank you, Mr. Levy. 10 MR. LEVY: Thank you. MR. GUEST: Good afternoon, members of the Board. My 11 name is Howard Guest (phonetic), I am outside counsel for 12 the Los Angeles County Flood Control District as well as the 13 14 County of Los Angeles. 15 I apologize if you heard me speak out a second ago, but, as I noted, they were changing the language as you were 16 17 asking Mr. Hildebrand. 18 MS. GLICKFELD: Well, every lawyer would do that. MR. GUEST: Right. The question, I think as posed, is 19 has the District reviewed the language, and do they approve 20 21 22 Let me just say that, first of all, we did approve 23 and do approve of the language that was on the slide that was presented. Just as we were talking they changed "waste 24 25 load allocations" to "effluent limitations," that's

7 acceptable. We prefer -- we still prefer "waste load allocations, " because that's what it is in the appendix, but 2 I don't think that's really the issue here that's being 3 addressed by this section as to what would characterize that. And now if you just give me one minute to see what else they've added here. I think -- I think they added the word "partial device" in addition to "full"? 8 MS. EGOSCUE: Yes. 9 10 MR. GUEST: And that's acceptable. That's acceptable. MS. GLICKFELD: So this is acceptable from the point of 11 12 view of the Flood Control District and from our staff. 13 If I could ask a clarifying question on this, if 14 this -- you're going to create a conference if there's a 15 conflict. If no conflict -- if the conflict is still there after the conference, then what? 16 17 MR. LEVY: May I give some of the background on this 18 issue, please? 19 MS. GLICKFELD: Very briefly, Mr. Levy. 20 MR. LEVY: In a variety of these proceedings, we've heard the cities tell us that it's not appropriate to hold 21 22 them responsible when the Flood District actually owns the drain and, therefore, they might be prohibited by the Flood 23 24 District from installing full capture or partial capture

devices or other infrastructure amenities for which they

would otherwise be responsible if they owned the drains.

Of course, it's the city's garbage. It's not the Flood District's garbage, but they own the system, and so we sought to address this concern, which was raised by the cities in a variety of contexts, by adding the joint and several liability.

The Flood District owns the infrastructure and the inlets in a variety of places in the system, and we believe they're responsible as a point source operator, but it is the cities' waste load allocations. I'll wrap it up quickly.

MS. GLICKFELD: Good.

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MR. LEVY: We don't believe we need the joint and several liability language in there because, per se, because the District already has an obligation under the permit to coordinate and facilitate activities necessary to comply with the permit amongst the other permittees.

MS. GLICKFELD: And where does that leave the cities?

MR. LEVY: Well, the cities, Mr. Watson said that he hasn't had time to review this language and can't speak to it.

They want to be able to tell, presumably, the Court or the State Board that this is not fair, but, in point of fact, and the District will confirm this, what the cities do all the time is they file a permit application to make

modifications to the storm drain system, and the District 1 evaluates the permit and unless there's a reason not to, 2 they grant the entitlement. 3 So there's a regular relationship that exists separate and apart from the trash TMDL for doing 5 modifications within a city to the District-owned parts of 6 7 the MS4 system. And maybe Gary can confirm that for me. 8 MS. EGOSCUE: Quite simply, we are trying to address the 9 issues in the interests of both sides. The cities telling 10 11 us that they would like to put the devices in, but the Flood 12 Control District might prevent it, and the Flood Control 13 District saying, there really isn't an issue. We will give 14 the permits. 15 And so we don't really need that language, so what 16 we're doing is putting the Executive Officer in the middle, like the ham in the sandwich, and then hopefully that will 17 18 expedite this issue. 19 And what would you like, Mr. Levy? 20

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MR. LEVY: Please have Mr. Hildebrand confirm what I just said about the relationship since I'm just the lawyer, and I'm not testifying. So that's what he explained to me, I'd like him to confirm it.

MR. HILDEBRAND: Yes. The process by which a permittee can obtain permission to install capture devices in catch

1	basins, basically, they submit a permit application along
2	with the plans that identify which particular basins they
′ 3	wish to retrofit. We take a look at that, assure that the
4	devices being installed do not hydraulically affect the
5	flood control system, in essence, they do not reduce the
6	ability of the catch basin to accept the flow that's
7	designed.
8	Once we go through that review, we then go ahead
9	and issue a permit to allow the permittee to then install
10	these devices on our system.
11	MS. GLICKFELD: And you agree with this language?
12	MR. HILDEBRAND: Yes, we agree with this.
13	MS. GLICKFELD: And, Mr. Fleischli, did you have a
14	question on this issue particularly?
15	MR. FLEISCHLI: Yes, on this issue in particular. And
16	I'm only speaking on behalf of Heal the Bay.
17.	I think Heal the Bay can support the language;
18	however, I would like Mr. Guest to be clear on the record in
19	the transcript that this section only applies to liability
20	with regard to the trash TMDL and not with regard to any
21	other provisions of the permit.
22	And with that, Heal the Bay would find it
23	acceptable. In the absence of that, Heal the Bay would not
2.4	find this accontable

MS. GLICKFELD: Thank you.

Mr. Guest, do you want to respond? MR. GUEST: It's our understanding that this hearing is on the incorporation of the trash TMDL and that's all that's being addressed at this hearing, and I don't think any party is saying anything with respect to what the positions would be when any other TMDL is incorporated.

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And with that, I would say that we very much appreciate the flexibility and work of the staff and the Executive Officer and their counsel in helping us to resolve this issue, which I think has been resolved in a good fashion

MS. GLICKFELD: Thank you very much.

Can all the parties sit down and let the Board deliberate?

MR. FLEISCHLI: Vice Chair, may I suggest that Mr. Guest was a little too lawyerly with that answer for my comfort. I think it's obvious to all of us that we're here today for the trash TMDL. I would like him to say that that language, in particular, is what we applied to the trash TMDL.

It looks like he is not willing to do that? MS. GLICKFELD: As I understand it, in our -- in our interpretation of this language only applies to the trash TMDL because that's the only thing before us, and that's how I understood what Mr. Guest said as well, so I might have --MR. FLEISCHLI: Thank you for your clarification.

MS. GLICKFELD: Yes. Ms. Diamond, you want to make a motion?

MS. DIAMOND: Yes. I would like to move -- before I move, I'd just like to say that what we're doing today, or what I hope we're going to do and what my motion will ask for is to fulfill the intent of the 2001 TMDL for trash to be incorporated into the stormwater permit as that Board envisioned it as well as the Board in 2007, some of you were around for 2007.

But I also want to say, we're not just talking about that. We're talking about the (unintelligible) of the L.A. River. That really hasn't been talked about today, and I feel compelled to say that that is a very big, important part of this region.

The Los Angeles River has been envisioned by many, many people who live throughout the region from -- for all of the miles that that -- that the -- the Los Angeles River flows to be a place that will some day be a return to the great river it once was historically, and that -- so I wanted to remind us of what we're doing here.

And the trash that flows through the L.A. River now has really made it less than a river, but there's still that vision of what it can be and what it's becoming.

I'm mindful of the EPA being here today and supporting the staff recommendation. I'm mindful of the

State Board member being here this morning and telling us that the State Board is going to be having a trash enforcement -- trash TMDL, state-wide trash TMDL, that will be based on our TMDL, because they think -- she said it was really groundbreaking.

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And I'm mindful of the City of Long Beach who was here today and who we know suffers the most from all of the trash that flows through the L.A. River all the way to the shores of Long Beach, and I'm mindful of Proposition O, of which I sit on for the City of Los Angeles, where Ida Talalla spoke today, a woman who's been working to save Echo Park for many years.

And Proposition O has, and the City of Los Angeles has committed, I think about \$17 million to -- to do just that, to restore that river and to restore the lotuses that no longer really exist there.

And so today I would like to move we that accept the staff recommendation with the change sheet and the changes that were made today to incorporate the TMDL, the trash TMDL into the stormwater permit.

MS. MEHRANIAN: I'll second.

MS. EGOSCUE: Board Member Diamond, I apologize. Along with that is the change that staff also recommends in response to the City of Los Angeles pointing out our inadvertent error, which is on Page 14-21, and I can, when I

1	read that change into the record, also read that in if
2	you'll allow me.
3	MS. DIAMOND: Okay. So that is my motion.
4	MS. MEHRANIAN: I'll second it.
5	MS. GLICKFELD: Seconded by Ms. Mehranian.
6	MS. EGOSCUE: Do you want me to read it in now?
7	MR. LEVY: On Page 14-16, I think we decided was, with
8	respect to the footnote of the tributaries what we would do
9	is we would reproduce footnote one from Page 14-28.
10	Page 14-28 says footnote one says, "Tributaries
11	to the Los Angeles River include but are not limited to
12	Pacoima Wash, Tujunga Wash, Burbank Western Channel,
1.3	Verdugo Wash, Arroyo Seco, Rio Hondo, and Compton Creek.
14	MS. EGOSCUE: Does the Board Member Diamond allow that
15	to be part of the motion?
16	MS. DIAMOND: Yes.
17	MS. GLICKFELD: Is that the same list as Heal the Bay
18	brought before us but just in a different form?
19	MR. LEVY: Yes.
20	MS. GLICKFELD: Okay. Thank you. So we have that, we
21	have the legal liability issue, are there any other changes,
22	Ms. Egoscue, that you want to read into the record?
23	MS. EGOSCUE: I will read in this change if you allow
24	me, the Board members will go to Page 14-20 in the record.
25	This change that has been brought about by the

Los Angeles County and the staff proposing it today as a result of the record and today's proceedings, please replace Subparagraph 7.1.B.3 with the following:

"Each permittee shall be held liable for violations of the effluent limitations assigned to its jurisdiction in Appendix 7-1.

"Any permittee whose compliance strategy includes full or partial capture devices and who chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity is responsible for obtaining all necessary permits to do so.

"If a permittee believes it is unable to obtain the permits needed to install a full capture or partial capture device within another permittee's MS4 physical infrastructure, either permittee may request the Executive Officer to hold a conference with the permittees.

"Nothing in this Order" -- and that's a capital on the "order" -- "shall affect the right of that public entity or a permittee to seek indemnity or other recourse from the other as they deem appropriate.

"Nothing in this subsection shall be construed as relieving a permittee of any liability that the

permittee would otherwise have under this Order." 1 standards at a s And that "order" should be capital as well. And then the second change -- yes? 3 MR. LEVY: And this language is in lieu of the change 5 sheet. MS. EGOSCUE: And the second change is on your 6 Page 14-21 in the record, and this is in response to the City of Los Angeles pointing out our inadvertent error. 8 On that page, it's Subsection AB1, "using" and 9 "site specific" will be stricken, and so it will read, 10 11 "Using performance data specific to the jurisdictional 12 area." 13 Thank you. MS. GLICKFELD: Okay. There's a motion and a second, 14 15 and you agree to incorporate all the language? MS. DIAMOND: Yes. 16 17 MS. GLICKFELD: Is there any discussion? Nobody else. I have something I'd like to say, which is that I 18 19 think I've learned something profound from this hearing. The profound thing is that the cities that do the 20 21 overwhelmingly best job of implementing our -- implementing the regulations of this Board are the ones who sue us and 22 2.3 complain and show up here. 24 The ones that do the worst job, don't write, don't call, don't show up, and don't do anything, and I think that 25

the fact is, I would like to put a -- give a message to the Gateway cities, which is that we have paid attention to the efforts that you have made today, and you should not think that we don't appreciate the fact that you are -- those of you who are here today, actually get it that you need to do these things and you are actually doing what you need to do.

So I hope that the issues that concern you that you find that you have the flexibility to move forward, that our staff is going to work with you, that we're not going to be out there with an enforcement hammer in the next five days or probably not at all, because you're going to do the job you want to.

And that, most importantly for me, what makes it easy for me to vote for this motion today is that this is the easy TMDL. This is the one where we're able to say to you, you're just responsible for what goes into the river from your jurisdiction. We can measure it, we can figure it out.

If there's still trash in the river and you've done your job, there will not be any responsibility on your part. It's going to be much harder with some of the other TMDLs as they come down the line, and we're going to have to deal with that as it comes down the line, but not today.

So, you know, with that, I'm prepared to vote for the motion. I'm calling for the vote. Would you take the

1	roll, please?
2	MS. HARRIS: Mr. Blois?
3	MR. BLOIS: Aye.
4	MS. HARRIS: Ms. Diamond?
5	MS. DIAMOND: Yes.
6	MS. HARRIS: Ms. Glickfeld?
7	MS. GLICKFELD: Yes.
8	MS. HARRIS: Ms. Lombardo?
9	MS. LOMBARDO: Yes.
10	MS. HARRIS: Ms. Mehranian?
11	MS. MEHRANIAN: Yes.
12	MS. HARRIS: We have Five "yes" votes. Motion passes.
13	MS. GLICKFELD: The motion passes.
14	So with that, I want to wish you all happy
15	holidays, and we will be back the Board is adjourned, and
16	we will be at our next meeting on February 4th. Thank you.
17	(Hearing adjourned at 4:14 p.m.)
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REPORTER'S CERTIFICATE

I, KIMBERLY ANTON, CSR NO. 12881, A CERTIFIED SHORTHAND REPORTER FOR THE STATE OF CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT OF PROCEEDINGS WAS

TAKEN BEFORE ME ON December 10, 2009

AT THE TIME AND PLACE THEREIN SET FORTH, WAS TAKEN DOWN

BY ME IN SHORTHAND, AND THEREAFTER TRANSCRIBED INTO

TYPEWRITING UNDER MY DIRECTION AND SUPERVISION;

AND I HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT OF PROCEEDINGS IS A FULL, TRUE AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN.

I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN ANYWISE INTERESTED IN THE OUTCOME THEREOF.

IN WITNESS THEREOF, I HAVE HEREUNTO SUBSCRIBED MY
NAME THIS 5 DAY OF Jamon, 2010

KIMBERLY ANTON, CSR NO. 12881 CERTIFIED SHORTHAND REPORTER FOR THE STATE OF CALIFORNIA