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Attorneys for Petitioners
COUNTY OF LOS ANGELES and
LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

BEFORE THE
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of)	PETITION FOR REVIEW
)	
THE COUNTY OF LOS ANGELES AND)	[Water Code § 13320(a) and
THE LOS ANGELES COUNTY)	23 CCR 2050]
FLOOD CONTROL DISTRICT)	
FOR REVIEW OF CALIFORNIA)	
REGIONAL WATER QUALITY)	
CONTROL BOARD, LOS ANGELES,)	
REGION, ORDER PURSUANT TO)	
WATER CODE SECTION 13383)	
_____)	

Petitioners County of Los Angeles (“County”) and the Los Angeles County Flood Control District (“District”) respectfully petition the State Water Resources Control Board (“State Board”) to review the attached Orders (“Orders”) of the Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region (“Regional Board”).

A. SUMMARY OF PETITION

On March 4, 2008, the Executive Officer of the Regional Board simultaneously issued Notices of Violation (“NOVs”) and Orders Pursuant to Water Code Section 13383 to Petitioners. (The text of the NOVs and Orders issued to the County and to the District

was identical except for the name of the recipient.) The NOV's alleged violations of the municipal separate stormwater system permit ("MS4 Permit") issued to the Petitioners based on alleged exceedances of receiving water limitations ("RWLs") at monitoring points along Santa Monica Bay and in Marina del Rey Harbor. The Orders demanded, by April 21, 2008, the provision of detailed information concerning the alleged exceedances, including (a) identification of the sources of the alleged violations for each shoreline and harbor location; (b) a detailed description of remedial actions taken both before and after incorporation of the Santa Monica Bay Beaches Bacteria Dry Weather Total Maximum Daily Loads ("SMBB TMDL") and the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL ("Marina TMDL") into the MS4 Permit; (c) a detailed description of "additional corrective and preventative actions" to be taken "to preclude future violations" plus a time schedule "designed to achieve full compliance;" (d) an evaluation of potential sources for the exceedances within the Ballona Creek and Malibu Creek watersheds; and (e) evidence supporting contentions made by Petitioners that they are not responsible for the violations.

The Executive Officer's action in issuing the Orders was improper because the Orders: (1) violate the procedures set forth in the MS4 Permit for responding to alleged exceedances of bacteria water quality objectives; (2) improperly seek information based on the SMBB TMDL, which was unlawfully incorporated into the MS4 Permit and water quality objectives and beneficial uses that were unlawfully established in the Regional Water Quality Control Plan ("Basin Plan") for the Los Angeles Region with respect to stormwater and urban runoff discharges; (3) improperly employ Water Code § 13383 as authority to seek the information demanded in the Orders, seek information that was not "reasonably required" pursuant to that statute, seek information regarding the quality of waters not impacted by Petitioners' MS4 discharges and not in the MS4 system, and based on NOV's lacking a factual basis; (4) seek information requiring extensive monitoring and investigation, in contravention of the monitoring program established

under the MS4 Permit, thereby amending the MS4 Permit without a hearing, in violation of the Porter-Cologne Act; (5) are improperly based on the allegation that Petitioners are jointly responsible for the alleged exceedances caused by others; and (6) represents an unfunded state mandate, the determination of which is left to the Commission on State Mandates in the first instance.

For the reasons set forth below, this Board should set aside the Orders.

B. PETITION FOR REVIEW

1. Name, Address, Telephone Number and E-mail Address of Petitioners:

County of Los Angeles and
Los Angeles County Flood Control District
c/o Dean D. Efstathiou, P.E.
Acting Director of Public Works
900 South Fremont Avenue
Alhambra, California 91803
Attn: Mark Pestrella, P.E.
Telephone: (626) 458- 4300
E-mail: mpestrel@ladpw.org

With a copy to:

Raymond G. Fortner, Jr., County Counsel
Judith A. Fries, Principal Deputy County Counsel
Laurie E. Dods, Deputy County Counsel
Kenneth Hahn Hall of Administration
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Howard Gest
David W. Burhenn
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624 S. Grand Ave., Suite 2200
Los Angeles, California 90017
Telephone: (213) 688-7715
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2. Regional Board Executive Officer Action State Board Is Requested To

Review/Copy of Order: Petitioners request that the State Board review the Orders, attached as Exhibit A, in their entirety, including the entire “Requirement to Provide Information” section of the Orders and the following requirements:

(1) The requirement to provide “reports” for “each of the shoreline and harbor monitoring sites, for which [Petitioners are] jointly responsible, where violations have been documented.”

(2) The requirement that the reports provide: “1. The source(s) of the violations for each shoreline and harbor compliance location, including an evaluation of dry weather discharges from the MS4 at each noncompliant shoreline and harbor location on the date(s) of the violations. The evaluation shall include, where available:

a. Details regarding dry weather discharge from the MS4 to each noncompliant shoreline and harbor location including, but not limited to storm drain position, volume estimate, flow direction, presence of ponding, and proximity to surf.

b. Details regarding existing treatment of summer dry weather discharge from the MS4 at each noncompliant shoreline and harbor location, and any upstream treatment including, but not limited to type(s) of treatment system(s), operational capability(ies), and operational status on date(s) of violation.

c. Results of any source investigation(s) of the subwatershed, pursuant to protocols established under CWC § 13178, detailing the locational and/or biological origin of the bacteria causing or contributing to RWL violations.”

(3) The requirement that the reports provide: “2. A detailed description of remedial actions taken prior to incorporation of the TMDL summer dry weather requirements into the LA MS4 Permit (i.e., before September 14, 2006 for shoreline sites along Santa Monica Bay, and before August 9, 2007 for harbor sites within Marina del Rey Harbor) and those remedial actions taken since, and the results thereof.”

(4) The requirement that the reports provide: “3. A detailed description of additional corrective and preventative actions that will be taken for summer dry weather discharges from the MS4 to preclude future violations. The report shall include a time schedule designed to achieve full compliance. This timeline shall not be construed as an authorization for any post or future RWL violations.”

(5) The requirement that the reports provide: “4. For site SMB BC-01, which is impacted by discharges from Ballona Creek watershed for which there is a separate bacteria TMDL to address bacteria impairments in Ballona Creek and its tributaries, an evaluation and supporting documentation of whether the sources causing the violations are originating from upstream sources within the Ballona Creek watershed, or whether the causes of the violations are originating from sources in proximity to the shoreline monitoring location. If the causes of the violations are originating from proximity to the shoreline monitoring location, then the [Order recipient] shall provide the information required in 1 through 3 above.”

(6) The requirement that the reports provide: “5. For sites SMB MC-01, SMB MC-02 and SMB MC-03, which are impacted by discharges from Malibu Creek watershed for which there is a separate bacteria TMDL to address bacteria impairments in Malibu Creek and its tributaries, an evaluation and supporting documentation of whether the sources causing the violations are originating from upstream sources within the Malibu

Creek watershed, or whether the causes of the violations are originating from sources in proximity to the shoreline monitoring location. If the causes of the violations are originating from proximity to the shoreline monitoring location, then the [Order recipient] shall provide the information required in 1 through 3 above.”

(7) The requirement that states: “In addition, should the [Order recipient] contend that it is not responsible for one or more of the violations, the [recipient] shall also submit the following information, if applicable:

1. Evidence that the RWL violation(s) at the shoreline or harbor monitoring site is not the result of a discharge from the MS4 but from some other source or discharges;
2. Evidence that the [Order recipient] does not discharge dry weather flow into the Santa Monica Bay or Marina del Rey Harbor at the shoreline or harbor monitoring site, respectively; and
3. Evidence that the [Order recipient’s] summer dry weather discharges into the Santa Monica Bay or Marina del Rey Harbor are treated to a level that does not exceed either the single sample or geometric mean bacteria RWLs.”

3. **Date on Which Regional Board Executive Officer Acted:** March 4, 2008.

4. **Statement of Reasons Why Action was Inappropriate or Improper:**

Petitioners seek this review because:

(1) The Regional Board has made an express finding in the MS4 Permit as to what procedures would be followed by the permittees if bacteria exceedances were recorded. That procedure is set forth in Finding E.37 of the MS4 Permit, and applies both to the SMBB TMDL and the Marina TMDL. Finding E.37 requires the Regional Board to generally first issue an investigative order “pursuant to Cal. Water Code § 13267 or § 13225” to determine the source of the exceedance. If the investigation determines that the permittee’s MS4 discharge is not responsible for causing or contributing to the exceedance, or that the discharge was appropriately treated, no

enforcement will follow. Only after following this procedure would “the Regional Board . . . consider appropriate enforcement action, including a cease and desist order with or without a time schedule for compliance, or other appropriate enforcement action depending upon the circumstances and the extent to which the Permittee(s) has endeavored to comply with these provisions.” MS4 Permit, Finding E.37. This process, which emphasizes first determining whether there was responsibility by the individual MS4 permittee for the exceedance of the bacteria objective at issue, was completely ignored by the Executive Officer in issuing the NOVs and Orders at issue here.

(2) The Orders seek information regarding alleged violations of receiving water limitations (“RWLs”) incorporated into the MS4 Permit on September 14, 2006 and August 9, 2007. Those receiving water limitations provide: “During Summer Dry Weather there shall be no discharges of bacteria from MS4s into the Santa Monica Bay that cause or contribute to exceedances in the Wave Wash, of the applicable bacteria objectives” and “During Summer Dry Weather there shall be no discharges of bacteria from MS4s into Marina del Rey Harbor Basins D, E, or F, including Mothers’ Beach that cause or contribute to exceedances of the applicable bacteria objectives” (MS4 Permit, p. 24). The receiving water limitations were incorporated to reflect the SMBB and Marina TMDLs, respectively.

With respect to the SMBB TMDL, as set forth in the Petition filed by the County of Los Angeles and the Los Angeles County Flood Control District with the State Board on or about October 16, 2006, such incorporation was unlawful and, thus, cannot form the basis for the NOVs and the Orders.

In addition, on information and belief, the water quality objectives and beneficial uses that are the subject of the RWLs were adopted by the Regional Board and placed in the Basin Plan for the Los Angeles Region without consideration of their application to stormwater. As such, the bacteria objectives cannot be lawfully applied to stormwater

discharges or urban runoff, and therefore cannot be a basis either for the violations alleged in the NOV's or for the Orders.

(3) The Executive Officer has improperly employed Water Code § 13383 as authority for the Orders. Section 13383 was intended by the Legislature to ensure that state law was consistent with the monitoring, reporting and inspection requirements of the Clean Water Act. This section provides a mechanism whereby a regional board can place "monitoring, inspection or entry" requirements in an NPDES permit and otherwise obtain information regarding a permittee's discharges. The Orders, however, are not being utilized for that purpose, but instead require, more broadly, the identification of the source of bacteria whether or not from Petitioners' discharges.

Section 13383 was not intended to, nor does it give, a regional board authority to issue broad investigatory orders requiring persons to investigate the source of pollutants not generated by or in their own discharges. In other words, under Section 13383, the Regional Board Executive Officer could request Petitioners to test and monitor their own discharges, but not order an investigation of the quality of waters in Santa Monica Bay or Marina del Rey Harbor in general, as the Orders do here.

In this regard, the Orders improperly require the generation of information not within petitioners possession or control. The Orders require an "evaluation" of "sources," including those "within proximity" of the shoreline. Thus, the Orders purport to require Petitioners to examine other sources and discharges in order to prove that their own discharges could not have caused an exceedance in the shoreline monitoring. This type of "evaluation" goes far beyond monitoring a point source discharge and exceeds the Executive Officer's authority under § 13383.

The Orders also improperly seek a wide variety of information not related to the nature or quantity or the constituents in the discharge. The information sought includes information on "corrective and preventative actions," provision of a "time schedule," "evaluation" of the sources of alleged exceedances, and the provision of exculpatory

evidence and other information, as described in Section 2 above. Such information goes far beyond the scope of an appropriate request under Section 13383, and is not information “reasonably required” of Petitioners under that statute.

The Orders improperly seek information on waters not impacted by discharges from the Petitioners’ MS4, the only discharges for which Petitioners have responsibility under the MS4 Permit. For example, the Orders seek information on exceedances at harbor and shoreline locations not near any MS4 discharge point. This stems from the fact that 20 of the 29 monitoring locations that recorded alleged exceedances of the bacteria standard were not established to monitor discharges from the MS4, and are not at MS4 discharge points. The Orders further seek detailed information on discharges from “sources in proximity to the shoreline monitoring location,” but do not specify that such sources be part of the MS4. The Orders further seek information on upstream sources in Malibu and Ballona Creek and tributaries, even though such waterways or parts of such waterways are not part of the MS4.

The Orders further improperly require Petitioners to investigate monitoring locations directly impacted by discharges from the Ballona Creek and Malibu Creek watersheds, even though the compliance dates associated with the bacteria TMDLs for these waterways are in the future and the RWLs associated with discharges from these watersheds have *not* been incorporated into the MS4 Permit and are therefore not enforceable. Requiring Petitioners to investigate and evaluate sources within these watersheds is therefore arbitrary and capricious.

Finally, the NOV’s on which the Orders are based lack a factual basis with respect to a number of the alleged exceedances, including with respect to the incorrect calculation of the geometric mean as well as the incorrect calculation of the number of alleged exceedances and an improper reliance on monitoring data.

(4) The MS4 Permit, which is alleged in the NOV’s and in the Orders to have been violated by Petitioners, contains a detailed monitoring program. By requiring Petitioners

to submit detailed reports not required in the monitoring program under the MS4 Permit, including the provision of exculpatory evidence and the investigation of non-MS4 discharges, the Orders modify and amend the monitoring program set forth in the MS4 Permit without notice or hearing, in violation of the Porter-Cologne Water Quality Act.

The MS4 Permit is both a NPDES permit and waste discharge requirement (“WDR”) issued by the Regional Board under the Porter-Cologne Act (see Water Code §§ 13370-13389). A WDR cannot be issued except through prior notice and hearing. Water Code § 13378. The Act further provides that only a *Regional Board* can modify a WDR, and that this function *cannot* be delegated to the executive officer. Water Code § 13223(a) (“Each regional board may delegate any of its powers and duties vested in it by [the Porter-Cologne Act] excepting only the following: . . . (2) the issuance, *modification*, or revocation of any water quality control plan, water quality objectives, or *waste discharge requirement*.”) (emphasis supplied).

(5) The Orders are based on the allegation that Petitioners are jointly responsible for the alleged exceedances. To the contrary, Petitioners are not responsible for the discharges of others and Section 13383 does not give the Executive Officer authority to require Petitioners to provide information about the discharges of others.

(6) The Orders represent an unfunded state mandate. This determination belongs in the first instance to the Commission on State Mandates. Government Code §§ 17551 and 17552.

See further the Statement of Points and Authorities attached as Exhibit B and incorporated herein.

5. How Petitioners are Aggrieved: The Orders purport to make Petitioners responsible for assembling detailed information with respect to alleged exceedances of bacteria water quality standards in a limited period of time. The effort required to assemble this information, to the extent it is even available, in the time frame required by the Orders will be very expensive, both in terms of the monitoring and investigative work

required to comply and in terms of the personnel hours required to perform the work. Petitioners have already spent millions of dollars to comply with the Santa Monica Bay Beaches and Marina del Rey Harbor bacteria TMDLs both prior and following their incorporation in the MS4 Permit. The failure to comply with the Orders, moreover, subjects Petitioners further to administrative civil liability, or potentially to judicially imposed civil penalties, of up to \$10,000 per day or \$25,000 per day, respectively. Additional discussion of the harm to Petitioners is set forth in the Statement of Points and Authorities.

6. **The Action That Petitioners Request The State Board to Take:** Petitioners request that the State Board issue an order either:

(a) setting aside the Regional Board's Executive Officer's Orders in their entirety;

or

(b) directing the Regional Board Executive Officer to withdraw the Orders directed to Petitioners.

7. **Statement of Points of Authorities in Support of Legal Issues Raised in the Petition:** See attached Exhibit B.

8. **Statement That the Petition Has Been Sent to the Regional Board Executive Officer:** A copy of this petition was mailed to the Regional Board Executive Officer, Tracy J. Egoscue, on April 3, 2008.

9. **Statement Regarding Raising Substantive Issues or Objections Before the Regional Board:** The substantive issues and objections raised in this Petition could not have come before the Regional Board because the Orders were issued by the Executive Officer, without prior notice or hearing.

Dated: April 3, 2008

Respectfully submitted,

RAYMOND G. FORTNER, JR.
County Counsel
JUDITH A. FRIES
Principal Deputy County Counsel
LAURIE E. DODS
Deputy County Counsel

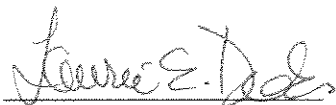
By: 
Laurie E. Dods
Attorneys for Petitioners
County of Los Angeles and
Los Angeles County Flood Control District

EXHIBIT A



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Linda S. Adams
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>

Arnold Schwarzenegger
Governor

March 4, 2008

Mr. William T. Fujioka
Chief Executive Officer
County of Los Angeles
500 West Temple Street, Room 713
Los Angeles, CA 90012

VIA CERTIFIED MAIL

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2008 MAR -7 AM 9:58
CHIEF EXECUTIVE OFFICE

**ORDER PURSUANT TO CALIFORNIA WATER CODE SECTION 13383
(REGARDING VIOLATIONS OF ORDER NO. 01-182 AS AMENDED BY ORDER NO.
R4-2006-0074 AND ORDER NO. R4-2007-0042, NPDES PERMIT NO. CAS004001, WDID
4B190107099)**

Dear Mr. Fujioka:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the state regulatory agency responsible for protecting water quality in Los Angeles and Ventura Counties. To accomplish this, the Regional Board issues permits under the National Pollutant Discharge Elimination System (NPDES) as authorized by the federal Clean Water Act. On December 13, 2001, this Regional Board adopted the Los Angeles County Municipal Separate Storm Sewer System Permit, NPDES Permit No. CAS004001, Order No. 01-182 (LA MS4 Permit), under which the County of Los Angeles is a Permittee.

BACKGROUND

The LA MS4 Permit was subsequently amended on September 14, 2006 by Order No. R4-2006-0074 and on August 9, 2007 by Order No. R4-2007-0042 to implement the summer dry weather waste load allocations established in the Santa Monica Bay Beaches Bacteria Dry Weather Total Maximum Daily Load (TMDL) and the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL. The summer dry weather requirements were incorporated in the LA MS4 Permit as specific Receiving Water Limitations (RWLs) for fecal indicator bacteria in Parts 2.5 and 2.6, and a supporting specific prohibition on discharges from the municipal separate storm sewer system (MS4) that cause or contribute to exceedances of the bacteria RWLs.

The Permittees collectively discharge urban runoff and storm water from the MS4 to the Santa Monica Bay and Marina del Rey Harbor, navigable waters of the United States, under the provisions and requirements of the LA MS4 Permit. These discharges, as demonstrated via shoreline and harbor water quality monitoring, contain total coliform, fecal coliform, enterococcus and other pollutants, which degrade water quality and impact beneficial uses of the

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receiving waters at beaches along Santa Monica Bay and within Marina del Rey Harbor. These bacterial indicators are defined as wastes under the California Water Code (CWC § 13000 et seq.).

As documented in the enclosed Notice of Violation, technical staff of the Regional Board has concluded that the County of Los Angeles is in violation of waste discharge requirements established in Board Order No. 01-182 as amended by Order No. R4-2006-0074 and Order No. R4-2007-0042, and has therefore violated CWC § 13376, and is subject to liability pursuant to CWC § 13385.

The data submitted in the Permittees' shoreline and harbor monitoring reports for the summer dry weather compliance periods, beginning on September 14, 2006 through October 31, 2006 and April 1, 2007 through October 31, 2007, reveal violations of the RWLs set forth in Parts 2.5 and 2.6 of Order No. 01-182 as amended by Order No. R4-2006-0074 and Order No. R4-2007-0042. These violations occurred at 29 shoreline and harbor monitoring sites located along Santa Monica Bay beaches and within Marina del Rey Harbor to which the County of Los Angeles discharges via the MS4, on 923 days, which included 1,603 instances where the bacteria water quality objectives set to protect water contact recreation were exceeded. These violations are detailed in the enclosed Notice of Violation. The County of Los Angeles is jointly responsible for violations at these monitoring sites along with the other Permittees with land area within the watersheds draining to these sites.

REQUIREMENT TO PROVIDE INFORMATION

California Water Code § 13383 provides the Regional Board the authority to require a Permittee to monitor and report and provide other information, under penalty of perjury, that the Regional Board requires. **Pursuant to CWC § 13383, the County of Los Angeles is hereby ordered to submit the information required in this Order by April 21, 2008.** Furthermore, pursuant to CWC § 13385, failure to comply with any requirements established pursuant to CWC § 13383 may result in the imposition of administrative civil liability penalties by the Regional Board of up to \$10,000 for each day in which the violation occurs after the April 21, 2008 due date. (CWC § 13385(a)(3).)

Pursuant to CWC § 13383, the Regional Board directs the County of Los Angeles to provide information evaluating and documenting (i) the causes of the violations, (ii) remedial actions taken prior to incorporation of the TMDL summer dry weather requirements into the LA MS4 Permit and those taken since, and (iii) the County's plans for additional corrective and preventative actions to bring MS4 discharges into compliance with the bacteria RWLs applicable to the Santa Monica Bay and Marina del Rey Harbor for the upcoming summer dry weather period, beginning on April 1, 2008.

Specifically, the County of Los Angeles is required to submit reports providing the following information for each of the shoreline and harbor monitoring sites, for which it is jointly responsible, where violations have been documented. The reports shall be signed by an authorized signatory for the County of Los Angeles, under penalty of perjury. The reports shall provide:

1. The source(s) of the violations for each shoreline and harbor compliance location, including an evaluation of dry weather discharges from the MS4 at each noncompliant shoreline and harbor location on the date(s) of the violations. The evaluation shall include, where available:
 - a. Details regarding dry weather discharge from the MS4 to each noncompliant shoreline and harbor location including, but not limited to storm drain position, volume estimate, flow direction, presence of ponding, and proximity to surf.
 - b. Details regarding existing treatment of summer dry weather discharge from the MS4 at each noncompliant shoreline and harbor location, and any upstream treatment including, but not limited to type(s) of treatment system(s), operational capability(ies), and operational status on date(s) of violation.
 - c. Results of any source investigation(s) of the subwatershed, pursuant to protocols established under CWC § 13178, detailing the locational and/or biological origin of the bacteria causing or contributing to RWL violations.
2. A detailed description of remedial actions taken prior to incorporation of the TMDL summer dry weather requirements into the LA MS4 Permit (i.e., before September 14, 2006 for shoreline sites along Santa Monica Bay, and before August 9, 2007 for harbor sites within Marina del Rey Harbor) and those remedial actions taken since, and the results thereof.
3. A detailed description of additional corrective and preventative actions that will be taken for summer dry weather discharges from the MS4 to preclude future violations. The report shall include a time schedule designed to achieve full compliance. This timeline shall not be construed as an authorization for any past or future RWL violations.
4. For site SMB BC-01, which is impacted by discharges from Ballona Creek watershed for which there is a separate bacteria TMDL to address bacteria impairments in Ballona Creek and its tributaries, an evaluation and supporting documentation of whether the sources causing the violations are originating from upstream sources within the Ballona Creek watershed, or whether the causes of the violations are originating from sources in proximity to the shoreline monitoring location. If the causes of the violations are originating from sources in proximity to the shoreline monitoring location, then the County of Los Angeles shall provide the information required in 1 through 3 above.

5. For sites SMB MC-01, SMB MC-02 and SMB MC-03, which are impacted by discharges from Malibu Creek watershed for which there is a separate bacteria TMDL to address bacteria impairments in Malibu Creek and its tributaries, an evaluation and supporting documentation of whether the sources causing the violations are originating from upstream sources within the Malibu Creek watershed, or whether the causes of the violations are originating from sources in proximity to the shoreline monitoring location. If the causes of the violations are originating from sources in proximity to the shoreline monitoring location, then the County of Los Angeles shall provide the information required in 1 through 3 above.

In addition, should the County of Los Angeles contend that it is not responsible for one or more of the violations, the County shall also submit the following information, if applicable:

1. Evidence that the RWL violation(s) at the shoreline or harbor monitoring site is not the result of discharge from the MS4 but from some other sources or discharges;
2. Evidence that the County of Los Angeles does not discharge dry weather flow into the Santa Monica Bay or Marina del Rey Harbor at the shoreline or harbor monitoring site, respectively; and
3. Evidence that the County of Los Angeles' summer dry weather discharges into the Santa Monica Bay or Marina del Rey Harbor are treated to a level that does not exceed either the single sample or geometric mean bacteria RWLs.

CIVIL LIABILITY

Pursuant to CWC § 13385(a)(3), the County of Los Angeles is subject to penalties of up to \$10,000 for any violation of the requirements set forth in this Order. These civil liabilities may be assessed by the Regional Board beginning with the date on which a violation of this Order first occurred, and without further warning. The Regional Board may also request that the State Attorney General seek judicially imposed civil liabilities of up to \$25,000 for each day in which a violation occurs, or injunctive relief, pursuant to CWC §§ 13385 and 13386. The County of Los Angeles may also be subject to penalties pursuant to other sections, and other forms of enforcement proceedings, in addition to those described above, if compliance does not timely occur.

RIGHT TO PETITION

Pursuant to CWC § 13320, an aggrieved person may seek review of this Order by filing a petition within 30 days of the date of this Order with the State Water Resources Control Board (SWRCB). The petition must be sent to the SWRCB, P.O. Box 100, Sacramento, CA 95812.

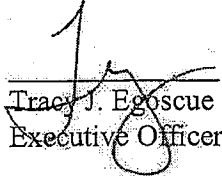
California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

If you have any questions regarding this matter, please contact me at (213) 576-6605, or alternatively, your staff may contact Mr. Carlos Urrunaga at (213) 620-2083.

Sincerely,


Tracy J. Egoscue
Executive Officer

Enclosure: Notice of Violation, dated March 4, 2008

cc: Mr. Jan Takata, Chief Executive Office, County of Los Angeles
Mr. Michael Levy, Office of Chief Counsel, State Water Resources Control Board
Mr. Bruce Fujimoto, Storm Water Section, State Water Resources Control Board
Mr. Eugene Bromley, U.S. EPA, Region 9

California Environmental Protection Agency



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California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Linda S. Adams
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>

Arnold Schwarzenegger
Governor

March 4, 2008

Mr. William T. Fujioka
Chief Executive Officer
County of Los Angeles
500 West Temple Street, Room 713
Los Angeles, CA 90012

VIA CERTIFIED MAIL

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CHIEF EXECUTIVE OFFICER

NOTICE OF VIOLATION (ORDER NO. 01-182 AS AMENDED BY ORDER NO. R4-2006-0074 AND ORDER NO. R4-2007-0042, NPDES PERMIT NO. CAS004001, SWDIS 4B190107099)

Dear Mr. Fujioka:

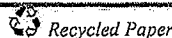
The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the state regulatory agency responsible for protecting water quality in Los Angeles and Ventura Counties. To accomplish this, the Regional Board issues permits under the National Pollutant Discharge Elimination System (NPDES) as authorized by the federal Clean Water Act. On December 13, 2001, this Regional Board adopted the Los Angeles County Municipal Separate Storm Sewer System Permit, NPDES Permit No. CAS004001, Order No. 01-182 (LA MS4 Permit), under which the County of Los Angeles is a Permittee.

BACKGROUND

The LA MS4 Permit includes Discharge Prohibitions, Receiving Water Limitations, and a Monitoring and Reporting Program, among other requirements. Under Part 1, Discharge Prohibitions, the LA MS4 Permit requires that the Permittees "effectively prohibit non-storm water discharges into the MS4 [municipal separate storm sewer system] and watercourses," except under limited circumstances, as specified in Part 1. Under Part 2, Receiving Water Limitations, the LA MS4 Permit prohibits "discharges from the MS4 that cause or contribute to the violation of Water Quality Standards or water quality objectives."

The LA MS4 Permit was subsequently amended on September 14, 2006 by Order No. R4-2006-0074 and on August 9, 2007 by Order No. R4-2007-0042 to implement the summer dry weather waste load allocations established in the Santa Monica Bay Beaches Bacteria Dry Weather Total Maximum Daily Load (TMDL) and the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL. The summer dry weather requirements were incorporated in the LA MS4 Permit as specific Receiving Water Limitations (RWLs) for fecal indicator bacteria in Parts 2.5 and 2.6, and a supporting specific prohibition on discharges from the MS4 that cause or contribute to exceedances of the bacteria RWLs.

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The Permittees collectively discharge urban runoff and storm water from the MS4 to the Santa Monica Bay and Marina del Rey Harbor, navigable waters of the United States, under the provisions and requirements of the LA MS4 Permit. These discharges, as demonstrated via shoreline and harbor water quality monitoring, contain total coliform, fecal coliform, enterococcus and other pollutants, which degrade water quality and impact beneficial uses of the receiving waters at beaches along Santa Monica Bay and within Marina del Rey Harbor. These bacterial indicators are defined as wastes under the California Water Code (CWC § 13000 et seq.).

VIOLATIONS OF RECEIVING WATER LIMITATIONS

The County of Los Angeles is hereby notified that technical staff has concluded that the County is in violation of waste discharge requirements established in Board Order No. 01-182 as amended by Order No. R4-2006-0074 and Order No. R4-2007-0042, and has therefore violated CWC § 13376, and is subject to liability pursuant to CWC § 13385.

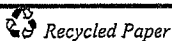
The data submitted in the Permittees' shoreline and harbor monitoring reports for the summer dry weather compliance periods, beginning on September 14, 2006 through October 31, 2006 and April 1, 2007 through October 31, 2007, reveal violations of the RWLs set forth in Parts 2.5 and 2.6 of Order No. 01-182 as amended by Order No. R4-2006-0074 and Order No. R4-2007-0042. These violations occurred at 29 shoreline and harbor monitoring sites located along Santa Monica Bay beaches and within Marina del Rey Harbor to which the County of Los Angeles discharges via the MS4, on 923 days, which included 1,603 instances where the bacteria water quality objectives set to protect water contact recreation were exceeded. These violations are summarized in Table 1, detailed in the attachments, and incorporated herein by reference. The County of Los Angeles is jointly responsible for violations at these monitoring sites along with the other Permittees with land area within the watersheds draining to these sites.

CIVIL LIABILITY

Pursuant to CWC § 13385, the County of Los Angeles is subject to penalties of up to \$10,000 for each day in which a violation of RWLs occurs. These civil liabilities may be assessed by the Regional Board beginning with the date that the violations first occurred, and without further warning. The Regional Board may also request that the State Attorney General seek judicially imposed civil liabilities of up to \$25,000 for each day in which a violation occurs, or injunctive relief, pursuant to CWC §§ 13385 and 13386. The County of Los Angeles may also be subject to penalties pursuant to other sections, and other forms of enforcement proceedings, in addition to those described above.

To ensure that the causes of the violations are identified and abated, enclosed herewith, please find an Order directing the County of Los Angeles to submit a variety of reports pursuant to CWC § 13383. Specifically, these reports shall provide an evaluation and documentation of the causes of these violations, remedial actions to date, and the County's plans for additional

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corrective and preventative actions to bring discharges from the MS4 into prompt compliance with the bacteria RWLs applicable to the Santa Monica Bay and Marina del Rey Harbor.

If you have any questions regarding this matter, please contact me at (213) 576-6605, or alternatively, your staff may contact Mr. Carlos Urrunaga at (213) 620-2083.

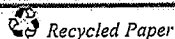
Sincerely,


Tracy J. Egoscue
Executive Officer

Enclosures: Table 1
Attachments 1-18, 21, 34-43
Order Pursuant to California Water Code Section 13383, dated March 4, 2008

cc: Mr. Jan Takata, Chief Executive Office, County of Los Angeles
Mr. Michael Levy, Office of Chief Counsel, State Water Resources Control Board
Mr. Bruce Fujimoto, Storm Water Section, State Water Resources Control Board
Mr. Eugene Bromley, U.S. EPA, Region 9

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TABLE 1

LOS ANGELES COUNTY
SUMMARY OF VIOLATIONS OF BACTERIA
RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042

Site ID	Single Sample RWL Violations				30-day Geometric Mean RWL Violations			Total RWL Violations by Site	Total Days of Violations by Site
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus		
MdRH-1	0	9	13	9	0	22	32	85	42
MdRH-2	0	2	4	1	0	0	0	7	6
MdRH-3	0	1	0	1	0	0	0	2	1
MdRH-5	0	3	2	1	28	26	2	62	29
MdRH-6 (D)	0	0	0	0	12	0	0	12	12
MdRH-6 (S)	1	0	0	0	49	0	0	50	49
MdRH-7	0	2	0	2	37	12	0	53	38
MdRH-9 (S)	0	1	1	0	0	0	0	2	1
SMB 1-06	0	1	2	1	0	0	0	4	2
SMB 1-07	1	1	4	1	0	0	45	52	47
SMB 1-08	0	1	1	1	0	0	0	3	1
SMB 1-09	1	1	4	1	0	0	32	39	34
SMB 1-10	0	1	4	3	19	0	71	98	74
SMB 1-11	0	0	1	0	0	0	0	1	1
SMB 1-12	11	9	32	8	129	33	197	419	197
SMB 1-13	1	0	4	1	0	0	41	47	41
SMB 1-18	1	6	6	4	0	0	0	17	10
SMB 2-01	10	9	19	3	48	40	69	198	75
SMB 2-07	0	1	8	1	0	0	0	10	10
SMB 4-01	0	1	0	1	0	0	0	2	1
SMB 5-02	6	7	10	5	0	0	11	39	21
SMB 5-03	0	0	0	1	0	0	0	1	1
SMB 6-01	0	2	4	2	0	0	0	8	4
SMB 6-05	1	1	0	1	0	0	0	3	3
SMB 7-07	0	0	4	0	0	0	5	9	9
SMB BC-01	30	15	7	8	113	36	0	209	119
SMB MC-01	0	1	0	0	4	1	13	19	14
SMB MC-02	7	25	9	18	28	37	8	132	62
SMB MC-03	0	0	3	1	0	0	16	20	19
Totals	70	100	142	75	467	207	542	1603	923

ATTACHMENTS

**VIOLATIONS OF BACTERIA RECEIVING WATER LIMITATIONS BY
SHORELINE AND HARBOR MONITORING SITES**

VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrH-1, MOTHERS' BEACH

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
8/15/2007				1100			
8/22/2007			190				
8/25/2007			360				
9/1/2007		3400	830	4200			
9/4/2007		740		1700			
9/5/2007			500	1200			
9/6/2007			410	1500			36
9/7/2007		1500	410	3000			42
9/8/2007		4200	1700	5900			52
9/9/2007							55
9/10/2007							55
9/11/2007			140				57
9/12/2007		1700		1700			61
9/13/2007							58
9/14/2007		430	110				58
9/15/2007			290			204	67
9/16/2007						214	72
9/17/2007						224	72
9/18/2007						214	68
9/19/2007						214	66
9/20/2007						214	66
9/21/2007						214	64
9/22/2007						225	69
9/23/2007						238	70
9/24/2007						233	64
9/25/2007						233	64
9/26/2007						233	64
9/27/2007						226	64
9/28/2007						239	68
9/29/2007						246	71
9/30/2007						263	71
10/1/2007						216	59
10/2/2007		430				223	56
10/3/2007						228	55
10/4/2007						215	54
10/5/2007		430	180			219	52
10/6/2007						212	47
10/7/2007							42
10/19/2007			110				
10/26/2007			660				
10/27/2007		500					

**VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrH-1, MOTHERS' BEACH**

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
10/30/2007				2400			
Total Violations	0	9	13	9	0	22	32

Notes: Site ID refers to sites identified in the "Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan," dated June 25, 2007.

* Regional Board staff calculated the rolling 30-day geometric mean values presented.

**VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrRH-2/S9, MOTHERS' BEACH**

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	102	1000	1000	200	35
9/1/2007			120				
9/5/2007			110				
9/17/2007		580					
10/25/2007			140				
10/26/2007			620				
10/27/2007		2000		2000			
Total Violations	0	2	4	1	0	0	0

Notes: The Site ID MdrRH-2 refers to sites identified in the "Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan," dated June 25, 2007. The Site ID S9 refers to sites identified in the Monitoring and Reporting Program CI 6948 for Order No. 01-182 as amended by Order No. R4-2006-0074 and Order No. R4-2007-0042. Site MdrRH-2 and S9 are the same sampling site.

* Regional Board staff calculated the rolling 30-day geometric mean values presented.

**VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
 AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
 ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
 SITE ID MdrH-3, MOTHERS' BEACH**

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
9/17/2007		2600		2700			
Total Violations	0	1	0	1	0	0	0

Notes: Site ID refers to sites identified in the "Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan," dated June 25, 2007.

* Regional Board staff calculated the rolling 30-day geometric mean values presented.

**VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrH-5, OXFORD BASIN SD**

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
8/13/2007	>13000	1900	110	>13000			
9/4/2007	>13000	4200	150	>13000	1258	233	
9/5/2007					2261	299	
9/6/2007		1300		6800	2716	382	37
9/7/2007					2716	382	37
9/8/2007					1884	298	
9/9/2007					1884	298	
9/10/2007					1799	247	
9/11/2007					1799	247	
9/12/2007					1356		
9/13/2007					1356		
9/14/2007					1011	219	
9/15/2007					1011	219	
9/16/2007					1011	219	
9/19/2007					1011	219	
9/20/2007					1011	219	
9/21/2007					1011	219	
9/22/2007					1011	219	
9/23/2007					1011	219	
9/24/2007					1011	219	
9/25/2007					1011	219	
9/26/2007					1101	277	
9/27/2007					1101	277	
9/28/2007					1101	277	
9/29/2007					1101	277	
9/30/2007					1101	277	
10/1/2007					1172	219	
10/2/2007					1172	219	
10/3/2007					1172	219	
Total Violations	0	3	2	1	28	26	2

Notes: Site ID refers to sites identified in the "Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan," dated June 25, 2007.

* Regional Board staff calculated the rolling 30-day geometric mean values presented.

**VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrH-6 DEPTH, BASIN E**

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
10/10/2007					1149		
10/11/2007					1149		
10/12/2007					1149		
10/13/2007					1149		
10/14/2007					1149		
10/15/2007					1149		
10/16/2007					1149		
10/17/2007					1124		
10/18/2007					1124		
10/19/2007					1124		
10/20/2007					1124		
10/21/2007					1124		
Total Violations	0	0	0	0	12	0	0

Notes: Site ID refers to sites identified in the "Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan," dated June 25, 2007.

* Regional Board staff calculated the rolling 30-day geometric mean values presented.

VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrH-6 SURFACE, BASIN E

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
8/9/2007					1932		
8/10/2007					1932		
8/11/2007					1932		
8/12/2007					1932		
8/13/2007	17000				2535		
8/14/2007					2535		
8/15/2007					2877		
8/16/2007					2877		
8/17/2007					2603		
8/18/2007					2603		
8/19/2007					2603		
8/20/2007					2072		
8/21/2007					2072		
8/22/2007					3113		
8/23/2007					3113		
8/24/2007					3113		
8/25/2007					3113		
8/26/2007					3113		
8/27/2007					2864		
8/28/2007					2864		
8/29/2007					2465		
8/30/2007					2465		
8/31/2007					1868		
9/1/2007					1868		
9/2/2007					1825		
9/3/2007					1825		
9/4/2007					1570		
9/5/2007					2305		
9/6/2007					2305		
9/7/2007					2305		
9/8/2007					2305		
9/9/2007					2305		
9/10/2007					1602		
9/11/2007					1602		
10/17/2007					1006		
10/18/2007					1006		
10/19/2007					1006		
10/20/2007					1006		
10/21/2007					1006		
10/22/2007					1948		
10/23/2007					1948		
10/24/2007					1948		
10/25/2007					1948		
10/26/2007					1948		

VIOLATIONS OF RECEIVING WATER LIMITATIONS FOR SUMMER DRY WEATHER PERIOD
AUGUST 9, 2007 THROUGH OCTOBER 31, 2007
ORDER NO. 01-182 AS AMENDED BY ORDERS R4-2006-0074 AND R4-2007-0042
SITE ID MdrH-6 SURFACE, BASIN E

Date of Violation(s)	Single Sample Result (MPN/100 ml)				30-day Geometric Mean Result* (MPN/100 ml)		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform (Fecal:Total Coliform Ratio > 0.1)	Total Coliform	Fecal Coliform	Enterococcus
Basin Plan Limits	10000	400	104	1000	1000	200	35
10/27/2007					1948		
10/28/2007					1948		
10/29/2007					1343		
10/30/2007					1343		
10/31/2007					1139		
Total Violations	1	0	0	0	49	0	0

Notes: Site ID refers to sites identified in the "Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan," dated June 25, 2007.

* Regional Board staff calculated the rolling 30-day geometric mean values presented.