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COUNTY OF LOS ANGELES

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IN REPLY PLEASE
REFER TO FILE: WM-11

January 14, 2016

Mr. Ryan Mallory-Jones
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Dear Mr. Mallory-Jones:

**LOS ANGELES COUNTY MUNICIPAL SEPARATE STORM
SEWER PERMIT – RESPONSE TO PETITION FOR
REVIEW OF WATERSHED MANAGEMENT PROGRAM APPROVALS
STATE WATER RESOURCES CONTROL BOARD/OCC FILE A-2386**

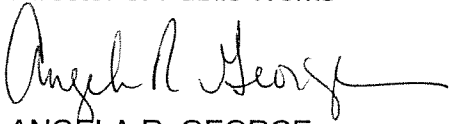
Enclosed are the County of Los Angeles and the Los Angeles County Flood Control District's written comments in response to the Petition and the Addendum For Petition For Review of Los Angeles Regional Water Quality Control Board Executive Office's action to approve nine Watershed Management Programs (WMPs) pursuant to the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit Order No. R4-2012-0175, National Pollutant Discharge Elimination System Permit No. CAS004001, waste discharge requirements for MS4 discharges within the coastal watersheds of Los Angeles County, except those discharges originating from the City of Long Beach MS4 Permit.

Mr. Ryan Mallory-Jones
January 14, 2016
Page 2

If you have any questions or need additional information, please contact me at (626) 458-4300 or ageorge@dpw.lacounty.gov or your staff may contact Ms. Jolene Guerrero at (626) 458-4364 or jguerrer@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

A handwritten signature in black ink, appearing to read "Angela R. George", with a long horizontal flourish extending to the right.

ANGELA R. GEORGE
Assistant Deputy Director
Watershed Management Division

JFG:sw

P:\wmpubl\Secretarial\2016 Documents\Letters\County MS4 objection\Draft County MS4 Objection to NGO WMP Petition 121015.doc\C16010

Enc.

cc: Petitioners and ccs on State Board's November 10, 2015, letter

LOS ANGELES COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT – RESPONSE TO PETITION AND ADDENDUM FOR PETITION FOR REVIEW OF WATERSHED MANAGEMENT PROGRAM APPROVALS

The County of Los Angeles (County) and the Los Angeles County Flood Control District (District) hereby submit this response to Petitioners Natural Resource Defense Council, Los Angeles Waterkeeper, and Heal the Bay's May 28, 2015, Petition for Review (Original Petition), submitted to the Los Angeles Regional Water Quality Control Board (Regional Board) and the State Water Resources Control Board (State Board), and to Petitioners' October 30, 2015, Addendum to the Petition (Addendum), submitted to the State Board.

The Original Petition sought review of the Regional Board Executive Officer's April 28, 2015, approval of nine Watershed Management Programs (WMPs) under the Los Angeles County Municipal Stormwater Permit (MS4 Permit). The Addendum challenges the Regional Board's September 10, 2015, affirmance of three of those approvals.

The Executive Officer's action approving the nine WMPs and the Regional Board's affirmance of those approvals should be upheld.¹

Approved Watershed Management Plans with County/District Participation

The County and District are Co-Permittees under the Permit, with one or both as participants with other Co-Permittees in six of the nine approved as follows:

- Los Angeles River Upper Reach 2 Sub Watershed WMP (District)
- Lower Los Angeles River Watershed WMP (District)
- Alamitos Bay/Los Cerritos Channel WMP (County/District)
- Los Cerritos Channel Watershed WMP (District)
- Lower San Gabriel River WMP (District)
- Santa Monica Bay Jurisdictional Group 7 WMP (District)

¹ Pursuant to California Water Code § 13320, an aggrieved person must file a petition for review of an action by a Regional Board within thirty days of that action. Petitioner's Addendum was filed fifty days after the Regional Board's action. Petitioners' challenge set forth in the Addendum is therefore untimely and should be denied on this ground alone.

The Executive Officer Acted Within His Delegated Authority in Approving the WMPs and Approval Was Not a Modification of the Permit

In their Addendum, Petitioners revise their request for relief to state that they are now challenging solely the Regional Board's action ratifying the Executive Officer's final approval of these three WMPs (Addendum, p. 27). It is not clear from Petitioners' filings whether Petitioners have abandoned the contentions raised in their Original Petition and are now limiting their petition to the issues raised by the Addendum, namely the review of the Regional Board's action affirming the Executive Officer's approval of three WMPs, the WMPs for the Los Angeles River Upper Reach 2 Subwatershed, the Lower Los Angeles River Watershed, and the Lower San Gabriel River Watershed. To the extent Petitioners are still pursuing the contentions in their Original Petition, the County and the District respectfully refer the State Board to the County and District's comments filed with the Regional Board on August 3, 2015 (Attachment A), and incorporate those comments by reference herein.

During the hearing on the Original Petition, the Regional Board found that the Executive Officer had the authority to approve the WMPs with conditions and those approvals were not a modification of the permit (Reporter's Transcript ("Tr.", Attachment B), September 10, 2015, at 328-29, 365-66). With respect to the conditional approval, Regional Board counsel advised the Board of the well-established law supporting the Executive Officer's action.² (Tr. at 234:13-25).

The Regional Board Counsel also advised the Board that the conditional approval letter instructed permittees to begin implementation immediately and did not modify the Permit. (Tr. at 237:15-21).

The Permit delegates to the Executive Officer the authority to approve the WMPs. As explained further in the attached Comment Letter to the Regional Board dated August 3, 2015, it is a well-settled law that regulatory agencies must be given deference to interpret their own requirements and regulations, including their own permits, and the Regional Board appropriately rejected the Original Petition.

The WMPs Met the MS4 Permit and State Order Requirements

a. The Approval of the WMPs

By approving the WMPs, the Executive Officer and the Regional Board staff appropriately implemented the Permit requirements. Numerous and extensive Permit implementation steps were summarized by the Executive Officer and Regional Board

² The State Board Order WQ 2015-0075 responding to petitions on the LA MS4 permit further supports this well-established law. In Order WQ 2015-0075 the State Board describes the approvals of WMPs as "conditional approvals" (State Order, p. 7 and 53), thereby tacitly acknowledging the State Board recognition of conditional approvals as legal and appropriate.

staff in testimony to the Regional Board during the hearing on the Original Petition (Tr. at 245-49):

- (1) The WMP development and review process officially began in June 2013, six months after the Permit's adoption, when the permittees were required to submit a notification of intent.
- (2) Discussion about the contents of the WMPs in fact had begun, immediately after the Permit was adopted and early into 2013.
- (3) In June 2013, the Regional Board convened a Technical Advisory Committee (TAC) that included representatives of the WMP and Enhanced Watershed Management Program Permittee groups and included the Petitioners. The TAC held eleven monthly meetings between June 2013 and June 2014.
- (4) A significant focus of these TAC meetings was the development of an appropriate Reasonable Assurance Analysis (RAA).
- (5) The TAC meetings led to the development of a RAA guidance document prepared by Regional Board staff.
- (6) In June 2014, permittees submitted their first draft WMPs.
- (7) After submission, the draft WMPs were made available for public review and a 46-day public comment period.
- (8) Regional Board staff undertook a four month review of each of the WMPs.
- (9) A workshop was held on the draft WMPs at the Regional Board's October 2014 meeting.
- (10) In October 2014 Regional Board staff provided written comments on the draft WMPs.
- (11) Regional Board staff used a multidisciplinary cross-program team approach in reviewing all the WMPs. Each team had a lead reviewer who coordinated their review with a counterpart at U.S. Environmental Protection Agency (USEPA) Region IX.
- (12) Each reviewing team was given a common set of review and evaluation questions, and met regularly together to assure consistency of the reviews among Regional Board staff.
- (13) In reviewing the WMPs, Regional Board staff evaluated each program against the applicable permit provisions; considered USEPA Region IX's comments; considered public comments submitted during the public comment period; considered the feedback that was provided by the Regional Board Members during the October 2014 workshop,

the technical discussions at the TAC meetings, and the RAA guidelines that staff had prepared; and considered Total Maximum Daily Load (TMDL) implementation plans where they existed.

(14) After issuance of the comments, the Regional Board staff met with the permittees as well as other stakeholders to discuss those comments. As Regional Board staff testified, in some cases, it became clear that the staff's comment was better addressed through an explanation, an alternate approach to address the issue, or commitment to data collection under the coordinated integrated monitoring programs of the permit.

(15) After discussions with Regional Board staff and in response to staff's comments, the Permittees submitted revised draft WMPs.

(16) Regional Board staff then performed a review of the revised WMPs as part of this second round of reviews. Regional Board staff held a public meeting to discuss the revised drafts and take stakeholder comments.

(17) After completing this review in April 2015, "the Executive Officer determined that each [WMP] met the requirements of the permit and approved each one of them. At this point the Executive Officer directed the permittees to begin implementation of the watershed management program, and the permittees did so." (Tr. at 251)

(18) According to the Original Petition hearing transcript, Regional Board staff used their professional judgment to evaluate the WMPs; the WMPs were based on well accepted technical approaches and met the permit requirements (Tr. at 241-43).

The Executive Officer's approval of the WMPs and the Regional Board's affirmance of those approvals was not perfunctory. To the contrary, the Regional Board staff performed a robust and extensive review of each of the WMPs before approving them, holding extensive meetings and workshops, comparing the WMPs against the Permit's requirements, and considering USEPA Region IX and public comments. During the hearing on the Original Petition, the Regional Board then considered that review, as well as additional evidence presented at the hearing, in affirming the Executive Officer's actions and rejecting the Original Petition.

b. The Los Angeles River Upper Reach 2 (LAR-UR2) WMP complies with the MS4 Permit and State Order, and Ensures Compliance with Water Quality Standards

1. Reasonable Assurance Analysis

Petitioners contend that the model used to support the RAA for the Los Angeles Upper Reach 2 WMP was not adequately calibrated. This contention lacks merit.

The Permit specifies that an RAA shall be conducted using a quantitative and peer-reviewed model in the public domain. The Permit specifically mentions the Watershed Management Modeling System (WMMS) and Structural Best Management

Practice Prioritization and Analysis Tool (SBPAT). (Permit Part VI.C.5.b.iv(3)). The Los Angeles Upper Reach 2 WMP used both the WMMS and SBPAT models.

At the September 10, 2015, hearing on the Original Petition, Regional Board staff described the extensive review and care they undertook to ensure that the RAA complied with the Permit. Regional Board staff testified that:

“the RAAs represent the most extensive use of stormwater modeling to implement an MS4 to date, and all use state-of-the-art peer-reviewed models that are regionally calibrated for L.A. County watershed, including the L.A. . . . River Watershed and the San Gabriel River Watershed. And we feel that these models, as they have been developed and for these particular watersheds, are very robust starting point at this point for the Reasonable Assurance Analysis...

Unlike . . . a situation where a city from say Nevada or Wyoming might be using a nationally-developed model that lacks region-specific data, the permittees in L.A. County were able to use models that were pre-calibrated at the county-wide level, namely the Watershed Management Modeling system that was developed by the County of Los Angeles. . . . (Tr. at 257-58).

Regional Board staff then testified that, “the Reasonable Assurance Analysis . . . will be further refined through the adaptive management process as more local data become available from the expanded monitoring programs that are going to be implemented under this permit. And, in fact, those monitoring programs, certain elements of those have already begun. And we are going to see a significant amount of new wet-weather monitoring, assuming we have some rain, during the coming wet-weather season.” (Tr. at 258-59)

Regional Board Staff further testified that staff had discussions with the Upper Reach 2 watershed management group about the fact that the models identified for use in the Permit were generally not reliable with respect to dry weather run-off and in response the permittees presented reasonable strategies for addressing dry weather run-off (Tr. at 263-64).

Regional Board staff testified that the WMMS model was calibrated for hydrology and water quality within the Los Angeles River watershed and, because the Upper Reach 2 group was using both the WMMS, as well as SBPAT, the group took the output from the WMMS, and compared it to the SBPAT model to make sure that they matched. They then used the WMMS calibration to adjust some of the SBPAT parameters (Tr. at 264-66).

Petitioners' contention that the model was not adequately calibrated thus lacks merit. The model was calibrated using the best available data that is much more specific than used in models in other parts of the country. The WMMS underwent extensive regional calibration based on land-use specific monitoring that was validated by comparing the results to instream monitoring data from Mass Emissions, Tributary, and TMDL monitoring programs. The model underwent peer review and its development included collaboration from Regional Board, Heal the Bay and other stakeholders. The WMMS is the state of science in modeling for the region (Tr. at 284-86).

Indeed, models such as WMMS have been used by the Regional Board to develop TMDLs³ for the LA Region, as well as other studies by the Bureau of Reclamation and academic institutions.

2. Compliance and Adaptive Management

The Petitioners accuse the LAR-UR2 WMP of lacking a strategy to comply with interim and final water quality deadlines (Addendum, pp. 7-8 and 9-12). This contention is also erroneous. The WMP sets forth a detailed strategy throughout the WMP and summarized on Tables 3.1, 3.8, and 5.1 with specific dates for implementation actions in order to meet both interim and final deadlines. Regional Board Staff testified about milestones such as these in the context of discussing the Lower San Gabriel River watershed WMP (Tr. at 260-61).

The Petitioners also portray the Adaptive Management Process in the LAR-UR2 WMP as failing to meet the requirements of the Permit (Addendum, p 9, lines 19-21). To the contrary, the LAR-UR2 WMP provides details about the Adaptive Management process throughout the document in the relevant sections (LAR UR2 WMP, p vii, 1, 20, 29, 36, 37, 39, 43, 54, 67, 79, and 116). Furthermore, the adaptive management reporting required in the revised Permit, based on the State Order, includes extensive additional requirements that the WMP group will provide (Part VI.C.8.a.iv).

³ Models were used to develop the following TMDLs:

- Santa Monica Bay Beaches Bacteria TMDL (2003)
- Malibu Creek Bacteria TMDL (2006)
- Ballona Creek Toxics/Metals TMDL (2006)
- Calleguas Creek Metals and Selenium TMDL (2007)
- LA River Metals TMDL (2008)
- Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL (2011)

See: Regional Board website:

http://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/tmdl_list.shtml

In this regard, Regional Board staff testified that “contrary to the petitioners’ assertion, the permit provides structure, timeline and process information for adaptive and direction for adaptive management of Watershed Management Programs.” (Tr. at 270-71). Where the permittee’s descriptions of the adaptive management process mirrored descriptions in the Permit, the Executive Officer provided additional direction in his approvals, including refining and recalibrating the RAA based on data specific to the watershed management area that is collected under the Coordinated Integrated Monitoring Programs, identifying the most effective control measures and why they are effective, how other control measures can be optimized, and identifying significant changes in control measures (Tr. at 271-72). As the Executive Officer testified, the first round of adaptive management revisions are not due until 2017. The Permittees are in the first cycle, and will have the benefit of additional monitoring data during this cycle (Tr. at 242-43).

Finally, the Petitioners’ Addendum contains unsubstantiated statements and conclusions that the LAR-UR2 Permittees have not committed to meeting final deadlines and that the WMP “cannot ensure a rigorous and transparent process toward the achievement of receiving water limitations” (Addendum p 11, lines 10 and 14-15). To the contrary, the LAR-UR2 group is actively engaged in developing projects and in December 2015, the group issued a request for proposals shortly to perform feasibility studies to further advance the large regional projects included in the WMP.

c. The Lower San Gabriel and Los Angeles River WMPs comply with the MS4 Permit and State Order, and Ensure compliance with Water Quality Standards

Like the Petitioners’ contentions regarding Upper Reach 2 of the Los Angeles River, the Petitioners’ contentions regarding the Lower San Gabriel River WMP and Lower Los Angeles WMPs lack merit.

First, contrary to the Petitioners’ contention that the Lower San Gabriel River WMP and Lower Los Angeles WMP fail to provide a compliance schedule to achieve the water quality limitations “as soon as possible,” or that they lack specificity, these WMPs aggressively propose to complete 118.6 acre-feet of BMP capacity in eleven years and 803.2 acre-feet of BMP capacity in thirteen years respectively. The WMPs include the locations and type of projects proposed for each Permittee and most importantly the stormwater capture volume needed for interim deadlines, providing a clearly defined, implementable and enforceable path to TMDL compliance with rigor, transparency, and accountability. Regional Board staff extensively addressed this issue in testimony before the Regional Board (Tr. at 260-62, 266-69).

Petitioners’ other contentions, that the WMPs contained insufficient specificity or lacked measurable milestones with respect to compliance, including TMDLs (Addendum, pp. 17-19), also lack validity. As Regional Board staff testified, the WMP programs included several quantitative milestones, which relate specifically to TMDL implementation deadlines (Tr. at 261). Regional Board staff testified, “[s]ince these milestones are quantitative, this is a sufficient metric for us to use as Board staff to

evaluate progress, and also assess compliance by these permittees in this Watershed Management Program." (*Id.*) Regional Board staff also testified that the WMPs include milestones for nonstructural BMPs, structural BMPs that have been planned through a current Proposition 84 grant award, and for large regional projects (Tr. at 261-62).

Conclusion

For the foregoing reasons, the County and District respectfully ask this Board to DENY both the Original Petition and Addendum.

Attachments: County Comments on Original Petition and transcript

JG:sw

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GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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August 3, 2015

IN REPLY PLEASE
REFER TO FILE **WM-11**

Ms. Renee Purdy, Chief
Regional Programs Section
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Dear Ms. Purdy:

**LOS ANGELES COUNTY MUNICIPAL SEPARATE STORM
SEWER SYSTEM PERMIT – RESPONSE TO PETITION
FOR REVIEW OF WATERSHED MANAGEMENT PROGRAM APPROVALS**

Enclosed are the County of Los Angeles' and Los Angeles County Flood Control District's written comments in response to the Petition For Review of the Los Angeles Regional Water Quality Control Board Executive Officer's action to approve, with conditions, nine Watershed Management Programs pursuant to Order No. R4-2012-0175, NPDES Permit No. CAS004001, waste discharge requirements for Municipal Separate Storm Sewer System Permit (MS4) discharges within the coastal watersheds of Los Angeles County, except those discharges originating from the City of Long Beach Municipal Separate Storm Sewer System Permit ("2012 MS4 Permit" or "Permit").

If you have any questions or need additional information, please contact me at (626) 458-4300 or ageorge@dpw.lacounty.gov or your staff may contact Ms. Jolene Guerrero at (626) 458-4364 or jguerrer@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Chief Engineer, Los Angeles County Flood Control District

ANGELA R. GEORGE
Assistant Deputy Director
Watershed Management Division

JFG:sw

**Comments of the County of Los Angeles and Los Angeles County Flood
Control District
In Response to Petition for Review of the Executive Officer's Approval of
Nine Watershed Management Plans**

These comments are submitted in response to the Petition for Review Of The Los Angeles Regional Water Quality Control Board Executive Officer's Action To Approve, With Conditions, Nine Watershed Management Programs ("Petition") submitted to the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") by NRDC, Los Angeles Waterkeeper, and Heal the Bay (collectively "Petitioners"). The Petition seeks review of the Regional Board Executive Officer's April 28, 2015 action approving nine Watershed Management Programs ("WMPs"). The County of Los Angeles ("County"), the Los Angeles County Flood Control District ("District"), or both, are participants in six of the challenged WMPs.

Pursuant to Part VI.C of 2012 MS4 Permit, permittees may develop a WMP or an Enhanced Watershed Management Program ("EWMP") that includes control measures and best management practices to address the highest watershed priorities. (2012 MS4 Permit, Part VI.C.) The Executive Officer's action in approving the WMPs should be upheld.

I. Approved WMPs at Issue with County/District Participation

The County and District are permittees under the 2012 MS4 Permit and jointly submitted with other permittees six of the nine approved WMPs at issue in this petition. They are:

- Los Angeles River Upper Reach 2 Sub Watershed WMP (District);
- Lower Los Angeles River Watershed WMP (District);
- Alamitos Bay/Los Cerritos Channel WMP (County/District);
- Los Cerritos Channel Watershed WMP (District);
- Lower San Gabriel River WMP (District);
- Santa Monica Bay Jurisdictional Group 7 WMP (District).

II. The Executive Officer Acted Within His Delegated Authority in Approving the WMPs with Conditions

A. The Executive Officer Had the Authority to Attach Conditions to His Approval of the WMPs

A Regional Board has authority to delegate any of its powers and duties, with limited exceptions, to its Executive Officer. (Water Code § 13223(a).) Petitioners contend that the Executive Officer did not have the authority to attach conditions to his approval of the WMPs. (Petitioners' Memorandum of Points and Authorities ("Petitioners' Mem."), at 7.) The imposition of conditions, however, is

inherent in the National Pollutant Discharge Elimination System ("NPDES") program. For example, section 402(a)(1) of the Clean Water Act (33 U.S.C. § 1342(a)(1)) provides that an NPDES permit may be issued that will either meet applicable requirements under various sections of the Act or "such conditions as the administrator determines are necessary" to carry out the Act. The permit issuer shall "prescribe conditions" for such permits to assure compliance with the requirements of the Act "including conditions on data and information collection, reporting, and such other requirements as he deems appropriate." 33 U.S.C. § 1342(a)(2).

Indeed, it is an established principle of administrative law that an agency's power to approve or disapprove implicitly includes the power to conditionally approve. The petitioners in *Connecticut Fund for the Environment, Inc. v. Environmental Protection Agency*, 672 F.2d 998 (2nd Cir.), cert. denied, 459 U.S. 1035 (1982), made the identical argument that Petitioners are making to this Board, there that the U.S. Environmental Protection Agency could not conditionally approve a state implementation plan under the Clean Air Act because the governing statute required the EPA Administrator to "approve or disapprove [the] plan" within four months of submission. Former 42 U.S.C. § 7410(a)(2) . The Second Circuit Court of Appeals disagreed:

Petitioners claim that the literal "approve or disapprove" language of § 7410(a)(2) and the absence of any mention of conditional approvals in the Clean Air Act preclude EPA's conditional approval of a Part D submission. But this Court has held that an agency's power to approve conditionally is inherent in the power to approve or disapprove.

(T)he power to condition ... approval on the incorporation of certain amendments is necessary for flexible administrative action and is inherent in the power to approve or disapprove. We would be sacrificing substance to form if we held invalid any conditional approval but affirmed an unqualified rejection accompanied by an opinion which explicitly stated that approval would be forthcoming if modifications were made.

McManus v. CAB, 286 F.2d 414, 419 (2d Cir.), cert. denied, 366 U.S. 928, 81 S. Ct. 1649, 6 L. Ed. 2d 388 (1961). *McManus* involved the administration of a different statute by a different agency, but the underlying principles of administrative law are fully applicable here. Conditional approval offers administrative agencies a measured course that may be more precisely tailored to particular circumstances than the all-or-nothing choice of outright approval or disapproval. Cf. *United States v. Chesapeake & Ohio*

Ry., 426 U.S. 500, 514, 96 S. Ct. 2318, 2325, 49 L. Ed. 2d 14 (1976).

In the context of the Clean Air Act, the conditional approval mechanism gives EPA the necessary flexibility to work more closely with the states, which, even after the 1977 Amendments, retain the primary responsibility for assuring air quality. § 7407(a). . . . We have in the past been careful to defer to EPA's choice of methods to carry out its "difficult and complex job" as long as that choice is reasonable and consistent with the Act. *Friends of the Earth v. USEPA*, 499 F.2d 1118, 1124 (2d Cir. 1974). . . . Accordingly, we decline to construe the statute as permitting only outright approval or disapproval of state plans. Conditional approval is a direct adjunct of EPA's general responsibility for administration of the Act, § 7601(a), and the more specific authority to approve or disapprove state plans, § 7410(a)(2).

The principle described above is not limited to EPA's powers under the Clean Air Act. The United States Supreme Court's expressed the same principle in *United States v. Chesapeake & Ohio Ry.*, involving the Interstate Commerce Commission's powers under the Interstate Commerce Act. And EPA has itself promulgated policies and procedures that provide for conditional approvals under the Clean Water Act. For example, in section 6.2.1 of its Water Quality Standards Handbook - Chapter 6: Procedures for Review and Revision of Water Quality Standards (40 CFR 131 - Subpart C), the EPA specifically sanctions use of conditional approvals in carrying out its review of a state's water quality standards under section 303(c) of the Clean Water Act, notwithstanding the lack of any express "conditional approval" language in Section 303(c). See also *EPA's Guidance for the Use of Conditional Approvals for State Water Quality Standards (1989)*, in which EPA states that this guidance is modeled after that applied to EPA approval of state implementation plans under the Clean Air Act.

Regional Boards throughout the state, as well as this Board itself, have issued formal approvals of plans and other implementation documents subject to conditions. For example, the Executive Officer of this Board issued a conditional approval of a sampling plan for the El Segundo Generating Station operated by El Segundo Power, LLC (Letter dated December 6, 2005 from Jonathan S. Bishop to Roy Craft). Similarly, the Executive Officer of the Santa Ana Water Board issued a conditional approval of an integrated watershed monitoring program and quality assurance program plan for San Bernardino County's stormwater program required under that program's MS4 permit (Letter dated December 16, 2011 from Kurt V. Berchtold to Granville M. Bowman). Also, the Central Valley Water Board issued a conditional approval of a monitoring and

reporting program required for the Southern San Joaquin Valley Water Quality Coalition (Letter dated July 26, 2010 from Pamela C. Creedon to David Orth.¹

These approvals with conditions reflect a common practice by Executive Officers around the State. To argue that the Executive Officers cannot conditionally approve would be to strictly limit the ability of this and the other regional boards to manage their programs.

All nine approval letters clearly state that the letter is an “[a]pproval, with conditions.” (Letters of Approval With Conditions (“Approval Letters”), at 3.) Approval with conditions allowed the Executive Officer to more precisely tailor his approval to the needs of the 2012 MS4 Permit. The Executive Officer had the authority to issue this approval.

B. The Executive Officer’s Approval Did Not Create a New Schedule

The Executive Officer required that his conditions be met by a specified date. Contrary to Petitioners’ assertion, the Executive Officer’s deadlines did not “indefinitely extend” any Permit deadline, nor did it create “endless extensions without ever achieving Permit compliance.” (Petitioners’ Mem. at 7-8.) The deadline to address the conditions was just that: a date certain by which certain required changes to the language of WMPs must have been made. Indeed, the deadlines have already been met — the permittees all submitted the requested WMP revisions by the stated deadline and the Executive Officer has confirmed that the conditions have been met, at least with respect to the revisions for which review has been completed. (See Letters dated July 21, 2015 for the Lower San Gabriel River and Los Cerritos Channel WMPs.)²

¹ These letters are attached as Exhibit A for the convenience of the Regional Board and the parties. The County and District request the Regional Board to take official notice of these letters as official acts of the executive branch of this state pursuant to 23 Cal. Code Reg. § 648.2. The letters in Exhibit A can be found in the following files:

http://www.waterboards.ca.gov/losangeles/water_issues/programs/power_plants/el_segundo/el_segundo_documents.shtml;

http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/san_bernardino_permit_iwmp.shtml; and

http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/monitoring_plans_reports_reviews/monitoring_reporting_program_plans/coalitions/south_sanjoaquin/index.shtml.

² Moreover, the fact that the Executive Officer has confirmed that there are final, approved WMPs means that this Board does not have to address Petitioners’ argument that an approval with conditions could indefinitely extend the Permit’s deadlines (Petitioners’ Mem. at 7). The Executive Officer’s letters confirming that the submitted WMPs are final, approved WMPs renders this issue moot.

Nor did the conditions accompanying the approvals create a new permit schedule. The conditions did not relieve permittees of any substantive Permit requirements or create any additional grace period for WMP participants. Instead, the letters specifically provided that WMP participants must “fully and timely implement all actions per associated schedules set forth in the approved WMP regardless of any contingencies indicated in the approved WMP.” (E.g., Lower San Gabriel Approval Letter dated April 28, 2015, p. 4.) Such implementation “shall begin . . . immediately.” (E.g., Lower Los Angeles River Approval Letter dated April 28, 2015, p. 4.)

Finally, contrary to Petitioners’ assertions, the form of the approval letters will not “fail to put Permittees on a rigorous path to achieving Permit compliance” (Petitioners’ Mem. at 9.), including receiving water limitations or TMDL requirements (Petitioners’ Mem. at 8). The Executive Officer clearly stated in his letters that, in the event that “Permittees fail to meet **any requirement or date** for its achievement in **the approved WMP**... the [Permittee] shall be subject to the baseline requirements of the LA County MS4 Permit” (E.g, Approval Letters dated April 28, 2015 at p. 5, emphasis added.).

A permitting agency is given substantial deference in interpreting its own permits. “In construing a permit provision, the Court should defer to the interpretation of the agency charged with enforcement of the terms.” (*Natural Resources Defense Council, Inc. v. Texaco Refining & Marketing, Inc.*, 20 F. Supp. 2d 700, 709-10 (D. Del. 1998); also see *Beazer East, Inc. v. United States Environmental Protection Agency*, 963 F.2d 603, 606 (3rd Cir.1992) (discussing agency’s interpretation of its own regulations); *New Jersey Department of Environmental Protection and Energy v. Circuit Foil USA, Inc.* (D.N.J. Apr.12, 1993) 1993 WL 118195 (deferring to state agency’s interpretation of the permit language).)

Here, the Regional Board has delegated its authority to approve the WMPs to the Executive Officer. Before the Executive Officer acted, the WMPs underwent extensive review by both Regional Board staff and the public. The Executive Officer issued letters of review, which included requested revisions. Permittees then submitted revised WMPs in response to these letters and, where requested, submitted additional revised WMPs reflecting the terms of the approval letters. He found that the WMPs meet the Permit’s requirements, both substantively and procedurally. The form of the Executive Officer’s approval has not created a new permit schedule.

III. WMP Approval Is Explicitly Authorized Under the Permit and Was Not A Modification of the Permit

Petitioners argue that the Executive Officer’s approvals modify the 2012 MS4 Permit, asserting that the Executive Officer did not approve or deny the WMPs,

but instead created a new process (Petitioners' Mem. at 9-10). This argument lacks merit.

First, this argument ignores the doctrine of *Connecticut Fund* and other cases (as well as EPA Guidance) that the power to attach conditions is inherent in the power to approve granted by the Regional Board to the Executive Officer. Attaching conditions to the approval of the WMPs was not a modification or amendment of any Permit terms.

Second, the approvals did not create a new process. The 2012 MS4 delegates to the Executive Officer the authority to approve WMPs. The WMP approvals were in accordance with those provisions. In this regard, it is well settled law that regulatory agencies must be given deference to interpret their own requirements and regulations, including their own permits. (See *NRDC v. Texaco Refining & Marketing, Inc.*, 20 F. Supp.2d at 709-10.) Here, the Executive Officer has found that the WMPs comply with Permit requirements, while requiring certain additional clarifications and information.

There is, moreover, "a **strong presumption of correctness** concerning . . . administrative findings." (*California Association of Sanitation Agencies v. State Water Resources Control Board* (2012) 208 Cal. App. 4th 1438, 1453; quoting *City of Rancho Cucamonga v. Regional Water Quality Control Board* (2006) 135 Cal.App.4th 1377, 1384.) (emphasis added).³ The Executive Officer's approvals were authorized by the Permit. The approvals did not extend any compliance dates or otherwise modify the Permit requirements. Indeed, the letters specifically provided that WMP participants must "fully and timely implement all actions per associated schedules set forth in the approved WMP regardless of any contingencies indicated in the approved WMP." (Approval Letters at 4.)

IV. The Terms of the Conditional Approvals are Consistent with Permit Requirements and the Clean Water Act

³ Petitioners cite *Environmental Defense Center, Inc. v. EPA*, 344 F.3d, 832, 853 (9th Cir. 2003), arguing that the WMP provisions are substantive terms of the Permit, and once approved, become enforceable (Petitioners' Mem. at 9 n. 28).

Environmental Defense Center is completely inapposite. In that case, the court concluded that a Notice of Intent was improper because it was "unreviewed" by the regulatory agency and had not been subject to meaningful public review. (*Environmental Defense Center*, 344 F.3d at 853.) Here, as previously noted, the WMPs were submitted to the Regional Board and were subject to public comment. Petitioners themselves submitted comments letters, ranging in length from two to 27 pages, on at least 14 of the WMPs as well as twice submitting "General Comments on Group WMPs," and the Regional Board held a public workshop on the draft WMPs.

Petitioners argue that, with respect to three of the nine WMPs at issue, the approved WMPs failed to address alleged inadequacies previously cited by Regional Board staff relating to Reasonable Assurance Analyses and other alleged substantive failures. (Petitioners' Mem. at 11-15.)

The process followed by Regional Board staff and the Permittees for the review and approval of the WMPs refutes these allegations. Upon receiving the Regional Board's comment on the draft WMPs in October 2014, the watershed groups each met with the Regional Board staff to ensure a full comprehension of the comments. The WMPs were then revised and resubmitted in January 2015. Because many of the Regional Board's comments required clarifications or explanations, rather than a change to the WMP, the permittees also submitted Responses to Comments in January 2015.

VI. Conclusion

The WMPs approved by the Executive Officer are detailed, complete and modeled programs to address bacteria, nutrients, toxics, metals and other pollutants in stormwater and urban runoff. These programs include appropriate water quality priorities, compliance measures and aggressive schedules. The plans fully comply with the 2012 MS4 Permit, have been submitted by the required deadlines and are already being implemented by the permittees.

The WMPs are the culmination of an unprecedented collaboration and commitment on the part of the permittees, as well as Regional Board staff, to address in a systematic and data-driven way the quality of water discharged from the MS4 system. Rejecting the WMPs would take the permit compliance efforts back to the unsatisfactory days of "iterative process" and would delay or potentially stop the progress already made, and to be made, to achieve water quality standards in receiving waters.

For the foregoing reasons, the County and District respectfully ask this Board to DENY the Petition.

EXHIBIT A



California Regional Water Quality Control Board Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Alan C. Lloyd, Ph.D.
Agency Secretary

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

Arnold Schwarzenegger
Governor

December 6, 2005

Mr. Roy Craft
Plant Manager
El Segundo Power, LLC
301 Vista Del Mar
El Segundo, CA 90245

PHASE II 316(B) PROPOSAL FOR INFORMATION COLLECTION AND IMPINGEMENT MORTALITY AND ENTRAINMENT CHARACTERIZATION STUDY SAMPLING PLAN, EL SEGUNDO POWER, LLC; EL SEGUNDO GENERATING STATION, NPDES PERMIT NO. CA0001147, CI-4667

Dear Mr. Craft:

Reference is made to the November 17, 2005 comment letter submitted by El Segundo Power, LLC (ESP), along with a revised Phase II 316(b) Proposal for Information Collection (PIC) and Impingement Mortality and Entrainment (IM&E) Characterization Study Sampling Plan (Sampling Plan) for the El Segundo Generating Station (ESGS) dated November 17, 2005. This additional information was submitted in response to initial comments made by the Regional Board staff on October 21, 2005.

In general, the revised PIC submitted generally meets the requirements of the 316(b) Phase II regulations in 40 CFR 125.95 (a)(1) and (b)(1). The Regional Board staff have no objection to you implementing the revised PIC as proposed subject to the following conditions:

1. Hydrologic modeling to identify cooling water intake structure (CWIS) radius of influence (ROI) and cumulative impacts evaluation

The delineation of the ROI is essential for evaluation of impacts in the vicinity of ESGS. Assessment of the ROI provides a hydrodynamic characterization of the effective reach of the ESGS intake systems into Santa Monica Bay.

Such delineation of the ROI is required to quantify the region of the Santa Monica Bay (and associated volume) within which the biota are directly impacted by ESGS. This information shall be used to design a sampling plan and select sample locations that will enable quantification of such impacts. As such, the Regional Board staff recognize that historical sample locations are to be incorporated into the sampling plan to allow analysis and comparison to historical data collection.

The Regional Board staff acknowledge that the delineation of the ROI and incorporation into a sampling plan will prove useful when aggregated with similar studies from other Santa Monica

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Bay power plants (Los Angeles Department of Water and Power, Scattergood and AES Redondo Beach). Although cumulative impact studies are not required as part of the Phase II rule, the United States Environmental Protection Agency (USEPA) does not discount the possibility of cumulative impacts nor does it proscribe or discourage their inclusion as part of the evaluation process. USEPA notes that cumulative impact studies available at the time of rule development were insufficient to make any determination as to the exact nature or extent of cumulative impacts but acknowledges anecdotal evidence suggesting the need for further evaluation. USEPA presents the example of impacts identified at three Hudson River facilities in New York stating "[t]he multiple facilities on the Hudson River act cumulatively on the entire aquatic community" (69 FR 41587).

Decisions regarding the need for cumulative impact studies are reserved for the permitting authority. 40 CFR 125.90(d) preserves the right of an authorized agency to "adopt or enforce any requirement...that is not less stringent than those required by Federal law." In addition, in accordance with Section C, Page C-1, Action for Bay Restoration of the Santa Monica Bay Restoration Plan, the goals are to "Restore, rehabilitate, and protect the marine ecosystem, living resources, and biodiversity of the Santa Monica Bay and its watershed." As such, the Regional Board staff recognize that a cumulative impact study is in keeping with the stated goals of improving the overall aquatic health of Santa Monica Bay.

2. Calculation baseline and Velocity Cap Inlet

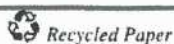
In section 2.5, ESGS states the following: "Therefore, ESGS has demonstrated through site-specific studies of its existing, in-use intake velocity caps that the facility is in full compliance with the applicable performance standard for impingement mortality. Further justification for this is provided in Section 4.1.1 of this PIC."

Based on the requirements of 40 CFR 125.95, this statement cannot be considered accurate. Use of any technology, including velocity caps, must be demonstrably shown to achieve, either in whole or in part, compliance with the appropriate performance standards *by the Discharger* [emphasis added].

40 CFR 125.95(a)(4)(i) requires the Discharger to submit, as part of the comprehensive demonstration study, the following:

- (C) Calculations of the reduction in impingement mortality and entrainment...that would be achieved by the technologies and or/operational measures [the Discharger has] selected; and
- (D) Design and engineering calculations, drawings, and estimates prepared by a qualified professional to support the description [of design and construction technologies that will be used to meet the requirements to reduce impingement mortality and entrainment].

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In addition, Section X.B of the preamble to the Phase II rule discusses USEPA's use of model facilities in the development of engineering cost estimates and technology performance profiles. USEPA notes on 69 FR 41649 that:

"While the Agency is confident that the suite of available technologies can achieve the performance standards..., EPA lacks sufficient data to determine the precise performance of each technology on a site-specific basis[.]"

Regional Board staff acknowledge the additional data included in PIC Section 5.1.1 and recognize the potential for the velocity cap configuration at ESGS to contribute to meeting the performance standards under the Phase II rule. However, inclusion of any statement in the PIC that, intentionally or otherwise, conveys any sense of approval by the Regional Board of a specific technology currently in use for the purposes of determining compliance with Phase II requirements, is at best premature. The Regional Board, as the delegated authority for NPDES permits in the Los Angeles Region, will make all determinations as to BTA with regard to ESGS at such time when all supporting documentation has been submitted and reviewed, thereby making a final determination feasible.

3. Impingement Mortality and Entrainment Sampling

Fish Eggs

As discussed in the October 21, 2005 letter from the Regional Board to ESP, fish eggs should be included in any analysis of entrainment at ESGS. Specifically, "The egg represents a critical life stage, the presence and abundance of which may not be accurately represented based on larval, juvenile, and adult presence." Therefore, Regional Board staff believe that the entrainment study should include not only enumeration of collected fish eggs, but also identification of collected eggs to the lowest practical taxonomic level. Enumeration and identification of fish eggs in the entrainment study should be included not only to increase the scientific validity of the study and allow for a more accurate estimate of entrainment effects, but also because the Phase II regulations mandate their inclusion. Specifically, 40 CFR 125.95(b)(3) states that the impingement mortality and/or entrainment characterization study must include "taxonomic identifications of all life stages of fish, shellfish, and any species protected under Federal, State or Tribal Law (including threatened or endangered species) that are in the vicinity of the cooling water intake structures(s) and are susceptible to impingement and entrainment".

Target Taxa

Regional Board staff agree that it is not appropriate to perform assessments of population-level impacts on all taxa collected during this study. However, it should be emphasized that it is appropriate to count and identify all collected organisms. Where appropriate and as indicated in the sampling design, collected samples may be sub-sampled, but enumeration and identification of all collected taxa is critical to completion of a scientifically defensible study. Therefore, specific data analysis techniques may be used for selected taxa, but all taxa regardless of abundance or commercial/recreational importance should be counted and identified in samples.



Cancer Crabs

ESP has placed emphasis on cancer crabs to the exclusion of other crabs collected during impingement and entrainment sampling because "they are the most important commercial and recreational group of crabs found in the vicinity of the ESGS". Further, ESP states that "ESP believes that 'shellfish' refers to species of crustaceans and mollusks that are targeted by commercial and recreational fisheries". While Regional Board staff agree that inclusion of commercially and recreationally important crustaceans and mollusks are important to the evaluation of entrainment and impingement mortality at ESGS, we disagree with ESP's definition of shellfish. As noted above, 40 CFR 125.95(b)(3) states that the impingement mortality and/or entrainment characterization study must include "taxonomic identifications of all life stages of fish, shellfish, and any species protected under Federal, State or Tribal Law (including threatened or endangered species) that are in the vicinity of the cooling water intake structures(s) and are susceptible to impingement and entrainment". The regulation is not limited to recreationally or commercially important shellfish, but includes all shellfish in the vicinity of the CWIS. Regional Board staff recommend that all shellfish (typically meaning crustaceans and mollusks) collected in impingement and entrainment samples be enumerated and identified to the lowest practical taxonomic level.

Regional Board staff caution that all samples should be preserved until the issues regarding enumeration and identification of all organisms are resolved; nothing should be discarded that may potentially add to the study.

If you have any questions, please contact David Hung at 213/576-6664 or Dr. Tony Rizk at 213/576-6756.

Sincerely,

ORIGINAL SIGNED BY

Jonathan S. Bishop
Executive Officer

Cc: See mailing list

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Mailing List

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Ms. Nancy Yoshikawa, U. S. Environmental Protection Agency, Region 9
Ms. Robyn Stuber, U. S. Environmental Protection Agency, Region 9
U.S. Army Corps of Engineers
Mr. Bib Hoffman, NOAA National Marine Fisheries Service
Department of Interior, U. S. Fish and Wildlife Service
Mr. Michael Levy, State Water Resources Control Board, Office of Chief Counsel
Mr. Jim Maughan, State Water Resources Control Board, Division of Water Quality
Mr. Dominic Gregorio, State Water Resources Control Board, Division of Water Quality
Mr. James Reed, California Energy Commission
Mr. Rick York, California Energy Commission
Mr. Tom Luster, California Coastal Commission
Mr. William Paznokas, California Department of Fish & Game, Region 5
Mr. Guangyu Wang, Santa Monica Bay Restoration Commission
Department of Health Services, Sanitary Engineering Section
California State Parks and Recreation
South Coast Air Quality Management District
Water Replenishment District of Southern California
Los Angeles County, Department of Public Works, Waste Management Division
Los Angeles County, Department of Health Services
Mr. Mark Gold, Heal the Bay
Ms. Heather L. Hoecherl, Heal the Bay
Mr. Dana Palmer, Santa Monica Baykeeper
Mr. David Beckman, Natural Resources Defense Council
Mr. Daniel Cooper, Lawyers for Clean Water
Environment Now
Mr. Tim Hemig, El Segundo Power LLC
Ms. Susan Damron, Los Angeles, Department of Water and Power
Mr. Steve Maghy, AES Southland LLC
Ms. Julie Babcock, Reliant Energy
Mr. Tim Havey, TetraTech
Mr. Shane Beck, MBC Applied Environmental Sciences
Mr. Scott Seipel, Shaw Environmental & Infrastructure, Inc.
Mr. John Steinbeck, Tenera Environmental
Mr. Mary Jane Forster-Foley

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California Regional Water Quality Control Board
Santa Ana Region



Matthew Rodriguez
*Secretary for
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Edmund G. Brown Jr.
Governor

December 16, 2011

Mr. Granville M. Bowman
San Bernardino County Stormwater Program
825 East Third Street
San Bernardino, CA 92413-0835

**CONDITIONAL APPROVAL OF INTEGRATED WATERSHED MONITORING
PROGRAM AND QUALITY ASSURANCE PROGRAM PLAN; ORDER NO. R8-2010-
0036, NPDES NO. CAS618036 (MS4 PERMIT)**

Dear Mr. Bowman:

On August 1, 2011, the Permittees submitted a final draft of the Integrated Watershed Monitoring Program (IWMP) and the Quality Assurance Program Plan (QAPP). These documents were posted on our website for public review and comments. No public comment was received.

We have completed our review of the final draft of the IWMP and the QAPP and have determined that they meet the Receiving Waters and Urban Runoff Monitoring and Reporting Program (MRP) requirements provided the following comments are addressed in the next update of the documents:

1. Since the IWMP will replace the current monitoring program when it is approved, we would like this document to be a standalone document. The Permittees' response to our comment in this matter stated that a compilation of the summary of the evolution of the monitoring program will be attached in the introductory section of the 2010-2011 Annual Report. Please include that summary in the IWMP.
2. Tables 6 & 7 of the IWMP should include the following constituent:
 - Methylene Blue-Activated Substances (MBAS)
3. Please indicate the Pilot Pollutant Source Identification and Control Plan sampling locations in Figure 3: Site 5 Drainage Map on page 19 of the IWMP.
4. Please incorporate the attached errata sheet into the IWMP.

In accordance with Section IV.A of the MRP, the IWMP and the QAPP are hereby approved with the above changes and the changes as indicated in the enclosed errata

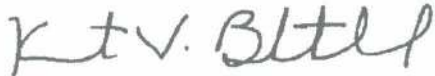
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sheet. As per Section IV.A of the MRP, the approved IWMP shall be implemented within six months of approval.

If you have any questions, please contact Milasol Gaslan at mgaslan@waterboards.ca.gov or at (951) 782-4419 or Kathleen Fong at kyfong@waterboards.ca.gov or at (951) 774-0114.

Sincerely,



Kurt V. Berchtold
Executive Officer

Enclosure: Errata Sheet, dated December 15, 2011 (2 pages)

cc: Pavlova Vitale, Stormwater Program Manager, San Bernardino County Flood Control District, pavlova.vitale@dpw.sbcounty.gov





Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

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Arnold
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Governor

FILE

26 July 2010

Mr. David Orth
Coordinator, Southern San Joaquin Valley Water Quality Coalition
4886 E. Jensen Ave.
Fresno, CA 93725

MONITORING AND REPORTING PROGRAM CONDITIONAL APPROVAL LETTER

The California Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) received from the Southern San Joaquin Valley Water Quality Coalition (Coalition) a Monitoring and Reporting Program Plan (MRP Plan) and a Quality Assurance Project Plan (QAPP) on 25 July 2008. Subsequent discussions with staff culminated in a revised MRP Plan submitted on 8 May 2009. In addition, a letter addendum was submitted on 23 July 2010. The Coalition prepared the MRP Plan and QAPP to meet the requirements of Monitoring and Reporting Program Order No. R5-2008-0005 (MRP Order) for Coalition Groups under the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Amended Order No. R5-2006-0053 (Conditional Waiver). The QAPP is being handled separately.

Central Valley Water Board staff (staff) evaluated the submittals for the required components described in the MRP Order, and identified a variety of issues with the Coalition's proposed MRP Plan. Staff and representatives of the Coalition held a number of meetings which culminated in the submittal of a revised MRP Plan on 23 November 2009.

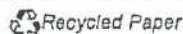
We recognize that a significant amount of time and work has been invested by the Coalition to coordinate with the four separate sub-watershed groups and to collect and compile the information presented in the revised MRP Plan.

The Coalition's revised MRP Plan is conditionally approved, provided you implement the three changes listed below and on Table 1.

The three changes (i.e., conditions) are listed below.

1. Seven of the Coalition's MRP Plan monitoring sites require additional modification. The Tule River sites at Road 144 and Road 92, and the Deer Creek sites at Road 176 and at Road 120 may be designated as Core Monitoring sites provided that sediment (twice yearly) and three species water column toxicity testing (monthly) are added as parameters of concern to the required core sampling parameters. The Core monitoring needs to be conducted monthly for a period of one year. The requirements of core sampling are specified in Table II.B.1 and Table II.D., and the required additional toxicity testing will follow the schedule presented in Table II.A of the MRP Order.

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Toxicity sampling has been added to the Core Monitoring for the Tule River and Deer Creek sites as parameters of concern (see footnote to Table II.B.1 on page 10 of the MRP Order) due to toxicity detections identified during previous monitoring. Monthly photographic documentation must also be provided with views both upstream and downstream from the approved sampling locations. During the monthly monitoring, if no water is present at the sampling location, it should be recorded as "dry" with photo documentation.

The Westside Canal at 7th Standard and Eastside Canal at 7th Standard require further evaluation of whether they meet the requirements of Assessment Monitoring locations. Central Valley Water Board staff and members of the Coalition will work together to make that determination. Central Valley Water Board staff and the Coalition will conduct further review of Tejon Creek to evaluate whether this water body is a candidate for Assessment Monitoring.

2. Additional Assessment Monitoring sites are required to sufficiently characterize water quality for all waters of the State within the Coalition group boundaries as required by the MRP Order (page 6), and to achieve MRP Plan objective No. 1 as required by MRP Order Attachment A.

Current Assessment Monitoring sites must include the waterways listed below, which were discussed during meetings between staff and Coalition representatives. The waterways and the rationale for including them are provided below:

Streams West of State Highway 99 within the Kaweah Sub-watershed:

Irrigated agriculture lands in this area have the potential to discharge to waters of the State and are not represented in the MRP Plan sample sites. The Coalition will conduct special studies by sampling discharges (pipe flow) at three or more representative sites agreed upon by staff, to determine whether discharges from crops to this area have the potential to affect beneficial uses of surface waters. Samples are to be analyzed for Assessment parameters and the crop type sourcing the discharge must be provided along with the analytical results in the semi annual and annual monitoring reports. The Kaweah Sub-watershed needs to provide locations where the samples will be collected and the procedures that will be used to coordinate the sample collection with discharges within **90 days** of the date of this letter.

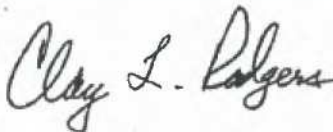
Above Lake Success: The Tule River Sub-watershed and Central Valley Water Board staff will conduct a joint monitoring effort of irrigated agriculture lands above Lake Success. Staff has identified an appropriate site for sample collection and collected and analyzed a river sample. The monitoring information will be transmitted to the coalition by staff and the coalition needs to collect and analyze a sample from the same location for Assessment parameters and sediment toxicity. Staff will advise the Tule River Sub-watershed of an appropriate time to collect the second sample. Results of the sampling events will be evaluated to determine if discharges off of irrigated agriculture lands above Lake Success warrant additional Monitoring.

Central Valley Water Board staff and the Coalition will evaluate what type of monitoring would be conducted, if needed.

Above Lake Isabella: The Kern Sub-watershed and Central Valley Water Board staff will conduct a joint monitoring effort above Lake Isabella similar to the study required above Lake Success. Staff has identified an appropriate site for sample collection and collected and analyzed a river sample. The monitoring information will be transmitted to the coalition by staff and the coalition needs to collect and analyze a sample from the same location for Assessment parameters and sediment toxicity. Staff will advise the Kern Sub-watershed of an appropriate time to collect the second sample. Results of the sampling events will be evaluated to determine if discharges off of irrigated agriculture lands above Lake Isabella warrant additional Monitoring. Central Valley Water Board staff and the Coalition will evaluate what type of monitoring would be conducted, if needed.

3. Locations of management practices need to be provided for the Kings, Kaweah, and Kern River Sub-Watersheds in order to produce information necessary to meet MRP Plan objectives No. 3 and No. 4 as required by Attachment A, and component No. 11 of the MRP Order (page 4). The documentation provided by the Tule River Sub-Watershed may be used as a template for the development of the required information. This information should be provided within **90 days** of the date of this letter.

I would like to thank you for all of your efforts in developing the MRP Plan. If you have any questions or comments about this conditional approval, please contact Clay Rodgers at crodgers@waterboards.ca.gov or (559) 445-5116.



for Pamela C. Creedon
Executive Officer

Enclosure(s) Table 1 – Monitoring Site Requirements

cc: Dennis Keller, Keller Wegley Consulting Engineers, Visalia
Dick Schafer, R.L. Schafer and Associates, Visalia
Nick Gatti, Kern County Water Agency, Bakersfield
Bill Thomas; Best, Best & Krieger LLP; Sacramento



TABLE 1
Southern San Joaquin Valley Water Quality Coalition
Monitoring Site Requirements

Site Description	Sub-watershed	MRP Plan Designation	Required Designation
Manning Avenue	Kings	Core	
Empire #2	Kings	Assessment	
Lemoore Weir	Kings	Core	
Jackson Avenue	Kings	Special	
Tivy Valley	Kings	Assessment	
Gould Canal	Kings	Assessment	
Crecent Weir	Kings	Assessment	
Stinson Weir	Kings	Assessment	
Kaweah River at Rd 158	Kaweah	Assessment	
St. Johns River at Ben Maddox	Kaweah	Assessment	
Stone Corral ID at Rd 156	Kaweah	Assessment	
Streams west of HWY 99^{1,2}	Kaweah	N/A	Assessment ³
Elk Bayou	Kaweah	Assessment	
Goshen Ditch	Kaweah	Assessment	
Porter Slough at Rd 192	Tule	Assessment	
Elk Bayou at Rd 96	Tule	Assessment	
Deer Creek at Rd 248	Tule	Assessment	
Above Lake Success¹	Tule	N/A ⁴	
Tule River at Rd 144	Tule	Core	Core + Parameters of Concern ⁵
Tule River at Rd 92	Tule	Core	Core + Parameters of Concern ⁵
Deer Creek at Rd 176	Tule	Core	Core + Parameters of Concern ⁵
Deer Creek at Rd 120	Tule	Core	Core + Parameters of Concern ⁵
Poso Creek at Zerker Rd	Kern	Assessment	
Chanac Creek at Pellicer Rd	Kern	Assessment	
White River at Rd 208	Kern	Assessment	
El Paso Creek at Sebastian Rd	Kern	Assessment	
Main Drian at Buttonwillow Rd	Kern	Special ⁶	
Main Drian at 7th Standard Rd	Kern	Special ⁶	
Main Drain at Hwy 46	Kern	Special ⁶	
Main Drian at Front St	Kern	Special ⁶	
Westside Canal at 7th Standard ²	Kern	Special ⁷	Assessment
Eastside Canal at 7th Standard ²	Kern	Special ⁷	Assessment
Tejon Creek ²	Kern	Special ⁷	
Above Lake Isabella¹	Kern	N/A ⁴	

¹Site needs to be added (BOLD).

²Central Valley Water Board Staff and the Coalition will work together to determine if additional monitoring is required.

³End of pipe samples. Assessment parameters required.

⁴Coalition/Waterboard joint monitoring effort. Samples analyzed for Assessment parameters and sediment toxicity.

⁵Water column and sediment toxicity.

⁶Special Project Monitoring designation appropriate due to Management Plan on Main Drain Canal.

⁷Special "Study" designation conflicts with language in the MRP Order. Assessment monitoring required for all new sites. Coalition may propose a schedule for future Assessment monitoring.

APPEARANCESBOARD MEMBERS

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Irma Munoz, Vice Chair

Maria Mehranian

Maria Camacho

Madelyn Glickfeld

Fran Diamond

Lawrence Yee

STAFF

Sam Unger, Executive Officer

Ronji Moffett

Jennifer Fordyce

Paula Rasmussen

Deborah Smith

David Coupe

Hugh Marley

Arthur Heath

Cris Morris

Michael Lyons

Cassandra Owens, Industrial Permitting Unit

David Hung, Watershed Regulatory Section

Thomas Siebels, Project Manager

Renee Purdy

APPEARANCESALSO PRESENT

Mas Dojiri, Department of Public Works, Bureau of Sanitation

James Alamillo, Heal the Bay

Rich Nagel, West Basin Municipal Water District

Eric Owens, West Basin Municipal Water District

Tracie Minamide, Department of Public Works, Bureau of
Sanitation

Chris Sanders, Ellison, Schneider & Harris, AES Alamitos

Rita Kampalath, Heal the Bay

Stephen O'Kane, AES Alamitos Generating Station

Becky Hayat, Natural Resources Defense Council

Derek Booth, University of California, Santa Barbara

Daniel Cooper, Los Angeles Waterkeeper

Angela George, Los Angeles County Department of Public Works

Steve Carter, Paradigm Environmental

Gina Nila, City of Commerce, Public Works Operations

Gerald Greene, CWE

Norman Dupont, Counsel on behalf of the Lower San Gabriel
River and Lower Los Angeles River Watershed Management
Groups

John Hunter, John Hunter & Associates

Anthony Arevalo, City of Long Beach, Stormwater Officer

Richard Watson, Richard Watson and Associates

Andre Monette, Best, Best & Krieger on behalf of the City of
Claremont

APPEARANCESALSO PRESENT

Ryan Thiha, City of Los Angeles Watershed Protection
Division and Bureau of Sanitation

Elaine Jeng, City of El Monte

Joyce Dillard, Resident of City of Los Angeles

INDEXPAGEIntroductory Items:

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| 1. | Roll Call | 18 |
| 2. | Order of Agenda. Note that the agenda items are numbered for identification purposes and may not necessarily be considered in this order. | 17 |
| 3. | Approval of draft meeting Minutes of the July 9, 2015 Board meeting. [Ronji Moffett, (213) 576-6612] | 22 |
| 4. | Board Member Communications. | 20 |
| | 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. | |

UNCONTESTED ITEMS

(Items marked with an asterisk are expected to be routine and noncontroversial. The Board will be asked to approve

INDEXPAGEUncontested Items:

*these items at one time without discussion. Any Board member or person may request that an item be removed from the Uncontested calendar. **Items removed from the Uncontested calendar may be heard at a future meeting.***)

Waste Discharge Requirements that Serve as Individual NPDES Permits

Renewal-

- *5. Consideration of tentative Waste Discharge Requirements for ExxonMobil Oil Corporation Southwestern Terminal, Area 1, Terminal Island; NPDES No. CA0003689. (Comment submittal deadline was August 10, 2015.) [Namiraj Jain, (213) 620-6003]. 23

Renewal-

- *6. Consideration of tentative Waste Discharge Requirements for The Lincoln Avenue Water Company, South Coulter Surface Water Treatment Plant, Altadena; NPDES No. CA0064068. (Comment submittal deadline was August 10, 2015.) [Gensen Kai, (213) 576-6651]. 23

INDEXPAGEUncontested Items:**Termination-**

- *7. Consideration of tentative termination of Waste Discharge Requirements for 1801 Avenue of the Stars, LP, c/o Westfield Building, Los Angeles; NPDES No. CA0053267. (Comment submittal deadline was August 14, 2015.) [Ching Yin To, (213) 576-6696]. 23

Termination-

- *8. Consideration of tentative termination of Waste Discharge Requirements for Los Angeles County Fair, Hotel, and Exposition Complex - Fairplex, Pomona; NPDES No. CA0064254. (Comment submittal deadline was August 17, 2015.) [Mazhar Ali, (213) 576-6652]. 23

Termination-

- *9. Consideration of tentative termination of Waste Discharge Requirements for California Sulphur Company, Wilmington; NPDES No. CA0059064. (Comment submittal deadline was July 23, 2015.) [Rosario Aston, (213) 576-6653]. 23

INDEXPAGEUncontested Items:**Waste Discharge Requirements and Water Reclamation****Requirements****Renewal-**

- | | | |
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| *10. | Consideration of tentative Waste Discharge Requirements and Water Reclamation Requirements (WDRs/WRRs) for Anacapa Foods, LLC and Well-Pict Berries, Incorporated (File No. 01-056). (Comment submittal deadline was August 17, 2015) [Mercedes Merino, (213) 620-6156] | 23 |
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BOARD BUSINESS REPORTS

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| 11. | Executive Officer's Report [Samuel Unger, (213) 576-6605] | 24 |
| 12. | Update from State Board. [Fran Spivy-Weber] | 46 |

PUBLIC FORUM

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| 13. | Any person may address the Board regarding any Matter within the Board's jurisdiction provided the matter does not appear elsewhere on this agenda, | 54 |
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has not been scheduled to appear on a future agenda, and is not expected to be imminently scheduled for the Board's consideration. Remarks will be limited to three (3) minutes, unless otherwise directed by the Chair. If a person intends to use a PowerPoint presentation or other **visual aids, you must contact Ronji Moffett, (213) 576-6612, at the Regional Board at least 48 hours prior** to the meeting to arrange for equipment use and be prepared to load any PowerPoint presentation on the computer prior to the meeting to assure the orderly conduct of the meeting.

CONTESTED ACTION ITEMSOther Business

14. Consideration of tentative Resolution approving 55
the City of Los Angeles Hyperion Treatment Plant's temporary 6-week bypass of disinfected secondary treated wastewater to the 1-mile outfall from the 5-mile outfall with conditions; NPDES No. CA0109991. (Comment submittal deadline was August 21, 2015.) [Steven Webb, (213) 576-6793].

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| 15. | Consideration of tentative Resolution approving West Basin Municipal Water District's temporary 6-week bypass of brine to the Hyperion Treatment Plant 1-mile outfall from the Edward C. Little Water Recycling Plant with conditions; NPDES No. CA0063401. (Comment submittal deadline was August 21, 2015.) [Elizabeth Erickson, (213) 576-6665]. | 55 |
| 16. | Consideration of Petition for Review of the Executive Officer's Action to Approve, with conditions, Nine Watershed Management Programs pursuant to the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit, Order No. R4-2012-0175. (Comment submittal deadline was August 3, 2015.) [Renee Purdy, (213) 576-6622] | 189 |

Waste Discharge Requirements that Serve as Individual Permits

Renewal-

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| 17. | Consideration of tentative Waste Discharge Requirements for NRG California South LP, Ormond Beach Generating Station, Oxnard; NPDES No. | 106 |
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CA0001198 (Comment submittal deadline was August 18, 2015) [Ching Yin To, (213) 576-6696].

18. Consideration of tentative Waste Discharge Requirements and Time Schedule Order for AES Alamitos LLC (Alamitos Generating Station), Long Beach; NPDES No. CA0001139 (Comment submittal deadline was August 21, 2015) [Thomas Siebels, (213) 576-6756] 109
- 18.1 Waste Discharge Requirements
- 18.2 Time Schedule Order

CLOSED SESSION

19. As authorized by Government Code section 11126, The Regional Board will be meeting in closed Session. Closed session items are not open to the public. Items the Board may discuss include the following: [Jennifer Fordyce (JF), (916) 3247-6682; Frances McChesney (FM), (916) 341-5174; Nicole Kuenzi (NK), (916) 322-4142; Lori Okun (LO), (916) 341-5165] 370
- 19.1 *State Department of Finance, State Water Resources Control Board and Los Angeles Regional Water*

INDEXPAGEClosed Session:

Quality Control Board v. Commission on State Mandates, Supreme Court of California Case No. S214855. [Challenging the Commission's decision that portions of the 2001 Los Angeles County MS4 permit created unfunded state mandates]. (JF)

19.2 *In re: Los Angeles Region Water Permit - Ventura County*, Commission on State Mandate Test Claim No. 110-TC-01 [Regarding a test claim filed by Ventura County Watershed Protection District and the County of Ventura alleging that portions of Order No. R4-2010-0108 created unfunded state mandates]. (JF)

19.3 *City of Redondo Beach v. Los Angeles Regional Water Quality Control Board and State Water Resources Control Board*, Los Angeles, Superior Court Case No. BS152287 [Challenging assessment of administrative civil liability in Order on Complaint No. R4-2088-0058M]. (FM)

19.4 *Green Acres, LLC v. Los Angeles Regional Water Quality Control Board and State Water Resources Control Board*, Los Angeles County Superior Court

Case No. BS138872 [Challenging the Basin Plan Amendment prohibiting on-site wastewater disposal systems in the Malibu Civic Center area]. (FM)

19.5 *Balcom Ranch v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Ventura County Superior Court Case No. 56-2012-00419048-CU-MC-VTA [Challenging assessment of administrative civil liability in Order on Complaint No. R4-2010-0023) (LO)

19.6 *In re: Petitions of the City of San Marino et al. for Review of Order No. R4-2012-0175, SWRCB/OCC File A-2236(a)-(kk)* [Challenging the Los Angeles County MS4 Permit]. (JF)

19.7 *In re: Los Angeles Region Water Permit - Cities of Los Angeles County*, Commission on State Mandate Test Claim No. 13-TC-01 [Regarding a test claim filed by several cities within Los Angeles County alleging that portions of Order No. R4-2012-0175 created unfunded state mandates]. (JF)

19.8 *In re: Los Angeles Region Water Permit - County of Los Angeles*, Commission on State Mandate Test Claim No. 13-TC-02 [Regarding a test claim by the County of Los Angeles and Los Angeles County Flood Control District alleging that portions of Order No. R4-2012-0175 created unfunded state mandates]. (JF)

INDEXPAGEClosed Session:

19.9 *City of Los Angeles, Acting by and through Its Board of Harbor Commissioners v. California Regional Water Quality Control Board, Los Angeles Region* (Los Angeles County Superior Court), Case No. BS154971 (DC) [Challenging that the Los Angeles Water Board acted beyond its jurisdiction in adopting waste discharge requirements.] (DC)

19.10 *Cities of Duarte and Huntington Park v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court Case No. BS156303 [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)

19.11 *Natural Resources Defense Council and Los Angeles Waterkeeper v. State Water Resources Control Board and Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court Case No. BS156962 [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)

19.12 *City of Gardena v. Los Angeles Regional Water Quality Control Board and State Water Resources*

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Control Board, Los Angeles Superior Court Case No. BS156342 [Challenging the Los Angeles County MS4 Permit, Order No. R4-2012-0175]. (JF)

19.13 *Claudette Earl and Earl Manufacturing Co., Inc. v. Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court Case No. BS156123 [Challenging adoption of Cleanup and Abatement Order No. R4-2015-0011] (DC)

19.14 *ALCA Properties, LTD., v. California Regional Water Quality Control Board, Los Angeles Region; State Water Resources Control Board* (Los Angeles County Superior Court), Case No. BS156084. [Challenging failure to issue No Further Action letter and challenging oversight costs.] (FM)

19.15 Consultation with counsel about:

(a) A judicial or administrative adjudicatory proceeding that has been formally initiated to which the Regional Board is a party;

(b) A matter that, based on existing facts and circumstances, presents significant exposure to litigation against the

Regional Board; or

- (c) A matter which, based on existing facts and circumstances, the Regional Board is deciding whether to initiate litigation.

(JF/FM/NK)

16.15 Consideration of the appointment, employment, or evaluation of performance about a public employee. (JF/FM/NK)

- 17. **Adjournment of current meeting.** The next regular meeting of the Board will be held on October 8, 2015, at the Metropolitan Water District of Southern California (Board Room), located at 700 North Alameda Street Los Angeles, CA 90071, beginning at 9:00 a.m.

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P R O C E E D I N G S

9:08 a.m.

PROCEEDINGS BEGIN AT 9:08 A.M.

LOS ANGELES, CALIFORNIA, THURSDAY, SEPTEMBER 10, 2015

CHAIR STRINGER: We're going to get started.
We've got a quorum now. And we've got a really full day, so
I'm going to be a bit of a taskmaster today. I apologize in
advance for all of that.

So if we could get started with the Pledge of
Allegiance.

Maria, you want to lead us?

(Whereupon, the Pledge of Allegiance is made.)

CHAIR STRINGER: Thank you.

Sam, order of agenda?

EXECUTIVE OFFICER UNGER: Yes. After Items 3 and
4, we will address the Uncontested Items on calendar which
are Items 5, 6, 7, 8, 9, and 10. Then after that we will go
to item -- excuse me, then we'll go Item 15, 17, 18, and
then 16, in the afternoon.

CHAIR STRINGER: So after uncontested, which is --
which brings us to Item 10 --

EXECUTIVE OFFICER UNGER: Right.

CHAIR STRINGER: -- we'll then jump into Item 15?

EXECUTIVE OFFICER UNGER: Excuse me, my -- no.
After that we will do Items 11 and 12.

1 CHAIR STRINGER: Okay. So after the --

2 EXECUTIVE OFFICER UNGER: The uncontested.

3 CHAIR STRINGER: -- report, business reports, the
4 EO report --

5 EXECUTIVE OFFICER UNGER: Right.

6 CHAIR STRINGER: -- and the State Board?

7 EXECUTIVE OFFICER UNGER: And then after 11 and 12
8 we do 14, 15, 17, 18, and then starting at one o'clock we
9 will do Item 16.

10 CHAIR STRINGER: Okay. Great.

11 We have, just so everyone is aware, we have a hard
12 start at one o'clock for Item 16. And we also have some
13 items to tend to in closed session. So we're going to plow
14 through the morning and hopefully be done before noon, break
15 for closed session, then come back. And we'll start right
16 at one o'clock for Item 16.

17 Yes?

18 MS. MOFFETT: Mr. Chair, you forgot the roll call.

19 CHAIR STRINGER: Oh, roll call. Sorry, Ronji.

20 MS. MOFFETT: That's all right.

21 Ms. Camacho?

22 BOARD MEMBER CAMACHO: Present.

23 MS. MOFFETT: Ms. Diamond?

24 BOARD MEMBER DIAMOND: Here.

25 MS. MOFFETT: Ms. Glickfeld?

1 Ms. Mehranian?

2 Ms. Munoz?

3 VICE CHAIR MUNOZ: Here.

4 MS. MOFFETT: Mr. Stringer?

5 CHAIR STRINGER: Here.

6 MS. MOFFETT: And Mr. Yee?

7 BOARD MEMBER YEE: Here.

8 CHAIR STRINGER: Thank you. I apologize.

9 Approval of draft minutes. Do I have a motion?

10 VICE CHAIR MUNOZ: So moved.

11 BOARD MEMBER YEE: Second.

12 CHAIR STRINGER: All those in favor? Oh, roll

13 call vote.

14 Ronji?

15 MS. MOFFETT: Ms. Camacho?

16 BOARD MEMBER CAMACHO: Approved. I was not
17 present, but approved because the minutes reflected that.

18 Thank you.

19 MS. MOFFETT: Ms. Diamond?

20 BOARD MEMBER DIAMOND: Yes.

21 MS. MOFFETT: Ms. Glickfeld? Oh, excuse me.

22 Ms. Munoz?

23 VICE CHAIR MUNOZ: Yes.

24 MS. MOFFETT: Mr. Stringer?

25 CHAIR STRINGER: I was also not present. I'm just

1 thinking that we don't have a quorum to vote on the minutes,
2 so we may have to wait until we get one.

3 Is that right?

4 MS. FORDYCE: That's correct.

5 CHAIR STRINGER: Okay.

6 MS. FORDYCE: You abstained, sorry about that.

7 CHAIR STRINGER: Yes.

8 MS. FORDYCE: I have something in my mouth here.

9 CHAIR STRINGER: So we'll table that until we get
10 a quorum of people who present at the last meeting. Okay.

11 So on to Board Member communications.

12 Maria Camacho?

13 BOARD MEMBER CAMACHO: None to report.

14 BOARD MEMBER YEE: None to report.

15 BOARD MEMBER DIAMOND: I have two things to
16 report.

17 Well, Maria and I both, as a subcommittee of --
18 the MS4 Subcommittee had a meeting with Staff, which Sam,
19 Renee, and Jennifer, Jennifer by conference call, just to
20 have a Subcommittee meeting and kind of do our due diligence
21 as a Subcommittee. And we will, of course, do this in the
22 future. And I would really encourage Staff to let us know
23 if they, you know, would like a meeting, we'll have them
24 anyway. But always I would prefer, and I think Maria would,
25 that we do it when Staff is feeling that they would like

1 some guidance or discussion with our Subcommittee. So that
2 was one thing.

3 And then the second thing was that yesterday I
4 attended and participated as a panelist at the Santa Monica
5 Bay Restoration Commission yearly conference on the State of
6 the Bay. And it was -- the panel I moderated and was part
7 of was called Drought Climate Change and the Future of L.A.
8 Water, which was very interesting. There were -- there were
9 a number of very interesting speakers throughout the day.
10 And the conversation was fascinating, as you can imagine, as
11 we're all trying to figure out -- it was Department of Water
12 and Power, city, county, NGOs, just basically many people
13 who we see here frequently talking about the impacts of the
14 drought and climate change and whether this is the new
15 normal or what, you know, what are the effects we're seeing
16 with sea level rise and a lot of other impacts, and how do
17 we deal with that.

18 So it was very interesting. I was happy to
19 participate. And I actually want to thank Deb who is just
20 back, I think, from a trip who I spoke with before the
21 conference to get some of her thinking, which I'm very happy
22 I did because it really served me well yesterday.

23 So thanks, Deb, and welcome back.

24 CHAIR STRINGER: That's great. Thank you.

25 So let the record reflect that Board Member

1 Mehranian is here.

2 And we'll finish -- we'll finish up Board Member
3 communications, then we'll circle back to the minutes.

4 Irma, do you have anything to report?

5 VICE CHAIR MUNOZ: No, nothing to report.

6 CHAIR STRINGER: Maria?

7 BOARD MEMBER MEHRANIAN: Nothing to report.

8 CHAIR STRINGER: And I have nothing to report.

9 So let's go back to approval of draft minutes. We
10 have a motion and a second on the table to approve, and we
11 were in the middle of roll call vote.

12 So why don't we do the roll call vote again,
13 Ronji, on the approval of draft minutes from the July 9,
14 2015 Board meeting.

15 MS. MOFFETT: Ms. Diamond?

16 BOARD MEMBER DIAMOND: Yes.

17 BOARD MEMBER DIAMOND: Yes.

18 MS. MOFFETT: Ms. Mehranian?

19 BOARD MEMBER MEHRANIAN: Yes.

20 MS. MOFFETT: Ms. Munoz?

21 VICE CHAIR MUNOZ: Yes.

22 MS. MOFFETT: (Inaudible.)

23 CHAIR STRINGER: (Inaudible.)

24 MS. MOFFETT: (Inaudible.)

25 BOARD MEMBER YEE: (Inaudible.)

1 CHAIR STRINGER: Thank you. And just for the
2 record, I'm abstaining, and Board Member Camacho is
3 abstaining because we weren't at the meeting.

4 Uncontested Items. Sam?

5 EXECUTIVE OFFICER UNGER: Yes. The Uncontested
6 Items on the calendars -- the calendar is five through nine,
7 consideration of Wastewater Discharge Requirements for
8 ExxonMobil at their Southwestern Terminal in Terminal
9 Island.

10 Six is Waste Discharge Requirements for the
11 Lincoln Avenue Water Company.

12 Seven is a termination of Waste Discharge
13 Requirements for Westfield Building in Century City area.

14 Eight is consideration of tentative termination of
15 Waste Discharge Requirements for Los Angeles County Fair,
16 Hotel, and Expo Center.

17 Nine is consideration of tentative termination of
18 Waste Discharge Requirements for the California Sulphur
19 Company, also in Wilmington.

20 And then, finally, is the consideration of
21 tentative Waste Discharge Requirements for Anacapa Foods.

22 CHAIR STRINGER: Do I have a motion on
23 Uncontested Items?

24 BOARD MEMBER YEE: Move for approval.

25 BOARD MEMBER MEHRANIAN: Second.

1 CHAIR STRINGER: Moved and seconded. Any
2 questions? Comments?

3 Ronji, roll call vote.

4 MS. MOFFETT: Ms. Camacho?

5 BOARD MEMBER CAMACHO: Yes.

6 MS. MOFFETT: Ms. Diamond?

7 BOARD MEMBER DIAMOND: Yes. Yes.

8 MS. MOFFETT: Ms. Mehranian?

9 BOARD MEMBER MEHRANIAN: Yes.

10 MS. MOFFETT: Ms. Munoz?

11 VICE CHAIR MUNOZ: Yes.

12 MS. MOFFETT: Mr. Stringer?

13 CHAIR STRINGER: Yes.

14 MS. MOFFETT: The motion passes.

15 BOARD MEMBER YEE: Yes here.

16 CHAIR STRINGER: Sam --

17 EXECUTIVE OFFICER UNGER: Okay.

18 CHAIR STRINGER: -- Item 11, EO report.

19 EXECUTIVE OFFICER UNGER: Okay. Today I'd like to
20 report on several items, including the Carousel Tract, the
21 Industrial General Stormwater Permit, just a bit of news
22 about our site cleanup program, some news about Malibu and
23 the Centralized Wastewater Treatment System, and some
24 training that Staff will be attending later this month.

25 So first on the Carousel Tract, we continue to

1 move forward with both administrative and site activities to
2 implement to the RAP. On June 29th the Regional Board
3 certified the Environmental Impact Report for the Remedial
4 Action Plan and issued a notice of completion to the state
5 clearinghouse. And we approved the RAP for excavation of
6 the front, back, and side yards to a minimum of five-foot
7 depth, and where warranted by site conditions and
8 investigation results to a depth of ten feet, installation
9 of a site-wide neighborhood-wide soil vapor extraction
10 system which will have its treatment unit being located
11 outside of the Carousel Tract, and sub slab depressurization
12 that requests that such a system be installed to provide
13 redundancy against vapor intrusion.

14 With these approvals, Shell is undertaking
15 development of the Remedial Design Implementation Plan and
16 the first set of property-specific remediation plans. Shell
17 has selected a contractor, and we've met with Shell and the
18 contractor. And the contractor has already proposed several
19 improvements to the planned work methods that can
20 potentially reduce the overall duration by one year, and
21 potentially reduce diesel emissions from the construction
22 equipment quite significantly.

23 During this planning stage there has been some
24 field work involving geotechnical sampling at the properties
25 that are planned for excavation. That work has been

1 completed. This involves taking soil samples to determine
2 the stability of the soil. And the information is used to
3 assure that the appropriate steps are taken to protect
4 foundations of the homes and other structures during
5 excavation activities.

6 Additional work that has been completed is a pilot
7 installation of a sub slab depressurization system at one
8 home. Again, these are essentially pipes that are installed
9 beneath the basement -- or excuse me, beneath the slab of
10 the home, and they serve to draw vacuums so that any vapors
11 that could accumulate there would be discharged through a
12 fan and filter system outside of the home area.

13 Currently there is a site-wide survey to determine
14 soil types and elevations for the clean replacement soils
15 that will be brought in. And for all this work we now have
16 issued work notices for all the activities in English and
17 Spanish. We are working with the responsible party, Shell
18 Oil, and the City of Carson to set up a public outreach
19 subcommittee or committee with the Regional Board and the
20 tenants. We will be informing the residents and soliciting
21 volunteers who wish to serve on that subcommittee.

22
23 We held an open house last month where Staff met
24 in small groups with members of the Carousel community. And
25 approximately 100 people were in attendance, including an

1 attorney for the represented parties, and 2 Shell
2 representatives, City of Carson staff and commissioners.
3 And we discussed issues regarding the overall and specific
4 design phases of the cleanup plan.

5 And I just want to reiterate, too, that the
6 property-specific cleanup plan is a plan in which each and
7 every home that is going to -- that will go -- undergo
8 excavation will meet with the contractor, will meet with
9 Shell, will meet with the Regional Board to determine if
10 there are any specific features of their property, possibly
11 trees, other -- swimming pools, other backyard patios and
12 things like that, that they want to preserve and how they
13 want it to be restored. So each and every member of the
14 community that is undergoing this will be met with during
15 the life of the remediation.

16 So at this point we are just awaiting the first
17 site-specific remediation plan. It's due to us on October
18 15th. We will be reviewing it as soon as we get it. And
19 hopefully we're still on target for possibly starting as
20 early as the first of the year.

21
22 That's Carousel. Are there any questions? Okay.

23 The Industrial General Stormwater Permit, as you
24 know, there was an information item.

25 Can we reflect that Board Member Glickfeld has

1 arrived?

2 MS. MOFFETT: Oh, yes, it's so noted.

3 EXECUTIVE OFFICER UNGER: Okay. Thank you.

4 MS. MOFFETT: Sorry.

5 EXECUTIVE OFFICER UNGER: As you know, there was
6 an information item in the Industrial General Stormwater
7 Permit earlier this year from UCLA that focused on scrap
8 metal processing and reprocessing activities and industries.
9 There are many issues related to the IGS Program, that's the
10 Industrial General Stormwater Program in our region, with an
11 important issue being that of non-filers, that is people who
12 do not file their -- register their facilities with the
13 State Board.

14 As you know, we have limited staff to handle more
15 than 3,000 potential enrollees. And as part of our focus on
16 non-filers, we generated letters to the municipalities
17 enrolled under the Los Angeles County MS4 Permit to assist
18 us in identifying dischargers who may not be enrolled. The
19 operative principle here is that the facilities are more
20 likely to have a business license than be enrolled under the
21 Industrial General Stormwater Permit. And thus, we have
22 generated letters to all cities enrolled under the MS4,
23 requesting that they implement the program that requires
24 proof of enrollment in the Industrial Stormwater Permit and
25 provide us a list of businesses that have not yet enrolled

1 in the General Permit. To date we have not received any
2 responses. These letters have just been sent out over the
3 last week or two. And we look forward to circling back with
4 the MS4 permittees to see -- to try to get their assistance
5 in this effort.

6 Site cleanup; I want to just mention very briefly
7 that we are continuing to sort of revision our Site Cleanup
8 Program to include a greater focus on regional groundwater
9 problems rather than just only on sites. This includes
10 greater interaction, and in some cases partnerships with
11 groundwater management agencies such as L.A. Department of
12 Water and Power and the Water Replenishment District. We
13 are working with the State Board Division of Drinking Water
14 on specific technical issues regarding drinking water wells
15 that are planned to be installed in close proximity to
16 groundwater plumes.

17 We are also working with regulatory agencies such
18 as DTOC (phonetic), DOGGR, and USEPA to continue to focus on
19 groundwater resources.

20 Within the office we have procured groundwater
21 modeling software to expand our capabilities to evaluate
22 plume movement. And we have reorganized to add a fifth unit
23 under Dr. Heath who will be headed by Mr. Greg Bishop. So
24 when you see the -- the staffing at the back of the EO
25 report every month, Mr. Bishop is a highly skilled geologist

1 who has been at the Board for more than eight years. And I
2 look forward to reporting to you on our activities in -- in
3 our focus on groundwater and polluted groundwater within our
4 region.

5 CHAIR STRINGER: Thank you.

6 Any questions?

7 EXECUTIVE OFFICER UNGER: One more thing I'd like
8 to add on to that --

9 CHAIR STRINGER: Okay.

10 EXECUTIVE OFFICER UNGER: -- if I could is just
11 that --

12 CHAIR STRINGER: Sure.

13 EXECUTIVE OFFICER UNGER: -- we think that we're
14 going to -- AB 445 is going to be helpful there, where we
15 can possibly --

16 CHAIR STRINGER: Great. Yeah.

17 EXECUTIVE OFFICER UNGER: -- free some staff from
18 the strict adherence to a cost recovery and use them for
19 these sort of larger, more regional projects.

20 BOARD MEMBER GLICKFELD: Mr. Chair?

21 CHAIR STRINGER: Yes?

22 BOARD MEMBER GLICKFELD: Thank you. I'm sorry for
23 being late. It's -- you have excuses all the time in L.A.
24 now. You just can't get from here to there.

25 CHAIR STRINGER: Yeah, I know. We need

1 helicopters.

2 BOARD MEMBER GLICKFELD: So I just wanted to
3 thank --

4 CHAIR STRINGER: Just to pause there, I just
5 wanted the record to reflect that Board Member Glickfeld is
6 now here.

7 BOARD MEMBER GLICKFELD: Yeah.

8 CHAIR STRINGER: So --

9 BOARD MEMBER GLICKFELD: So I wanted to tell --
10 thank the staff, particularly our Enforcement staff, for --
11 and our Industrial Permitting staff, for meeting with me and
12 the UCLA people. And we also -- I also invited Jonathan
13 Bishop down to meet with us. And he's generally in charge
14 of all the industrial stormwater programs. And I think that
15 what staff has already done is going to make such a huge
16 difference. I mean, we really are struggling to identify
17 the right people. And we talked about the problems in the
18 industrial permit that makes it harder for us to actually
19 find filers.

20 And what seemed really hopeful to me, and I hope,
21 Sam and you follow up with it, is that I asked if
22 Jonathan -- Jonathan if they could actually loan us some
23 staff that we could use to catch up on this program. And he
24 said he would -- he would try to think about that, if there
25 was a way, like with the EWMPs, that they could loan us

1 staff and we could catch up with a big backlog.

2 And I think, I just wanted to reiterate, I think
3 the staff is doing the best they can. But we probably have
4 more industrial sites here than the rest of the state
5 combined. And there are lots and lots of small ones. So --

6 CHAIR STRINGER: Yeah.

7 BOARD MEMBER GLICKFELD: -- I really appreciate
8 what the staff has done.

9 CHAIR STRINGER: Thank you.

10 EXECUTIVE OFFICER UNGER: Thank you. Okay.

11 On to Malibu and the Centralized Wastewater
12 Treatment System. As you know, earlier this year the Malibu
13 City Council certified the Environmental Impact Report for
14 the Centralized Wastewater Treatment System Project, and the
15 California Coastal Commission approved the project. The
16 last -- these -- these represent the last two major matters
17 administratively prior to starting of construction and
18 they -- excuse me. These two items really are the last two,
19 with the approval of an assessment district and selecting a
20 contractor. Those are the last two items really before they
21 can get underway.

22 The city sent -- circulated ballots to commercial
23 facilities in the civic center area, and released the plans
24 and specifications for contractor bidding. Unfortunately,
25 the bids came in significantly higher than expected by

1 Malibu's project team and the bids were all rejected.

2 So in -- in the response to the bids received and
3 the rejection of the bids, Malibu plans to restructure the
4 project into three separate phases, the collection system
5 being one, that is the sewer system, the treatment plant
6 being the second phase, and the injection well for
7 wastewater disposal, the third phase of the project.

8 Staff's analysis, that is Malibu City staff's
9 analysis of the bids indicates that these three separate
10 phases will significantly bring the project cost down closer
11 to the estimate and they can proceed.

12 In terms of what this means in terms of schedule,
13 Jim Thorson is still analyzing that. It could be as short
14 as a one to two month delay and as long as maybe a four to
15 five month delay. So we may have to bring this item back to
16 you. But I wanted to let you know that there's going to
17 have to be a rethinking of the bidding and the project costs
18 for the Malibu Centralized Sewer Treatment System.

19 CHAIR STRINGER: Thank you.

20 Yeah. Questions?

21 BOARD MEMBER DIAMOND: I just want to make sure I
22 understand. The bids came in too high, that's clear.

23 EXECUTIVE OFFICER UNGER: Yeah.

24 BOARD MEMBER DIAMOND: And they -- and they
25 rejected all of them.

1 EXECUTIVE OFFICER UNGER: Yes.

2 BOARD MEMBER DIAMOND: So rather than, I don't
3 know, sending it out again, they are dividing it up into
4 three different phases.

5 EXECUTIVE OFFICER UNGER: Right.

6 BOARD MEMBER DIAMOND: And so they have to send
7 out bids again for that.

8 EXECUTIVE OFFICER UNGER: Yes.

9 BOARD MEMBER DIAMOND: And -- and because of that,
10 because we don't know what the bids will be, obviously, they
11 expect the bids -- when -- when will the -- when are those
12 bids due by?

13 EXECUTIVE OFFICER UNGER: That's what I'm saying,
14 right now they -- they do not -- they have not released the
15 new bids yet. This only happened several weeks ago. So in
16 terms of how long it's going to take the city to reissue the
17 bidding, the plans and specs for bid, is a bit unknown at
18 this point. But we think it's on the order of weeks from
19 now.

20 BOARD MEMBER DIAMOND: And then -- and then when
21 those bids come in, if there are some acceptable ones -- and
22 so what's first? Are they all going to be doing -- they're
23 going to be doing the three phases simultaneously or one
24 first and then the second one and then --

25 EXECUTIVE OFFICER UNGER: The order of

1 construction will probably -- again, Malibu is still trying
2 to sort all this out. But the order -- we don't expect this
3 bidding issue to really affect the order of construction,
4 the plans for construction and things like that. So it's
5 quite possible that two separate contractors would be onsite
6 at the same time doing two different things, or three
7 different contractors doing three different things.

8 BOARD MEMBER DIAMOND: But they do expect the
9 schedule to be delayed?

10 EXECUTIVE OFFICER UNGER: Yeah. Certainly this,
11 it was not planned to essentially -- for this -- these set
12 of circumstances were not foreseen, that the bids would come
13 in so much higher than the estimated costs.

14 BOARD MEMBER DIAMOND: Can you speak up a little
15 or into the microphone?

16 EXECUTIVE OFFICER UNGER: I'm sorry. Yeah. Yes,
17 there is going to be a delay. There is going to be a delay
18 while Malibu does the work to essentially restructure the
19 bid documents and divide it into --

20 BOARD MEMBER DIAMOND: Is there some way we can
21 have oversight over how long that timeframe is? Because
22 that's a concern. You know, I understand the on-the-ground
23 practical, this, you know, not accepting the bids for
24 various reasons. I'm not trying to second guess that. But
25 I am saying or questioning whether our -- don't we have

1 oversight so that we can --

2 EXECUTIVE OFFICER UNGER: Well --

3 BOARD MEMBER DIAMOND: -- make sure that this is
4 in a timely fashion? Because it's already been delayed.

5 EXECUTIVE OFFICER UNGER: We -- yes, we do have
6 oversight through a Memorandum of Agreement --

7 BOARD MEMBER DIAMOND: Right.

8 EXECUTIVE OFFICER UNGER: -- that we have with the
9 City of Malibu. I have not yet taken a look at the schedule
10 and analyzed the schedule to see how that fits in with what
11 the city is planning on their move forward to see if we
12 would need to modify that MOA. But certainly we would
13 have -- the Board would have oversight at the point if the
14 MOA needed to be modified. At this point it's not clear
15 that it does need to be modified because this could be a
16 very quick turnaround to get the --

17 CHAIR STRINGER: Just -- just so --

18 EXECUTIVE OFFICER UNGER: -- to get the bid
19 package out on the street.

20 CHAIR STRINGER: If I can interject, just so --

21 EXECUTIVE OFFICER UNGER: Yeah.

22 CHAIR STRINGER: -- the Board is aware, Sam and I
23 talked about this about a little less than a week ago, I
24 guess --

25 EXECUTIVE OFFICER UNGER: Yeah.

1 CHAIR STRINGER: -- or was that more than that? I
2 can't --

3 EXECUTIVE OFFICER UNGER: It was a little less
4 than two weeks ago.

5 CHAIR STRINGER: Time is flying --

6 EXECUTIVE OFFICER UNGER: Yeah.

7 CHAIR STRINGER: -- way too fast right now.

8 EXECUTIVE OFFICER UNGER: Yeah.

9 CHAIR STRINGER: So -- but then this came up very,
10 very recently. And we talked about making sure that Sam
11 made the rest of the Board aware today. And as -- and as
12 Sam said, he hasn't had an opportunity yet to go through the
13 scheduling implications and the potential enforcement
14 implications that he's alluding to. So --

15 BOARD MEMBER GLICKFELD: Mr. Chairman, I --

16 CHAIR STRINGER: -- this is -- this is new news.

17 BOARD MEMBER DIAMOND: Well, I just --

18 CHAIR STRINGER: Yeah.

19 BOARD MEMBER DIAMOND: Just -- just to finish up

20 I --

21 CHAIR STRINGER: Yeah.

22 BOARD MEMBER DIAMOND: -- I would just say that my
23 point of view, speaking for myself, I would want you to, and
24 I'm sure you will, be very much on top of it and keeping in
25 mind the direction of the Board with the MOU and the

1 schedule that we anticipated, given the delay that we've
2 already had, and making sure that it's not an undue delay
3 any further.

4 EXECUTIVE OFFICER UNGER: Yeah. Well appreciated.
5 And Mr. Thorson said he would have been here today but he
6 had a prior commitment and couldn't make it. So I expect
7 that we could bring him back to the next meeting. He can
8 provide you a very detailed account of the events that have
9 led to this.

10 CHAIR STRINGER: Yeah. We'll -- we'll need that,
11 Sam. So I think we should just make sure that he
12 understands that --

13 EXECUTIVE OFFICER UNGER: Okay.

14 CHAIR STRINGER: -- that maybe the next --

15 EXECUTIVE OFFICER UNGER: Absolutely.

16 CHAIR STRINGER: -- the next meeting.

17 Yes?

18 BOARD MEMBER GLICKFELD: I just wanted to rephrase
19 some of the questions that Board Member Diamond said.

20 Is there a reason that Mr. Thorson thinks that
21 rebidding this project will come out with a different
22 outcome? Is there -- is he -- is he thinking that rebidding
23 it will make a substantial difference in the prices that
24 he's going to get?

25 EXECUTIVE OFFICER UNGER: Yes, he does.

1 BOARD MEMBER GLICKFELD: Okay. That's --
2 that's --

3 EXECUTIVE OFFICER UNGER: I think that's his
4 preliminary assumption.

5 BOARD MEMBER GLICKFELD: I think that's the most
6 important thing for me, is that this is a very, very
7 expensive system to start with. And to get bids that are
8 way, way higher, we may not get an assessment district
9 approved. So we have to do what we can to make sure that he
10 can be successful in this.

11 CHAIR STRINGER: Right. And it's -- and it's --
12 there's already some very creative -- my understanding is
13 from 100,000 feet is that there are some very creative
14 phasing that -- that Jim is already sort of coming up with,
15 which gives --

16 EXECUTIVE OFFICER UNGER: Yeah. It's actually
17 structuring it --

18 CHAIR STRINGER: -- (inaudible).

19 EXECUTIVE OFFICER UNGER: -- into three separate
20 bids.

21 CHAIR STRINGER: Yeah.

22 EXECUTIVE OFFICER UNGER: We're hoping that the
23 phasing -- he hopes that the phasing can stay the same in
24 terms of the time schedule.

25 CHAIR STRINGER: Yeah.

1 EXECUTIVE OFFICER UNGER: So -- but I'll have more
2 details for you next month.

3 CHAIR STRINGER: Any other --

4 BOARD MEMBER DIAMOND: So he'll be here next
5 month?

6 EXECUTIVE OFFICER UNGER: Yes. I'll ask him to,
7 either he or someone from his staff, to come here and speak
8 with you next month.

9 CHAIR STRINGER: Any other questions on Malibu?
10 Okay.

11 Thanks, Sam.

12 EXECUTIVE OFFICER UNGER: And let's -- my last --
13 two last issues here, one is on training. I want to let you
14 know that later this month the managers of the Regional
15 Board 4, Los Angeles Regional Board, will participate in
16 risk communication training in an effort to further our
17 skills in public outreach. Under Susanna's leadership,
18 along with Board Member Munoz, they've identified a DTOC
19 training course in risk communications. And Susanna has
20 attended that course and is finding a way to work with the
21 trainers from DTOC to tailor this to the unique requirements
22 of the Water Boards.

23 Most of our managers, from the unit chief to
24 executive management, will participate in a one-day training
25 module that will be held at the Los Angeles River Center.

1 Topics to be included include what I've come to learn is
2 actually an academic area of study is risk communication
3 science. We're going to be talking about risk communication
4 strategy. We're going to have modules where we will be
5 developing key messages and receive training in that,
6 presentation considerations, and plain language fact sheet
7 group activity.

8 This training that's just been planned has
9 interested folks in Sacramento. Gita Kapahi, Director of
10 the State Board Office of Public Participation and some of
11 her staff will also be in attendance to observe.

12 I wish to thank the DTOC staff and management for
13 making this training available to the Regional Board staff.

14
15 And thank you, Irma, for supporting the efforts to
16 support Staff's capabilities in improving our public
17 outreach.

18 And last, I would like to introduce Dr. Heath to
19 you who has an award for staff.

20 And that concludes my EO report.

21 CHAIR STRINGER: Great. Thank you, Sam.

22 BOARD MEMBER CAMACHO: I had two questions --

23 CHAIR STRINGER: Oh, sure. Of course.

24 BOARD MEMBER CAMACHO: -- quickly, sorry, just
25 on -- sorry -- just on the Board packet and some of the

1 information that we had in the EO report.

2 EXECUTIVE OFFICER UNGER: Yeah.

3 BOARD MEMBER CAMACHO: I just wanted a little bit
4 of clarification on -- under the Public Participation and
5 Community Engagement Activities, related to the Cal/EPA
6 Enforcement Taskforce Working Group with the L.A.
7 Environmental Justice Initiative. I was just curious to
8 know what exactly that is. And I know there was also
9 mention of an L.A. Environmental Justice Action Network. So
10 I just would love to have further information.

11 EXECUTIVE OFFICER UNGER: Susanna, would you --

12 UNIDENTIFIED FEMALE: Hugh.

13 EXECUTIVE OFFICER UNGER: Hugh?

14 MR. MARLEY: Good morning. Hugh Marley.

15 What we were -- what we were doing is we're
16 joining with Cal/EPA in a Cal/EPA-led initiative, EJ
17 initiative, where they're focusing on -- on dischargers such
18 as auto dismantlers in EJ communities such as Boyle Heights
19 and Pacoima and Sun Valley. And together with Cal/EPA and a
20 number of other BDOs, we've put together a list of
21 facilities that we'll be inspecting together, each agency
22 looking at their own concerns. And we are also not --
23 everyone is not going to the same facilities. We're also
24 taking everyone else's concerns and going to a large number
25 of facilities and looking for -- we would look for something

1 the DTSC is looking for or the Air Board is looking for, and
2 come back to them.

3 We're also doing a public outreach workshop that
4 we are putting together in Pacoima. And some other BDOs are
5 going to be involved in that. And that's coming up in
6 October. We're doing outreach to the community. We're
7 putting together flyers and pamphlets and information in, I
8 believe now it's three languages, English, Spanish, and
9 Eastern Armenian. And we're going to have a tri-lingual
10 interpretation, simultaneous interpretation of our -- of our
11 presentation. That's coming up.

12 BOARD MEMBER CAMACHO: Thank you. That's
13 fantastic. I think trying to do this as a kind of -- in a
14 collaborative effort is just phenomenal, and really trying
15 to engage the public, along with the stakeholders that
16 you're specifically targeting is -- is great. So I just was
17 curious to know what that was. So I appreciate that report
18 and the hard work that that takes, so thank you.

19 MR. MARLEY: Thank you.

20 BOARD MEMBER CAMACHO: And then I have one other
21 question. Sorry. But I have one other question on the
22 status of the Los Angeles Basin Stormwater Conservation
23 Study under the Watershed Regulatory information that was
24 included in our Board packet. We can talk offline. But I
25 was just curious --

1 EXECUTIVE OFFICER UNGER: Yeah. Okay.

2 BOARD MEMBER CAMACHO: -- to know as to -- I know
3 the watershed coordinator was -- has been attending meetings
4 there on that. And so I just wanted to understand what the
5 status was there.

6 EXECUTIVE OFFICER UNGER: So I think maybe what we
7 should do possibly is provide an information item to you,
8 perhaps later this year, on what our watershed coordinator
9 does and the numerous wastewater that she works in. We have
10 one person who kind of is liaison to those folks and she
11 does a lot of different things in terms of providing
12 technical support when needed, publicizing funding
13 opportunities to different Watershed Groups, things like
14 that. So we will -- we'll look forward for an information
15 to you on --

16 BOARD MEMBER CAMACHO: That would be helpful.
17 Thank you.

18 EXECUTIVE OFFICER UNGER: Okay. I'd be happy to
19 do that.

20 CHAIR STRINGER: Thanks, Sam.

21 DR. HEATH: Good morning.

22 CHAIR STRINGER: Good morning.

23 DR. HEATH: I'm here to present the Sustained
24 Superior Accomplishment Award to a member of the Site
25 Cleanup Program. The annual award targets candidates who

1 have demonstrated a history of superior accomplishment and
2 leadership in terms of performance.

3 In this particular case the recipient has
4 progressed some of the most challenging and difficult legacy
5 cleanup cases through the regulatory process and initiated
6 enforcement action on other non-complying sites in the
7 program. Her leadership efforts continue to produce water
8 quality successes for the Regional Board today.

9 So please join the Site Cleanup Program in
10 congratulating Dr. Angelica Castaneda as a recipient of the
11 Sustained Superior Accomplishment Award.

12 CHAIR STRINGER: So -- so thank you. Some of the
13 other Board Members may want to say something, but let me
14 just say how much we appreciate your work and your
15 dedication, and such a richly deserved award. I personally
16 think it's wonderful that -- that the Regional Board
17 recognizes its outstanding Staff in this way. And we all
18 appreciate the hard work. We may not see it or express it
19 as much as we could or should, but know everyone works
20 really, really hard and we really appreciate your work and
21 the fact that you're being honored today, as well.

22 DR. HEATH: All right. It comes with \$1 million.
23 Not really.

24 MS. CASTANEDA: Thank you very much.

25 CHAIR STRINGER: I'm switching jobs.

1 MS. CASTANEDA: Thank you.

2 DR. HEATH: Thank you.

3 CHAIR STRINGER: Thank you. The best part of the
4 day.

5 State Board report. Good morning.

6 MS. SPIVEY-WEBER: Good morning. It's been
7 awhile.

8 CHAIR STRINGER: Yeah.

9 MS. SPIVEY-WEBER: I'm looking forward to today.

10 First of all, I want to remind you, the Water
11 Quality Coordinating Committee is meeting in Sacramento,
12 this is all the board members from all the different
13 regions, on the 12th and 13th. And two of the big areas of
14 focus will be stormwater, one of your favorite subjects, and
15 groundwater, which I was very pleased to hear Sam's report
16 this morning talking about the reorganization that he's done
17 to start to -- to not start, because you've been doing a
18 lot, but to concentrate the effort so that you can actually
19 measure some of the outcomes that you're getting.

20 In Sacramento, as you perhaps were reading in the
21 newspaper, is all about the finishing up of the legislation,
22 the legislative season. We have two more days. It's quite
23 crazy. Everybody is focused on that at the governor's
24 office, as well as a lot of the staff that -- that we work
25 with, as well as at Cal/EPA. So there's a lot going on.

1 Decisions are being made. Things are being moved to the
2 governor's desk. The governor will have the month of
3 September to decide whether or not to sign various bills.

4 And so I would recommend that in October or
5 November you invite Rob Eagle to come in to -- because there
6 are a number of bills, there a number of political changes
7 going on that -- that are important to the L.A. region. And
8 so I encourage you to take advantage of Rob's -- Rob's
9 knowledge, he's the Legislative Coordinator for the State
10 Board, and invite him to come and give you a brief update as
11 to what -- what is going on, and where there are
12 opportunities for you to -- to jump in.

13 There -- one bill that is still moving but will be
14 very interesting, particularly for the Water Boards, is a
15 bill from Assemblyman Wolk -- or Senator Wolk, and it's on
16 leakage. And the Water Boards will be, if it is signed,
17 will be paying for some of the audits that agencies will
18 make about their system leakage. This will not be leakage
19 at the home level, but this will be system leakage. So
20 that's something I know that Madelyn has worked on this, and
21 some of the graduate students at UCLA have worked on this.
22 It's -- it is moving along. So we are -- we're watching
23 very carefully.

24 I wanted to bring to your attention again, this
25 is -- it's about a year old or a little less than a year

1 old, the California Water Action Plan. Because as you are
2 starting to look at your budgets for next year, your -- your
3 plans for next year, go back and revisit the 19-page
4 California Water Action Plan. Because it -- it emphasizes
5 the ten areas that the -- that the governor and the agencies
6 under the governor are focusing on in terms of budgeting, in
7 terms of staffing, in terms of legislation. And it
8 encourages very much what you just heard from about
9 enforcement. It encourages interagency collaboration and
10 cooperation. And so this is something that -- that you
11 certainly know how to do.

12 But as you start to think about what you're doing,
13 look at the California Water Action Plan. It's on our
14 website. It's on the governor's website. It's on the
15 resources agencies website. It's on just about everybody's
16 website. And it is -- it's done under the -- under the
17 context of climate change. And so I can't emphasize enough
18 how important it is that as we deal with water quality
19 issues which is our mission, and we deal with drinking water
20 issues which is our mission, and water rights which is our
21 mission, we need to more -- become more and more comfortable
22 with dealing with these things in the context of climate
23 change. Because that will be the framework under which
24 decisions get made. So just some -- some advice.

25 The three things that I have -- I actually have

1 been in L.A. for the last few weeks and have done some
2 interesting things. They have been mostly state- or county-
3 led efforts. One was -- but one was a -- I spoke at the
4 Marshall -- it's not called high school, but it's the
5 Marshall School, it's a middle school and high school in
6 Pasadena, on -- on drought. There's a lot of interest, as
7 you can imagine, down here on drought. And 1,900 students,
8 I mean, I never have seen that many students in one place.
9 So it was really -- it was quite amazing. They're doing
10 papers on what to do about the drought.

11 I also would recommend that -- that we reach out
12 to them to essentially get a look at some of the good papers
13 that come in. They're going to sift through them and have a
14 competition for some of the best. But there may be some
15 ideas that -- that the Water Board will want to pick up on.
16 And so I encourage you to look at that.

17 The Drought Taskforce, which is a state agency --
18 or a state collection of agencies that is going around the
19 state, meeting in various communities with water agencies in
20 those communities, largely, and to some extent with cities
21 to talk about drought and what's -- what's available. The
22 emergency services has been taking a big lead on this. But
23 also certainly the Water Board and other agencies have been
24 there.

25 The Drought Taskforce met in Pasadena, as well,

1 this past month at Huntington Gardens. And by the way, they
2 have a very nice drought garden. So if you -- you're
3 looking for ideas, it's a great place to go to get some good
4 ideas.

5 And the next day I met with a group that had been
6 pulled together for Sheila Kuehl who has -- is taking a big
7 interest in water, among many, many other things in her
8 duties as commissioner -- as supervisor for the -- for the
9 county. And she is very interested in regularly convening
10 people to work in a more -- this was something of an
11 overview around drought, but she's interested in convening
12 on particular issues and trying to pull together various
13 parts of the county that -- that could help to -- to solve
14 some of these problems. And I strongly encouraged her to
15 contact Sam and the Water Board staff because I felt like
16 many, most, if not all of the issues she was interested in
17 would in same way touch -- touch the Regional Board.

18 So I encourage you to pick up the phone and call
19 her, as well, and perhaps set up a meeting and include the
20 County Flood and, you know, whoever else needs to be -- to
21 be in that. But as she starts out on this track it would be
22 very, very good for the Water Board to be in the middle and
23 helping where we can.

24 In the -- at the State Board we have -- we had a
25 workshop on Stormwater Initiative which is a ten-year,

1 basically, work plan that we will be pursuing over the
2 next -- the next ten years. But we'll be voting on whether
3 this is what we want to do in October. So it -- so the ten
4 years won't start until then. But it will -- it will guide
5 both staffing, as well as funding, and requests that we make
6 of the -- of the governor and the budget into the future.
7 So it's on our website.

8 It -- we -- the comment period is out. I'm sure
9 Sam and you folks are looking at that very carefully. But
10 once that is -- I mean, you want to get your two cents in
11 right now. But also, once it's in place I think it would be
12 worth some -- some targeted thinking about how you can use
13 this to -- to further your own interests.

14 We will be coming up with the Groundwater Quality
15 Guidelines in 2016. This is a fairly new -- this is a quite
16 new program for us. And so they're -- they're working on
17 the guidelines. But the guidelines will be out for comment
18 earlier than that.

19 We're still in an emergency for -- for drought.
20 And very good news, at the end of July that -- that the
21 numbers of reductions in water use was down significantly,
22 greater than what the governor had asked. The governor had
23 asked for a 25 percent statewide reduction, and it's now at
24 29.3 percent down, and that's pretty amazing. I have
25 checked to see what the office numbers are looking like.

1 But at this point we're not -- they're just now coming in.
2 So we don't have -- have too much to say, but we will very,
3 very soon. We usually try to let the -- make the
4 announcement on the numbers in the last -- last week, within
5 the last ten days of the month.

6 CHAIR STRINGER: Hey, Fran, do you have a
7 breakdown of where those reductions are coming from?

8 MS. SPIVEY-WEBER: Mostly outdoors. They're --
9 they're mostly outdoors. There's some indoor reductions,
10 mostly from homeowners, mostly from -- not -- not as much
11 from commercial/industrial/institutional.

12 The -- is that what you're -- is that your
13 question?

14 CHAIR STRINGER: Yeah. So it's -- so it's largely
15 residential --

16 MS. SPIVEY-WEBER: It's largely residential.

17 CHAIR STRINGER: -- landscape use?

18 MS. SPIVEY-WEBER: Right.

19 CHAIR STRINGER: Okay.

20 MS. SPIVEY-WEBER: And in line with that, of
21 course, every water agency that I encounter says, what's
22 next? You know, we've -- we've kind of given and we've
23 given a lot and our -- our customers have given a lot, and
24 so, what's next?

25 And my response is we're working on it. And we

1 are engaging people and will engage folks as we move
2 forward. But the challenge this next year will probably be
3 multi-faceted. It will -- there will be drought in some
4 parts of the state, maybe all of the state but certainly in
5 some parts of the state, there may be floods in other parts
6 of the state, and we will be doing both at the same time.
7 The Department of Water Resources is now working on their
8 flood plans because they anticipate a lot of flooding down
9 in this area, and there's already been a little bit this
10 summer. And I know the -- the county is also gearing up for
11 flood in this area, as well, while at the same time they're
12 dealing with -- with drought.

13 So it's -- it's a challenge, but it's a challenge
14 the state is going to be facing for the rest of the century.
15 And so best we get about the business of trying to do both
16 at the same time. We're not just one and we're not just the
17 other, we often are both.

18 And in terms of recycled water the -- there is a
19 science team that's been put together by the Division of
20 Drinking Water. And they will be closing up their -- their
21 recommendations and will be starting on regulations for --
22 for recharge of surface water bodies with recycled water.
23 That will be done in a couple weeks. And the permit -- or
24 the regulation writers will have until the end of next year
25 to get it finished. We think the draft will be out in June

1 of next year so there will be time for folks to comment, and
2 then we will finalize them before the end of next year. Now
3 this science team is moving to look at the feasibility of
4 direct potable. And that's going to be something that will
5 take place over the next -- next year.

6 And finally, John Bishop will be here this
7 afternoon, as will I. And we checked with our attorneys and
8 we can both listen to a public meeting about stormwater --
9 the stormwater program, we just can't say anything, we have
10 to be quiet. And we can't talk with anyone about it, but we
11 can listen. So that was good news for me and for John and
12 we're looking forward to it. But if you want to talk to him
13 about other things, and I heard you mention several, he will
14 be here this afternoon, probably around one o'clock.

15 Thank you.

16 CHAIR STRINGER: Thank you very much.

17 EXECUTIVE OFFICER UNGER: Thank you.

18 CHAIR STRINGER: That concludes Item 12.

19 We're now into public forum. I don't have any
20 speaker cards. Nothing? Great.

21 Moving on to Item 14 and Item 15 which we're going
22 to hear in a joint presentation, but we're going to vote on
23 them separately.

24 We'll start with an oath. All those who are
25 planning on speaking on Items 14 and 15, please stand and

1 raise your right hand.

2 (Whereupon, Witnesses for Items 14 and 15 are Sworn.)

3 CHAIR STRINGER: Thank you.

4 So, Cris, I think you're up.

5 MS. MORRIS: Good morning, Chair Stringer and
6 Members of the Board. My name is Cris Morris. I'm the Unit
7 Chief for the Municipal Permitting Group. Items 14 and 15
8 include two separate resolutions for consideration to
9 approve discharge from Hyperion's one-mile outfall,
10 including the brine from the West Basin EC Little Plant,
11 during a necessary six-week maintenance project on the
12 Hyperion Effluent Pumping Plant Header. A workshop to
13 present background information regarding this project was
14 conducted with members of the Board present on August 4th.

15 We have brought these resolutions to your
16 attention today to approve a temporary six-week bypass of
17 Hyperion's five-mile outfall, to approve the city's proposed
18 monitoring plan during the diversion, and to assign interim
19 limitations to the discharge with special conditions.

20 The Regional Water Board and USEPA jointly issued
21 Order Number R4-2010-0200 on November 4th, 2010 to permit
22 the discharge of secondary-treated effluent from the
23 Hyperion Treatment Plant through two separate outfalls, the
24 one-mile outfall and the five-mile outfall. The five-mile
25 outfall is the only outfall permitted for routine discharge

1 of secondary-treated effluent. The one-mile outfall is also
2 permitted to be used for emergency discharge of chlorinated
3 secondary-treated effluent during extremely high flows,
4 preventative maintenance such as routine opening and closing
5 of the outfall gate valves for exercising and lubrication,
6 and -- and during intense storms or storms associated with
7 power plant -- power plant outages.

8 This map shows the location of the Hyperion
9 Treatment Plant in relation to the city's other upstream
10 plants that are hydraulically connected to Hyperion, the
11 L.A./Glendale and Tillman plants. This slide also depicts
12 the five-mile outfall and the one-mile outfall, as well as
13 the brine line from the EC Little Plant. Hyperion's
14 treatment capacity is 450 mgd, or million gallons per day.
15 But the daily discharge flow rate over the last six months
16 has been averaging 250 mgd. Hyperion and EC Little serve a
17 population of 4.8 million.

18 This is a simple schematic that shows the normal
19 operation between Hyperion and the EC Little Water
20 Reclamation Plant. About 20 percent of the secondary
21 effluent from Hyperion is treated by EC Little and
22 distributed as recycled water. The brine from the treatment
23 facility is discharged to the five-mile outfall with the
24 secondary effluent from Hyperion. The brine flow is about
25 1.5 percent of the secondary effluent flow.

1 During the 2015 EPP Project, the five-mile outfall
2 will be taken out of service and the brine will be
3 discharged to the one-mile outfall instead.

4 The treatment capacity of the EC Little Plant is
5 63 mgd. The recycled water uses -- uses for that amount are
6 40 mgd for irrigation, 18 mgd for groundwater injection to
7 protect against seawater intrusion, and five mgd for
8 industrial uses. The current average daily flow of brine is
9 4 mgd.

10 Starting in April of this year, the City of L.A.
11 and West Basin began coordinating with the Regional Board to
12 obtain approval for a six-week bypass of the five-mile
13 outfall while necessary maintenance is performed on the
14 Effluent Pumping Plant Header. The EPP Header is necessary
15 to pump high volume flows during storm events through the
16 five-mile outfall when gravity flow will not suffice. The
17 project will require a complete shutdown of the five-mile
18 outfall and all flow will need to be diverted to the one-
19 mile outfall during the duration of the project.

20 The city requested approval of the anticipated
21 bypass on June 8th, 2015. And West Basin first requested
22 permission to bypass on April 30th. In order to permit the
23 bypass for Hyperion and EC Little, the Regional Water Board
24 staff developed two resolutions to ensure the discharge from
25 the one-mile outfall will continue to meet the Ocean Plan

1 objectives for all monitored pollutants and the applicable
2 final effluent limitations for the one-mile outfall. The
3 work is scheduled to take place from September 21st to
4 November 2nd.

5 The conditions included in the Hyperion resolution
6 are: Maintain compliance with all final effluent limits in
7 the NPDES permit, excluding total residual chlorine, ammonia
8 as nitrogen, and chronic toxicity; second, maintain
9 compliance with the interim limits for total residual
10 chlorine, ammonia as nitrogen, and chronic toxicity; and
11 also to implement the monitoring plan as approved, and to
12 satisfy the 250 mgd discharge requirement from the one-mile
13 outfall.

14 In addition to the Hyperion conditions, the EC
15 Little resolution conditions also include a four mgd maximum
16 flow limit and interim limits for residual chlorine and
17 ammonia as nitrogen.

18 To determine the interim limitations during this
19 project we first checked the historic data for both Hyperion
20 and EC Little and determined that all of the effluent limits
21 could be achieved, except for total residual chlorine,
22 ammonia as nitrogen, and chronic toxicity.

23 Next we looked at the basis for the final effluent
24 limitations in the current order for discharging from
25 Hyperion to the one-mile outfall. These limits are based on

1 a flow rate of 420 mgd and a dilution ration of 13-to-1.
2 The flow rate from HTP, Hyperion Treatment Plant, recently,
3 however, has averaged 250 mgd.

4 To determine the potential effect of the discharge
5 to the one-mile outfall the city conducted a dilution study
6 using the 250 mgd flow rate. The results of this study
7 suggests that the initial dilution would be completed within
8 a radius of 200 meters and that the minimum probable initial
9 dilution would be 27-to-1. Utilizing that dilution ratio,
10 the discharges to the one-mile outfall from both Hyperion
11 and EC Little will continue to meet the water quality
12 objectives in the Ocean Plan. The interim limits for
13 chlorine residual, ammonia as nitrogen, and chronic toxicity
14 in the two resolutions are based on the 27-to-1 dilution
15 ratio.

16 Here is a summary of the final effluent limits in
17 the current NPDES permit for the one-mile outfall versus the
18 interim limits during the bypass event. As you can see from
19 these values, the 27-to-1 versus the 13-to-1 dilution
20 ratio increased the limits to a little more than twice the
21 amount. The justification for the increased dilution ratio
22 is due to the lower flow rate. This issue will be discussed
23 more fully in a few more slides.

24 This slide summarize EC Little's final effluent
25 limits for the five-mile outfall in the current NPDES permit

1 versus the interim limits in the resolution.

2 Comments were received for the Hyperion Resolution
3 from Heal the Bay. The comments -- the comment topics are
4 listed here. The first comment relates to the dilution
5 model and plume tracking during the project. The next two
6 comments relate to the monitoring required in the -- in the
7 monitoring plan from the city. Heal the Bay also commented
8 on the planned public notification and the lack of
9 contingency plans. I will discuss each of these comments in
10 the following slides.

11 The first comment, the dilution model should be
12 run at regular intervals using real-time data for the
13 duration of the diversion to confirm that the dilution model
14 is appropriate for the conditions actually present at the
15 time of the diversion.

16 The staff response is that the dilution model was
17 run to determine the worst-case scenario dilution ratio for
18 the current flow rate. The dilution ratio was then used to
19 determine interim limitations for ammonia, total residual
20 chlorine, and chronic toxicity. The dilution model was not
21 designed to predict expected -- expected conditions that
22 would occur in the ocean water during the division -- I'm
23 sorry, during the diversion, instead past monitoring was
24 used. Real-time modeling is not necessary since real-time
25 monitoring data provided by the Comprehensive Receiving

1 Water Plan with its adaptive sampling design will be more
2 useful to demonstrate that water quality standards are being
3 met in the receiving waters.

4 Even though daily dilution modeling will not be
5 conducted, the discharge plume will be monitored daily. The
6 proposed monitoring regime is sufficient to monitor the
7 discharge waters -- the discharge plume and ensure water
8 quality standards continue to be met in the ocean waters.

9 The shoreline -- oh, am I off track?

10 The shoreline monitoring comment is that the EPP
11 Project Monitoring Plan should include daily monitoring for
12 both total residual TRC and fecal indicating bacteria.

13 The proposed monitoring plan includes monitoring
14 at 18 of 23 diversion shoreline monitoring locations three
15 to five times per week. In addition to these diversion-
16 specific monitoring locations -- locations, the MS4 Permit
17 for the Santa Monica Bay requires an array of stations
18 along the shore -- requires monitoring on an array of
19 stations along the shore of the entire bay. This sampling
20 includes 18 sites on Monday, 27 on Tuesday, 5 sites -- and 5
21 sites on Wednesday through Saturday.

22 Several different agencies, including the County
23 Department of Public Health, beach cities, and the City of
24 Los Angeles are responsible for the MS4 monitoring. The
25 city will compile all data from the MS4 Permit, in addition

1 to what is included in the monitoring -- in the monitoring
2 plan. When taking both the proposed monitoring plan and the
3 MS4 Permit requirements into account, there will be at least
4 18 samples collected and analyzed for FIB six days per week.

5 Per the monitoring plan, the total residual
6 chlorine testing along the shoreline will be performed three
7 to four times per week at 10 of the 18 diversion stations.
8 The MS4 monitoring does not include monitoring of total
9 residual chlorine. Compared to the shoreline monitoring
10 microbiology, total residual chlorine at the shoreline is
11 less critical in terms of human health because extensive
12 offshore monitoring will also be conducted for TRC and the
13 one mile or greater distance to the shoreline will further
14 reduce the chlorine concentration before it reaches the --
15 reaches the shore.

16 This figure depicts the 18 diversion-specific
17 stations that will be monitored for FIB and TRC as part of
18 the proposed monitoring program. At least eight of these
19 diversion sites are monitored five days per week for FIB,
20 and ten sites will be monitored for TRC four days per --
21 four times per week. FIB -- FIB monitoring for these sites
22 will only be reduced to three days per week if there are no
23 FIB exceedances in all 18 stations for two weeks. The
24 routine MS4 shoreline monitoring, however, will continue
25 five days per week.

1 This figure depicts all of the MS4 monitoring
2 locations that are monitored on a regular basis. These
3 stations will be monitored for FIB three to six times per
4 week by the responsible agencies.

5 As previously mentioned, the city will compile all
6 data from the MS4 Permit, in addition to the data collected
7 from the diversion sites. Since extensive FIB and TRC
8 shoreline monitoring will already be collected during the
9 diversion, it is not necessary to include additional
10 shoreline monitoring in the proposed monitoring plan.

11 There was one change to the language in the
12 tentative resolution relating -- relating to the shoreline
13 monitoring. The tentative resolution states that the city
14 shall email bacterial results to the County Department of
15 Public Health on a daily basis; however, other agencies are
16 involved in collecting some of the shoreline data, and
17 samples will be collected six days per week.

18 The language in the tentative resolution was
19 revised to indicate that the city will ensure that the L.A.
20 County Department of Public Health and Heal the Bay are
21 notified of the bacterial results at least six times per
22 week as soon as the results become available. This change
23 was made since the city will not be the only agency sampling
24 on all days, and since samples will only be collected six
25 days per week.

1 The next comment from Heal the Bay is that there
2 is no compliance point for ammonia and that -- and that for
3 FIB, TRC, and ammonia there should be multiple compliance
4 points that include the points 50 meters away from sampling
5 point A2 in all directions. Ideally samples should be
6 collected daily. Without daily sampling, Heal the Bay
7 recommends a minimum of three weekdays and one weekend day
8 per -- per week.

9 The response is that although there is no
10 receiving water compliance point for ammonia, ammonia will
11 still be monitored for compliance at the effluent compliance
12 monitoring location. Fifteen separate --

13 EXECUTIVE OFFICER UNGER: Can I just, real
14 quickly -- I'm sorry, Cris.

15 MS. MORRIS: Sure. What?

16 EXECUTIVE OFFICER UNGER: I just wanted to inform
17 the Board that this item is being filmed by KTLA Channel 5.
18 So everyone --

19 MS. MORRIS: You're kidding me?

20 EXECUTIVE OFFICER UNGER: So if -- if --

21 MS. MORRIS: Maybe you should have waited until I
22 was finished.

23 EXECUTIVE OFFICER UNGER: I'm sorry.

24 MS. MORRIS: Oh, great. Okay.

25 So going back to the response. Okay. Although

1 there is no receiving water compliance point for ammonia,
2 ammonia will still be monitored for compliance at the
3 effluent compliance monitoring location. Fifteen separate
4 offshore stations will also be tested for ammonia to monitor
5 the plume. Receiving water compliance locations are not
6 necessary for ammonia since there are final effluent
7 limitations for ammonia and toxicity. Any toxicity that
8 occurs as a result of the ammonia concentration will be
9 detected in the final effluent before it is discharged to
10 the receiving water.

11 It should also be noted that there is no daily
12 receiving water monitoring requirement for ammonia in the
13 NPDES permit when there is a discharge from the one-mile
14 outfall. The NPDES permit only requires daily receiving
15 water monitoring for TRC and FIB.

16 Since chlorine is added downstream of the effluent
17 sampling location and since additional contact time is
18 required within the discharge pipe, chlorine will be
19 monitored for compliance at receiving water location A2
20 which is located at the terminus of the one-mile outfall.
21 The city has clarified in an email that TRC monitoring
22 frequency will initially occur four times per week at
23 stations A2, but they will reduce the frequency to three
24 times per week if TRC is not detected for three consecutive
25 sampling events. If the chlorine dose added to the final

1 effluent is between three and four milligrams per liter, it
2 is not expected to cause toxicity in the final effluent
3 based on the city's toxicity testing. The chlorine dosing
4 will be closely monitored by the city, and adjustments can
5 be made if the TRC in the receiving water is high.

6 With respect to the request to include four
7 monitoring points surrounding A2, it was jointly decided by
8 the city and Regional Water Board during the development of
9 the monitoring plan that due to the scope and duration of
10 the diversion project, it would be more appropriate to
11 monitor a wider area than the two monitoring points 50
12 meters away from A2 that are required by the NPDES permit
13 while discharging to the one-mile outfall.

14 Since the two adjacent monitoring locations to A2
15 are only 50 meters away from the station A2, monitoring
16 those sites would effectively result in duplication of those
17 results. That is why they are not included in the
18 monitoring plan.

19 The next comment has to do with public
20 notification. Heal the Bay commented that the City of Los
21 Angeles should provide a detailed public notification
22 program that outlines how the city has and will continue to
23 reach out to the public during -- on the status of the
24 project.

25 The staff response is that the city has been

1 actively reaching out to the community and interested
2 parties for the past several months and will continue to do
3 so until the end of the project. The city has held several
4 events to brief interested parties on the project, such as
5 the different beach cities that could potentially be
6 affected by the diversion and environmental groups. The
7 city has also developed a website available in both English
8 and Spanish, describing the purpose of the project, the
9 project status, and a link to view the current beach
10 closures and bacterial data. A press release will also be
11 issued in English and Spanish two weeks prior to the
12 diversion. The City of L.A. is also required to contact
13 both the County Department of Public Health and Heal the Bay
14 with a daily bacterial results.

15 A detailed plan of what has been done to inform
16 the public and what the city plans to do was submitted to
17 the Regional Water Board on August 26th, 2015. The public
18 notification plan was also forwarded to Heal the Bay on that
19 date.

20 The last comment is that the city should be
21 required to develop a contingency plan for potential
22 unintended water quality or biological impacts that may
23 result during the project and make it available to the
24 public.

25 The staff -- staff response is that the city

1 submitted a plan on August 26th. As explained in that
2 letter, if harmful algal blooms population are present and
3 increasing in size, the Department of Public Health will be
4 notified and the city will increase the chlorine dosage in
5 the final effluent. As demonstrated during the Orange
6 County effluent diversion, increasing the chlorine dosage
7 reduced the size of the phytoplankton population and
8 prevented future blooms. In the event of elevated FIB
9 counts for extended periods of time at the shoreline, the
10 city will also notify DPH and adjust the chlorine dosage.
11 Since high residual chlorine concentration may cause
12 toxicity, increased concentrations will be carefully
13 managed.

14 After considering the -- after considering the
15 comments received, minor changes were made to the Hyperion
16 Tentative Resolution as discussed previously. No comments
17 were received on the EC Little Plant Resolution.

18 Regional Water Board staff thus recommend that you
19 adopt the revised Tentative Resolution for Hyperion, which
20 is Item 14, and Tentative Resolution for EC Little, which is
21 Item 15, as proposed.

22 That concludes my presentation.

23 CHAIR STRINGER: Thank you. I think we'll hold
24 questions until after we hear from, I guess first, Hyperion.

25 And then after that we'll hear from the City of

1 L.A.; is that right, Sam?

2 EXECUTIVE OFFICER UNGER: Uh-huh. That's right.

3 CHAIR STRINGER: And then I think I have one or
4 two speaker cards on this.

5 Good morning.

6 MR. DOJIRI: Good morning. My name is Mas Dojiri
7 and I'm the Division Manager of L.A. Sanitation's
8 Environmental Monitoring Division. I hope everybody can
9 hear me. I'm here to present the Hyperion Discharge System
10 Replacement Project.

11 First, a little background information. I know
12 that Cris gave you some background, but I will repeat that.

13 There are two functional outfall pipes that
14 emanate from Hyperion. The first one is the one-mile
15 outfall which was installed in 1951. It is only used in
16 emergencies. The five-mile outfall was placed in service in
17 1959, and this is the one that's regularly used to discharge
18 the highly treated effluent coming from the Hyperion
19 Treatment Water Reclamation Plant.

20 Annually we're required by the NPDES permit, which
21 is jointly issued by USEPA and the Regional Water Quality
22 Control Board of the Los Angeles Region, to inspect both
23 outfalls, both the five-mile outfall and the one-mile
24 outfall. But the requirement really is restricted to an
25 outside inspection. So what we do is we send out an ROV

1 which is a remotely operated vehicle. It's tethered so that
2 it can be controlled onboard the ship. And it goes down
3 like a little submarine about as big as this table and it
4 takes video tapes and still pictures of the entire length of
5 the one-mile outfall and the five-mile-outfall, looking for
6 cracks or any sorts of disturbances of the outfall, things
7 that the engineers would red flag for repair. But
8 unfortunately there was no internal inspection for the
9 internal structural integrity of the entire five-mile-
10 outfall.

11 So in November of 2006 we did that inspection. We
12 hired some divers and they went down into the five-mile-
13 outfall for several hundred yards to take a look at the
14 structural integrity and the corrosion within the initial
15 portion of the five-mile-outfall. In order to do that we
16 had to discharge or divert the highly-treated effluent from
17 Hyperion's five-mile-outfall over to the one-mile outfall.
18 That was about a 50-hour diversion. The results of the
19 evaluations, what we found out from the five-mile-outfall
20 internal inspection was that the concrete pipe, the majority
21 of the five-mile-outfall was in really great shape. And we
22 expect it to last another 50 to 75 years.

23 Unfortunately, the initial portion which is the
24 steel portion, which is called the Effluent Pumping Plant
25 Header, needed to be replaced/repared. And some of -- what

1 that means is some parts of it needed replacement, a brand
2 new portion of it. Other portions could be fiberglass
3 wrapped.

4 So what I'm requesting today is for a temporary
5 bypass. We will divert the chlorinated secondary effluent
6 from the five-mile-outfall outfall to the one-mile outfall.
7 We'll replace portions of that Effluent Pumping Plant Header
8 and refurbish other parts of it. This is, again, the
9 initial portion or the basal portion of the five-mile-
10 outfall.

11 We request that this temporary bypass be approved
12 for the period of September 21st to November 2nd. That's
13 five weeks for the actual replacement/refurbishment, and one
14 week contingency time because things happen during
15 construction and we want to make sure that we have a little
16 wiggle room there. And that anticipated time of the actual
17 work would be September 21st to October 26th. So we're
18 hoping that the one-mile diversion will only last five
19 weeks.

20 Now in order for the Regional Board and the EPA to
21 approve a bypass, there are certain criteria that need to be
22 met, specifically three bypass approval criteria. One is
23 that the bypass is unavoidable to prevent loss of life,
24 personal injury, and severe property damage. The second,
25 criterion is no feasible alternatives to the bypass. And

1 the third is notice needs to be submitted at least ten days
2 in advance of a need for bypass to the Regional Board. And
3 I will go through each one of those to let you know how we
4 met those or if we met them.

5 The first bullet, the rupture would cause
6 extensive property damage to Hyperion and -- and treatment
7 operations. This is not just a paper exercise. It's not
8 Hyperion being a little bit paranoid. This actually -- a
9 rupture of the basal portion of the outfall actually
10 happened in the City of L.A.'s Point Loma Outfall. In, I
11 think it was 1992, the basal portion of the outfall exploded
12 essentially, it ruptured. And 180 million gallons of
13 primary treated effluent, not the highly treated secondary
14 effluent from Hyperion but advanced primary treatment
15 actually flowed onto the rocky shores of Point Loma, which
16 is a national seashore. It was an engineering, it was an
17 environmental, it was a public relations nightmare. We are
18 going to avoid that or we're trying our best to avoid it.
19 So we're trying to be very proactive on this.

20 That -- the -- that rupture would result in
21 Hyperion worker safety, I think that speaks for itself. You
22 can't have 230 million gallons a day of treated effluent, no
23 matter how highly treated it is, going out and spilling out
24 onto the Hyperion Water Reclamation Plant. It would
25 adversely impact public health and the environment,

1 certainly 230 million gallons a day of highly treated
2 effluent crossing Vista Del Mar onto Dockweiler Beach and
3 into Santa Monica Bay would impact the -- the beach goers,
4 the swimmers, the surfers, and certainly the environment,
5 the coastal environment. And it would result in traffic
6 problems in Vista Del Mar. I think that pretty much speaks
7 for itself, so I won't get into that.

8 The second criterion is that there's no feasible
9 alternatives. In order to replace that basal portion of the
10 five-mile-outfall, we have to divert. It's for safety
11 reasons, for the people that are doing the construction
12 work. That just makes sense. There's no possible way to
13 store 230 million gallons a day for 35 days. I mean, it
14 just can't be done. We don't have those sorts of retention
15 basins. The upstream water reclamation plants can't treat
16 daily -- that amount of daily flow for Hyperion. And even
17 if it could, we couldn't send it up against gravity up to
18 the inland plants. So there's really no feasible
19 alternative here.

20 The notice was submitted. We did comply with the
21 criterion of ten days in advance for the need for the
22 bypass. In fact, we officially notified the Regional Board
23 and the Regional Board staff on June 18th of this year.

24 Just to show you what we're talking about, this is
25 an aerial view of -- of the EPP Header Replacement Project.

1 The -- on the right-hand side, the highly treated secondary
2 effluent would be flowing into that green portion, that's
3 the header portion. The -- and everything that's green
4 there is going to be replaced. So it would be the EPP
5 Header, pipe, along with the five effluent pumps. Those
6 pumps would force the effluent out into the one-mile outfall
7 and out into Santa Monica Bay when the flow gets probably
8 around 320 to about 350 million gallons a day, then those
9 pumps would be triggered because the gravity flow wouldn't
10 be able to accommodate that amount, anything above about 320
11 million gallons.

12 So that portion that's in, I guess it's hot pink,
13 those would be fiber wrapped, kind of like a surfboard with
14 fiberglass. It would be internally wrapped. And if we do
15 all this, then the five-mile-outfall should be good for
16 another 50 to 75 years, certainly way after I'm dead, so it
17 wouldn't -- it wouldn't be my problem. Okay.

18 Just to give you an idea, this is an aerial view
19 of -- of what I'm talking about. The -- you see the blue
20 lines, kind of the vertical lines in the -- in the slide.
21 That collects the highly treated secondary effluent into
22 channels. And that horizontal line is the -- is the main
23 line where the collection happens. About 30 million gallons
24 a day or 35 million gallons a day go to West Basin where
25 they recycle the water. And then the rest of it typically

1 makes a U-turn at -- where it says Bulkhead TYP, and the
2 EPP, which is the Effluent Pumping Plant Header, and it goes
3 out, typically, out the five-mile-outfall, five miles
4 offshore in about -- and it discharges in about 60 meters of
5 water or about 200 feet in Santa Monica Bay.

6 What will happen during this diversion is you see
7 those green horizontal lines that says bulkheads, those are
8 actually huge metal plates. Those will go down and block
9 the flow of effluent going to the five-mile-outfall. It
10 will hit those and essentially make a U-turn and go out the
11 one-mile outfall. And you'll also see a red line there with
12 an arrow. Typically, the West Basin brine empties into the
13 basal portion of the five-mile-outfall and goes out to Santa
14 Monica Bay. What we'll do is we'll tap a storm drain pipe
15 that is in existence right now and connects to the one-mile
16 outfall. And the brine from West Basin will go into that,
17 make a U-turn, and go into the base of the one-mile outfall.
18 So it will be discharged during the diversion through the
19 one-mile outfall.

20 Now why September 2015? Why this year? We want
21 to make sure that we're proactive and we actually repair the
22 EPP Header prior to any unforeseen, unpredictable sort of
23 explosion or rupture of the five-mile-outfall. So we're
24 trying to be very, very proactive here and avoid an
25 environmental catastrophe.

1 Why in the fall? Because we've done experiments
2 for like four years in my laboratory, and we found out that
3 if we take effluent and ambient waters with the natural
4 community of phytoplankton and we test in environmental
5 chambers under controlled conditions, that in the springtime
6 there are actually harmful algal species that bloom and
7 actually create or produce biotoxins known as domoic acid
8 that could kill marine birds, marine mammals, and actually
9 humans. So obviously we want to avoid the springtime
10 because of the potential for harmful algal blooms.

11 Now the likelihood is probably pretty small. But
12 whatever the percentage is, we want to avoid it. Our
13 experiments have indicated to us pretty convincingly that in
14 the fall we won't have these harmful algal blooms. The
15 harmful algal species, we didn't even find 1 of them, let
16 alone, you know, 20 or 100. And we found no domoic acid, no
17 biotoxin. So we shifted the one-mile diversion and the EPP
18 Header Replacement Project to the fall, so that's the reason
19 for the fall.

20 We wanted to do it after Labor Day because all the
21 kids are in school, so there's fewer beach goers. And we
22 want to avoid November because of the rainy season. So
23 that's the official start date, at least on paper, for the
24 State of California for the rainy season. So we actually
25 have a pretty small window, and we have these time

1 constraints that we're working in. But hopefully, and at
2 least with our predictions and the contractors predictions,
3 we will be done with this entire project and the monitoring
4 program and the diversion by October 26th.

5 Now we've -- we've designed a really extensive and
6 comprehensive monitoring program that we vetted through
7 various local universities and through the Regional Board's
8 scientific staff, etcetera. So let me just go through this
9 monitoring plan for you.

10 First of all, I want to tell you or inform you
11 what the purpose is of the monitoring plan. And it's really
12 threefold. First and foremost is to protect public health
13 and the environment. This is the mission statement of the
14 L.A. Sanitation. It is also the exact mission statement for
15 the Environmental Monitoring Division. It is something that
16 is always in the forefront of our mind and it is the very
17 top priority for our department. We absolutely are
18 committed to protecting public health and the environment.

19 We also need to comply with Hyperion's regulatory
20 permit. That's a legal permit, the NPDES permit. And
21 that's jointly issued by the Regional Board and USEPA. So
22 we're just as committed to complying with that as public
23 health and the environment, protecting the public health and
24 the environment. And obviously we want to assess the -- any
25 impacts or effects on the environment of this one-mile

1 diversion.

2 Now we didn't develop this -- this monitoring plan
3 in a vacuum. We had partners. We collaborated with
4 scientists from local universities, specifically U.C. Santa
5 Barbara, USC, U.C. San Diego's graduate school, Scripps, the
6 Scripps Institution of Oceanography which is on the foremost
7 oceanographic institutions in the world. We also worked in
8 partnership with other research agencies, for example,
9 NASA's Jet Propulsion Laboratory, and a consortium called
10 SCCOOS, which stands for the Southern California Coastal
11 Ocean Observing System. And it's comprised of a lot of
12 physical and biological oceanographers from Southern
13 California universities and research institutions. It is
14 headquartered at Scripps Institution of Oceanography.

15 We worked with the Regional Water Quality Control
16 Board staff which I would just take a little side statement
17 and indicate my appreciation to the staff. Your staff is
18 absolutely fantastic. It was really a joy to work with
19 them. I just want to give them huge kudos for everything
20 that they've done. They actually gave us some
21 recommendations that really highly improved this monitoring
22 program. So I just wanted to mention that.

23 I worked with the Santa Monica Bay Restoration
24 Commission's Technical Advisory Committee which is comprised
25 of a professor from UCLA, Pepperdine University, Occidental

1 College, Loyola Marymount University, and a research agency,
2 a joint powers agency called the Southern California Coastal
3 Water Research Project. We work with the County Department
4 of Public Health on postings and, you know, bacterial
5 monitoring, and the communication lines there. We've worked
6 with Heal the Bay, L.A. Waterkeeper, and the Ballona
7 Institute. We made presentations and provided our complete
8 comprehensive monitoring plan to them, as well as our
9 dilution studies. And we've worked in conjunction,
10 obviously, with the West Basin Municipal Water District.

11 CHAIR STRINGER: Great. Thank you. Thank you. I
12 just wanted to say, I apologize, but the reason we have
13 the -- the clock running is because we're on a really,
14 really tight schedule. So if you're close to wrapping up,
15 that would be great.

16 MR. DOJIRI: Okay.

17 CHAIR STRINGER: This has been incredibly
18 informative.

19 MR. DOJIRI: Okay. The monitoring plan consists
20 of those components, a chemical testing component, toxicity
21 testing component, beach monitoring component, coastal
22 monitoring component, effluent dispersion component, and
23 obviously a biological component, as well as scientific
24 communication, partner communication.

25 We've done a number of things to impact -- to

1 minimize impact. And you can read those things on your own.
2 And I've mentioned a number of them already, so I don't
3 think I need to repeat it here. We have an extensive public
4 outreach program that Cris has already mentioned, so I'll
5 skip through that, as well.

6 I do want to address the action items that the
7 Regional Board members presented to me or requested of us at
8 the August 4th Regional Board workshop, if I may. There was
9 a question about permitting issues with the Coastal
10 Commission and the California Department of Fish and
11 Wildlife. The permit with the Coastal Commission is not
12 required because all the work would be done within the fence
13 line of Hyperion. The Department of Fish and Wildlife just
14 really has no charge in this monitoring program. The
15 Regional Water Quality Control Board and the USEPA does,
16 however, because of the NPDES permit.

17 The issue about our research efforts, I think
18 we've already discussed all that so I don't want to go
19 through it. But just to mention, we do have fact sheets and
20 we've worked with the Department of Beaches and Harbors and
21 the lifeguards to post these fact sheets at the lifeguard
22 stations, as well as distribute the fact sheets. And then
23 we also distributed a press release on September 4th. Oh,
24 and we actually had a community outreach meeting where we
25 invited the -- the community around the beach cities and

1 inland on -- well, actually last night at 6:30. So that
2 went over very well.

3 Production and posting of signs in different
4 languages, English and Spanish for sure, we sent a letter to
5 the Department of Public Health to request them to consider
6 multiple languages beyond English and Spanish for beach
7 postings. And then the fact sheets in multiple languages
8 will be created on an as-needed basis. I know Board Member
9 Diamond asked me to present this monitoring plan to Santa
10 Monica Bay Restoration Commission. I'd be happy to do that.
11 It has not been scheduled yet. And we did give a
12 notification to the lifeguards, Beaches and Harbors, and the
13 L.A. County Department of Public Health on the -- on being
14 extra alert during this period.

15 CHAIR STRINGER: Thank you very much. I think
16 we'll follow up with questions later, if necessary.

17 MR. DOJIRI: Okay. Thank you.

18 CHAIR STRINGER: Sam, I have on here the -- the
19 City of L.A., as well. I mean --

20 EXECUTIVE OFFICER UNGER: I think --

21 CHAIR STRINGER: I have on my -- on my --

22 EXECUTIVE OFFICER UNGER: Mr. Dojiri, we've --
23 we've just heard from the City of L.A.; is that correct? ?

24 MR. DOJIRI: Yes.

25 EXECUTIVE OFFICER UNGER: Thank you.

1 CHAIR STRINGER: Well, see, I had two separate --
2 I had two separate --

3 EXECUTIVE OFFICER UNGER: Yeah.

4 CHAIR STRINGER: Okay. Great.

5 So we have two speaker cards, one on Item 14, one
6 on Item 15. We're obviously hearing them together. On Item
7 14 is James Amarello -- Alamillo, I apologize, from Heal the
8 Bay.

9 MR. ALAMILLO: I want to thank the Board for
10 giving us the opportunity to speak today. My name is James
11 Alamillo and I'm with Heal the Bay. Just to start off with,
12 we understand and agree with the city that this project
13 needs to occur. So we are very supportive of what the city
14 needs to -- needs to do. Some of the issues that we had
15 were dealt primarily, as you heard your staffer speak, with
16 monitoring, contingency plans, and public education. And I
17 think in subsequent meetings that we have had, both with the
18 city and staff since our comments have been submitted, most
19 of those issues, I believe, were addressed. And so there
20 are one or two outstanding items that I'd like to cover at
21 this point, and they surround some of the monitoring
22 associated with this project.

23 And in the packet, the compliance monitoring point
24 that's listed is for A2, which is basically when the pipe
25 comes to the water we're going to sample at the surface to

1 collect the information and determine compliance. And what
2 we've suggested or are recommending, requesting of the
3 Board, that the language be modified slightly to allow the
4 city the flexibility to grab the A2 sample based on drifter
5 or plume movement direction, that they'll get that morning
6 so that originally, as you'll see -- or you might have seen
7 in your report, there was an A2, an A2 plus 50, and an A2
8 minus 50, basically up and down coast. And we are
9 suggesting that or requesting that that be flexible and be
10 moving according to the plume.

11 The other request that we're making is in the
12 study it knows that there's a 200 meter initial dilution
13 zone, yet our closest monitoring spot besides the A2, which
14 is a surface directly above the discharge point, the next
15 one would be 880 meters away. And what we are simply
16 requesting is that in lieu of some plume -- plume monitoring
17 that will take place throughout the coastline, as Mas
18 highlighted, that sometime during that study we take a few
19 of those exterior samples and move them to the 200 meter
20 radius around the discharge point to get a better sense of
21 how the model for the dilution study is performing.

22 And I think that is the extent of our -- our
23 request in terms of changes to the tentative resolution
24 before you.

25 So thank you for your time.

1 CHAIR STRINGER: Great. Thank you very much.
2 Rich Nagel and Eric Owens from West Basin.

3 MR. NAGEL: Good morning, Chairman Stringer,
4 Members of the Board.

5 CHAIR STRINGER: Good morning.

6 MR. NAGEL: It certainly is a pleasure to be
7 before you today. Thank you for allowing us to comment on
8 this agenda item.

9 First, I'd like to start off with rave compliments
10 to both the City of Los Angeles Bureau of Sanitation staff
11 and your staff for really an extraordinarily thorough review
12 of this waiver request, very thoughtful, very diligent
13 effort on everyone's part. And also to the USEPA for
14 their -- for their excellent input on this. And the request
15 is to obviously seek a waiver for this interim period to
16 utilize the one-mile outfall.

17 What is West Basin's role in this matter? Well,
18 we utilize the existing five-mile-outfall to discharge about
19 1.9 percent of the total flow into that -- into that outfall
20 that's comes from our brine that's generated at the Edward
21 C. Little Water Recycling Facility. And it's generated
22 because we take the excellent water from the Hyperion Water
23 Treatment Plant, secondary effluent, and in some cases we
24 advance treat that for industrial purposes, as well as
25 replenishment of the local groundwater basin called the West

1 Coast Groundwater Basin.

2 And if -- this approval of this request by your
3 Board would then allow West Basin to continue normal
4 operations. If it were not approved it literally during
5 this period of time in the most significant historic drought
6 in the State of California, we would lose 770 million
7 gallons or recycled water, advanced treated recycled water,
8 that we'd otherwise have to replace with precious potable
9 water. That's 2,500 acre feet during this five to six week
10 period of time. That's enough water to serve 20,000
11 residents in one year that we'd lose, that we'd have to rely
12 on for outside source water. So it's providing an
13 incredible local value to reuse this precious resource.

14 West Basin has worked closely with the city staff
15 and your staff. And they've all done, I think, a tremendous
16 job putting together the assessment in this plan. And I
17 commit to you, we will coordinate in any manner possible to
18 make sure this plan is fully executed, at least on the West
19 Basin staff's perspective.

20 Thank you again, Mr. Chairman, for your
21 consideration, and Members of the Board on this item. We
22 appreciate your consideration. Thank you.

23 CHAIR STRINGER: Great. Thank you very much.

24 So that concludes our reports and speaker cards.

25 Maria Camacho, do you want to start with

1 questions?

2 BOARD MEMBER CAMACHO: Sure. Sure. Just to
3 start, since it's just top of my mind, on the comments
4 received today from Heal the Bay on the -- I believe it was
5 the station A2.

6 MS. MORRIS: Yeah. The two requests.

7 BOARD MEMBER CAMACHO: The two requests. So the
8 one that I was going to -- I would like to hear a response
9 to both of those requests, given --

10 MS. MORRIS: Yes. Since you talk to the city, why
11 don't I let you.

12 BOARD MEMBER CAMACHO: It's sounding like it's a
13 modification or slight tweaking, if you will, in the
14 language. I want to understand how you would respond to
15 such requests of -- of that specific station A2 monitoring.

16 MR. LYONS: Michael Lyons with Regional Board,
17 obviously. Good morning. Staff Environmental Scientist.

18 Before this item started I talked with the Heal
19 the Bay staff and also with the city staff to work out a
20 resolution to that A2 issue, and we feel that we have a
21 reasonable compromise.

22 So the problem, of course, is that we set the
23 compliance point at A2 to be directly above the outfall
24 because the plume is so buoyant that in 50 feet of water it
25 rises to the surface within ten seconds. So we thought that

1 right above the outfall would be the worse-case condition.
2 Heal the Bay showed us some past monitoring where if you
3 have a little bit of current it appears that the plume may
4 drift slightly up coast or down coast so that the 50 meter
5 stations occasionally show slightly higher chlorine
6 residuals than you would get directly above.

7 So basically we've agreed to kind of make A2 a
8 floating station, if you will, so that A2 would be either
9 directly above the outfall or plus or minus 50 meters,
10 depending on which way the currents are going. And that
11 seems perfectly reasonable.

12 I think to accommodate that we have a phrase that
13 we would propose adding to the resolution. We haven't had a
14 chance to run it by legal. So I don't know if you want us
15 to read it or if you want us to briefly consult with --

16 BOARD MEMBER CAMACHO: I mean, I think given the
17 request and reality of how kind of things would be working
18 in that area, and if it's a floating station or whatever
19 that may be, I think that makes sense. I don't know if my
20 fellow Board Members --

21 MR. LYONS: Right.

22 BOARD MEMBER CAMACHO: -- agree. But I think it
23 would be important ---

24 MR. LYONS: And I should add --

25 BOARD MEMBER CAMACHO: -- to understand.

1 MR. LYONS: -- that the city is amenable to this,
2 as well.

3 BOARD MEMBER CAMACHO: Then, great, then the city
4 is -- so we can hold it until later with additional
5 comments, or if you want to hear the language now, I'm happy
6 to.

7 CHAIR STRINGER: Well, why don't we -- if there's
8 other -- if there are other tweaks, then let's hold it. If
9 there -- this is the only tweak that you're going to be
10 proposing, let's hear it now.

11 MR. LYONS: Well, then the other tweak, you know,
12 James had mentioned having some monitoring at the 200 meter
13 point, which would help verify the initial dilution
14 calculations. And as it's written, the monitoring program
15 called for monitoring at half-a-mile away and other points
16 to try to get plume tracking information. The city has
17 agreed to move their monitoring in to 200 meters, at least
18 temporarily, to see if they get any different results. And
19 we don't really expect there to be much difference in 200
20 meters versus half-a-mile away.

21 But logically it does seem reasonable to have the
22 monitoring at 200 meters, unless it ultimately doesn't show
23 us anything. And I'm not sure that requires much of a
24 change. I mean, it -- the city could amend their monitoring
25 plan if you wanted them to -- to, you know, to spell out the

1 specifics, but it's not in the resolution so it doesn't
2 really require modification of that.

3 CHAIR STRINGER: Well, I think it's on the record.
4 And I -- and I assume that the -- all of the Members of the
5 Board up here support -- would support that approach.

6 MR. LYONS: And --

7 CHAIR STRINGER: So I don't know that anything is
8 needed in terms of a resolution today.

9 MR. LYONS: Great. And I think the city is
10 amenable.

11 CHAIR STRINGER: The city is here and hearing it.

12 MR. LYONS: Yeah.

13 CHAIR STRINGER: And it's -- the record certainly
14 will reflect it.

15 MR. LYONS: And so that seems like a pretty simple
16 change.

17 CHAIR STRINGER: Okay. So do you want to go ahead
18 and hear the language now or did you have more?

19 BOARD MEMBER CAMACHO: I have a couple other
20 items --

21 CHAIR STRINGER: Okay.

22 BOARD MEMBER CAMACHO: -- or questions.

23 Thank you for the response on those two items. I
24 appreciate that.

25 CHAIR STRINGER: Why don't we hold on the language

1 until we get through all of our questions and we're ready to
2 adopt, you know, a resolution.

3 BOARD MEMBER CAMACHO: So two other items was in
4 regards to the rain contingencies, and I know we're trying
5 to get this done as soon as possible, as the city was
6 explaining, and that November first is usually that date or
7 that timeline of kind of things happening. But given the --
8 what appears to be abnormal weather conditions that we're
9 facing with random rain events happening, like yesterday I
10 think even, I'm just curious to know if there truly doesn't
11 need to be any type of rain contingencies or weather
12 contingencies in --

13 MS. MORRIS: Oh, there --

14 BOARD MEMBER CAMACHO: -- in this item?

15 MS. MORRIS: There is a rain contingency. We
16 didn't bring it up because it was addressed in the -- in
17 their response. And the Heal the Bay comment was more
18 specifically to water quality. But the rain contingency is
19 that if it's a bad enough storm that they cannot hold it,
20 they can't manage it with the upstream treatment plants and
21 the flexibility within the plant, that they would actually
22 have to discontinue the work in the five-mile -- at the
23 Effluent Pumping Plant, move all the workers out there, and
24 switch back to the five-mile-outfall.

25 But, Mas, do you want to add anything more to

1 that?

2 But that -- that is the contingency.

3 BOARD MEMBER CAMACHO: Okay.

4 MS. MORRIS: If there is a bad enough -- they'll
5 be able to handle some amount of storm with respect to the
6 flow rate. But once it gets up to a particular flow rate,
7 then they would have to switch over to the -- the five-mile.

8 MR. DOJIRI: I think actually Cris answered it
9 very well. I do want to add that the reason they call it El
10 Nino is because it refers to the child, it refers to the
11 birth of Jesus Christ. And because El Nino comes at the
12 latter part of December, around Christmastime, that's why
13 they call it El Nino. And so we don't really expect El Nino
14 to hit in September and October. That would be very, very
15 unusual.

16 We took a look at historical data. The major
17 rainstorms occur in January, February and March, actually,
18 usually more in the February-March region. There's only a
19 five percent -- less than a five percent chance that there
20 would be rains during September and October, during this
21 project, so we're pretty confident.

22 That said, Cris is correct. We do have a
23 contingency plan to move people out of it, remove some
24 balloons that block the tide from coming up to remove the
25 bulkheads or to lift the bulkheads, and then transfer all

1 that effluent back to the five-mile-outfall, just in case.

2 BOARD MEMBER CAMACHO: Thank you. I appreciate
3 that response. That's very helpful. I was concerned about
4 that. And thank you for educating me on El Nino and where
5 that came from.

6 And then the last -- the last question I have on
7 this is just in terms of the outreach and the outreach
8 efforts, I appreciate kind of the dialogue and the inclusion
9 of the Spanish language in the various communications
10 efforts, along with the presentations to the beach cities'
11 councils, and that's all very, very important and I
12 appreciate that.

13 My question is: How much is also being shared
14 with those communities to our east? Because there a lot of
15 beach goers who are from not necessarily along the coast.
16 So I just want to -- I would ask that we do a strong job in
17 communicating with the communities who are a lot of the
18 times users from different areas outside of the beach
19 communities. So I just don't know how that all kind of
20 comes into the outreach efforts and plans.

21 MR. DOJIRI: Yes. We share that concern,
22 actually, with you. We actually had a meeting with Beaches
23 and Harbors, the Department of Beaches and Harbors and the
24 lifeguards, I think it was last week. And we -- they agreed
25 to -- to post these fact sheets at the lifeguard stations.

1 And we're going to give them stacks of fact sheets and they
2 can distribute it to beach goers. That's one way we can
3 reach out to the community of the actual beach goers.
4 Because you're correct, the beach goers aren't restricted to
5 beach cities. They came in from inland, as well.

6 And also we sent out a press release so that the
7 news media can pick up on it. And hopefully those people
8 that don't listen to the news or read newspapers can be
9 informed by their loved ones.

10 And so we have done just about everything that we
11 could think of to do that. So -- and we did have an
12 advertised community outreach last night, actually, at 6:30.
13 The reason it was at 6:30 is because then people that work
14 during the day could come. And we did have some people show
15 up yesterday and we gave a full-blown PowerPoint
16 presentation and met with them afterwards on a poster
17 presentation of our entire monitoring program and the
18 Effluent Pumping Plant Replacement Project.

19 BOARD MEMBER CAMACHO: Thank you for that. And
20 again, I appreciate that. I just think it's important to
21 educate all who are beach goers from everywhere. So I think
22 that's important. Thank you.

23 That's -- those are all my questions.

24 CHAIR STRINGER: I think Irma had -- had a comment
25 on that very topic.

1 VICE CHAIR MUNOZ: It's outreach. It's a question
2 for you.

3 I think that you may want to consider also giving
4 flyers to the parking attendants where people park.

5 Necessarily people don't gravitate to a lifeguard station
6 unless they actually need them. And that you also try to
7 give some cooperation with transportation, the busses and
8 whatnot, so that people -- and then put -- maybe post by
9 bike -- a lot of people bike. So that's -- I know it's a
10 very extensive outreach, but I think that's what's required
11 in this situation, so that it be in the various languages,
12 as well. Because I think this is very important for public
13 health and public awareness.

14 MR. DOJIRI: Well, we'll certainly do our best to
15 make that happen.

16 CHAIR STRINGER: Great. Thank you.

17 VICE CHAIR MUNOZ: Thank you.

18 CHAIR STRINGER: Thank you. Great points.

19 Larry?

20 BOARD MEMBER YEE: Yeah. I, too, appreciate the
21 thoroughness and thoughtfulness that's gone into all the
22 preparatory work for this project. I think it's really been
23 terrific.

24 The initial question that I had was what happens
25 if this project extends beyond the six weeks? I know you're

1 allowing five weeks for the project and a week contingency,
2 but you know how things go. So I'm just -- just curious. I
3 mean, what -- your confidence level for that six weeks is
4 really high; right?

5 MR. DOJIRI: We're actually hoping to complete it
6 before five weeks. That five weeks has a little bit of
7 wiggle room itself. And the extra week is for extra wiggle
8 room, I guess you can say. So we're very confident.

9 And the contractor has been required to -- to work
10 24/7. That's part of the contract. So holidays, nights,
11 you know, weekends. So we're -- we're really pushing them
12 to get it done. And it does look like, based on
13 Environmental Engineering Division's analysis of the whole
14 thing that we'll be able to comply with that.

15 BOARD MEMBER YEE: Great. Because Godzilla is
16 coming.

17 CHAIR STRINGER: Yeah. Fran?

18 BOARD MEMBER DIAMOND: Well, I just want to say
19 that this -- I think the -- the work that has been done by
20 everybody, by the city, by our staff, by the West Basin, by
21 the environmental community is really a model for how people
22 should work together and come up with something that has
23 thought through everything as much as we can, given
24 contingency plans and everything else. So I'm really
25 pleased with how this is going forward.

1 And I'm really pleased that KTLA is here, because
2 that's an indication that it's being covered and that people
3 who watch television, local news, will know about this. And
4 I think that your outreach, as Board Member Munoz said, to
5 other media outlets, as well, other radio stations, foreign
6 language stations, social media, because a lot of people
7 perhaps won't come to the beach if they know that maybe that
8 this is going on. Others, you know, will. But, I mean, we
9 want to give people an opportunity to make a decision before
10 the get to the beach, as well.

11 So I encourage as much outreach as possible and
12 notification, and thank everybody involved, our staff, your
13 staff, West Basin, and all the environmentalists, Heal the
14 Bay in particular who are here today for doing really an
15 outstanding job. And I wish everything we saw would be as
16 thorough and well planned out as this was. Thank you.

17 MR. DOJIRI: Thank you.

18 CHAIR STRINGER: Irma?

19 VICE CHAIR MUNOZ: I think that many of the
20 presentations we've heard, this is one of them that was very
21 science based, very well organized. You exceptionally
22 convey confidence in the materials that you presented, not
23 just this meeting but the meeting previously that you had
24 with us, and really appreciate your thoughtfulness in
25 thinking about public health, thinking about marine life,

1 thinking about worker safety. And the partnerships and I
2 guess the relationships, the collaborations that really
3 created a joint project so that all the questions were
4 answered and all the details were addressed. So I'm ready
5 to vote for this, unless there's other questions. I think
6 it was very well done. Thank you so much for all the
7 effort.

8 BOARD MEMBER MEHRANIAN: I have one quick --

9 CHAIR STRINGER: Yeah, of course, Maria.

10 BOARD MEMBER MEHRANIAN: Yeah. Again, I just want
11 to tell the -- you had made the presentation before, and I
12 kind of felt like I knew all of this when I started right
13 there, so thank you for that.

14 My quick question is in terms of precedent, what
15 kind of precedent is there for similar work, either within
16 your agency or others that have been looked into possibly,
17 you know, the outcome or anything that can go wrong or any
18 of that? Is there any precedent of this? Have you guys
19 done this before?

20 MR. DOJIRI: I'm sorry, I'm getting kind of old.
21 My hearing is not that great anymore. Was you question,
22 did --

23 BOARD MEMBER MEHRANIAN: Well, I was asking just
24 do you --

25 MR. DOJIRI: -- did another agency do something

1 like this, is that --

2 BOARD MEMBER MEHRANIAN: Yeah. Yeah.

3 MR. DOJIRI: Oh, okay. Good.

4 BOARD MEMBER MEHRANIAN: This is the first time --

5 MR. DOJIRI: Good. I'm --

6 BOARD MEMBER MEHRANIAN: -- that people are coming
7 not (inaudible).

8 MR. DOJIRI: Maybe I'm not that old.

9 It turns out that Orange County Sanitation
10 Districts did something very, very similar.

11 BOARD MEMBER MEHRANIAN: Uh-huh.

12 MR. DOJIRI: They shut down there five-mile --
13 their long outfall, they call it, over to their short
14 outfall, and the lengths are about the same. And I want to
15 say they did that about three or four years ago, and again,
16 to repair their long outfall. And so we worked in
17 conjunction with them.

18 BOARD MEMBER MEHRANIAN: Uh-huh.

19 MR. DOJIRI: When they started doing that they
20 came and got information from me on public outreach and the
21 science and the monitoring, because we had that internal
22 inspection done in November of 2006 and it had a
23 Comprehensive Monitoring Program for that, nothing like
24 this, I mean, it was smaller. So I gave them a lot of
25 information and worked with them and they -- and they kind

1 of fed off that. And then -- but they expanded it. And so
2 when we started developing ours I ended up working with them
3 and they gave me information. So it's like, you know, life
4 going full circle, so to speak.

5 BOARD MEMBER MEHRANIAN: Yes. Okay.

6 MR. DOJIRI: And so we work in conjunction with
7 them.

8 BOARD MEMBER MEHRANIAN: Okay. Thank you. Thanks
9 a lot.

10 MR. DOJIRI: You're welcome.

11 BOARD MEMBER MEHRANIAN: That's all.

12 CHAIR STRINGER: Great. Thank you.

13 MR. DOJIRI: Okay.

14 BOARD MEMBER GLICKFELD: One last comment, if I
15 could, Mr. Chairman?

16 CHAIR STRINGER: Of course.

17 BOARD MEMBER GLICKFELD: So you know, I just would
18 note to my colleagues, as well, is that as a metropolitan
19 we're getting to be past middle aged. In fact, for some of
20 the area we're quite elderly. And I think that this is an
21 example of the kind of care that we're going to need to
22 expect as major sewer lines are replaced throughout the
23 city. We have leaky sewer lines. We have leaky water
24 lines. We have old storage areas. This is the most -- this
25 is a very difficult, ambitious project and I think they've

1 done just a terrific job of it.

2 But our staff should try to keep this data some
3 place safe, how you've approached this because I think we're
4 going to have to deal with this kind of thing more often. I
5 actually hope we are because if people don't do what they're
6 doing, it will really be a disaster.

7 Just one question that I have is whether or not --
8 I do know that the Tillman Plant, even though it's low
9 capacity, is actually bypassed in some cases and some of the
10 waste is sent directly to Hyperion. Will that be stopped
11 during this time? Will they take on more of the -- of the
12 load during this time so we can minimize the load here?

13 MR. DOJIRI: That's out of my wheelhouse of
14 expertise. I'm going to have to ask our Chief Operating
15 Officer Tracie Minamide to address that.

16 BOARD MEMBER GLICKFELD: Well, here's the person
17 that really can answer the question.

18 MS. MINAMIDE: Good afternoon. Tracie Minamide,
19 Chief Operating Officer of L.A. Sanitation.

20 Yes, we -- we will be working in conjunction with
21 the Tillman Water Reclamation Plant to see what we can do to
22 maximize the amount of flow that we take in at Tillman.
23 That's always something that we consider because it is all
24 part of the Hyperion system. So Tillman, (inaudible), and
25 Hyperion all work together and coordinate.

1 BOARD MEMBER GLICKFELD: So of the daily millions
2 of gallons that go into -- that we are talking about
3 diverting through the one-mile -- to the one-mile outfall,
4 how many do you think can be actually treated appropriately
5 at Tillman instead? Do you have an idea of what that would
6 be?

7 MS. MINAMIDE: Not a significant amount more. We
8 are about 30 -- in the high 30s as far as our treatment, you
9 know, million gallons a day at Tillman. We can probably
10 bring it up to maximum mid-40s.

11 BOARD MEMBER GLICKFELD: So it's tiny --

12 MS. MINAMIDE: So --

13 BOARD MEMBER GLICKFELD: -- compared to --

14 MS. MINAMIDE: It's not a lot.

15 BOARD MEMBER GLICKFELD: Okay.

16 MS. MINAMIDE: It's not a lot.

17 BOARD MEMBER GLICKFELD: All right. Thank you.

18 MS. MINAMIDE: But we will do our best.

19 BOARD MEMBER GLICKFELD: Thank you very much. I
20 appreciate it. And congratulations for all the good work.

21 CHAIR STRINGER: Great. Thank you.

22 So I'll just kind of wrap it up by saying, well,
23 echoing, I don't need to say anymore, but I'm just echoing
24 the words of my fellow Board Members, I'm just very happy
25 with the extraordinary collaborative kind of nature of this

1 process. And it was thought through from the beginning and
2 a great conclusion. And so I think we're about ready to get
3 to the resolutions.

4 And taking them one at a time, first, Item 14, the
5 Hyperion Treatment Plant.

6 EXECUTIVE OFFICER UNGER: Chair Stringer --

7 CHAIR STRINGER: Yes?

8 EXECUTIVE OFFICER UNGER: -- may -- I started to
9 interject here, but I think we had some -- a language that
10 we wanted to --

11 CHAIR STRINGER: Yes, I'm getting to that, Sam.

12 EXECUTIVE OFFICER UNGER: Oh, I'm sorry.

13 CHAIR STRINGER: Yes.

14 EXECUTIVE OFFICER UNGER: My bad.

15 CHAIR STRINGER: So is the language going to go in
16 both of the resolutions or just one of them?

17 MR. LYONS: I think just the Hyperion resolution.

18 MS. MORRIS: No, it needs to go in both.

19 MR. LYONS: Oh, sorry. I meant to say, it needs
20 to go in both.

21 CHAIR STRINGER: Okay. Okay. That's fine.

22 That's fine. So why don't -- so let's take this one at a
23 time.

24 First is Item 14. If you could read the proposed
25 language into the record, that would be great.

1 MR. LYONS: Okay. If you would please look at 14-
2 018 in your agenda package. And it's bullet number four,
3 about half way down the page. There's a paragraph that
4 starts out with the, "The 2015 EPP Project." So the very
5 last sentence of that paragraph, right now it says,

6 "Ammonia and chronic toxicity shall be monitored at
7 EFF-001, and chlorine residual shall be monitored at
8 the surface of the terminus of the one-mile outfall."

9 So what we would do is just add to that sentence
10 the phrase, "within a 50-meter radius based on plume
11 direction."

12 And we have the --

13 CHAIR STRINGER: Are there any -- any questions
14 about the revised language? Do I have a motion on Item 14.

15 MR. LYONS: And we discussed it with legal --

16 BOARD MEMBER DIAMOND: I'll move with the --

17 MR. LYONS: -- and they're okay with that.

18 BOARD MEMBER DIAMOND: I'll move with the changes
19 that were must made.

20 BOARD MEMBER CAMACHO: Second.

21 CHAIR STRINGER: So we have a motion and a second
22 on the revised tentative resolution for Item 14, with the
23 addition of the language that was read into the record.

24 All those in favor?

25 A roll call vote please?

1 MR. COUPE: Can I just get one -- sorry --

2 CHAIR STRINGER: Yes?

3 MR. COUPE: -- one clarification. This is
4 language that's going to appear in both permits or just one
5 permit?

6 MS. MORRIS: No, wait.

7 CHAIR STRINGER: We're doing one at a time. Yes

8 MR. COUPE: Okay. All right. So you're going to
9 do it again for the second one?

10 CHAIR STRINGER: Yes, we are.

11 MR. COUPE: Great. Thank you.

12 CHAIR STRINGER: Thank you.

13 MS. MOFFETT: Ms. Camacho?

14 BOARD MEMBER CAMACHO: Yes.

15 MS. MOFFETT: Ms. Diamond?

16 BOARD MEMBER DIAMOND: Yes.

17 MS. MOFFETT: Ms. Glickfeld?

18 BOARD MEMBER GLICKFELD: Yes.

19 MS. MOFFETT: Ms. Mehranian?

20 BOARD MEMBER MEHRANIAN: Yes.

21 MS. MOFFETT: Ms. Munoz?

22 VICE CHAIR MUNOZ: Yes.

23 MS. MOFFETT: Chair Stringer?

24 CHAIR STRINGER: Yes.

25 MS. MOFFETT: And Mr. Lee?

1 BOARD MEMBER YEE: Yes.

2 CHAIR STRINGER: Great. Motion carries. So Item
3 15, EC Little Water Reclamation Plant. The tentative
4 resolution, you have some proposed language for us on Item
5 15.

6 MR. LYONS: Well, I apologize, but we are going to
7 reverse course and go back to, no, we do not need to modify
8 that resolution because that one simply refers to the
9 Hyperion resolution.

10 CHAIR STRINGER: Okay. Fantastic.

11 So do I have a motion on Item 15?

12 BOARD MEMBER YEE: So moved.

13 CHAIR STRINGER: Second?

14 VICE CHAIR MUNOZ: I'll second.

15 CHAIR STRINGER: Seconded by Board Member Munoz.

16 Roll call vote please, Ronji?

17 MS. MOFFETT: Ms. Camacho?

18 BOARD MEMBER CAMACHO: Yes.

19 MS. MOFFETT: Ms. Diamond?

20 BOARD MEMBER DIAMOND: Yes.

21 MS. MOFFETT: Ms. Glickfeld?

22 BOARD MEMBER GLICKFELD: Yes.

23 MS. MOFFETT: Ms. Mehranian?

24 BOARD MEMBER MEHRANIAN: Yes.

25 MS. MOFFETT: Ms. Munoz?

1 VICE CHAIR MUNOZ: Yes.

2 MS. MOFFETT: Chair Stringer?

3 CHAIR STRINGER: Yes.

4 MS. MOFFETT: And Mr. Lee?

5 BOARD MEMBER YEE: Yes.

6 CHAIR STRINGER: Great. Thank you. Items 14 and
7 15 are completed. Thank you everybody.

8 CHAIR STRINGER: So people are asking for a short
9 break. Do we need that?

10 VICE CHAIR MUNOZ: Yeah.

11 CHAIR STRINGER: Okay. Can we keep it to five, is
12 that doable?

13 VICE CHAIR MUNOZ: Yeah.

14 CHAIR STRINGER: Okay. Thank you. Thank you.

15 Five minute break. We'll be back on the record in
16 five minutes. Thank you.

17 (Off the record at 11:04 a.m.)

18 (On the record at 11:11 a.m.)

19 CHAIR STRINGER: Thanks all for getting back in
20 time, and thanks for taking your seats.

21 We're going to start with Item Number 17.

22 Are we on the record? Are we on the record?

23 Okay. Great.

24 So I believe we've got some updates on Item 17
25 that may result in it going to consent which --

1 EXECUTIVE OFFICER UNGER: Yes. Yes. I'm informed
2 that on Item 17, the discharger who is not in attendance
3 today --

4 UNIDENTIFIED FEMALE: Yes, he is.

5 EXECUTIVE OFFICER UNGER: -- oh, excuse me, well,
6 then we can ask the discharger -- but is in agreement with
7 the permit as it is written at this point. And we have no
8 speaker cards. So should the Board choose, we can certainly
9 take this as a consent item.

10 CHAIR STRINGER: So Item 17, there is a -- given
11 that the discharger is okay with the permit, there are no
12 speaker cards at all, the question is do we want to run
13 through Item 17 and ask questions, or do we want to just ask
14 questions, or do we want to go ahead and kind of do it in a
15 sort of consent sort of way? Any thoughts on that?

16 BOARD MEMBER YEE: Being mindful of our time
17 crunch, I think we can just to --

18 CHAIR STRINGER: I think you need to put your
19 speaker on.

20 We are on a time crunch, but I don't want to -- I
21 don't want that to get ahead of making, you know, rash
22 decisions. So if anyone has any questions about Item 17 and
23 feel the need to ask them, please do. If everyone's
24 comfortable with the fact that the permittee and the -- and
25 the Regional Board are on the same page with respect to the

1 permit and we have no speaker cards and no -- no one here to
2 comment on the matter.

3 BOARD MEMBER DIAMOND: (Off mike.) Nope. Nobody
4 is here from (inaudible) Foundation or --

5 CHAIR STRINGER: No.

6 BOARD MEMBER GLICKFELD: We've already done 18;
7 right? It's done?

8 CHAIR STRINGER: No.

9 BOARD MEMBER GLICKFELD: Oh, it isn't?

10 CHAIR STRINGER: No, 18 is next.

11 BOARD MEMBER GLICKFELD: So I -- okay.

12 CHAIR STRINGER: Okay. So is there a motion to
13 approve Item 17 as proposed by Staff in our Board packet?

14 BOARD MEMBER YEE: So moved.

15 VICE CHAIR MUNOZ: So moved.

16 BOARD MEMBER MEHRANIAN: Second.

17 BOARD MEMBER YEE: Second.

18 CHAIR STRINGER: We have two motions and two
19 seconds. We have a motion from Larry and a second from
20 Maria Mehranian.

21 Roll call vote please, Ronji?

22 MS. MOFFETT: Ms. Camacho?

23 BOARD MEMBER CAMACHO: Yes.

24 MS. MOFFETT: Ms. Diamond?

25 BOARD MEMBER DIAMOND: Yes.

1 MS. MOFFETT: Ms. Glickfeld?

2 BOARD MEMBER GLICKFELD: Yes.

3 MS. MOFFETT: Ms. Mehranian?

4 BOARD MEMBER MEHRANIAN: Yes.

5 MS. MOFFETT: Ms. Munoz?

6 VICE CHAIR MUNOZ: Yes.

7 MS. MOFFETT: Mr. Stringer?

8 CHAIR STRINGER: Yes.

9 MS. MOFFETT: And Mr. Yee?

10 BOARD MEMBER YEE: Yes.

11 CHAIR STRINGER: Motion carries. Thank you.

12 Item 18. We'll start with the staff report. Yes,
13 please start whenever you're ready.

14 EXECUTIVE OFFICER UNGER: The oath?

15 CHAIR STRINGER: Oh, I'm sorry, everyone who is
16 planning on speaking on Item 18, please stand and raise one
17 of your hands.

18 (Whereupon, Witnesses for Items 18 are Sworn.)

19 CHAIR STRINGER: Thank you very much. Sorry about
20 that.

21 EXECUTIVE OFFICER UNGER: Do you want to open this
22 Item 18? No? Okay.

23 CHAIR STRINGER: Yeah, we're okay.

24 MS. OWENS: It's mine? Okay. Chair Stringer,
25 Members of the Board, my name is Cassandra Owens and I am

1 the Unit Chief of the Industrial Permitting Unit. Also
2 present today is David Hung who is the Chief of the
3 Watershed Regulatory Section, and Thomas Siebels who is the
4 Project Engineer on this Permit.

5 Item 18.1 is consideration of the renewal of the
6 Waste Discharge Requirements and National Pollutant
7 Discharge Elimination System Permit for AES Alamitos LLC,
8 Alamitos Generating Station.

9 We also have Item 18.2 which is consideration of a
10 Time Schedule Order to accompany this order -- this order.

11 We also have given you two change sheets to
12 address a couple of inconsistencies identified in the
13 Revised Tentative Permit and the Time Schedule Order. They
14 have been distributed to the Board Members, and copies are
15 available for the public on the side.

16 This is an overview of the map of the facility.
17 If you notice, it's right -- located right in between the
18 Los Cerritos Channel Estuary and the San Gabriel River
19 Estuary. The facility occupies approximately 80 acres near
20 the corner of Studebaker and Lyons Drive. A more detailed
21 figure of the facility will be shown later.

22 The Alamitos Generating Station facility is a
23 steam-electric generating facility. The site has over 2,000
24 megawatt capacity. And it is the third largest facility in
25 the state. There are six active fossil fuel steam-powered

1 electric generating units onsite. The generating units
2 operate using once-through cooling water drawn from the Los
3 Cerritos Channel Estuary using circulating pumps.

4 The facility is currently regulated by Order
5 Number 00-082 that expired on May 10th, 2005. That order
6 has been administratively extended until the adoption of
7 this particular order.

8 The facility discharges up to 1,271 million
9 gallons per day of comingled wastewater. More than 99
10 percent of the total discharge is once-through cooling
11 water. Thermal-electric power plants boil water to create
12 steam, which then spins turbines to generate electricity.
13 Once the steam has passed through a turbine it must be
14 cooled back into water before it can be reused to produce
15 additional electricity. Colder water cools the steam more
16 effectively and allows more efficient electricity
17 generation. Once-through cooling water systems intake water
18 from the nearby sources, be it rivers, lakes, or the ocean,
19 and circulate it through pipes to absorb the heat from the
20 steam and discharge the now warmer water to the associated
21 receiving water body.

22 The once-through cooling water at this facility is
23 drawn from the Los Cerritos Channel Estuary through two
24 intake channels using circulating water pumps. After using
25 the water to cool the generating units, the facility

1 discharges the water to the San Gabriel River Estuary
2 through three outfalls, Outfalls 1, 2 and 3.

3 The Alamitos Generating Station also generates
4 some low-volume waste in the process. Listed on this slide
5 are the low-volume wastes that are discharged from the
6 facility.

7 First, you have low -- low-volume waste which
8 include boiler blow-down which uses steam pressure to remove
9 corrosion in the boiler, typically during the startup and
10 the shutdown process.

11 Then we have boiler condensate overboard which is
12 generated during the startup process, as well. And we have
13 some reverse osmosis reject water from the purification of
14 water that's used at the facility and discharges from in-
15 plant waste streams. And all of these add to the low-volume
16 wastes that are discharged.

17 Now typically metal-cleaning waste are also
18 generated at facilities like this. But this particular
19 facility in August of 2015 changed their protocol as such
20 that they collect the metal-cleaning waste that's generated
21 and they haul it offsite for disposal.

22 Stormwater runoff from the facility is also
23 collected and treated in the -- using sedimentation in the
24 retention basins, and it's discharged to Los Cerritos
25 Channel.

1 This slide shows the layout of the facility. The
2 facility is located across the river from the Los Angeles
3 Department of Public Works Haynes Generating Plant which
4 also operates using once-through cooling water.

5 As previously discussed, the once-through cooling
6 water drawn from the Los Cerritos Channel Estuary with
7 two -- through two intake channels is then discharged to the
8 San Gabriel River Estuary. And you can see the discharge
9 points, DF-002 -- I'm sorry, it's DP-002, DP-001, and DP-
10 003, along the red line that shows the boundary of the
11 facility. Yeah. Jerry just zoomed in. You'll also notice
12 at the top, the retention basins that are used to collect
13 the low-flow waste at the facility, there's the north basin
14 and the central basin.

15 Also, there's a small package-type sewage
16 treatment plant that's located onsite that's used to treat
17 the sewage that's generated on the facility. And the
18 facility also discharges that waste. You'll see the
19 location of the sewage treatment plant here on that figure,
20 as well.

21 The stormwater that's collected from the site is
22 discharged on the other side of the facility to the Los
23 Cerritos Channel Estuary.

24 The discharges from the facility enter the San
25 Gabriel River Estuary. And the existing beneficial uses for

1 the San Gabriel River Estuary are listed on this slide.
2 They include the industrial service supply, contact water
3 recreation, non-contact water recreation, commercial and
4 sport fishing, estuarine habitat, marine habitat, wildlife
5 habitat, preservation of rare, threatened or endangered
6 species, migration of aquatic organisms, spawning,
7 reproduction and early development, and there's a potential
8 beneficial use for shellfish harvesting.

9 Next I'd like to review the compliance history for
10 the facility. During the last five years, under Order
11 Number 00-082, there have been two violations of the
12 instantaneous maximum temperature effluent limitation, and
13 one violation each for copper and fecal coliform. There
14 have also been several violations of effluent limitations
15 for the treated sanitary waste which is monitored prior to
16 comingling with the once-through cooling water.

17 There were also multiple instances of deficient
18 monitoring and reporting. All of the violations have been
19 addressed through Notices of Violation letters that were
20 issued on May 4th, 2011 and December 21st, 2011, and the
21 California Water Code section 13267 orders issued on June 6,
22 2012 and July 14th, 2014.

23 On June 15th, 2015 the Regional Board issued a
24 settlement offer, EPL R4-2015-0117, for \$21,000 to address
25 seven violations, including the copper, fecal coliform, and

1 five of the sanitary waste violations. This assessment has
2 already been paid.

3 Next I will review some of the significant issues
4 with the permit development. First, there was the once-
5 through cooling water policy that was adopted. Second,
6 there was a reclassification of the receiving water for this
7 particular facility. When order number 00082 was adopted,
8 the receiving water for the Alamitos Generating Station was
9 listed as ocean. There has also been the adoption of a TMDL
10 for the San Gabriel River, the San Gabriel River Metals and
11 Selenium TMDL.

12 The Federal Clean Water Act in section 316(b)
13 requires that the location, design, construction and
14 capacity of cooling water intake structures reflect the best
15 technology available for minimizing adverse environmental
16 impacts related to entrainment, which is drawing organisms
17 into the cooling water system, and impingement, trapping
18 organisms against the intake screens.

19 To address this requirement the State Water Board
20 adopted the Statewide Water Quality Control Policy on the
21 use of coastal and estuarine waters for power plant cooling
22 in -- on October 1st, 2010, and amended it on June 18th,
23 2013. Efforts to development and implement this policy have
24 significantly delayed the renewal of permits for coastal
25 power plants.

1 As previously noted, Order Number 00-082 expired
2 on May 10th, 2005 and has been administratively extended
3 until the adoption of a new order. The discharger
4 originally filed a Report of Waste Discharge and submitted
5 an application for reissuance of the Waste Discharge
6 Requirements and National Pollutant Discharge Elimination
7 System Permit on November 12th, 2004. Due to the delays
8 related to the once-through cooling water policy, the
9 discharger was directed to reapply in 2014, ten years after
10 the original application was submitted. The once-through
11 cooling water policy specifies that the Alamitos Generating
12 Station has until December 31st, 2020 to achieve compliance.

13 The discharger has submitted an implementation
14 plan identifying that it will come into compliance through
15 the construction of dry-cooled natural gas-fired combined-
16 cycle gas turbine power blocks. The combined-cycle gas
17 turbine power blocks will replace the existing generating
18 units. And this facility has six of those generating units.
19 The new power blocks are dry-cooled. And, therefore, the
20 use of once-through cooling water will be eliminated.

21 The plan calls for replacing the existing units in
22 three phases. First, replacing Units 5 and 6, scheduled to
23 be completed by December 31st, 2018. And then replacing
24 Units 3 and 4. And finally, replacing Units 1 and 2.

25 Order Number 00-082 considered the receiving

1 waters adjacent to the plant site as ocean waters and,
2 therefore, established the permit limitations and conditions
3 to protect the beneficial uses and water quality objectives
4 of the ocean waters as per the Ocean Plan. The Basin Plan
5 classifies the receiving water as part of the San Gabriel
6 River Estuary.

7 The State Board in a memo dated July 18th, 2001
8 identifies the receiving waters for the Alamitos Generating
9 Station as subject to requirements of the State
10 Implementation Policy which is applicable only to the inland
11 surface waters, enclosed bays, or estuaries of the state.

12 In a letter dated July 21st -- sorry, January
13 21st, 2013 the Regional Water Board notified the discharger
14 of the reclassification of the receiving water from ocean to
15 an estuary.

16 This order reflects the reclassification of the
17 receiving water and, therefore, implements the State
18 Implementation Policy. Among the issues related to this
19 change are the loss of dilution credits that were afforded
20 under the Ocean Plan. Also, according to the procedures
21 outlined in the SIP, a reasonable potential analysis was
22 performed based on monitoring data and the California Toxics
23 Rule criteria. This resulted in new effluent limitations,
24 including some more stringent than those in Order Number 00-
25 082.

1 The Total Maximum Daily Load for metals and
2 selenium, the San Gabriel River and -- in the San Gabriel
3 River and impaired tributaries was approved by the United
4 States Environmental Protection Agency on March 26th, 2007.
5 This TMDL contains requirements applicable to this
6 particular discharge. In particular, it established a dry-
7 weather numeric target of 3.7 micrograms per liter for total
8 recoverable copper in the San Gabriel River Estuary. This
9 numeric target was used to develop limits in the proposed
10 permit.

11 The tentative requirements include several changes
12 to the effluent limitations established in Order Number 00-
13 082. These new effluent limitations apply to the discharge
14 occurring at the facility which consists of once-through
15 cooling water comingled with the other waste streams
16 generated. The changes are summarized in this particular
17 slide. First, the limit for free available chlorine
18 remained the same as it is based on the same technology-
19 based effluent limitation guideline found in 40 Code of
20 Federal Regulations section 423.12.

21 As previously mentioned, a reasonable potential
22 analysis was conducted for all priority pollutants using the
23 California Toxics Rule criteria and monitoring data -- data
24 submitted by the discharger. In several cases the data did
25 not demonstrate reasonable potential for a pollutant and,

1 therefore, the effluent limitation was removed. The limits
2 removed included those for arsenic, cadmium, Chrome 6, lead,
3 mercury, selenium, silver and zinc.

4 The reclassification of the receiving water body
5 also resulted in the addition of limits for pollutants that
6 did not have limits in the previous permit. These were
7 added due to the reasonable potential analysis. The
8 pollutants for which new limits were added are ammonia,
9 nickel, and Bis(2-ethylhexyl) phthalate.

10 Finally, several effluent limits were changed due
11 to the reclassification, including limits for pH,
12 temperature, total residual chlorine, copper, radioactivity,
13 chronic toxicity, and fecal coliform. The new limitations
14 for copper were established based on the reasonable
15 potential analysis using the criteria from the CTR and the
16 criteria from the San Gabriel -- the wasteload allocation
17 from the San Gabriel River Metals and Selenium TMDL.

18 Effluent limits for other waste streams were also
19 affected by the reclassification. The limits for low-volume
20 waste were unchanged as they were based on the same
21 technology-based effluent limit guidelines found in the Code
22 of Federal Regulations -- Code of Federal Regulations
23 section 423.12. The limits for metal-cleaning waste were
24 removed because, as previously mentioned, the discharge of
25 these wastes ceased in August 2015. The prior order also

1 included effluent limits for treated sanitary waste that
2 were based on best professional judgment.

3 For this order, the limits for the treated
4 sanitary waste are based on the effluent limit guidelines
5 applicable to the discharge of these wastes that are found
6 in 40 Code of Federal Regulations Part 133. As a result,
7 the limits for settleable solids and oil and grease were
8 removed. Technology-based effluent limitations for
9 stormwater were added as the discharge that was previously
10 regulated by the General Permit is now included in this
11 particular permit. This order also includes new receiving
12 water limitations that are based on the Basin Plan and the
13 Thermal Plan.

14 This slide basically shows some of the limits
15 where the final limit included in the permit became more
16 stringent as a result of the change -- the reclassification
17 of the receiving water body. For instance, in the current
18 order the instantaneous maximum for temperature is 105
19 degrees F. In the -- in the proposed order it's 86 degrees
20 F. And for total residual chlorine, the maximum daily
21 effluent limit goes from 0.45 milligrams per liter to 0.1
22 milligrams per liter. And as you look down the list you
23 will see similar changes that demonstrate how the
24 reclassification of the water body has affected the limits,
25 included in the permit.

1 As discussed in the previous slide, the discharger
2 has indicated that they cannot immediately comply with the
3 new, more stringent effluent limitations for temperature,
4 total residual chlorine, and copper. The discharger also
5 indicated that they cannot immediately comply with the new
6 receiving water limitations for temperature. These limits
7 are based on water quality objectives in the Basin Plan and
8 the Thermal Plan for existing discharges to estuaries which
9 state that the discharge shall not cause the surface water
10 temperature to rise greater than four degrees F above the
11 natural temperature of the receiving water at any time or
12 place. The Regional Board agrees that the discharger cannot
13 immediately comply with the new receiving water limits for
14 temperature.

15 The effluent limitations for temperature, total
16 residual chlorine, and copper, and the receiving water
17 limitations for temperature are, therefore, addressed in the
18 proposed Time Schedule Order which is included in Item 18.2.
19 The Time Schedule Order includes interim limits for these
20 parameters.

21 Following -- following is a summary of the
22 comments submitted on this particular permit with the
23 responses. First, we'll go through the discharger comments.

24 And the first comment was the discharger requests
25 interim limits for pH, ammonia, nickel, and Bis(2-

1 ethylhexyl) phthalate.

2 Staff's response was that field measurements
3 submitted by the discharger indicated that they would have
4 complied with the effluent limits established in this order
5 for nickel in 49 out of 50 samples collected, for pH in 905
6 out of 906 samples collected, for ammonia in 30 out of 30
7 samples collected, and for Bis(2-ethylhexyl) phthalate in 24
8 out of 25 samples. These results indicate that the
9 discharger will be able to comply with the new limits and
10 that, therefore, no interim limits are proposed for those
11 particular constituents.

12 The next comment was that the discharger requested
13 that the pH effluent limitation for low-volume waste be
14 applied at the final discharge outfall to the San Gabriel
15 River Estuary after comingling with the once-through cooling
16 water, or the high-volume waste is the way they referred to
17 it.

18 The response is the technology-based effluent
19 limitation for pH -- for low-volume waste is an effluent
20 limit guideline taking from 40 Code of Federal Regulations
21 section 423.12(b)(1). This effluent limitation guideline
22 applies to all in-plant waste streams, including low-volume
23 waste. The effluent limitation guideline for pH is not
24 applicable to the once-through cooling water. Therefore,
25 the effluent limitation guidelines shall be applied to the

1 low-volume waste after treatment but prior to comingling
2 with the once-through cooling water.

3 The next comment from the discharger was a request
4 for intake credits. The -- if -- if you remember the figure
5 for the facility, the -- let's see if we can go back to it,
6 Jerry -- you'll notice that on one side it's Los Cerritos
7 Channel Estuary, I think it's slide six, slide six, yes.

8 On one side is Los Cerritos Channel Estuary, and
9 on the other side is San Gabriel River Estuary. And what's
10 happening is the facility is pulling water from the Los
11 Cerritos Channel Estuary and they're discharging it to the
12 San Gabriel River Estuary. So when you are -- intake
13 credits, one of the requirements for getting intake credits
14 is that you pull water from the same body that you discharge
15 it to. And since they do not intake the water from the same
16 body -- water body that they discharge it to, they are not
17 eligible for intake credits.

18 So now I'm back to 20.

19 The next comment was a discharger request for
20 removal of monitoring at stormwater monitoring point 076
21 because Unit 7 was shut down.

22 The area around monitoring point 076 was formally
23 an industrial area that surrounded a generating Unit Number
24 7. And that unit was decommissioned and the area now drains
25 the parking lot. However, the Regional Board, based on best

1 professional judgment, believes that the monitoring at this
2 location is necessary and will provide pollutant
3 concentrations exiting the area in stormwater runoff. That
4 data will be used to perform a reasonable potential of the
5 stormwater discharges from the facility. And the monitoring
6 for the pollutants that are not expected -- what Staff
7 decided to do was to reduce the amount of monitoring and to
8 remove monitoring for contaminants that they would not
9 expect to be present in the stormwater.

10 The next comment was -- comments that I'll be
11 going through are from the Los Angeles Department of
12 Public -- of Water and Power.

13 The City of Los Angeles Department of Water and
14 Power submitted comments on August 21st, 2015. The comments
15 contend that due to the hydraulic influence from the
16 effluent from the Alamitos and Haynes Generating Stations.
17 If you'll recall, the Los Angeles Department of Water and
18 Power's facility is right across the -- the river from
19 the -- the Alamitos facility.

20 The comments contend that due to the hydraulic
21 influence of the effluent from the Alamitos and Haynes
22 Generating Stations, the reclassification of the receiving
23 waters from ocean waters to estuarine waters is incorrect,
24 and the provisions of the Ocean Plan should still apply.

25 The comment asserts that when the two plants are

1 operating, the volume of once-through cooling water
2 discharged creates a dam effect that retards the flow of
3 water in the San Gabriel River Channel and, therefore, does
4 not allow for the mixing of fresh water and tidal flow that
5 is typical of the regulatory definition of an estuary.

6 Staff's response is that the Regional Board notes
7 that the Basin Plan classifies the receiving water as part
8 of the San Gabriel River Estuary. Therefore, when State
9 Board reviewed the information available, they issued a memo
10 and identified the receiving water for the Alamitos
11 Generating Station as subject to the requirements of the
12 State Implementation Policy which is applicable to inland
13 surface waters, enclosed bays, and estuaries.

14 The next Los Angeles Department of Water and Power
15 comment was regarding the use of the test of significant
16 toxicity methodology for chronic toxicity testing. And
17 their comment was that the -- the methodology has not been
18 approved by the state and should not be used.

19 Staff's response is the test of significant
20 toxicity approach has been through a federal process. EPA
21 finalized the method in 2010. And as stated in the fact
22 sheet, the test of significant toxicity approach is superior
23 in that it improves test power, provides the incentive for
24 toxicity laboratories to generate high-quality data,
25 streamlines toxicity test data analysis, and is more likely

1 to correctly classify toxic and non-toxic samples. The test
2 of significant toxicity-based effluent limits are derived
3 from and comply with the underlying water quality standard
4 for chronic toxicity in the Basin Plan.

5 This concludes the review of the major comments
6 received.

7 When you received your package, your -- today, you
8 also received a change sheet for this particular item.
9 There's a change sheet for Item 18.1 which provides the
10 discharger with the option to use a composite or a grab
11 sample for chronic toxicity monitoring. And that -- that
12 change sheet addresses Table E4. It's agenda page 18.1-127.
13 And the change that is proposed in the change sheet is
14 consistent with the response to comments provided on
15 September 1st, 2015. What happened is we just missed that
16 particular location, the change that we meant to put in.

17 The -- this slide presents the Board options. The
18 first option is to adopt the revised tentative order as
19 proposed by Staff but include the associated change sheet.
20 The second option is to modify and adopt the revised
21 tentative order as a logical outgrowth of this hearing, also
22 incorporating the change sheet. Or the Board may choose to
23 provide additional guidance to Staff regarding specifics of
24 the permit. And in that case, Order Number 00-082 will
25 remain in effect.

1 Staff's recommendation is that the Board adopt the
2 revised tentative requirements, incorporating the change
3 sheet.

4 What we planned to do was to go on and do Item
5 18.2 at this point. And if it's okay, David Hung will --
6 will begin the presentation for 18.2, and he will be
7 discussing the Time Schedule Orders.

8 CHAIR STRINGER: Great. Thank you very much.

9 MR. HUNG: Good morning, Chair Stringer, Members
10 of the Board. My name is David Hung, Chief of Watershed
11 Regulatory Section. 18.2 is consideration of a Time
12 Schedule Order, TSO, to be issued to AES Alamitos Generating
13 Station. I'd like to present a general view of the TSO
14 issuance and the authority we have under the California
15 Water Code. Then Cassandra Owens will further present
16 details and our response to comment for the tentative TSO.

17 At TSO may be issued under the provisions
18 specified in the California Water Code section 13385,
19 subdivisions (j)(3)(B)(i) for the following reasons if the
20 discharger is not able to consistently comply with one or
21 more of the effluent limitations established in the
22 Wastewater Discharge Requirement applicable to the waste
23 discharge: One, the effluent limitation is a new, more
24 stringent or modified regulatory requirement that has become
25 applicable to the waste discharge after the effective date

1 of the Waste Discharge Requirement, and that is after July
2 1st, 2000; second, new or modified control measures are
3 necessary in order to comply with effluent limitations; and
4 third, new or modified control measures cannot be designed,
5 installed and put into operation within 30 calendar days.

6 Also, California Water Code section 13385,
7 subdivisions (j)(3)(C) states that the Regional Board
8 establishes a time schedule for bringing in the waste
9 discharger into compliance with the effluent limitation that
10 is as short as possible, taking into account the
11 technological operation and economic factors that affect the
12 design, development and implementation of the control
13 measures and that are necessary to comply with the effluent
14 limitation. The time schedule may not exceed five years in
15 length.

16 In the past five years, and according to the
17 California Water Code 13385(j)(3), TSOs were issued to a
18 small percentage, which is 16.7 percent of permittees. That
19 is 18 permits out of a total of 108 permits in our region.
20 Dischargers demonstrated that they cannot immediately comply
21 with new or modified effluent limitation and requested a
22 TSO. Dischargers were required to submit a work plan, along
23 with milestones for the works to be completed in order to
24 meet the final effluent limitation and permit requirements.
25 Staff also established interim limits and Compliance

1 Schedule in the TSO.

2 So for AES Alamitos Generating Station, there are
3 more stringent effluent limitations established in the
4 permit for temperature, total residual chlorine, and copper
5 due to reclassification from ocean to estuarine discharge.
6 Discharger cannot immediately comply with the new effluent
7 limitation and had proposed a work plan, along with
8 implementation schedule, to eliminate once-through cooling
9 water discharge by December 31st, 2020, which is also
10 consistent with once-through cooling policy. Moreover, the
11 interim limits and Compliance Schedule have been included in
12 the TSO to allow discharger to comply with final effluent
13 limitation for temperature, total residual chlorine, and
14 copper.

15 So this concludes my general overview of the TSO.
16 And now I'm turning back to Cassandra to continue her
17 presentation. Thank you.

18 CHAIR STRINGER: Thank you very much.

19 MS. OWENS: The revised tentative TSO includes
20 interim limit -- the interim limits shown in this slide.
21 The interim limits included are at least as stringent as the
22 final limits in Order Number 00-082. The permit includes
23 separate copper limits for wet and dry weather conditions,
24 as required by the San Gabriel River Metals TMDL.

25 The interim -- as you go through you'll notice

1 that for temperature you'll see the 105. And in the
2 previous slide, when we looked at the effluent limits in the
3 current permit versus the new, most of these numbers you
4 will recognize, the -- the interim limit for temperature,
5 105 degrees F, the total residual chlorine, 0.45 milligrams
6 per liter, copper, the average monthly effluent limit of 8
7 micrograms per liter, and for copper, the maximum daily
8 effluent limit of 57 micrograms per liter. We're also
9 proposing a receiving water limit of 86 degrees F, in that
10 the discharger is unable to comply with the requirement that
11 is included in the Thermal Plan that requires that they not
12 raise the temperature of the receiving water by more than 4
13 degrees F at any time.

14 The -- the Time Schedule Order that we are
15 proposing would be effective for five years, until December
16 31st, 2020.

17 The revised tentative TSO also includes a schedule
18 of tasks necessary to achieve compliance with the final
19 effluent and receiving water limitations. The facility will
20 eliminate the discharge of sanitary waste by constructing a
21 new sewer line to connect -- that connects to the Los
22 Angeles County Sanitation District's wastewater system by
23 June 30th, 2018.

24 As part of the compliance with the once-through
25 cooling water policy, the facility will eliminate the

1 discharge of once-through cooling water and low-volume waste
2 from discharge point 003 by December 31st, 2019. This will
3 be accomplished by permanently shutting down Units 5 and 6.

4 This action alone will eliminate 53 percent of the total
5 discharge from the facility to the San Gabriel River
6 Estuary.

7 The facility will also eliminate the discharge of
8 once-through cooling water and low-volume waste from
9 discharge points 1 and 2 by December 31st, 2020. This will
10 be accomplished by permanently shutting down Units 1, 2, 3
11 and 4. This will eliminate all of the once-through
12 discharge -- once-through cooling water discharges to the
13 San Gabriel River Estuary.

14 We also received comments from Heal the Bay. Most
15 of their comments targeted the Time Schedule Order that we
16 were proposing. And this slide provides a summary of the
17 comments that they submitted.

18 One comment was that the reclassification of the
19 receiving water is appropriate, and Staff agrees with that,
20 that the discharger has had 14 years to address the new
21 limits, and that the TSO is inappropriate and should be
22 rejected.

23 They had one caveat in that they believe that
24 interim limits for copper were appropriate in that in the
25 San Gabriel River Metals TMDL it also provided for a

1 Compliance Schedule for copper.

2 The Regional Board agrees that the
3 reclassification occurred 14 years ago, and that the
4 discharger was informed of this 12-and-a-half years ago.
5 However, due to the development and implementation of the
6 once-through cooling water policy, the renewal of permits
7 for coastal power plants was delayed for most of this time.
8 The actual new limits were only developed after the renewal
9 process restarted in 2014. The -- the new limits were
10 calculated based on the reasonable potential analysis using
11 the last five years of monitoring data. And the discharger
12 was not sure of these limits until that process was
13 completed.

14 The Regional Board has already been working with
15 the discharger and major improvements have been made. The
16 discharger previously used heat treatment to remove
17 calcareous shell debris from its intake screens. The prior
18 permit allowed for exceedances of the temperature limits
19 when this occurred. The cleaning of the screens is now
20 performed manually and heat treatment is prohibited in this
21 order.

22 As previously discussed, the discharge of metal-
23 cleaning waste has ceased, and they are now collected and
24 hauled off site. As required in the Time Schedule Order,
25 the discharger has also agreed to eliminate the discharge of

1 treated sanitary waste by June 2018. Furthermore, the Time
2 Schedule Order provisions will result in the elimination of
3 53 percent of the total discharge during the term of this
4 order. The actions scheduled by the discharger demonstrate
5 a commitment to comply with the once-through cooling water
6 policy and other appropriate regulations, plans and
7 guidance.

8 The Board -- this -- you were also provided with a
9 time sheet for the -- with a change sheet, excuse me, for
10 the Time Schedule Order. And the -- the change sheet for
11 the Time Schedule Order is on the reverse side of the other
12 one. This slide provides an overview of the options that
13 the Board has with regard to the proposed order. The Board
14 may adopt the tentative order as proposed by Staff with the
15 change sheet. It may modify and adopt the tentative order,
16 including the change sheet, or the Board may decide to take
17 no action. And if the Board decides to take no action
18 regarding to the Time Schedule Order, the final effluent
19 limits included in the proposed order, if it is adopted,
20 will become effective on January 1st, 2016.

21 Thank you for your attention. And we'll be happy
22 to answer any questions that you have.

23 CHAIR STRINGER: Thank you very much. Stay tuned
24 on that front.

25 I believe we've got AES up next; is that right,

1 Sam?

2 Ten minutes please, Ronji.

3 MR. SANDERS: Mr. Chairman, Members of the Boar,
4 my name is Chris Sanders. I'm a partner in the law firm of
5 Ellison, Schneider and Harris. I am here today on behalf of
6 AES Alamitos as it seeks to renew its NPDES permit to
7 continue energy production from its AES Alamitos facility.

8 I am joined here today by Stephen O'Kane, the
9 Manager of Sustainability and Regulatory Compliance for AES
10 Alamitos, and Cory McKinley, the Environmental Coordinator
11 for AES Alamitos. Both are available for questions and have
12 both taken the oath.

13 First, I want to thank Board staff, well, thank
14 you guys and Board staff, including Ms. Owens and Mr.
15 Siebels, Mr. Hung, and Mr. Unger for the phenomenal effort
16 that they've put forth and the dedication and skill that
17 they've put forth in working through this.

18 These permits are incredibly complex. And it
19 takes an incredible amount of effort to ensure that you
20 protect water quality and still are able to achieve the
21 objective of sustainable energy supply for the State of
22 California, and they've done a phenomenal job with that.

23 Could I get the first slide?

24 Ms. Owens actually stole the majority of my
25 thunder, which is probably a good thing for you guys since

1 you're on a time crunch. And so we'll -- we'll go through
2 these pretty quickly.

3 Can I ask you a question? Do I -- thanks.

4 Again, there's the general map, showing the
5 location of the facility. AES Alamitos is on the left side
6 of the San Gabriel River, showing it's three points of
7 discharge. And then, you know, of particular notice, that
8 the Haynes facility is on the right-hand side of this
9 particular -- of the San Gabriel River.

10 This is an aerial or satellite photo showing the
11 general area, the AES Alamitos facility is clear at the top.
12 You can see how you have the -- the San Gabriel River that's
13 sort of on the -- the right-hand side, and then the Alamitos
14 Bay and Los Cerritos Estuary that sort of intertwine and
15 circle around on the left-hand side. Yeah, that's a great
16 photo. And the next one will actually show a little bit
17 more detail.

18 Again, the Alamitos facility is on the left. We
19 have the facility on the left. The intake water structures,
20 the top one that juts back toward the east is one of the
21 intakes. And then there's two intakes on the -- on the
22 lower side.

23 So one of the things I want to talk about is the
24 regulatory timeline, sort of how we got here. And the
25 facility became operational in 1958. The existing order,

1 00-082, was adopted in 2000 and it's been on administrative
2 extension since May of 2005. Yeah, the Board -- the
3 Regional Board, together with the State Board re-designated
4 the receiving water and estuary, and that is part of the
5 issue that we're dealing with today. And then the other
6 relevant piece in particular is the OTC policy that the
7 state, you know, began in the mid-2000s, eventually adopted
8 in 2010, and then amended again in 2013.

9 These are the significant operational changes that
10 will occur as a result of the new permit that either have
11 been implemented or will be implemented by AES Alamos. As
12 Ms. Owens talked about, the heat treatment waste discharges
13 will be discontinued at the adoption of the renewal permit.
14 Those heat treatment discharges allowed temperatures as high
15 as, I believe, 125 degrees Fahrenheit to be discharged. AES
16 Alamos has not done that for a while, but it is still
17 allowed under the existing permit.

18 Metal-cleaning wastes have also been discontinued
19 by AES Alamos. And the current permit allows it. The
20 proposed permit would eliminate that, as well.

21 Sanitary waste discharges, the -- as Ms. Owens
22 indicated, the -- AES Alamos will be connecting to a
23 county san facility, and it has a deadline in the permit of
24 June 30th, 2018. And in particular I want to talk about
25 the -- the three facilities.

1 So as AES Alamitos upgrades its facility and --
2 and moves to adoption of new facilities, it will be taking
3 the existing facilities offline. The OTC policy allows for
4 that to occur as of December 31st, 2020. AES Alamitos has
5 committed to the first phase, which is Units 5 and 6, a year
6 early. And that's significant because of the 12,000
7 million, or 1.2 billion gallons a day, more than half of
8 that is generated by Units 5 and 6. That will be taken
9 offline a year early. And then the -- the second phase of
10 that, Units 1, 2, 3 and 4, will be offline as of December
11 31st of 2020.

12 And while those are the primary items of interest
13 to our quality, you know, AES -- when AES has completed its
14 makeover of the facility it will be one of the most advanced
15 and efficient and sustainable energy facilities in the
16 world. It will eliminate discharges of receiving water,
17 other than stormwater. They will have all new combined-
18 cycle generating facilities with air-cooled operations, the
19 new connection to the County Sanitation District facilities.

20 And then the one piece in particular that is --
21 AES is particularly proud of is that they are -- they will
22 be installing the world's largest battery at this facility,
23 which is a 300 megawatt facility that will significant
24 assist with electrical generation for both Southern
25 California, as well as the entire state.

1 We've been working with Staff for quite some time
2 on developing this permit, and as a result we have very few
3 remaining comments. But the remaining comments that we do
4 have are three of them, and there's -- we'll go through them
5 in particular. But there's an instantaneous maximum
6 temperature requirement that was -- that was included in the
7 TSO as a result of comments. We'd like -- we'd like to see
8 that eliminated, and I'll talk more about that. There are
9 some visual -- visual observation requirements that are
10 problematic. And then we actually seek the removal of the
11 effluent limit for Bis(2-ethylhexyl) phthalate, which is one
12 of the constituents that was added as a result of
13 monitoring.

14 This is just a map showing where the receiving
15 water sampling occurs. You can see on the upper portion
16 both Haynes and AES discharging, and then as it goes into
17 the -- into the bay.

18 The instantaneous maximum is -- AES cannot comply
19 with it. It's -- it's -- this is an instantaneous maximum
20 that was imposed as a result of comments. But we have
21 historical data that would demonstrate that we cannot comply
22 with that. It will be exceeded on a regular basis as a
23 result of historical variability. The existing
24 justification for it didn't -- did not include climate
25 change. And then the meteorological issues, El Nino, in

1 establishing this limit. They used a cold period when -- to
2 justify this 86 degree limit. And we don't think it's
3 consistent with historical data because it -- there are
4 limits where even just the -- the surface water is well in
5 excess of that and as a result would not allow any discharge
6 to occur.

7 Finally, the -- the receiving water compliance
8 point is used for -- that would receive water from both the
9 Haynes facility, as well as AES, and that's problematic as
10 to who would be responsible for it.

11 The visual observation requirements are
12 problematic as presented in the permit. And I'm running
13 short on time, but what we -- there was an effort to require
14 visual observation requirements at times when the facility
15 is discharging. We have what we believe is a solution that
16 would address Staff's concerns, as well as the problematic
17 issues that -- that AES is concerned with. And I'm
18 hoping -- and I'll actually show the language that I think
19 would solve the problem, and hopefully we could get
20 consensus on that.

21 If you'll allow me maybe an additional minute,
22 minute 30, I can --

23 CHAIR STRINGER: Yeah. Yeah. Please. And to the
24 extent you've got something you think you can work out with
25 Staff, sometimes we do that sort of offline and then you and

1 Staff can come back together.

2 MR. SANDERS: Okay. And then finally this -- this
3 issue about Bis(2-ethylhexyl) phthalate, this was a
4 constituent that was added to this -- to the proposed permit
5 that was not in the previous permit. The only sources that
6 we are aware of are the cooling water sources that we use.
7 So it is in the intake, as well as the -- as the discharge
8 from our cooling water. And -- but as a result of the Ocean
9 Plan no longer applying, the intake source is not the same
10 as the discharge point and so no intake credits are
11 available.

12 This is problematic for AES because to the extent
13 that it intakes something for its cooling water and
14 discharges it but it happens to be in violation of the
15 limit, AES would be responsible and liable for that -- for
16 that exceedance. And we believe that the State
17 Implementation Policy provides the Regional Board the
18 discretion as to whether that effluent limit should be
19 established.

20 Again, in summary, there's -- we only have three
21 items in which we are seeking clarification and/or
22 corrections that we believe are necessary, and it's this
23 removal of the receiving water limit of 86 degrees, there's
24 visual observations, and then the removal of the effluent
25 limit for Bis(2-ethylhexyl) phthalate.

1 Again, I can't begin to thank you and your staff
2 enough for all of the efforts that they've put in developing
3 this permit. It's been an incredible amount of work and
4 your staff has been awesome, and we really appreciate it.

5 AES is -- you know, has made tremendous strides
6 and has a plan to be able to develop one of the most
7 efficient systems in the -- in the world. And it basically
8 needs the -- a small window of time in which to be able to
9 do that. And it's -- it's a critical piece for both the
10 water -- or the energy supply for Southern California, as
11 well as the State of California. As you go step outside
12 today, it's a little bit hot down here. And the AES
13 facility is going full bore and that's for the ben of, you
14 know, Southern California and -- and California as a whole.
15 And it's needed to -- to stay online, and we need these --
16 these particular modifications in order to ensure that that
17 happens.

18 The next slide is actually the language that we
19 would propose.

20 CHAIR STRINGER: If we can -- if we can hold that.

21 MR. SANDERS: That's fine.

22 CHAIR STRINGER: I apologize.

23 MR. SANDERS: No, no. That's okay.

24 CHAIR STRINGER: What I'd like to do is go on to
25 the next speaker. And then I'd like to hear from Staff in

1 response to your -- your input and the next speaker's input.
2 And then to the extent that Staff is amendable and you're
3 all amenable, you can work on the language changes.

4 MR. SANDERS: Absolutely. Thank you.

5 CHAIR STRINGER: So we have -- thank you -- Rita
6 Kampalath from Heal the Bay.

7 MS. KAMPALATH: Good morning, Chair Stringer and
8 Board Members. Thank you for the opportunity to present our
9 comments on this issue.

10 As you all know, the once-through cooling policy
11 was a result of coordinated efforts by numerous stakeholders
12 who worked together to craft the details of the policy. So
13 to start off, we'd like to commend Staff for adhering to the
14 schedule outlined in the policy with regards to this TSO and
15 phase out of AES's once-through cooling discharges.

16 We'd also like to note that we recognize that the
17 staff did a great job, like looking at each constituent in
18 detail. And we really appreciate their decisions in leaving
19 some constituents out of the TSO, for instance, and the
20 receiving water temperature limits. They were incredibly
21 responsive to our -- our requests for information, so I
22 really wanted to thank you all for that.

23 There were a couple of points that I wanted to
24 note, though.

25 First of all, we urge the Regional and the State

1 Boards to remain vigilant with respect to water quality
2 requirements, even with the upcoming once-through cooling
3 policy requirements and deadlines. As Staff mentioned, at
4 the heart of this TSO was a change in designation of the
5 receiving waters from marine to estuarine waters. This
6 change was noted by the State Board over 14 years ago and
7 was confirmed by the Regional Board in 2003. We understand
8 that the new effluent limitations were only incorporated
9 into a permit recently. However, that simply begs the
10 question of why it took so long to issue a new permit to the
11 facility?

12 As a result of the delayed permit and this TSO, if
13 it's granted, water quality violations will have occurred
14 unchecked for over 20 years in the San Gabriel River
15 Estuary, one of the few remaining wetlands that we have in
16 Southern California which is obviously heavily, heavily
17 impacted by these discharges. The once-through cooling
18 policy schedule is simply not an adequate reason to allow
19 known water quality violations to continue for so long.

20 In terms of the actual TSO limits, we had
21 initially requested that stricter interim limits be imposed,
22 in particular with regards to temperature. So we were very
23 disappointed to see that the interim limits for temperature
24 were relaxed further in the revised TSO to 105 degrees year-
25 round, rather than 103 in the summer and 92 in the winter.

1 The facility claims that the limits proposed in
2 the original tentative TSO would, quote, "unduly restrict
3 the production of electricity for the state's power grid."
4 Forgive me, but the statement seems hyperbolic, at best,
5 considering that the limits from the original tentative TSO
6 came from the existing permit and reflected the maximums
7 measured at the plan effluent.

8 In making this change, Staff stated that this
9 facility has a right to request the 105 limit as it is the
10 limit from the previous permit. However, the facility may
11 have this right, but the Board is under no obligation to
12 grant this request. At the very least, the Board should
13 require rigorous monitoring throughout the duration of the
14 discharges.

15 We were again disappointed to see that the revised
16 TSO included relaxed monitoring requirements for some
17 constituents, in particular bacteria. For bacteria, the
18 revised TSO takes away all monitoring requirements at three
19 discharge points. The rationale for this is that the only
20 possible onsite source of bacteria is the sanitary waste
21 area.

22 I'm sorry, could I have just one more minute to
23 wrap up?

24 CHAIR STRINGER: Of course.

25 MS. KAMPALATH: Thank you.

1 CHAIR STRINGER: Yeah.

2 MS. KAMPALATH: However, there are a few points
3 that I would like to make -- make here.

4 First of all, the facility takes water from Los
5 Cerritos and discharges it to the San Gabriel River Estuary.
6 So the facility absolutely is a source of bacterial
7 discharges to San Gabriel River Estuary.

8 Even aside from this key point, the rationale that
9 there are no possible onsite sources is simply not valid
10 because it completely ignores the possibility of, first of
11 all, bacteria grown within pipes, which is a phenomena that
12 has been shown to occur within MS4 system, for instance, as
13 well as the fact that the facility is raising temperatures
14 of the water to levels that are near ideal for bacteria
15 incubation and growth. The only way to check whether or not
16 this is happening is simply through monitoring.

17 So in closing, we're glad to see that the schedule
18 and the OTC policy has been honored. However, in this case
19 in particular, where violations were known to have been
20 occurring for years, the OTC policy schedule is not an
21 appropriate one for water quality limits. These violations
22 should have been rolled into a new permit as soon as the
23 designation of the receiving waters changed over 14 years
24 ago. And the facility should have been well on their way to
25 meeting them before the OTC policy was even completed.

1 At this point, however, we urge the Board to at
2 least hold the facility to the strictest interim limits and
3 the highest monitoring standards. Thank you.

4 CHAIR STRINGER: Thank you.

5 So I'd like to go straight into questions, and I'm
6 assuming there's going to be a lot of them.

7 Madelyn, do you want to kind of get us rolling
8 here or --

9 BOARD MEMBER GLICKFELD: Thank you. I will.

10 CHAIR STRINGER: Thank you.

11 BOARD MEMBER GLICKFELD: So I think that what's
12 happening here is a problem of culture shock for AES. They
13 haven't had a permit granted by this Board or any board for
14 a long time while the State Board was debating the de-sal
15 plant. We never got to do -- there would have been at least
16 two rounds of permits between now and the last time they
17 were permitted if this was a normal time. And I think that
18 we're seeing is that they're having some reactions to the
19 kinds of standards that we put in our permits fairly
20 regularly with regard to these.

21 Would you agree with that?

22 MS. OWENS: Yes. Yeah.

23 BOARD MEMBER GLICKFELD: So it's really -- I
24 find -- we haven't seen that many arguments with this kind
25 of a condition before.

1 The one thing that I've -- it's always been a sore
2 point with me is that there isn't -- you know, I, first of
3 all, I have conflicts because I don't want to see once-
4 through cooling, on the other hand I don't want to see
5 really hot water put into the ocean or into our estuaries.

6 And I'm looking at the average temperatures in the
7 summertime. And I'm looking at -- I guess I'm looking at
8 the NOAA website for Southern California. The average
9 temperatures from July through November are in the 60 to 69
10 degree range. And we're talking about a summertime average
11 of allowing 103 degrees in an estuary where there are --
12 which is undoubtedly a fish-breeding area. There's a lot
13 of -- there's a lot of fish life that's moving in and out of
14 the lagoon. And I'm really concerned about whether or not
15 we have ever actually looked at what the baseline is. How
16 we -- how would we ever look at the baseline? Because
17 they've been cooking fish for a long time now.

18 And I'm wondering what we know about the impacts
19 of this temperature on the fish life?

20 MR. LYONS: Michael Lyons, Staff Environmental
21 Scientist.

22 Obviously, we've got two power plants across the
23 river from each other, discharging a lot of hot water.
24 That's the bad news.

25 BOARD MEMBER GLICKFELD: There's another discharge

1 coming into that area, too, isn't there, besides these two
2 power plants?

3 MR. LYONS: Well, those are the two --

4 BOARD MEMBER GLICKFELD: Okay.

5 MR. LYONS: -- two biggies.

6 BOARD MEMBER GLICKFELD: Okay.

7 MR. LYONS: And the good -- I mean, that's the bad
8 news.

9 The good news is that they have been reducing the
10 volume that's discharged over time. So thing actually have
11 improved, I think, considerably over the last 10 or 15
12 years.

13 I don't think that the water they're discharging
14 is really a problem once it gets down to the ocean, because
15 we've done substantial monitoring in the ocean waters. And,
16 of course, it gets quite a bit more dilution once it hits
17 the ocean.

18 The estuary, it's been going on for decades.

19 BOARD MEMBER GLICKFELD: Do we have any -- do we
20 have any ongoing biological studies of the estuary?

21 MR. LYONS: Well, there's -- there's some benthic
22 sampling that goes on at the various sites that are in the
23 estuary. The community looks okay. I mean, and the fish
24 can move around, of course, you know, which is a good thing
25 for fish. If they don't like things, they can take off, if

1 they don't get killed instantly. But they, you know, they
2 kind of adjust to the ambient condition.

3 BOARD MEMBER GLICKFELD: But they don't get --
4 yeah, I see, but --

5 MR. LYONS: So -- but when we look at the benthic
6 community, you know, we're not really seeing a problem.

7 BOARD MEMBER GLICKFELD: So wait a minute. If I
8 could just stop you there. In the summertime, when they're
9 talking about 103 degrees, the other flows into the -- are
10 the predominant other flows into the estuary coming from the
11 ocean or is it both? Because I would assume that it's urban
12 runoff, other than that.

13 MR. LYONS: The -- yeah. One of the problems
14 which I think Cassandra alluded to was this -- this so-
15 called dam or barrier that was produced by the huge volume
16 of these discharges. In essence, I think 15 years ago they
17 blocked off tidal exchange. The water coming into the
18 estuary was pretty much the water being drawn through the
19 two intakes and the water that's coming downstream. But I
20 think over time that situation, it looks like it's improved.
21 So there is some tidal exchange now, so you're getting some
22 cold ocean water coming in.

23 So this 103 degrees that they may be allowed to
24 discharge is not 103 degrees in the river. And that's
25 why --

1 BOARD MEMBER GLICKFELD: I'm asking you -- I'm
2 going to ask you again, though, is there any biological
3 monitoring? Do we have an abundance -- an abundance
4 evaluation? Do we have the varieties of fish that exist in
5 some of our lagoons, similar to --

6 MR. LYONS: We're not -- yeah, we're not really
7 looking at the fish community within that estuary.

8 BOARD MEMBER GLICKFELD: Why?

9 MR. LYONS: It's a harder community to monitor for
10 discharge effects. You know, the benthic community --

11 BOARD MEMBER GLICKFELD: Why?

12 MR. LYONS: -- traditionally has been where we
13 have looked at for -- for that sort of issue, because fish
14 move around a lot. There -- you know, there's huge
15 variations in abundance. It's just -- it's a hard thing.
16 You know, you can measure, certainly, fish communities, but
17 it's a hard thing.

18 BOARD MEMBER GLICKFELD: It's hard to find fish in
19 the ocean, too, so --

20 MR. LYONS: Well, and --

21 BOARD MEMBER GLICKFELD: -- why do we do it there
22 and not here?

23 MR. LYONS: Well, over time, you know,
24 historically we relied, even in the ocean, we relied on the
25 benthic community because we had better indices for what's

1 good and bad. In the last several years we've actually
2 improved to the point where we have some indices for the
3 fish that we get with trawls. You can't trawl in a river,
4 of course, because it's, you know, it's just too small. You
5 can -- you can do some kind of sampling there and try and
6 assess the fish community. But it's -- it becomes very
7 subjective. It's a very hard thing to be objective about.
8 And I think, you know, as I said --

9 BOARD MEMBER GLICKFELD: Don't they trawl in the
10 Sacramento River?

11 MR. LYONS: Well, that's -- that's a little bigger
12 than the San Gabriel. The San Gabriel is pretty -- pretty
13 narrow and not very long. And typically we do like ten
14 minute tows for ocean trawling. And I don't think that's
15 going to work in the San Gabriel River. But it's --

16 BOARD MEMBER GLICKFELD: you know, I realize that
17 this is going to end in 2020.

18 MR. LYONS: Exactly.

19 BOARD MEMBER GLICKFELD: We're talking about --
20 we're talking about now four more years. But it is
21 troubling to me that we don't at least establish some kind
22 of baseline so that we can measure what happens when they
23 stop discharging this kind of water. So I think --

24 MR. LYONS: Well, yeah.

25 BOARD MEMBER GLICKFELD: -- it would be valuable

1 for us to require that, and I hope the staff might consider
2 that.

3 The other thing that I would like to say is that I
4 am very concerned about the fact that the -- that AES has
5 had so long to anticipate that we would set new standards in
6 a new permit, and that they are unprepared to meet the
7 temperature standards and some of the other standards. And
8 that what they've done so far is stop putting some of this
9 stuff out into the ocean and trucking it. That doesn't seem
10 to be a really, let's say, robust solution to me, that
11 they've made great -- if they had made great investments to
12 date, other than trucking things offsite, I would be more
13 inclined to want to approve this TSO. I'm just not sure
14 whether it's merited, given the amount of time that there's
15 been, and the amount, if they had tried to look at what we
16 would require at this point, trying to anticipate this.

17 You know, could you explain again for me why,
18 given all of the time and why, since they haven't really put
19 a tremendous amount of effort yet into -- into implementing
20 solving problems that are obvious to us that need to be
21 solved, why we would want to give them more time?

22 MS. SMITH: Hi. My name is Deborah Smith. I'll
23 try with my one hour of sleep and jet lag to answer the
24 question.

25 But, you know, because I wanted to -- I wanted to

1 roll back, before I fully answer the question, talk about
2 this -- this change to an estuary happened in, actually, '94
3 when we did the Basin Plan, so it's 21 years ago, not 14.
4 So -- and we --

5 BOARD MEMBER GLICKFELD: What changed? Oh, the
6 Basin Plan objectives were set --

7 MS. SMITH: We changed --

8 BOARD MEMBER GLICKFELD: -- before our last --

9 MS. SMITH: Right.

10 BOARD MEMBER GLICKFELD: -- prior to our last
11 permit, but we didn't put these stringent requirements --

12 MS. SMITH: Well, we --

13 BOARD MEMBER GLICKFELD: -- into the permit at
14 that time?

15 MS. SMITH: We moved to start doing that in the --
16 in the permits. And the obvious solution for the thermal
17 problem is to remove the discharge, because you can't really
18 cool this volume of water. So the real way to deal with it
19 is to -- to have a different type of, you know, dry or wet
20 cooling, which is the track they're per the State Board
21 policy.

22 In the meantime, we were asked to put these permit
23 aside, not renew them while we were -- while the state
24 policy was underway. So our hands were tied in terms of
25 renewing the permits until recently. We actually thought

1 the State Board was going to actually issue them instead of
2 us. And now -- now it's -- we're going to be issuing them.

3 So -- so we -- but our plan all along was, you
4 know, obviously with the -- with the change in
5 classification, and looking at the thermal impacts and some
6 of these other impacts, were to remove these sideways
7 streams, which you heard AES has already done a lot of, the
8 metal-cleaning waste, the sanitary waste that they're moving
9 forward on. And then with -- in terms of the thermal waste,
10 you basically have to just get it out of the channel. You
11 can't -- you can't cool that volume of water.

12 BOARD MEMBER GLICKFELD: So you're saying --

13 MS. SMITH: You could -- you could put less --

14 BOARD MEMBER GLICKFELD: -- that the collecting
15 that they're doing is all they can do with these other
16 metals -- the other waste streams?

17 MS. SMITH: I think the track they're on the with
18 these sideways streams, Staff, you know, can weigh in, is
19 basically what they can do with those, and they're on track
20 with those.

21 The other -- the other alternative would be to put
22 less hot water in which would mean less energy generation.
23 And then you'd have the -- be balancing that with the harm
24 to the grid as result of -- of less -- less operation of
25 these plants.

1 But I think the ultimate solution is the same
2 solution that State Board has with their policy. And the
3 TSO basically gives them that bridge --

4 BOARD MEMBER GLICKFELD: Well, we're not waiting
5 for them --

6 MS. SMITH: -- to get out of the channel.

7 BOARD MEMBER GLICKFELD: -- to do anything in the
8 interim? The solution to this, as far as you're concerned,
9 is removing the discharge? That's the real solution?

10 MS. SMITH: Yes. Yes.

11 BOARD MEMBER GLICKFELD: Can't the temperature
12 down any further until they remove the discharge?

13 MS. SMITH: Yes. Exactly. You know, obviously,
14 do the best they can within their system. They may not
15 always, you know, bump up against that 105 or whatever, as
16 Rita pointed out. But -- but I think the side stream
17 removals, as they're -- they've done or are in the process
18 of doing up until 2018, and then getting out of the channel
19 per the policy is the track that we want them to be on.

20 BOARD MEMBER GLICKFELD: Okay. Thank you.

21 CHAIR STRINGER: Thanks.

22 Maria?

23 BOARD MEMBER MEHRANIAN: Yeah. I have a few
24 questions.

25 One of them, the five-year data that was shown was

1 basically result of the salt monitoring; right? And that
2 showed violations, and violation of discharge and certain
3 like oil and grease and all that. And then I'm -- I'm
4 wondering in that scenario how then for RPA, the reasonable
5 potential analysis, we kind of like concluded that
6 there's -- it was not significant. So I'm trying to
7 understand, because this is data that is self-monitored, I'm
8 trying to clear it in my mind of the violations resulted
9 in -- somehow I'm feeling that it says the violations were
10 significant. And at some point after in the reasonable
11 analysis it says that it's not showing anything significant,
12 and I'm trying to see if I'm understanding that right.
13 That's one question.

14 MS. OWENS: Okay.

15 BOARD MEMBER MEHRANIAN: And then my second
16 question is about the timing of the three phases and all
17 that, that they're proposing.

18 MS. OWENS: Okay. Let's do the -- the plan --
19 let's do the three-phase question first.

20 The plan calls for replacing the existing units in
21 three phases, first, replacing Units 5 and 6. And those
22 units are the larger units. And that's scheduled to be
23 completed December 31st, 2018. And then they will replace
24 Units 3 and 4, and finally, replacing Units 1 and 2. But
25 the thing is, replacing Units 5 and 6 will cut the amount of

1 production by almost 50 percent, 53 percent. Yeah.

2 BOARD MEMBER MEHRANIAN: Well, phase one is
3 significant?

4 MS. OWENS: It's significant. It's significant.
5 I's going to cut it by 56 percent. And modifications in the
6 way that they operate could cause some fluctuations in the
7 discharge temperature. But that will also cause
8 fluctuations in the amount of power that they are able to
9 generate.

10 Now back to your question regarding the
11 violations. I need Tom to help me with that one.

12 Go back to the slide on, I think -- yeah. What
13 slide number is that? Eight. Okay.

14 During -- we looked -- because here was such a big
15 span, we had to sort of decide, okay, how much data are you
16 going to use?

17 BOARD MEMBER MEHRANIAN: Right.

18 MS. OWENS: So he used the data from --

19 MR. SIEBELS: Yeah, the last five years.

20 MS. OWENS: -- the last --

21 MR. SIEBELS: So 2009 and '10.

22 MS. OWENS: -- through 2015. And during the last
23 five years there were two violations of the instantaneous
24 maximum effluent limit for temperature, and one violation
25 each for copper and fecal coliform.

1 BOARD MEMBER MEHRANIAN: Right.

2 MS. OWENS: Then we talked about the violations
3 for -- of the monitoring and reporting submittals.

4 BOARD MEMBER MEHRANIAN: Right.

5 MS. OWENS: Those -- those were not assessed a
6 particular fine. But all the other violations, there were
7 actually seven violations, some for temperature, copper,
8 fecal coliform associated with the sanitary waste discharge
9 that were addressed. There were actually seven of them, and
10 they were given a fine of \$21,000 for those.

11 Excuse me?

12 MR. SIEBELS: Just one thing. There's two things
13 here. One is the compliance history is the last five years
14 of data based on the -- the limitations in the prior permit.
15 And so these were violations of those limitations in the
16 prior permit.

17 And then we have what we look at in developing the
18 new limitations, which is the last five years of data. And
19 we evaluated that against a different set of criteria
20 because of the reclassification. And so then we came up
21 with limits that were appropriate based on -- on the
22 classification as an estuary. And so --

23 BOARD MEMBER MEHRANIAN: Well, you know, when
24 they --

25 MR. SIEBELS: -- there's kind of two different

1 things.

2 BOARD MEMBER MEHRANIAN: Yeah.

3 MR. SIEBELS: There's the violations --

4 BOARD MEMBER MEHRANIAN: So you know, when it's --

5 MR. SIEBELS: -- of the previous limits.

6 BOARD MEMBER MEHRANIAN: Right.

7 MR. SIEBELS: And there's the developing of the --

8 BOARD MEMBER MEHRANIAN: Right.

9 MR. SIEBELS: -- new limits --

10 BOARD MEMBER MEHRANIAN: So --

11 MR. SIEBELS: -- based on new criteria.

12 BOARD MEMBER MEHRANIAN: -- I'm trying to
13 understand, it's not that they did better, it's because the
14 limits changed, it looked better?

15 MR. SIEBELS: Correct.

16 BOARD MEMBER MEHRANIAN: Okay.

17 MR. SIEBELS: It's being evaluated two different
18 ways.

19 BOARD MEMBER MEHRANIAN: Okay. Got it.

20 MS. OWENS: Ocean Plan versus the Basin Plan.

21 BOARD MEMBER MEHRANIAN: Right, the Basin Plan.

22 MS. OWENS: Uh-huh.

23 BOARD MEMBER MEHRANIAN: Thank you.

24 MS. OWENS: And the Ocean Plan with dilution
25 credits, and the Basin Plan with no dilution credits. So --

1 CHAIR STRINGER: Sam?

2 BOARD MEMBER MEHRANIAN: Well, thank you.

3 EXECUTIVE OFFICER UNGER: I guess from -- from a
4 not such a detailed level, it's -- it's no wonder that we're
5 having problems with this -- with this. Because I
6 understand that since the OTC has been in place that this
7 may be the first or one of the first NPDES permits that's
8 been taken up statewide. So it's -- it's no surprise here
9 that we're having some difficulties.

10 But I wanted to address sort of -- sort of a
11 paradigm that Heal the Bay laid out, that they should have
12 known about these changes coming and should have started
13 taking actions to, you know, address what were violations at
14 that time.

15 I think the fact that we may or may not have
16 missed some enforcement issue really, I think and Staff, you
17 really shouldn't over supersede the considerations of where
18 they are now and where they need to get to. And essentially
19 they are on a path now, from our understanding, where the
20 discharges are going to cease. It's not that it's going to
21 improve, it's there's not going to be a discharge in -- by,
22 what is it, 2020, by the end of 2020. So within one -- with
23 one term here.

24 So you know, I don't know if it's possible, we may
25 want to reconvene at lunch to see if we can look at some

1 enforcement and lack of compliance, something like that,
2 that the Board did not act on. But this is the first time I
3 understand statewide that anyone is taking this issue up for
4 all the plants that -- that need this. And we -- we -- in
5 meeting with AES during the development of this permit we
6 feel very strongly that there on a path and they're very
7 committed to meeting the -- the State Board policy of
8 eliminating the discharge in four years.

9 So usually we use enforcement to put people on a
10 commitment towards -- towards compliance. Here, that
11 commitment is already there, we think.

12 I don't know if that's helpful, but --

13 CHAIR STRINGER: That's helpful to me.

14 So did you -- are you done? Okay.

15 Irma?

16 VICE CHAIR MUNOZ: Sam, when you said they were
17 very committed, maybe it was mentioned already and I didn't
18 hear it clearly, can you tell me steps that indicate they're
19 very committed?

20 EXECUTIVE OFFICER UNGER: Well, in meetings with
21 us they've -- they've shared a very detailed GANT chart
22 (phonetic). It looks like -- very much like a construction
23 schedule as it -- what their -- of activities that are going
24 to take place between now and December 31st of 2020 to
25 essentially shut down some of the units that they have, make

1 the conversions, not -- not impact the grid, the statewide
2 grid during these types of operations. And the fact that
3 their plans were so well laid out, it indicated a commitment
4 to us.

5 And we're -- I'm trying to think of other
6 instances in our meetings with them that would indicate that
7 they're committed. You may want to let AES talk to that.
8 But it's very clear that they -- like I said, in the
9 meetings with them, the facility that they were able to
10 share such details indicated to us that they've done a lot
11 of thinking, they've done a lot of planning for compliance
12 with the once-through cooling water policy.

13 You may want to ask --

14 CHAIR STRINGER: And just to be clear, Sam, if
15 they -- if they don't meet those deadlines, then they're --
16 because the TSO deadlines are lined up with those
17 deadlines --

18 EXECUTIVE OFFICER UNGER: Exactly. Yeah. Then
19 they'll be --

20 CHAIR STRINGER: -- then they would -- then they
21 would in violation?

22 EXECUTIVE OFFICER UNGER: Exactly.

23 CHAIR STRINGER: Yeah.

24 EXECUTIVE OFFICER UNGER: Right. Yeah. We're
25 not -- we -- yeah. We've lined the schedule up with the

1 TSO --

2 CHAIR STRINGER: Right.

3 EXECUTIVE OFFICER UNGER: -- yeah, with the once-
4 through cooling --

5 CHAIR STRINGER: Right.

6 EXECUTIVE OFFICER UNGER: -- water policy.

7 But you may want to let AES talk to you directly
8 about their commitment.

9 VICE CHAIR MUNOZ: Okay. Please.

10 MR. O'KANE: Hi. My name is Stephen O'Kane, Vice
11 President of Development for Southland Development, and the
12 Manager of Sustainability for -- and Compliance for AES
13 Southland which includes AES Alamitos.

14 And the specific question was what -- what
15 concrete actions have we taken to demonstrate that
16 commitment. And those would be the filing of our
17 application for new power generation with the Energy
18 Commission which was conducted in 2013. We are now going
19 through that process of getting approvals for the
20 construction of new generation that would replace this very
21 critical power generating we have at the plant. And then
22 secondly, the permit application we have filed with the City
23 of Long Beach for the Conditional Use Permit and a Coastal
24 Development Permit for new 300 megawatts of battery which
25 not only eliminates discharges, but would eliminate any sort

1 of water used for that type of capacity to support the grid.

2 And in addition, submitted to the State Water
3 Board since the adoption of the policy, we have been
4 providing regular updates on our progress and our plans for
5 the compliance with the OTC policy and how we would meet
6 that -- that pressures. Those have been updated on an
7 annual basis, we supply, to the State Water Board.

8 CHAIR STRINGER: Okay. Thank you.

9 Fran?

10 BOARD MEMBER DIAMOND: I guess one of the things I
11 wanted Staff to respond to is what about the issue raised by
12 Heal the Bay about the relaxed bacteria standard? Do you
13 guys need a minute before -- does somebody want to address
14 why the standard --

15 CHAIR STRINGER: Come to the -- come up to the
16 podium please. Thank you.

17 BOARD MEMBER DIAMOND: Can you respond to the
18 relaxed bacteria standard that Heal the Bay raised in their
19 comments?

20 MS. OWENS: Increased monitoring from --

21 BOARD MEMBER DIAMOND: They wanted increased
22 monitoring, but they said that the bacteria standard has
23 been relaxed. Did I get that correct? I think I did.

24 MS. KAMPALATH: (Off mike.) Monitoring that was
25 removed (phonetic).

1 BOARD MEMBER DIAMOND: Okay.

2 CHAIR STRINGER: Right.

3 BOARD MEMBER DIAMOND: That's -- well, yeah,
4 that's the relaxation that we're talking about, the
5 monitoring.

6 MS. OWENS: Okay.

7 BOARD MEMBER DIAMOND: What about that?

8 MS. OWENS: Yeah. The monitoring was relaxed
9 because the -- the location of the treatment facility, it
10 only discharges at one point. And I think originally we had
11 asked them to monitor it at several locations for bacteria.

12 But based on the fact that the -- the sewage treatment
13 plant, there was a package sewage treatment plant located at
14 the facility. It only discharges at one location. So we
15 moved the monitoring to the location where the discharge
16 occurs.

17 BOARD MEMBER DIAMOND: Okay. So you are
18 continuing to monitor --

19 MS. OWENS: At the location where --

20 BOARD MEMBER DIAMOND: -- for bacteria?

21 MS. OWENS: At the location where the discharge
22 occurs.

23 BOARD MEMBER DIAMOND: Okay. The other thing I
24 wanted to raise was on the issue of the TSO. It's -- we
25 need the TSO now or they need it now, I should say, because

1 of the waiting to -- for the once-through cooling policy to
2 be -- take place. But -- so that -- so what happens after
3 that?

4 I guess I'm concerned, and I know other Board
5 Members have also raised some concern about the fact that,
6 you know, that we've -- we've had -- sometimes when we've
7 issued a TSO, and then it comes time to look and see how
8 they're doing and they need -- and some permittees have
9 needed another TSO.

10 Can we be assured that once this policy takes
11 place, that we won't be looking at another TSO?

12 EXECUTIVE OFFICER UNGER: Can I try to answer that
13 one?

14 BOARD MEMBER DIAMOND: Sure.

15 EXECUTIVE OFFICER UNGER: I think Staff does feel
16 assured in this case, because essentially the activities
17 during the TSO are to take the sanitary waste to County
18 Sanitation District Plant Number 1 and, number two,
19 eliminate the discharge entirely of the once-through cooling
20 water.

21 BOARD MEMBER DIAMOND: Are there any --

22 EXECUTIVE OFFICER UNGER: So -- so it's not a
23 question of, you know, applying some sort of treatment that
24 may meet an incremental level. This is going to be somewhat
25 digital in a manner, meaning that they discharge now, and

1 come the end of 2020 there will be no further discharge.

2 BOARD MEMBER DIAMOND: So is there anything that
3 we could do as a Board? Maybe -- maybe there's nothing we
4 can do. Maybe it can just be on the record that we don't --
5 we don't want to see another TSO in this -- in this -- for
6 this permit. Because --

7 EXECUTIVE OFFICER UNGER: I think that's
8 appropriate, yeah.

9 BOARD MEMBER DIAMOND: Because I think that, I
10 mean, I'm looking at --

11 MR. COUPE: As long -- as long as the comment
12 isn't made in the context of seeking to try and bind the
13 Board as to what future discretion. But at least as you
14 can -- you're concerns, you can certainly raise concerns
15 about if, in fact, a subsequent TSO comes back to the Board
16 for its consideration, then you as a Board Member would have
17 some grave concerns based on the record as you understand it
18 at this time.

19 BOARD MEMBER DIAMOND: So is that just -- that's
20 just on the record, in terms of our Board comment, but
21 nothing that we could actually put into the -- into anything
22 that we vote on today?

23 MR. COUPE: I wouldn't suggest doing that, no.

24 VICE CHAIR MUNOZ: Can I just ask a question based
25 on what you just said? So when a TSO comes before us, we do

1 get information if they've received a previous TSO?

2 MR. COUPE: That's correct. I mean, for purposes
3 of this Time Schedule Order that the Board is being asked to
4 consider today, given the way the complicated statutory
5 scheme is set up, depending -- assuming they can meet the
6 requirements of the statute, the Board as the discretion to
7 give them up to five years in order to comply. It
8 essentially provides them a five-year shield within a Time
9 Schedule Order for certain, you know, effluent limitations.

10 If at the end of year five for some reason, if the
11 Board is inclined to adopt the Time Schedule Order as per
12 Staff's recommendation, and if for some reason they're not
13 able to comply within that initial five-year period and they
14 come back and they -- and they need additional time, the
15 statute is structured in such a way that the Board could
16 choose to exercise its discretion to give the discharger
17 additional time. But again, it would be no longer than an
18 additional five-year period. So you're really looking at a
19 maximum, under the statute, as being an initial five-year
20 period, and then a subsequent five-year period. But there
21 are slightly different findings that have to be made,
22 depending on whether you're in the first five-year period or
23 in the second five-year period.

24 Is that helpful at all?

25 BOARD MEMBER DIAMOND: Well, it's helpful. But I

1 guess my point -- from my --

2 BOARD MEMBER YEE: Well, the point is --

3 BOARD MEMBER DIAMOND: Huh?

4 BOARD MEMBER YEE: You don't want to go to the
5 second period.

6 BOARD MEMBER DIAMOND: Yeah. I don't want to
7 anticipate or even think about another five-year period.
8 Because we're already -- they've already had, as Staff has
9 said, 21 years. And for a number of years we've known,
10 people have known that this once-through cooling policy was
11 going to happen. It happened.

12 So I want to make sure that we are not giving more
13 time than needs to happen because so much time has already
14 gone by. And, you know, we're cooking fish, we continue to
15 cook fish, and we're concerned.

16 CHAIR STRINGER: I think that -- I think I share
17 your concern. I think the point is that -- that we're
18 making a decision now under the statute for a five-year
19 period on a TSO. And what we don't want to do is impinge
20 upon our discretion the next time it comes through. At the
21 same time, I think it's very clear from what we're all
22 saying up here that, you know, we don't want to hear this
23 issue again in five years.

24 Now to my mind, given the once-through cooling,
25 you know, rules that are out there, and given our potential

1 decision today, if -- if the power plant runs off the tracks
2 there's going to be -- you know, they're going to have a lot
3 of issues that are much -- potentially much more significant
4 and greater than our particular issues today.

5 But I think the point is that right now we're
6 considering that first five years. And we're sending a
7 message from a policy perspective and from -- from the
8 Board's perspective that we don't want to have revisit
9 additional time.

10 BOARD MEMBER DIAMOND: And if it ever makes sense
11 for us to get updates within this five-year period as to
12 progress --

13 CHAIR STRINGER: Right.

14 BOARD MEMBER DIAMOND: -- I would like to ask
15 Staff to bring us updates so that we can make sure, with our
16 oversight responsibility, that AES is on track with this
17 policy.

18 MS. OWENS: They -- the --

19 MR. COUPE: If I could just add one additional
20 comment?

21 I do think, if you take a look at the legislative
22 history, I do think that the intent of the statute is, you
23 know, that we really do expect and have a reasonable
24 expectation that if we're going to give the five years, that
25 they're going to be able to come into compliance within the

1 five-year period if we give them the five-years. I don't
2 think the statute is structured in such a way that, oh,
3 we'll just give them five years and maybe they'll be able to
4 come into compliance, maybe they won't.

5 I do think, again, the legislative history and the
6 intent of the statute, I do think, you know, supports the
7 conclusion that -- the idea that we're going to -- we'll
8 give you five years, we'll give you up to five years, but we
9 have reason to believe that you're, in fact, going to be
10 able to come into compliance in that five years. And if for
11 some reason you can't come into compliance after five years,
12 then certainly there are no guarantees.

13 Now the statute provides an option for the Board
14 to give them additional time if needed. But I do think, you
15 know, the statute uses the phrase "as short as possible." I
16 think that sends a clear statement to, you know, the
17 dischargers and others that may be subject to the statute
18 that the Board is taking that Time Schedule Order, whatever
19 that initial period of time is granted, very seriously.

20 CHAIR STRINGER: Thank you.

21 BOARD MEMBER DIAMOND: And I would like -- did you
22 want to respond?

23 MS. OWENS: Yeah. With -- to your question, with
24 regard to updates, in the permit there's a schedule for
25 updates with regard to compliance with the once-through

1 cooling water policy. And I believe it's close to annually
2 they're supposed to submit reports. And in the TSO, as
3 well, they -- it requires annual reports with updates
4 regarding their progress towards compliance --

5 CHAIR STRINGER: Right.

6 MS. OWENS: -- with the final deadline.

7 CHAIR STRINGER: We understand, I guess. What
8 we're asking for is for Sam or somebody just to, you know,
9 keep us posted --

10 BOARD MEMBER DIAMOND: Right.

11 CHAIR STRINGER: -- within our -- at the Board --
12 in our Board meetings so --

13 MS. OWENS: Sure.

14 CHAIR STRINGER: -- so we can -- we can keep track
15 of this. It's obviously a big issue.

16 BOARD MEMBER DIAMOND: That's all I have.

17 CHAIR STRINGER: Okay. Thank you.

18 Oh, Irma had one last comment on Fran's stuff,
19 so --

20 VICE CHAIR MUNOZ: Thank you.

21 I think the reason I'm so -- I'm struggling with
22 this is I'm looking at past -- the past record, past intent,
23 past actions of lack of action. And I'm not convinced that
24 they have dealt with this in good faith. Am I wrong about
25 that? Because I think that what a company does has, unless

1 it's a new set of owners, has a track record of certain
2 behavior and certain priority and takes things seriously, we
3 can give them the benefit of the doubt.

4 I don't see how I can give you the benefit of the
5 doubt, unless somebody can tell me something that -- of
6 their past -- past record, that should give them the benefit
7 of the doubt. And that's -- that's the hesitation I'm
8 having here.

9 Sam, can you --

10 EXECUTIVE OFFICER UNGER: Well, that's a difficult
11 one. I mean, we try to look at, you know, the submittals
12 that they provide.

13 I think that there are a couple things that
14 indicate, at least at this point in time, to us, I think
15 with Staff, that they are acting in good faith, and that is
16 trying to take actions before the end of the once-through
17 cooling water policy to take their sanitary discharge to the
18 County San and taking actions such as that. That indicates
19 to us that they -- that they're, at least at this point in
20 time, that they are committed to the -- the compliance with
21 the once-through cooling water policy.

22 So I think it's the way that they handled some of
23 the other waste streams that are in place and things like
24 that, the fact that they're not waiting for five years on
25 those, that they're going to do those at some point earlier,

1 to us indicates that at least at this point in time on this
2 particular issue that they have a plan that they've put
3 forth that seems reasonable to us.

4 CHAIR STRINGER: Larry?

5 BOARD MEMBER YEE: Yeah. So have we had a
6 response yet to the three suggested changes by AES from
7 Staff?

8 MS. OWENS: You know, we -- we probably need a few
9 minutes to talk with AES regarding their issues with regard
10 to temperature. The truth is, this is the -- this is the
11 first in-depth discussion that we've heard about that, the
12 receiving water interim limit that we included in the Time
13 Schedule Order. So we do need a few moments to talk with
14 them regarding that.

15 CHAIR STRINGER: Am I on here?

16 MS. OWENS: Yeah. Yeah.

17 CHAIR STRINGER: Okay. There we go.

18 What I'd like to do is finish up questions up
19 here.

20 MS. OWENS: Okay.

21 CHAIR STRINGER: And then we're going to break for
22 lunch. We're behind schedule. I apologize. I guess I
23 shouldn't be surprised. And then we'll come back from lunch
24 and we'll hear from you on what you could or could not work
25 out on the three matters that -- that were brought up. And

1 we'd like to hear Heal the Bay's thoughts on those, as well,
2 obviously as a major stakeholder in this process. So --

3 BOARD MEMBER MEHRANIAN: I have one more question.

4 CHAIR STRINGER: Can -- yeah, we're just -- I'm
5 just going down the line here.

6 Are you --

7 BOARD MEMBER YEE: Yeah.

8 CHAIR STRINGER: Okay. Maria?

9 BOARD MEMBER CAMACHO: Yeah. I mean, I think that
10 given that this is the first like yes, I feel like that
11 happens a lot, but here we are on the first of this effort,
12 and to abide by the policy that's set forth, I would
13 appreciate that the teams and the stakeholders group in to
14 discuss this, because I want it to be on record that we're
15 trying to do this as best we can based on what's needed.

16 And I appreciate my fellow Board Member's comments
17 making sure that we're doing this in the right way and that
18 the TSO is smart, and that we're doing this so that things
19 aren't going to be repeated and that all of the -- the
20 policy is going to be abided by, and AES will be able to do
21 what it needs to do within the electric -- within the grid
22 standpoint, along with our requirements for water quality.
23 So I just hope that the team can gather and provide us with
24 insight. And I appreciate the reporting requests. And
25 hopefully Sam and the team will be able to do that, because

1 this is new.

2 So those are comments. Thank you.

3 CHAIR STRINGER: Great. Thank you.

4 And I think we had a couple more comments here
5 before we break.

6 Madelyn?

7 BOARD MEMBER GLICKFELD: Actually, I had not
8 intended to make this part of the -- of the decision before
9 us today, but I wanted to talk about this issue. I think
10 it's really important.

11 We're having problems determining -- communicating
12 between us and the staff about what the criteria are for a
13 Time Schedule Order, when an applicant is -- it's justified
14 for an applicant, when it's not. I think this goes to the
15 absolutely core of what our Board does. And the -- what it
16 means is we're a regulatory agency. And ninety-nine percent
17 of the enforcement comes from how we communicate our intent
18 and how the regulated community sees our intent.

19 And the worry that I see among my colleagues is
20 that by not knowing when the right time to do a TSO is, we
21 may communicate the wrong message to people, the wrong
22 message being, oh, we'll just give these to you entirely.
23 We are -- we are trying in every way possible to avoid
24 enforcing. I absolutely don't think anyone intends that
25 here.

1 But I do think that we need to have more of a
2 conversation with our staff about how to set a set of
3 criteria that we all agree on that they will use and we will
4 apply in determining -- deciding when to give a TSO and when
5 not to, so that it becomes not reinventing it or inventing
6 it for each case. And I want to discuss a little bit about
7 how the Board might do that. It might be worth having a
8 subcommittee to discuss this, and then we could talk about
9 it at our retreat.

10 But this is important to our municipal permit.
11 It's important to all of our permit programs that we have.
12 In order for us to legitimately see these things implemented
13 we have to make it really clear to our staff, ourselves, and
14 the regulated community what we are -- what we intend and
15 what we intend to enforce.

16 CHAIR STRINGER: Great.

17 MR. COUPE: So Board Member Glickfeld, if I could
18 just maybe respond to your comments real quickly, I want to
19 go back to, I think a slide that -- that David had put
20 forward earlier, and I can't remember the number exactly, I
21 think we're looking at about maybe 18 percent of --

22 CHAIR STRINGER: If I could -- I'm sorry to
23 interrupt you. I really apologize. I think Madelyn raises
24 some good points that I think we'd like to reflect on for a
25 second --

1 MR. COUPE: Sure. You bet.

2 CHAIR STRINGER: -- unless there's something --
3 some critical legal issue you want to --

4 MR. COUPE: Well, again, I just want --

5 CHAIR STRINGER: -- us to think about. So --

6 MR. COUPE: I just want -- you know, I think it's
7 just important to reiterate the fact that, you know, the
8 Board needs to consider each case on its own facts.

9 CHAIR STRINGER: So --

10 MR. COUPE: And I don't want to create an
11 impression --

12 CHAIR STRINGER: So that's -- that's a good point.

13 MR. COUPE: Yeah.

14 CHAIR STRINGER: That's a good point. I think
15 you've raised it already, and I think that we can take that
16 all into account.

17 But Madelyn raises a very good point. I think
18 we've all been through this process a number of times, and
19 we do recognize that every case is different. At the same
20 time I think we all feel like we're sort of reinventing the
21 wheel in some ways each time.

22 And I'm responding to you, Madelyn. And I -- and
23 I think it's worth considering maybe setting up a
24 subcommittee and then preparing to have a discussion, maybe
25 at our Board retreat, about it --

1 BOARD MEMBER GLICKFELD: Just to clarify --

2 CHAIR STRINGER: -- in five or six months --

3 BOARD MEMBER GLICKFELD: -- for the staff and for
4 our staff attorney --

5 CHAIR STRINGER: -- but doing it all in a way
6 that's consistent with our legal authorities and not
7 prejudging anything, and all the things I know you're
8 concerned about. So -- so you will have input when
9 appropriate.

10 BOARD MEMBER GLICKFELD: What you're saying is
11 exactly right.

12 CHAIR STRINGER: So thank you for that. I'm sorry
13 that I'm rushing through this, but I'm feeling a little
14 pressed.

15 Maria, did you have anything more?

16 BOARD MEMBER MEHRANIAN: No. I'm good.

17 CHAIR STRINGER: Okay. Great.

18 So we're going to break for lunch. We'll come
19 back at 1:45. And we're going to jam through all of the
20 closed session stuff that we have to.

21 EXECUTIVE OFFICER UNGER: Yeah.

22 CHAIR STRINGER: We may delay some things that we
23 don't have to.

24 MS. FORDYCE: We only need maybe 20 or 30 minutes
25 max for closed session items.

1 CHAIR STRINGER: How long?

2 MS. FORDYCE: We could -- 20 to 30 minutes max,
3 plus time to get lunch.

4 I just want -- I have to make the announcements.

5 CHAIR STRINGER: Yes.

6 MS. FORDYCE: So during closed session the Board
7 is going to discuss Items 19.4 and 19.15, subdivision (c).

8 CHAIR STRINGER: Great. Thank you very much.

9 See you all at 1:45 sharp. We're going to get
10 going right then. Thank you.

11 (Off the record at 12:56 p.m.)

12 (On the record at 1:50 p.m.)

13 CHAIR STRINGER: All right, here we go. Here we
14 go. We are back on the record. And we are still on Item
15 Number 18.

16 BOARD MEMBER MEHRANIAN: It's time to vote; right?

17 CHAIR STRINGER: And we're going to hear how lunch
18 went?

19 MS. OWENS: There was no lunch.

20 This is Cassandra Owens. And first I'd like to
21 address some of the issues that we left open just prior to
22 the break. The -- during the break we met -- Staff met with
23 staff from Alamitos and with staff from Heal the Bay to
24 discuss the issues that were pending.

25 The first issue was the discharger was interested

1 in deleting the effluent limit for Bis(2-ethylhexyl)
2 phthalate. After discussions with Staff, the discharger has
3 requested that they -- they have dropped that issue. We
4 looked back into the data, and clearly there was at least
5 one point that demonstrated reasonable potential.

6 We also met with Heal the Bay and talked with them
7 regarding their concern about the monitoring for coliform
8 bacteria. We did -- we had included monitoring at the
9 internal waste stream. But we had deleted the monitoring at
10 the final effluent locations.

11 So what we're proposing is that the Board, when
12 the adopt the permit, undelete the monitoring for total
13 coliform. And it's located on page 18.1-120 of your agenda
14 item. There are three pollutants, total coliform, fecal
15 coliform, and enterococcus that has been struck -- that we
16 have struck through, and we need to include those. And the
17 footnotes that are included are appropriate to require the
18 monitoring that they're requesting. And the discharger has
19 been made aware of it and is in agreement with the change.

20 BOARD MEMBER DIAMOND: Can I just -- can I just
21 ask, so that when we were talking before about the
22 monitoring that Heal the Bay wanted to have, the increase,
23 they said that bacteria monitoring had been relaxed. And
24 then they're -- your response was that it was moved to
25 closer to the outfall.

1 So now we have it closer to the outfall and the
2 other places where it had been deleted?

3 MS. OWENS: We actually have it at the internal
4 waste stream where it's generated. And we have it at the
5 effluent where the -- the place where it's -- after the
6 internal waste stream, it gets comingled with the once-
7 through cooling water. When the once-through cooling water
8 comingled with that waste stream is discharged, then they
9 have to monitoring it there also.

10 BOARD MEMBER DIAMOND: Okay. Thank you.

11 MS. OWENS: Okay?

12 BOARD MEMBER DIAMOND: That's much, much improved.

13 MS. OWENS: Wonderful. Okay.

14 And the -- a third issue that we were discussing
15 was the receiving water temperature that we have in the Time
16 Schedule Order. We had proposed a receiving water
17 temperature of 86 degrees. And the discharger came and
18 presented us with some data that indicates that when the
19 water temperature is very warm, they cannot meet that.

20 So what we are proposing is that the -- in the
21 TSO, which is on page 18.2-012, that we leave the 86 degrees
22 in for the winter months, but during the summer months the
23 discharger be allowed to discharge at a temperature -- the
24 receiving water temperature is 90 degrees F. And the summer
25 months were from May to October. So we would have to do a

1 modification in the TSO -- in the TSO to accommodate that.

2 BOARD MEMBER GLICKFELD: Could you clarify
3 something for me?

4 CHAIR STRINGER: Up to 90 degrees for the summer
5 months --

6 MS. OWENS: For the --

7 CHAIR STRINGER: -- defined as between May through
8 October?

9 BOARD MEMBER GLICKFELD: (Off mike.) (Inaudible.)

10 MS. OWENS: No. The 105 stays in. That's for the
11 effluent. We're talking about for the receiving water.

12 CHAIR STRINGER: Receiving water, because there
13 are receiving water connectors.

14 MR. COUPE: Just hopefully for the Board's
15 clarification, we're referring to page 18.2-012. So if you
16 look at paragraph number R2 and you look at the table there
17 for temperature, we're talking about an interim receiving
18 water limit for temperature.

19 So what Cassandra is saying is that we'd still
20 keep the 86 for the winter months, and we would have 90 for
21 the summer months. We'd keep the same receiving water
22 monitoring location at -- at RECEIVING WATER-11.

23 MS. OWENS: So that would add --

24 CHAIR STRINGER: Okay. Thank you.

25 MS. OWENS: Uh-huh.

1 CHAIR STRINGER: Is that -- and that's the --
2 that's -- that's it; right?

3 So any questions about any of that from any of the
4 Board Members? Questions? Concerns?

5 MS. OWENS: The other thing that they are prodding
6 me on was there a request for a language change --

7 CHAIR STRINGER: Right.

8 MS. OWENS: -- saw briefly.

9 CHAIR STRINGER: Right.

10 MS. OWENS: Well, after we reviewed the language
11 change and what was actually in the permit, the discharger
12 agreed that what was actually in the permit was okay.

13 CHAIR STRINGER: Okay.

14 MS. OWENS: So we don't need to do that.

15 CHAIR STRINGER: Okay.

16 MS. OWENS: Okay.

17 CHAIR STRINGER: Good to know. Thank you.

18 BOARD MEMBER GLICKFELD: I have one more question.

19 CHAIR STRINGER: Yes, Madelyn?

20 BOARD MEMBER GLICKFELD: So this -- in 2020
21 they're going to stop discharging cooling water; right?

22 MS. OWENS: Yes.

23 BOARD MEMBER GLICKFELD: And does that mean --
24 it's 2015. That means in five years they won't have an
25 NPDES permit anymore?

1 MS. OWENS: No. They will not have once-through
2 cooling water. They may have some small levels of discharge
3 of wastewater generated at the facility.

4 BOARD MEMBER GLICKFELD: I guess I'm asking you,
5 when will we know if they've complied?

6 CHAIR STRINGER: Well, we're getting updates --

7 BOARD MEMBER GLICKFELD: But I'm saying that --

8 CHAIR STRINGER: -- along the way.

9 BOARD MEMBER GLICKFELD: -- will we get any kind
10 of an update from the staff when they have actually complied
11 with the law and they've met the deadline?

12 MS. OWENS: Yes. Because here are -- there are
13 update reports that are requested in the TSO. And before,
14 during our discussions, I believe that the Chair asked that
15 verbal updates be brought back to the Board periodically, as
16 well.

17 BOARD MEMBER GLICKFELD: Okay.

18 MS. OWENS: So as we get an update and it
19 indicates that, for instance, the two initial units have
20 gone offline and that the flow has been decreased, then you
21 will get an update indicating that that has actually
22 happened and the flow has been decreased.

23 BOARD MEMBER GLICKFELD: And we'll -- we'll know
24 when they're off schedule because they'll have a schedule?

25 MS. OWENS: Yes.

1 BOARD MEMBER GLICKFELD: Okay.

2 CHAIR STRINGER: Any other comments? Questions?
3 Anything?

4 Do I -- so do we need to organize -- yes, you have
5 one more thing?

6 MS. OWENS: Yeah. Page 18.2-007 --

7 CHAIR STRINGER: Yes.

8 MS. OWENS: -- there's a typo.

9 CHAIR STRINGER: Okay.

10 MS. OWENS: A sentence is there twice. At the
11 beginning, we need to delete that first sentence, and then
12 delete "However, a," the sentence reads,

13 "The discharger may not be able to immediately comply
14 with the receiving water temperature requirements as
15 stipulated in the thermal plan." And then it says,
16 "However, a." and so we want to delete all of that.

17 And so the sentence should read, "The discharger
18 may not" -- it --

19 CHAIR STRINGER: Got it.

20 MS. OWENS: -- the sentence repeats there.

21 CHAIR STRINGER: Yeah.

22 MS. OWENS: Okay.

23 CHAIR STRINGER: So I heard everything you said
24 and understood it very clearly.

25 MS. OWENS: Okay.

1 CHAIR STRINGER: And that suggests to me the
2 record is clear on the proposed changes that were discussed
3 over lunch.

4 In addition to those proposed changes we also have
5 the change sheet that you gave to us.

6 So I would like to ask for a motion on Item 18 as
7 proposed by Staff, which would include what's in our binder
8 plus the change sheet plus the additional changes that were
9 just read into the record.

10 And again, I'm assuming that everyone is
11 comfortable, the record is clear, and I'm looking at
12 counsel, on what those changes are, so that you can go back
13 to the record and make sure it's all done accurately.

14 So on that, do we have a motion?

15 BOARD MEMBER DIAMOND: I'll move.

16 BOARD MEMBER YEE: Second.

17 CHAIR STRINGER: We have a motion from Fran, a
18 second from Larry.

19 Roll call vote please, Ronji.

20 MR. COUPE: Wait. And that would be for both 18.1
21 and 18.2, the permit and the Time Schedule Order?

22 CHAIR STRINGER: Yes. Yes.

23 MR. COUPE: Thank you.

24 MS. MOFFETT: Ms. Diamond?

25 BOARD MEMBER DIAMOND: Yes.

1 MS. MOFFETT: Ms. Glickfeld?

2 BOARD MEMBER GLICKFELD: Yes.

3 MS. MOFFETT: Ms. Mehranian?

4 BOARD MEMBER MEHRANIAN: Yes.

5 MS. MOFFETT: Ms. Munoz?

6 VICE CHAIR MUNOZ: Yes.

7 MS. MOFFETT: Mr. Stringer?

8 CHAIR STRINGER: Yes.

9 MS. MOFFETT: And Mr. Yee?

10 BOARD MEMBER YEE: Yes. Time for lunch.

11 CHAIR STRINGER: So just for the record, Ms.

12 Camacho had to get on the phone for an emergency phone call.

13 She was not here for the vote. We have -- we have a

14 majority, we have a quorum, so we're fine. And that closes

15 Item 18.

16 Thank you very much.

17 MS. OWENS: Thank you.

18 CHAIR STRINGER: We're now moving on to the show
19 of the day, the main event. I apologize for being behind.

20 So let's open the record on Item 16 please. Item
21 16 is consideration of Petition for Review of the Executive
22 Officer's Action to Approve, with conditions, Nine Watershed
23 Management Programs pursuant to the Los Angeles County
24 Municipal Separate Stormwater [sic] System Permit, otherwise
25 known as MS4, Order Number RF-2012-0175.

1 All those who are planning on speaking on this,
2 please stand. Raise your right hand please.

3 (Whereupon, Witnesses for Items 16 are Sworn.)

4 CHAIR STRINGER: Thank you very much.

5 So just a couple of comments from me anyway,
6 before we get started, and it's no surprise, on scheduling
7 and time. We have a lot of people who -- who want to speak,
8 and the issues are complicated, and we want to make sure we
9 hear everything. So at the -- and at the same time, we want
10 to make sure everyone is heard.

11 So we're going to be moving through a list that I
12 have here. And time has been allocated for the meeting. I
13 appreciate everybody compromising on what they asked for.
14 And I also appreciate everyone staying within their time
15 limits. And as they always say, don't feel obligated to use
16 the time that you have. We've all -- we all have had the
17 materials on this for some time now and have all had time to
18 digest it, so you can assume we're -- we're fairly educated
19 on these issues.

20 So with that, I think we're going to start with
21 Jennifer.

22 MS. FORDYCE: Good morning, Chair Stringer,
23 Members of the Board. As you know, I'm Jennifer Fordyce,
24 Legal Counsel for the Board.

25 Item 16 is consideration of a Petition for Review

1 of the Executive Officer's Approval, with conditions, of
2 Nine Watershed Management Programs, or what we call WMPs for
3 short, and I don't like the acronym but it is what it is,
4 pursuant to the Los Angeles County MS4 Permit.

5 So it's not often that one of your attorneys will
6 introduce an item. However, this type of proceeding is very
7 different than the others you've experienced because a
8 Petition for Review of an Executive Officer's Action is
9 rarely if ever brought to the Board.

10 As such, I wanted to briefly introduce this item
11 to provide you with some background and context for what led
12 us here today, summarize the contentions that were raised in
13 the petition, and explain what your options are in your
14 consideration.

15 Once I conclude with the introduction, the
16 petitioners will then make their presentation on the
17 petition, since that is the item the Board will be acting
18 on.

19 After the petitioners conclude with their
20 presentation, responses to the petition will follow,
21 starting with Board staff. And I will start off the Board's
22 presentation by providing responses to the legal contentions
23 that have been raised concerning the Executive Officer's
24 authority. And then turn it over to Executive Officer Sam
25 Unger and Regional Program Section Chief Renee Purdy for the

1 remainder of Staff's presentation on the WMP review and
2 approval process and responses to the technical contentions
3 concerning the Watershed Management Programs.

4 And the permittees will then make their
5 presentations regarding responding to the petition, followed
6 by any interested persons.

7 So I'm going to start off by providing some
8 background and context to explain the purpose of this item.

9 As you know, the permit establishes deadlines for
10 permittees to submit WMP documents. A screen shot of the
11 four relevant deadlines for the WMP review process -- I'm
12 sorry, I hate saying WMP, I do -- is included on the screen.
13 Renee will be discussing in detail the WMP review and
14 approval process, as well as the stakeholder participation.

15 But I wanted to note that the important deadline
16 that led to the petition is the last deadline indicated on
17 the screen which required the Board or the Board's Executive
18 Officer on behalf of the Board to approve or deny the final
19 WMPs within three months of submittal of the final WMPs.

20 Part VI.C.4.e of the permit specifies that,

21 "Permittees that do not have an approved WMP within 28
22 months of the permit's effective date," so that's April
23 28th, 2015, "shall be subject to the baseline
24 requirements of the permit and shall demonstrate
25 compliance with receiving water limitations and

1 applicable water quality-effluent limitations.”

2 On April 28th, 2015 the Executive Officer, on
3 behalf of the Board approved, with conditions, nine
4 Watershed Management Programs pursuant to the permit. In
5 his approval letter the Executive Officer provided the
6 permittees with a short deadline to submit their final
7 Watershed Management Programs to the Board that satisfied
8 all of the conditions outlined in the approval letter. The
9 letter also indicated that the approval may be rescinded if
10 all the conditions were not satisfied within the timeframe
11 provided in the letter.

12 Three of the nine Watershed Management Programs
13 were also approved with conditions pursuant to the City of
14 Long Beach MS4 Permit.

15 Final Watershed Management Programs addressing the
16 Executive Officer’s conditions were submitted by the
17 permittees in May and June of 2015. And in July and August
18 of this year, after reviewing each of the final Watershed
19 Management Programs relative to the conditions in the
20 letter, the Executive Officer determined that the conditions
21 had been satisfied.

22 So Part VI.A.6 of the permit provides that any
23 permittee or interested person may request review by the
24 Board of any formal determination or approval made by the
25 Executive Officer pursuant to the permit. This provision

1 was included in the permit to address input received during
2 the permit development, in light of the new watershed-based
3 paradigm for permit implementation.

4 On May 28th, 2015, pursuant to the provision that
5 I just mentioned, the Natural Resources Defense Council, Los
6 Angeles Waterkeeper, and Heal the Bay, who I'm going to
7 refer to as the petitioners, filed the petition in this
8 matter, seeking review of the Executive Officer's April
9 28th, 2015 action, approving, with conditions, the nine
10 Watershed Management Programs pursuant to Los Angeles County
11 MS4 Permit.

12 While three of the nine Watershed Management
13 Programs were also approved pursuant to the City of Long
14 Beach MS4 Permit, the petition does not seek review of the
15 Executive Officer's approval, with conditions, pursuant to
16 the City of Long Beach MS4 Permit, only the Los Angeles
17 County MS4 Permit.

18 So in the petition the petitioners allege that the
19 Executive Officer -- there's three contentions. One is the
20 Executive Officer acted outside the scope of delegated
21 authority in conditionally approving the Watershed
22 Management Programs, because the only authority explicitly
23 delegated to the Executive Officer by the Board was to
24 approve or deny the Watershed Management Programs. Two, the
25 Executive Officer improperly modified the permit by failing

1 to comply with state and federal legal requirements. And
2 three, the Executive Officer improperly imposed conditions
3 in the approvals that are inconsistent with permit
4 requirements and the Federal Clean Water Act.

5 Petitioners request that the Board invalidate the
6 Executive Officer approvals, with conditions, and deny all
7 nine of the Watershed Management Programs.

8 I want to note that the petition, including the
9 detailed technical comments in Exhibit D to the petition,
10 only specifically alleges substantive inadequacies of three
11 of the nine Watershed Management Programs, namely the Lower
12 San Gabriel River Watershed Management Program, the Lower
13 Los Angeles River Watershed Management Program, and the Los
14 Angeles River Upper Reach 2 Watershed Management Program.

15 While the petitioners legal contentions concerning
16 the Executive Officer's authority to approve with conditions
17 applies to all nine of the Watershed Management Programs,
18 the petitioners do not allege any specific challenges to the
19 substantive adequacy of the remaining six WMPs, but they
20 still request the Board invalidate the Executive Officer's
21 approvals, with conditions, for those six WMPs.

22 So without specific factual allegations concerning
23 an inadequacy of a Watershed Management Program, the
24 petitioners have not provided the Board with specific
25 allegations to review. And as part of its decision the

1 Board may determine that the substantive sufficiency of
2 these six Watershed Management Programs has not been
3 properly raised before the Board in its consideration.

4 To aid in the Board's review of the petition,
5 Board staff has prepared written responses to the
6 contentions raised in the petition. In the main response
7 matrix, which has been provided to the public, has --
8 provides the Board with Staff's responses to the contentions
9 raised by the petitioners in their Memorandum of Points and
10 Authorities, including detailed responses to the legal
11 contentions.

12 This response matrix has two attachments. The
13 first attachment provides Staff's responses to the detailed
14 technical comments in the petitioners Memorandum of Points
15 and Authorities, and in Exhibit D to the petition. And for
16 the Board's further reference, Board staff also prepared an
17 assessment of the petitioner's March 25th, 2015 letter,
18 commenting on the revised Watershed Management Programs.

19 Note that Attachments 1 and 2 specifically pertain
20 to the alleged -- to the alleged substantive inadequacies of
21 the Lower San Gabriel River WMP, the Lower Los Angeles River
22 WMP, and the Los Angeles River Upper Reach 2 WMP, as those
23 were the ones that were specifically challenged by the
24 petition.

25 Permittees and persons were also provided an

1 opportunity to respond to the petition, and nine responses
2 were received.

3 The petition, as Chair Stringer noted, the Board
4 received a bunch of documents ahead of time, and these
5 included the petition, responses to the petition, documents
6 pertaining to each of the nine Watershed Management
7 Programs, materials from the April 13th, 2015 public meeting
8 on the revised Watershed Management Programs, and the
9 internal program review and evaluation questions. And Staff
10 has also informed me that other documents were posted on the
11 Board's website, for you reference. Okay.

12 And this is going to be my final slide.

13 So I know that you are accustomed to seeing the
14 options slide at the end of a presentation. But I wanted to
15 include it up front so that you know what options you have
16 on the petition as you hear from the petitioners, Staff, the
17 permittees, and interested persons.

18 So I want to first note that there are no
19 established procedures for a Board's review of its Executive
20 Officer's actions. So as such, you have a lot of
21 flexibility in how you want to conduct your consideration
22 and review. However, the Board is expected to take action,
23 either today or at a future Board meeting, to resolve the
24 petition.

25 The petition and some of the responses to the

1 petition submitted by the permittees discussed the purported
2 standard of review for the Regional Board's consideration of
3 the petition, and I want to clarify that. There's no
4 specific standard of review that applies to this -- to the
5 Regional Board's review of the Executive Officer's action.
6 The Board is not acting as an appellate body in this
7 instance. Since the Executive Officer acted pursuant to
8 delegated authority on behalf of the Board, the Board is, in
9 essence, being asked to reconsider its own decision.

10 The Board is not required to determine whether the
11 Executive Officer's action constituted an abuse of
12 discretion. Rather, in this instance, the Board may simply
13 consider whether the Executive Officer's action to approve
14 the nine Watershed Management Programs with conditions was
15 appropriate and proper.

16 So at the conclusion of your review there are
17 three general options that the Board may take. You can --
18 the Board may take, for each of the nine Watershed
19 Management Programs, either ratify the Executive Officer's
20 approvals, overturn the Executive Officer's approval, or
21 conduct further proceedings on the petition as you determine
22 appropriate. The Board -- you can make your decision on --
23 on each individual Watershed Management Program or you can
24 make your decision in bulk or in groups.

25 In addition, in a permitting proceeding Staff

1 normally make a recommendation to you as your advisors.
2 And in this matter, Staff and legal counsel remain as your
3 advisors. However, as it is Staff's action that you are
4 reviewing, Staff are not going to make a separate
5 recommendation to you on this matter. Those recommendations
6 were made when -- when the Executive Officer issued the
7 approval letters. And so the purpose of Staff's
8 presentation is to explain the Watershed Management Program
9 review and approval process, and why the Executive Officer
10 determined that an approval with conditions was appropriate.

11 So I've now concluded my introduction, and the
12 petitioners will now make their presentation.

13 CHAIR STRINGER: Thanks. And I'm just -- I just
14 want to -- so thank you, Jennifer. That's really good
15 framework for all of this.

16 I've been thinking about the process for this
17 particular matter for a while now. And, obviously, things
18 can evolve as we hear what we're about to hear. But I'd
19 like my fellow Board Members to think about potentially
20 structuring the decisions really in two broad categories,
21 the first being the Executive Officer's authority to make
22 the decisions that Sam made. And the second sort of
23 category is the -- sort of the substantive adequacy of the
24 plans. And given that there are only really three that
25 are -- that are being focused on here, unless Board Members

1 have others that they'd like to look at, then I think -- I
2 assume we'll spend most of our time looking at those three.

3 But just generally, you know, to my mind anyway,
4 there's two kind of separate buckets of issues. One is
5 regarding EO authority, and the other is regarding the
6 substantive adequacy of the plans. So when it gets time to
7 discussing the issues after we've heard from everybody, I'd
8 like to break down our discussion to those two kind of
9 categories, just for efficiency purposes and to keep things
10 from being confused.

11 BOARD MEMBER GLICKFELD: Mr. Chairman, I didn't
12 think there was an argument that the Board delegated the
13 authority to approve these plans --

14 CHAIR STRINGER: One of the --

15 BOARD MEMBER GLICKFELD: -- to the -- to the --
16 the Executive Officer, but we also have the discretion to
17 take them up.

18 CHAIR STRINGER: So that's not the -- so as you'll
19 here, and as is in my -- our materials, the petitioners are
20 challenging the Executive Officer's authority to do --

21 BOARD MEMBER GLICKFELD: Okay.

22 CHAIR STRINGER: -- what Sam did.

23 BOARD MEMBER GLICKFELD: Okay. I got that.

24 CHAIR STRINGER: So we're going to -- so that
25 is --

1 BOARD MEMBER GLICKFELD: So the conditional
2 approval?

3 CHAIR STRINGER: What's -- what's in the record.
4 I'm not going to -- I'm not going to characterize the
5 petitioner's challenges. I'm sure they'll do that for us.

6 So in any event, I'm just, you know, from a
7 procedural kind of perspective I'm trying to -- I've been
8 thinking about how best to organize our conversation to make
9 it both efficient and to ensure that we adequately consider
10 these important decisions today. So that's how I'm thinking
11 about it now. But things can change, obviously, as we hear
12 things from folks.

13 So unless --

14 BOARD MEMBER CAMACHO: So one of the --

15 CHAIR STRINGER: Yeah?

16 BOARD MEMBER CAMACHO: -- on the two items, so on
17 this substantive adequacy of the plan, what is -- like how
18 are you kind of thinking of that in terms of your thoughts
19 of that being a second bucket?

20 CHAIR STRINGER: Well, I guess it depends on what
21 we hear. But my thought is that there are really only three
22 plans that are being critiqued; right? And so my assumption
23 is that we'll spend, if not all, of our time talking about
24 those three. And we could either, depending on how that
25 goes, we could either make decisions on each of those

1 separately or, you know, if we all feel comfortable with it
2 we can make a decision about either those three separately
3 from the other six or all nine of them together. We can
4 kind of play that by ear.

5 CHAIR STRINGER: Yes, Larry?

6 BOARD MEMBER YEE: The ways that you just
7 described don't fall into the three general options that
8 are -- that are before the Board. So I'm not really clear
9 how to reconcile.

10 CHAIR STRINGER: I'm sorry. I was trying to
11 clarify things, and I think maybe I confused people. So --

12 BOARD MEMBER MEHRANIAN: I agree with Larry. I
13 just -- like there are two sets of things now.

14 CHAIR STRINGER: So the options that -- that you
15 presented are our options for -- for all of those decisions,
16 really, that we have to make.

17 But what I'm just talking about from a process
18 perspective is dividing the issues up into two buckets,
19 generally speaking, one being Sam's authority, and the other
20 being the substantive adequacy of the -- of the plans
21 themselves.

22 BOARD MEMBER GLICKFELD: So we would address both
23 of those issues in each of these decisions.

24 CHAIR STRINGER: Yes.

25 BOARD MEMBER GLICKFELD: Okay.

1 CHAIR STRINGER: Okay. I'm sorry. I --

2 MS. FORDYCE: Like I said, this never comes up.

3 CHAIR STRINGER: I've clearly screwed up.

4 MS. FORDYCE: So this is -- this is -- yeah.

5 CHAIR STRINGER: Yeah.

6 MS. FORDYCE: This is why I thought --

7 CHAIR STRINGER: Yeah.

8 MS. FORDYCE: -- the intro might help a little
9 bit --

10 CHAIR STRINGER: Yeah.

11 MS. FORDYCE: -- but maybe not.

12 CHAIR STRINGER: Yeah.

13 Yes, Maria?

14 BOARD MEMBER MEHRANIAN: Yes. Generally, from
15 where I am and what I'm understanding, I would not want to
16 open the discussion of Sam's adequacy or does he have the
17 authority to make decisions or not. I would not suggest
18 that.

19 CHAIR STRINGER: It's -- it's in the petition. I
20 don't know how we --

21 MS. FORDYCE: Yeah. It is -- it is one of the
22 contentions that's raised in the petition.

23 BOARD MEMBER MEHRANIAN: So it has to be --

24 MS. FORDYCE: So you will have to address it --

25 BOARD MEMBER MEHRANIAN: -- re-discussed again

1 and --

2 MS. FORDYCE: -- one way or the other.

3 BOARD MEMBER MEHRANIAN: -- be decided again?

4 CHAIR STRINGER: The petitioners -- the
5 petitioners have raised the issue.

6 BOARD MEMBER MEHRANIAN: Okay.

7 CHAIR STRINGER: And so we need to make a decision
8 on whether we agree or disagree with the petitioners
9 perspective on that.

10 BOARD MEMBER MEHRANIAN: And therefore, what's in
11 front of us to decide?

12 CHAIR STRINGER: I'm not going to characterize
13 that right now. I'm sorry.

14 BOARD MEMBER MEHRANIAN: Should we hear everything
15 and then decide --

16 CHAIR STRINGER: Yes.

17 BOARD MEMBER MEHRANIAN: -- how we're going to
18 talk?

19 CHAIR STRINGER: Yes.

20 BOARD MEMBER MEHRANIAN: Okay.

21 CHAIR STRINGER: I obviously --

22 BOARD MEMBER GLICKFELD: You tried.

23 CHAIR STRINGER: I tried and I failed.

24 VICE CHAIR MUNOZ: I was under the impression, and
25 I think my -- if my memory serves me right, didn't you

1 appoint a subcommittee to meet on this, and shouldn't we be
2 getting a report on the subcommittee as to what their
3 recommendation is? Because I feel like something happened
4 between the appointment of the subcommittee and where we are
5 today. And so if we appoint subcommittees, I think they
6 need to come back and report to us, unless they didn't have
7 time to meet.

8 MS. FORDYCE: So let me --

9 CHAIR STRINGER: So this --

10 MS. FORDYCE: Let me clarify that. So the -- so
11 when the Board established the subcommittee, the general
12 purpose of the subcommittee was just really to assist Staff
13 on the permit implementation. They were not specifically
14 tasked with making a recommendation on the petition. They
15 weren't given any extra powers by the Board or anything like
16 that.

17 We have, however, met. We had - I was on a
18 conference call, but they did meet in person with -- with
19 MS4 Staff a couple weeks ago, a week ago, and that was Board
20 Member Diamond and Board Member Camacho. And we did provide
21 -- it was basically kind of like a briefing. And so they --
22 they were a part of the briefing.

23 And so -- but they're not, you know, they're not
24 required to make a recommendation. That's not something you
25 tasked them with. They can certainly make a recommendation

1 if they feel like they -- they want to.

2 VICE CHAIR MUNOZ: Well, no, I'm not asking --
3 excuse me. I'm not asking for a recommendation. I'm asking
4 for what took place at the meeting, what things were
5 discussed that might provide us with some insight.

6 CHAIR STRINGER: So -- so that's a good question.
7 We did appoint a subcommittee. Jennifer characterized it
8 accurately. They did meet. I haven't heard the outcome of
9 that, and it would be good for us all to hear that in terms
10 of their perspective. I would suggest that we hear that
11 perspective after we hear everything else so we all have
12 some context as a part of our deliberations.

13 But just to be clear, we're all making a decision
14 today, you know, based on what we're hearing today on a
15 petition that was filed in accordance with the MS4 Permit
16 and the procedures under there that allows stakeholders to
17 challenge the Executive Officer's delegated decisions on
18 this. So that's the -- that's --

19 BOARD MEMBER GLICKFELD: We're voting on the
20 petition?

21 CHAIR STRINGER: We're voting on the -- we are
22 taking action on the petition today under -- yes, that's
23 correct. Yes

24 MS. FORDYCE: And then the last thing I would just
25 note, which is similar to what Board Member Yee said, you

1 know, the three general options, I said there's a lot of
2 flexibility. There's not -- it's not really fitting into a
3 nice, you know, nice box. So just to aid the Board, I
4 really wanted to come up with three little -- you know,
5 three general options that the Board could -- but it could
6 be something different and it could be a combination, so --

7 CHAIR STRINGER: Okay. My apologies for trying to
8 clarify things and making things more fuzzy. So hopefully
9 it will get more clear as we go along here.

10 First up is NRDC, Heal the Bay, L.A. Waterkeeper,
11 and a joint presentation, you all have been allotted 40
12 minutes.

13 MS. FORDYCE: So the petitioners have requested --
14 they're going to -- you're -- I'm assuming you're going to
15 put this on the screen?

16 MS. HAYAT: No. This is part of our presentation.
17 We just wanted Board Members to -- each Board Member to have
18 a copy of -- we'll be referring to this during our
19 presentation but it's not going to be on the screen, which
20 is why we want them to see it.

21

22 MS. FORDYCE: So this -- this itself is not going
23 to be on the screen?

24 MS. HAYAT: No.

25 MS. FORDYCE: I guess that's the Board Members or

1 the Chair's discretion. Because had they put it on the
2 screen then it would have been demonstrative to even look at
3 it. But if they're not putting it up on the screen, just
4 talking about it --

5 CHAIR STRINGER: So --

6 MS. FORDYCE: -- it could be considered an
7 additional late comment or --

8 MS. HAYAT: Or submit it with our presentation
9 before -- before the deadline.

10 MS. FORDYCE: That wasn't a comment deadline.

11 CHAIR STRINGER: Well, my understanding --

12 MS. FORDYCE: That was just --

13 CHAIR STRINGER: -- is that the --

14 MS. FORDYCE: That was just so we have a copy of
15 the PowerPoint.

16 CHAIR STRINGER: And for my -- my understanding is
17 that there's a request to put things into the record that --
18 that are new, is that correct, that have not been submitted
19 prior to this moment?

20 MS. HAYAT: No. We submitted this as part of our
21 presentation before the deadline. So this is part of our
22 presentation. It's not --

23 MS. FORDYCE: But you're actually not going to be
24 presenting it; you know what I'm saying?

25 MS. HAYAT: It's not going to be -- well, because

1 it would have been too difficult to -- it wouldn't be
2 legible if we put the whole entire graph on the PowerPoint
3 slide. See, that's why it's on a really long piece of
4 paper.

5 CHAIR STRINGER: So I guess the only question,
6 sorry, the only question I have is, is there anything that
7 you're -- that you're requesting go in the record today that
8 was not submitted prior to the deadline?

9 MS. FORDYCE: In taking a look at this they've
10 added some -- so correct me if I'm wrong. This is
11 essentially your Exhibit D to the petition, but some extra
12 columns and some color coding?

13 MS. HAYAT: Yes. Because of the subsequent action
14 that happened after our petition, the final -- the final
15 approvals that were issued, and I'm assuming Staff will be
16 addressing the final approvals, as well, so as petitioners
17 we are -- feel like we have the right to respond to the
18 final approvals, as well, the subsequent actions that were
19 taken.

20 MS. FORDYCE: That -- there was no notice
21 providing that they had an opportunity to respond. And all
22 I'm saying --

23 CHAIR STRINGER: And the concern -- the concern
24 that you have, Jennifer, is you haven't had a response -- an
25 opportunity to review it and provide --

1 MS. FORDYCE: No.

2 CHAIR STRINGER: -- additional --

3 MS. FORDYCE: My concern more is that if -- if --
4 had they been -- if they had put it on the screen I
5 generally wouldn't have any problem. But they're going to
6 be preparing -- presenting their PowerPoint, and then they
7 want you to take a look at this, and they're going to refer
8 to it. But this itself is not part of their PowerPoint and
9 they were never -- and the petitioners were not given an
10 opportunity, per the notice that went out, to either
11 supplement their petition or provide responses to the
12 responses, or anything like that.

13 BOARD MEMBER GLICKFELD: Could we have them
14 circulate the document to us?

15 CHAIR STRINGER: I'm fine with that. I don't want
16 to be overly restrictive today on these matters, Jennifer.
17 So thank you for bringing that to our attention.

18 MS. FORDYCE: Okay. I'll pass them out.

19 CHAIR STRINGER: Yeah. Thank you.

20 MS. FORDYCE: We'll probably need some extra if
21 the permittees want them too.

22 MS. HAYAT: Well, so there's -- there's only nine
23 there, so there's two for staff. But we have some extra
24 with us, if the permittees want to see them.

25 CHAIR STRINGER: Okay. Thank you.

1 MS. HAYAT: Thank you.

2 CHAIR STRINGER: Is everybody ready?

3 BOARD MEMBER MEHRANIAN: Yes.

4 CHAIR STRINGER: Okay. Thank you very much.

5 MS. HAYAT: Good afternoon, Chair Stringer,
6 Members of the Board. My name is Becky Hayat and I am with
7 the Natural Resources Defense Council. I also have with me
8 today Daniel Cooper representing Los Angeles Waterkeeper,
9 Dr. Rita Kampalath from Heal the Bay, and Dr. Derek Booth
10 from UC Santa Barbara.

11 Thank you of the opportunity to comment on our
12 Petition for Review on the Executive Officer's decision to
13 conditionally approve nine Watershed Management Programs
14 pursuant to the 2012 L.A. County MS4 Permit. As an initial
15 matter, we would like to reserve five minutes of our time at
16 the end for rebuttal, if possible, please.

17 Today we stand before you for several reasons, the
18 first of which is to reiterate our position that the
19 Executive Officer's action on April 28th to conditional
20 approve nine WMPs, and I'm going to use WMPs because I think
21 it's actually a fitting acronym, was illegal because not
22 only did he act outside the scope of his delegated
23 authority, but also his action constituted an illegal
24 modification of the permit.

25 However, having said that, we do recognize that

1 the Executive Officer's subsequent action to issue final
2 approvals for all nine WMPs somewhat addresses these two
3 legal contentions regarding the illegality of the
4 conditional approvals, but only with respect to the WMPs,
5 and it's a big but, because we continue to maintain our
6 position that the act of issuing conditional approvals is
7 illegal. And we caution this Board against this illegal
8 maneuver potentially being used again by the Executive
9 Officer in the context of the Enhanced Watershed Management
10 Programs.

11 Notwithstanding our concern about the conditional
12 nature of the Executive Officer's first round of approvals,
13 the number one reason we are here today is reiterate the
14 third and most important argument in our petition for
15 review, which is that the terms of the conditional approvals
16 are inconsistent with core permit requirements, as well as
17 the Federal Clean Water Act, as they fail to address all of
18 the deficiencies that still remain in permittees revised
19 WMPs, including deficiencies previously identified by the
20 Regional Board staff itself.

21 In October 2014, Regional Board staff provided
22 written comments on permittees' draft WMPs. And in addition
23 to identifying numerous shortcomings, Staff made an explicit
24 request to permittees that they correct all the identified
25 issues when they submit the revised WMPs.

1 Unfortunately, permittees' revised WMPs failed to
2 address most of Staff's concerns, yet the Executive Officer
3 still approved these clearly deficient WMPs on the condition
4 that they satisfy a small subset of permit terms when they
5 submit their revised WMPs.

6 As a result, permittees were given additional time
7 beyond the permit established deadline to submit their final
8 WMPs.

9 Now at this point I want to mention that during
10 the 2012 permit adoption proceedings both Board and Staff
11 stated on the record that we would not engage in an endless
12 loop of actions without ultimate achievement of water
13 quality standards. We had all agreed that this was the main
14 reason why the iterative approach under the prior 2001
15 permit failed, and that the new 2012 permit was intended to
16 move away from this approach.

17 Unfortunately, and also, the State Water Resources
18 Control Board has also echoed this sentiment. In its final
19 order upholding the 2012 permit the State Board stated,
20 quote,

21 "We cannot accept a process that leads to a continuous
22 loop of iterative WMP/EWMP implementation without
23 ultimate achievement of receiving water limitations."

24 The conditional approvals, however, directly
25 contradict both the Regional and State Boards' intent behind

1 the 2012 permit's WMP approach.

2 By approving facially deficient WMPs, the
3 Executive Officer has allowed and will continue to allow
4 permittees to engage in a continuous cycle of ineffective
5 program development and implementation without ever bringing
6 them on an enforceable, transparent pathway to ultimate
7 compliance. It is undeniable that what is happening with
8 the WMPs right now is simply a repeat of the failed
9 iterative approach under the prior 2001 permit.

10 Notwithstanding this legal extension of time,
11 all of the nine WMP groups submitted their final WMPs on or
12 before June 12th, 2015. And the Executive Officer
13 subsequently issued final approval letters for all nine WMPs
14 on the grounds that these plans satisfy all the conditions.
15 However, because the conditions themselves address only a
16 tiny subset of the deficiencies that still remained in the
17 revised WMPs, even if permittees satisfied all of the
18 conditions in their final plans, those final WMPs should
19 still have been denied because they failed to comply with
20 all of the permit requirements.

21 Environmental groups reviewed in detail three of
22 the nine WMPs. And the fundamental issues we identified
23 among all three WMPs are: Number one, a complete lack of
24 specificity and commitment to control measures and
25 strategies to ensure the achievement of water quality

1 standards; number two, inadequately performed reasonable
2 assurance analyses; and number three, an adaptive management
3 process that exists in name only.

4 Approving deficient WMPs is deeply troubling for
5 several reasons. First, if deficient WMPs are approved and
6 the next step is to implement these programs, then the
7 implementation phase is guaranteed to fail. Implementing
8 deficient WMPs will only delay the achievement of tangible
9 benefits on the ground.

10 Second, approving facially deficient WMPs goes
11 against what the State Board espoused as its reasons for
12 approving the WMP approach under the 2012 permit. Again, in
13 its final order the State Board concluded the WMP approach
14 is supposed to be a, quote,

15 "clearly defined, implementable, and enforceable
16 alternative to the receiving water limitations
17 provisions, and that the alternative provides
18 permittees an ambitious yet achievable path forward for
19 steady and efficient progress toward achievement of
20 those limitations, while remaining in compliance with
21 the terms of the permit," end quote.

22 However, if a WMP clearly lacks the necessary
23 components for assuring the achievement of receiving water
24 limitations such as a properly conducted Reasonable
25 Assurance Analysis, details about proposed pollution control

1 measures, then it certainly will not provide a well-defined,
2 ambitious and rigorous path to permit compliance.

3 In a moment Dr. Booth will provide his expert
4 conclusions on three of the nine final WMPs, which are the
5 result of examining Board staff comments from October 2014,
6 the revised WMPs submitted by permittees that were supposed
7 to address all of Staff's concerns, the conditions imposed
8 by the Executive Officer on April 28th, and the final WMPs
9 submitted by permittees on or before June 12th. Dr. Booth
10 will explain why the final WMPs should have been denied
11 because they continue to contain fatal flaws that were
12 previously identified by Board staff and that still has not
13 been addressed yet. Dr. Booth will also be addressing some
14 of the responses to our analysis from both Board staff and
15 the permittees.

16 Then Dr. Kampalath from Heal the Bay will provide
17 her expert analysis on the three WMPs and explain and
18 discuss some of the major issues she identified with those
19 plans.

20 And finally, Daniel Cooper from L.A. Waterkeeper
21 will explain why the final approvals of clearly deficient
22 WMPs represent a gross departure from the State Board's
23 consistently stated reasons for why they ultimately support
24 the WMP approach under the 2012 permit.

25 The bottom line is that the Board today must

1 overturn the Executive Officer's final approvals for the
2 three WMPs that environmental groups reviewed. Because as
3 both Dr. Booth and Dr. Kampalath will explain in a little
4 bit, those plans, there's more than ample evidence that
5 those plans are in violation of permit requirements and
6 therefore should have been denied as required by the permit.
7 And we continue to maintain our position that the
8 deficiencies we've identified with the three WMPs we
9 reviewed are likely representative of deficiencies that
10 exist in the other six WMPs.

11 Therefore, with respect to those other six WMPs,
12 we urge the Board to direct its staff to conduct a similarly
13 robust level of analysis and scrutiny the environmental
14 groups did with the three WMPs, and then come back. The --
15 the Board should schedule another public meeting where the
16 staff can come back and report its findings. And at that
17 time the Board can make an informed decision about whether
18 or not to ratify or overturn the Executive Officer's final
19 approvals for those six WMPs.

20 For too long we have been rewarding failure and
21 inaction. Municipal discharges should not be continued --
22 allowed to continue degrading our region's waters without
23 taking meaningful responsibility. The Board today -- it's
24 about time that permittees become part of the solution and
25 not just a problem anymore. The Board today has the power

1 to put us on that trajectory and should not miss out on this
2 important opportunity.

3 CHAIR STRINGER: Thank you.

4 DR. BOOTH: Thank you very much for the
5 opportunity to speak with you today. I was in front of you
6 five months ago, so I'll just briefly remind you of my
7 background.

8 I'm Derek Booth. I'm an adjunct professor at the
9 Bren School of Environmental Science and Management the
10 University of California, Santa Barbara, with a primary
11 focus on stormwater management. I was a member of the
12 National Research Council's Committee on Stormwater
13 Management. And we authored the book, Urban Stormwater
14 Management in the United States, six years ago, including
15 the chapter on Watershed Framework for Stormwater
16 Management, which I believe formed the basis for the program
17 that we're talking about today.

18 I was also the lead technical consultant for the
19 Central Coast Regional Water Quality Control Board in their
20 development of their current post-construction stormwater
21 management regulations adopted in 2013. I worked for a
22 local stormwater agency in Seattle for over a decade. And
23 I've continued in the field, in both private practice and
24 academia, for the last 20 years.

25 I offer this background to remind the Board that I

1 really do have long familiarity with watershed planning for
2 stormwater management.

3 As Becky said, I've gone back and reviewed all
4 three of the versions of these three Watershed Management
5 Plans. I apologize, I did not have time to review all nine
6 of them. I've also looked at the staff comments, the
7 respondents, and the Regional Board staff on our last set.

8 It continues to be my judgment that these plans
9 are simply inadequate to achieve, never mind assure,
10 compliance. This should come as no surprise to Board staff.
11 They said very much the same thing on the initial comments
12 to the draft plans. And really the only surprise is that
13 very little of substance has changed between the 2014
14 versions and those that were recently approved.

15 You have before you my detailed analysis of the
16 shortcoming of the draft plans based on your own staff's
17 review, and their history through the two subsequent
18 revisions.

19 Rather than walk through each item, really there
20 are just too many of them for one short afternoon, I'd like
21 to take a step back and consider the overarching vision for
22 the Watershed Management Program, and evaluate how we're
23 doing with respect to these three plans.

24 So these are my words, but I think they're --
25 they're a reasonable reflection of what we might have

1 expected. The vision was to commit to strategies, control
2 measures, and BMPS to achieve water quality standards, that
3 these commitments would be supported and guided by a
4 regional -- Reasonable Assurance Analysis, and that they
5 would be refined over time through an adaptive management
6 process.

7 And I think really the question is: Have these
8 plans achieved that? And if not, what is deficient? And,
9 probably most importantly, what can be done to correct them.
10 So let's just take these one at a time.

11 Here's text from the introduction to the section
12 from the Upper Reach 2 titled "Compliance Schedule and
13 Cost." If you actually read the text, however, there are no
14 commitments, they're just contingencies, there are caveats,
15 and there are reservations. You'll note that the original
16 October 2014 staff comments required compliance with past
17 due interim water quality-based effluent limits. But by
18 August 2015 comments and responses and conditions from the
19 staff, we've lost even the requirement that demonstration of
20 past deficiencies are demonstrated until sometime in the
21 future.

22 Here we are at the opening words of section five
23 for the Lower L.A. River and Lower San Gabriel River Plans
24 titled "Compliance Schedule." But as you read, there is no
25 schedule. It's -- I mean, I can only call it a pretend

1 schedule because there are no commitments. There is the
2 caveat assuming finances are available, and then we spin a
3 story of what might be built at some indeterminate time in
4 the future.

5 You'll notice in the October -- excuse me, in the
6 August 2015 comments on our comments that the staff makes
7 reference to a strategy. To be honest, I can't find a
8 strategy. You'll note that the original 2014 comment letter
9 stated, and I quote, "The program needs to more clearly
10 demonstrate that the Compliance Schedule ensures compliance
11 as soon as possible." Text was added, but the only real
12 text was to affirm the absence of any binding commitment to
13 any actions whatsoever.

14 With respect to the Reasonable Assurance Analysis,
15 I need to just focus on the Upper Reach 2 Plan, which was
16 recognized as fundamentally deficient in October 2014 from
17 the Board staff's own comments. They observed that there
18 was no hydrology and water quality monitoring data for use
19 of comparing model results with a baseline prediction.

20 The RAA guidelines are really quite clear. Model
21 calibration and validation are necessary and critical steps
22 in model application. But the plans broad discussion of
23 past calibration at other locations doesn't -- really
24 doesn't even begin to address this need. There is no
25 reasonable assurance that any of us can draw from this plan.

1 And given the limited amount of time, let me jump
2 ahead to the issue of an adaptive management process.

3 First of all, let me just remind you all of the
4 language in the 2012 permit. This is language that
5 describes what an adaptive management process needs to
6 consider, the elements that need to be appear in and be
7 addressed by an adaptive management process. It's not the
8 process. It's what the process is supposed to address. You
9 might wonder why that's relevant.

10 But as we actually start to look at these plans
11 and see what they have to say about their adaptive
12 management process, we'll start again with the Upper Reach
13 2. Indeed, it mentions the term "adaptive management
14 process" over a dozen times in the course of it. But you'll
15 note that, again, the staff in October 2014 quite correctly
16 observed that this plan does not include a comprehensive
17 strategy for the adaptive management process, and I agree.

18 You'll also discover that, actually, there's been
19 no change to the plan in subsequent drafts at all in
20 response to this comment, including under the final
21 conditional approval which did not even mention this issue.
22 We have to ask the question: Why has this issue been
23 dropped? It certainly hasn't gone away.

24 If we look at the Lower L.A. River and Lower San
25 Gabriel River, they're nominally better. They actually have

1 a section, section nine, it's called the Adaptive Management
2 Process, but it is a verbatim restatement of what needs to
3 be considered by such process in the permit. It's basically
4 the permit language brought into the plan, I suppose for
5 convenience of reference. But it's still the same. We
6 still don't have a process.

7 We all agree, including the staff, that the
8 adaptive management process is critical, but there's nothing
9 here. There is no process. There is no framework. There
10 is no structure. There is nothing that gives anyone,
11 including, I suspect, the permittees, any idea of what
12 they're actually going to do and how they're going to do it,
13 and how this is all somehow going to happen within the
14 timeframe for which such a process needs to not only exist
15 but actually identify shortcomings, collect data, analyze
16 it, decide on actions, find funding, and make it happen.

17 So in summary, I'd like to just remind you of
18 these three.

19 First of all, the first element, to commit to
20 strategies, control measures, and BMPS. And I want to
21 emphasize the word "commitment." There are no commitments
22 in these plans, and I think that's critical.

23 I think it's really important to appreciate
24 that -- that simply expressing the need for something to
25 happen is not the same as the Board requiring that to

1 happen. If you want it to happen you will need to require
2 it. I worked for a local government for ten years. What
3 isn't required isn't funded. It's just how the world works.
4 I can't guarantee that if you do require it will be funded.
5 But I can absolutely guarantee you that if you don't require
6 it, it will not be funded. There will always be other
7 priorities.

8 Secondly, guided by a Reasonable Assurance
9 Analysis, I have to make a distinction between these three
10 plans. The Lower L.A. River and Lower San Gabriel River are
11 not perfect. There are some fairly optimistic assumptions.
12 And I would hope that they would be revisited, and
13 preferably sooner rather than later. But to be honest, with
14 the Upper Reach 2, we have no assurance of anything based on
15 the regional monitoring -- excuse me, the regional
16 calibration done as a much as a decade ago on a combination
17 of models that were never evaluated together and never
18 applied to this watershed. There's just nothing more to say
19 about that.

20 And lastly, with respect to the Adaptive
21 Management Programs, really none of the WMPs have any
22 description of an adaptive management process, which is what
23 is required. And without that, and without that in place
24 going forward, my genuine concern is that we're never going
25 to achieve a functional plan for any of these.

1 Thank you very much

2 CHAIR STRINGER: Thank you very much.

3 MS. KAMPALATH: Chair Stringer and Board Members,
4 my name is Rita Kampalath. I'm with Heal the Bay. And
5 thank you again for the opportunity to speak today.

6 As you've just heard from Dr. Booth, there are a
7 number of serious deficiencies still remaining in the WMPs
8 that were identified originally through the rigorous review
9 conducted by your own staff. It's not clear why these
10 issues were not addressed, and in some cases were not
11 required to be addressed in the final revisions of the WMPs.

12 The permit has very clear requirements for the
13 WMPs. From the permit itself, the WMPs must identify,
14 quote,

15 "the number, type, location and/or frequency of
16 specific structural and nonstructural controls, and the
17 permittees must perform a Reasonable Assurance Analysis
18 to demonstrate the ability of the WMPs to ensure that
19 permittees' discharges achieve applicable water
20 quality-based effluent limitations."

21 In other words, they must provide a pathway to
22 compliance that is both specific and has reasonable
23 assurance of working.

24 At the most basic level, to perform a Reasonable
25 Assurance Analysis there are two key things you need, a

1 reliable model and a plan to evaluate. Yet as we see with
2 the WMPs highlighted here, these two basic elements are
3 essentially missing. In one there is no calibration and,
4 hence, no assurance that the model adequately represents the
5 watershed. And in -- and in the other two, no plan is being
6 committed to.

7 In the case of L.A. River Upper Reach 2, the model
8 relies on a regional rather than a watershed-specific
9 calibration. As a result, a tremendous amount of resources
10 are going to be expended on a program with no clear
11 confidence that it will be adequate to meet requirements.

12 In the case of the Lower L.A. and Lower San
13 Gabriel River WMPs, the plans clearly state that they cannot
14 name specific projects that will be implemented. The plans
15 say, quote, "Not all projects can be specified and scheduled
16 at this time," end quote. Also, uncertainties associated
17 with structural controls complicate establishment of
18 specific implementation dates. And finally, they reserve
19 the right to, quote, "select different types of BMPs or
20 substitute alternative BMPs altogether," end quote.

21 And so again, in all of these cases, to address
22 these issues what we see is heavy reliance on the adaptive
23 management process as the fallback. Issues with calibration
24 will be solved through adaptive management. Specific
25 projects will be determined through adaptive management.

1 Yet again, there's no clarity on what this process will
2 consist of and how we will achieve the very ambitious goals
3 promised.

4 The same can be said about the plans for funding
5 these projects. All of the WMPs evaluated state that
6 project implementation will depend on the availability of
7 funding. We all know that funding is a tremendous
8 challenge. However, using this as an excuse for not
9 implementing their projects is inappropriate, and again
10 clearly shows no real commitment to putting projects on the
11 ground.

12 So there are fixes to these issues. We know this
13 because your staff identified them. One, commit to specific
14 projects, and two, develop a robust adaptive -- Adaptive
15 Management Plan. What we ask of the Board is that you
16 simply require the permittees to adequately respond to these
17 comments.

18 Thank you.

19 CHAIR STRINGER: Thank you very much.

20 MR. COOPER: Good afternoon, Members of the Board.
21 I'm Daniel Cooper and I'm here on behalf of Los Angeles
22 Waterkeeper. And I'm here to talk about the legal
23 requirements of the permit and the State Board order that
24 are applicable here. Okay.

25 I guess as an initial matter, I'd like to respond

1 about the standard of review articulated by your attorney at
2 the beginning of this hearing. And she -- she stated it as
3 whether the Executive Officer's action was appropriate, and
4 I think that's incorrect. I think the question, given that
5 the authority that this Board delegated to the Executive
6 Officer was defined in the four corners of the --

7 CHAIR STRINGER: Excuse me. Do you mind
8 speaking -- sorry, can you speak into the mike? I'm just --

9 MR. COOPER: I'm sorry.

10 CHAIR STRINGER: Yeah. Thank you.

11 MR. COOPER: I think that the -- we think that the
12 authority that this Board delegated to the Executive Officer
13 was included in the four corners of the permit. So the
14 question is whether the Executive Officer's action is
15 consistent with permit terms, because that is the limitation
16 of the delegation here. And the permit says what it says on
17 its face, and was also clarified, I'll put it, by the State
18 Board order approving the watershed management and enhanced
19 watershed management scheme that this Board adopted.

20 So I would say that the question is whether the
21 Executive Officer's action is consistent with permit
22 requirements. Okay.

23 I'm sure you all recall that this new permit
24 adopts an alternative compliance scheme. So instead of
25 immediately requiring compliance with water quality

1 standards, this permit has a separate scheme which allows
2 for WMPs and EWMPs and deems discharges in compliance with
3 water quality standards while those WMPs and EWMPs are being
4 implemented. It's, in effect, what we've called a safe
5 harbor. And that is a significant departure from previous
6 permits.

7 And what it means is no matter what sampling
8 results show is actually happening in the receiving waters,
9 no matter what the pollution levels are in the rivers and
10 beaches of Southern California, the discharges, the
11 municipalities are deemed in compliance so long as they're
12 meeting the deadlines and requirements of their approved
13 WMPs. So obviously these WMPs are critical because it's a
14 shield from enforcement.

15 State Board approved this new scheme under limited
16 conditions. They approved it only where the scheme
17 maximizes the likelihood of achieving the ultimate goal,
18 compliance with water quality standards in their receiving
19 waters. And they're -- they quote -- they specifically
20 stated in the order the stuff about the transparent process
21 with -- with milestones and so on, which Becky articulated
22 previously.

23 And importantly, the State Board said conversely,
24 "We cannot accept a process that leads to a continuous
25 loop of iterative WMP/EWMP implementation without

1 ultimate achievement of receiving water limitations,"
2 and that's exactly what we're getting.

3 To restate what Dr. Booth stated, there's three
4 elements to this scheme to ensure that it complies, that it
5 has a reasonable likelihood of achieving compliance with
6 water quality standards, first to commit to strategies,
7 control measures, and BMPs to achieve water quality
8 standards, second, supported by an RAA, and third, refined
9 through an adaptive management process. So the question is:
10 Are these -- are these being achieved? Because these are
11 legal requirements set out by the permit in the State
12 Board's order. And again, in the first step, all the
13 commitments are contingent on funding. None of them is a
14 real commitment.

15 The WMPs rely on adaptive management to set actual
16 schedules someday in the future. Regional Board staff
17 similarly relies on future sampling to set schedules and to
18 conduct, in at least the case of Upper L.A. Watershed Reach
19 2, the RAA that was supposed to be conducted in the first
20 place to allow for this to happen.

21 For all these reasons, the WMPs don't comply with
22 the permits requirements and will not ensure compliance of
23 water quality standards anytime in the future.

24 Supported by RAA, competent use of the Reasonable
25 Assurance Analysis should facilitate achievement of final

1 compliance within the specified deadlines. Yet, as we've
2 stated several times, the Upper L.A. River Reach 2 hasn't
3 any data to conduct an RAA at all. No real RAA was
4 conducted and, therefore, it can't assure anything, and
5 refined through adaptive management. And as Dr. Booth said,
6 the Adaptive Management Plans are just generalized
7 restatements of the permit. There's no real Adaptive
8 Management Plan there, and so there's no real means of
9 fixing the inadequate WMPs sometime in the future.

10 Thus, each of these WMPs put off into the future
11 the determination of a compliance strategy, conducting an
12 RAA, or adaptive management. None of the WMPs provide the
13 level of assurance of ultimate water quality standard
14 compliance required by the permit and the State Board.

15 And, therefore, none of these municipalities
16 quality for the safe harbor. The safe harbor can be given
17 under the State Board's order and the terms of the permit
18 only where there is a reasonable assurance that water
19 quality standards will be complied with on the schedule set
20 out in the WMP, and here we have no such assurance.

21 So really the only action under the terms of the
22 permit is to reject these WMPs and not approve them. The
23 question I think that may be risen by some of the -- or
24 brought up by some of the petitioners or the permittees is,
25 well, what happens then? We effectively kick them out of

1 our regulatory scheme and they do nothing. And I think
2 that's a false choice.

3 The question is really: Do they qualify for a
4 safe harbor from compliance with water quality standards,
5 the standard that has applied since the permit was
6 originally issued and is consistent with the scheme of the
7 Clean Water Act. And assuming that these WMPs aren't
8 approved, because they can't be, they're inconsistent with
9 the permit terms in the State Board's order, each of these
10 discharges will then be required to comply with water
11 quality standards and TMDLs and the schedules that those
12 provide.

13 And I would assume that the WMPs they drafted can
14 provide some framework, and the state -- or the Regional
15 Board staff can apply the same compliance tools, enforcement
16 tools that are -- have always been available to them to --
17 to achieve compliance with water quality standards, improve
18 these Watershed Management Plans, actually collect the data,
19 do the Reasonable Assurance Analysis, to put them on a
20 trajectory toward compliance. But as they stand now,
21 approval would be illegal and would ensure future
22 noncompliance.

23 Thank you.

24 CHAIR STRINGER: Thank you very much.

25 So I think that concludes presentations from Heal

1 the Bay, NRDC, and L.A. Waterkeeper. Stick around. I'm
2 sure there will be questions.

3 I believe Regional Board staff is up -- is up
4 next; is that right? That's what I've got in my order here.

5 Jennifer, thank you.

6 MS. FORDYCE: Okay. So hello again. For the
7 record, I'm Jennifer Fordyce, Legal Counsel for the Board.

8 As I indicated earlier, Board staff's presentation
9 will respond to the contentions raised in the petition. And
10 I'm going to start off the presentation by responding to
11 contentions number one and number two concerning the
12 Executive Officer's authority to conditionally approve the
13 WMPs. And then I'll turn it over to Sam and Renee to
14 discuss contention three. And as I said earlier, detailed
15 responses, legal and technical intentions are included in
16 the response matrix.

17 So contention number one is petitioner's first
18 assert that the Executive Officer improperly acted outside
19 the scope of delegated authority in conditionally approving
20 the WMPs because the only authority explicitly delegated to
21 the Executive Officer by the Board in the permit was to
22 approve or deny the WMPs.

23 In addition, because the permit does not
24 specifically authorize a conditional approval, the
25 petitioners also appear to assert that neither the Executive

1 Officer, nor the Board itself, if it would have taken action
2 at a public meeting, has any legal authority to approve it
3 with conditions, as well.

4 So I've included a screen shot of the language and
5 I've highlighted the relevant text in the permit that the
6 petitioners appear to be referring to, which is essentially
7 that they approve or deny. Okay.

8 So the terms of the permit, basic principles of
9 Administrative Law, and the practice of this Board authorize
10 the Executive Officer and the Board itself to conditionally
11 approve documents submitted under the permit. As such, the
12 Executive Officer acted within the scope of his delegated
13 authority in approving the Watershed Management Programs
14 with conditions.

15 So I -- Mr. Cooper referred to it, saying that it
16 was -- you know, the standard of review was whether the
17 Executive Officer's delegated authority was in the confines
18 of the permit. But in fact, pursuant to Water Code section
19 13223, and subject to -- subject to certain limitations,

20 "The Board has delegated to its Executive Officer all
21 powers and duties to conduct and to supervise the
22 activities of the Board, including but not limited to
23 exercising any powers and duties of the Regional
24 Board."

25 And this is in the general delegation resolution

1 that you've adopted for the Executive Officer, which is
2 periodically updated.

3 And then also as indicated on the previous screen,
4 the Board also specifically delegated to the Executive
5 Officer the authority to approve or deny a final Watershed
6 Management Program on behalf of the Board.

7 So petitioners are interpreting the delegation of
8 authority to the Executive Officer literally and narrowly,
9 which is not supported by the terms of the permit or the
10 practice of this Regional Board. And so while the permit
11 says that the Regional Board or the Executive Officer on
12 behalf of the Regional Board must approve or deny the final
13 Watershed Management Programs by a time certain, the permit
14 does not dictate that any approvals must be unconditional or
15 include any other language limiting the discretion of the
16 Board in a specific manner or approving a Watershed
17 Management Program. So thus, the Regional Board did not
18 limit itself, nor its Executive Officer, to only strictly
19 approving or denying the Watershed Management Program.

20 It's also a well-established principle of
21 Administrative Law, and is supported by case law that unless
22 specifically limited, delegated authority is to be broadly
23 construed. So further, an agency's authority to approve or
24 disapprove inherently includes the authority to approve with
25 conditions.

1 So in the staff's response to the petition I noted
2 case law that's based on very similar facts to the matter at
3 hand. In the interest of time, I'm not going to go over the
4 details of that case. But the Court of Appeal in the
5 Connecticut Fund for the Environment case upheld USEPA's
6 condition approval of a state plan, stating that the power
7 to conditional approval on the incorporation of certain
8 amendments is necessary for flexible administrative action
9 and that a conditional approval offers an administrative
10 agency a measured course that may be more precisely tailored
11 to particular circumstances than an all or nothing choice of
12 outright approval or outright disapproval.

13 So here the authority to conditionally approve is
14 a necessary and proper exercise of the Executive Officer's
15 power to accomplish the purpose for which the Board
16 delegates authority in the permit.

17 In addition, a permitting agency is given
18 substantial deference by appellate bodies in determining its
19 own permit terms. Moreover, the Executive Officer's action,
20 conditionally approving the Watershed Management Programs,
21 is wholly consistent with the longstanding practice of this
22 Board to approve submitted documents with conditions when
23 the Executive Officer deems appropriate. And when
24 appropriate the Executive Officer regularly conditions
25 approvals on behalf of the Board, including plans for,

1 conditional approvals for Monitoring Plans, TMDL Work Plans,
2 NPDES and Groundwater Work Plans, and Site Cleanup Work
3 Plans, and Remedial Action Plans.

4 And lastly, I wish to note that other Regional
5 Water Boards, as well as the State Water Board, have also
6 issued conditional approvals pertaining to both water
7 quality and water rights matters. And this really is a
8 common practice by many of the Regional Boards and certainly
9 the State Board. And it recognizes that Regional Boards and
10 the State Board require flexibility in how to manage their
11 programs efficiently and effectively.

12 Contention two, petitioners assert that by
13 conditionally approving the Watershed Management Programs
14 the Executive Officer improperly modified the permit, in
15 violation of substantive and procedural requirements of
16 State and Federal Law. They said because they allege a
17 conditional approval is a procedure not provided for in the
18 permit, the Executive Officer defacto amended the permit
19 terms which created a new process, timeline, and set of
20 standards. And because that constituted a permit
21 modification, the Federal Regulations require circulation of
22 a draft permit, public notice, fact sheet, and a public
23 hearing.

24 So as I just explained for contention number one,
25 the Executive Officer's approvals of the Watershed

1 Management Programs with condition was within the scope of
2 the delegated authority. And as such, it did not modify or
3 amend -- the permit did not need to be modified or amended
4 to allow the executive officer the authority to approve the
5 Watershed Management Programs with conditions, nor does the
6 Executive Officer's inclusion of conditions to the approval
7 constitute a permit modification or amendment by creating a
8 new process, timeline, or set of standards.

9 The terms of the permit, including the procedures
10 and deadlines pertaining to the Watershed Management Program
11 review and approval, did not change. As such, the
12 procedures noted by the petitioners, including circulation
13 of a draft permit, public notice, fact sheet, etcetera, were
14 not required prior to the Executive Officer's action.

15 In addition, the method by which the Executive
16 Officer approved the Watershed Management Programs does not
17 defer a permittees' compliance with receiving water
18 limitations and TMDL limitations. To the contrary, the
19 permittees were instructed in the approval letter to begin
20 implementation of their respective Watershed Management
21 Programs immediately upon approval.

22 In addition, additional time to address the
23 imposed conditions does not defer compliance with TMDL or
24 receiving limitations -- or receiving water limitations
25 Compliance Schedules as the TMDL schedules did not -- were

1 not changed by the Watershed Management Programs or the
2 dates by which a Watershed Management Program is approved.

3 "Prior to the approvals with conditions, Board staff
4 complied with the public review requirements of the
5 permit which requires that all documents submitted to
6 the Regional Water Board executive officer for approval
7 shall be made available to the public for a 30 day
8 period to allow for public comment," that's straight
9 from the permit.

10 And as Renee will explain in detail shortly, the
11 Board exceeded the minimum permit requirements pertaining to
12 stakeholder participation.

13 Lastly, Petitioners cite the Ninth Circuit Court
14 of Appeal decision, Environmental Defense Center versus EPA,
15 as support for their contention that the Executive Officer's
16 conditional approvals of the Watershed Management Programs
17 amended the terms of the permit. However, I don't believe
18 that case is on point. And in that case the court held that
19 Stormwater Management Programs that are designed by
20 regulated entities -- regulated parties must in every
21 instance be subject to meaningful review by an appropriate
22 regulatory agency, and be subject to public participation
23 requirements.

24 So here the Watershed Management Programs were
25 subject to public review and comment, including Board and

1 Staff level meetings, as well as an opportunity to submit
2 written comments. And petitioners also submitted written
3 comments on the draft and revised Watershed Management
4 Programs. And then the Watershed Management Programs also
5 underwent extensive review by both Board Staff and USEPA
6 Region 9 staff to ensure compliance with the standards set
7 forth in the permit.

8 So unlike the notice of -- the notice of intent in
9 the Environmental Defense Center case, the WMPs here were
10 subject to meaningful review.

11 So now I'm going to turn it over to Sam who is
12 going to make an introduction to contention number three.

13 EXECUTIVE OFFICER UNGER: Thank you, Jennifer.

14 Good afternoon, Chair Stringer, Members of the
15 Board.

16 Before Renee gets started in describing the review
17 process that Staff undertook of the Watershed Management
18 Plans, I wish to provide a bit of context for our technical
19 review of the Watershed Management Program plans. And
20 you'll hear three sort of themes run through this brief
21 introduction. The first is available monitoring data. The
22 second is professional judgment. And then I, too, also
23 would like to talk about adaptive management.

24 Renee will describe the methodology that the Board
25 established to ensure that the reviews by Regional Board

1 staff were thorough and consistent. During the review
2 process I met with staff to discuss their work. Staff
3 consulted with other Staff who have expertise in various
4 aspects of stormwater management, including modeling, and
5 also BMP effectiveness.

6 Staff found that the Draft Watershed Management
7 Program plans were sound and reasonable and met the
8 requirements of the MS4 Permit, but for the most part some
9 revisions were needed. We prepared comments on each of the
10 Draft Watershed Management Program plans to that effect.

11 And in response to the comments the permittees submitted the
12 revised Watershed Management Plans, and the Board staff then
13 evaluated these revised plans to ensure our initial comments
14 were addressed.

15 In some cases permittees noted that there were
16 gaps in the available monitoring data from which they could
17 draw their plans. BMP effectiveness and other pollutant
18 sources were also not specifically defined and numerically
19 defined for the watersheds in Los Angeles County. And Staff
20 had to make some assumptions in that case from other
21 available data.

22 Given these data limitations, Staff used their
23 professional judgment to evaluate the Watershed Management
24 Program plans, consistent with the permit requirements.

25 Professional judgment by Regional Board staff is widely used

1 in watershed programs, by Staff in the TMDL Program, in the
2 Site Cleanup Program, the UST Program, and more recently,
3 even today in the NPDES Program when we derive effluent
4 limits.

5 Staff has to have the requisite information and
6 experience to review the documents in accordance with
7 generally accepted scientific and engineering principles.
8 And in all these cases I found that such knowledge and
9 expertise resided with Staff and they were using sound
10 scientific and engineering principles.

11 We found, also, that the Watershed Management
12 Plans were based on well accepted technical approaches and
13 met the permit requirements. For each of the nine Watershed
14 Management Program plans I determined, based on staff's
15 recommendation, that the conditions requiring additional
16 support and/or clarifying information, changes that might be
17 needed to ensure consistency with the Watershed Management
18 Program, and corrections would be appropriate and would
19 result in a better Watershed Management Plan.

20 Some of the conditions provided direction on
21 adaptive management, a requirement of the permit. And where
22 there was a lack of detail, particularly for actions and
23 projects to be conducted later in the Watershed Management
24 Program plan implementation. And future permit cycles are
25 due to the lack of data, such as source assessment and model

1 calibration. These would be remedied with data collection
2 which has already started under the new permit, and through
3 the adaptive management process.

4 In response to the conditions of my approval, the
5 permittee submitted final Watershed Management Program
6 plans, which were then evaluated to ensure the conditions
7 were satisfied. As I was reviewing these I recognized once
8 again that this permit is a paradigm shift from the previous
9 permit, and it is requiring new types of technical analyses,
10 a heightened level of strategic planning on the part of the
11 permittees, and our part, as well as the part of other
12 stakeholders. As you saw from the documents we gave you,
13 these are highly technical documents. And in your
14 considerations today remember that the MS4 has a requirement
15 for adaptive management of the WMPs.

16 I would like to say, at this point there are some
17 questions raised to why there was no adaptive management
18 supplied with the Watershed Management Program plans, and
19 that is because they're not due until 2017. Actions have to
20 be undertaken. The first cycle yet for watershed management
21 -- for adaptive management is not yet upon us. So I --
22 other than that, I don't really know exactly what to say,
23 except for the fact that there's a commitment in the
24 Watershed Management Program plans to engage in the adaptive
25 management program.

1 Given that the monitoring data that were available
2 to develop the Watershed Management Program plans are data
3 that were collected under the previous permit and very
4 limited in location and scope, the monitoring programs and
5 adaptive management processes will fill those data gaps.

6 Ultimately, I believe that these programs are
7 putting themselves, permittees, on a path forward to
8 compliance with effluent limitations and receiving water
9 limitations. I would note that, again, we are starting on
10 this round, the plans that you have before you, with the
11 first set of Watershed Management Plans. It's not like this
12 program has been going on for decades. There was no
13 Watershed Management Program in the previous iterations of
14 the permit.

15 So we look forward to coming back to you in a
16 couple -- in 2017 and reporting the results of the first
17 round of adaptive management that has taken place.

18 And I'm going to turn it over to Renee now to talk
19 about the details of what she put into place to conduct
20 these. And we will also be providing you, too, a list of
21 projects that are commitments that will be implemented in
22 the early stages of next year.

23 CHAIR STRINGER: Thank you, Sam.

24 MS. PURDY: I can't believe I'm actually raising
25 this up, because I'm really short.

1 CHAIR STRINGER: I'm not sure we knew that was
2 possible.

3 MS. PURDY: I didn't think I ever would have to do
4 that.

5 Good afternoon, Chair, Members of the Board. My
6 name is Renee Purdy and I am the Regional Program Section
7 Chief. And as Sam said, I am going to be providing you with
8 an overview of the WMP review process that Staff and the
9 Executive Officer undertook. And I'm also going to be going
10 over our response to the petitioner's contention three which
11 deals with the technical issues on three of the Watershed
12 Management Programs in particular.

13 So the first thing that I want to do is I want to
14 give you a little bit of background and context. And then
15 I'll move on to a description of the process we undertook.

16 The first thing I wanted to do is just show you a
17 map of the area covered by the nine Watershed Management
18 Programs that we're discussing today. The nine Watershed
19 Management Programs being considered today were developed by
20 32 of the L.A. County MS4 permittees. As mentioned by
21 Jennifer, three of the nine Watershed Management Programs,
22 namely the Lower San Gabriel, Lower Los Angeles, and Los
23 Cerritos Channel Watershed Management Programs were also
24 approved and are being implemented under the Long Beach MS4
25 Permit.

1 Most of the nine Watershed Management Programs are
2 located, as you can see, in the southern part of the county,
3 while a few are located in the eastern part of the county.
4 The Watershed Management Programs range in size from a
5 single jurisdiction, such as the City of El Monte, to 2
6 permittees, to as many as 14 permittees in the Lower San
7 Gabriel River Watershed Management Group.

8 So the next thing I'd like to do, I'm going to
9 leave the slide blank for a moment so you can just listen to
10 me and then I'll -- I'll bring it up. The WMP development
11 and review process officially began in June 2013, and that
12 was six months after the permit adoption, when permittees
13 were required to inform the Board about their notification,
14 with their Notification of Intent, to develop either a
15 Watershed Management Program or an Enhanced Watershed
16 Management Program, though, in fact, discussions had
17 actually begun well before that, even in late 2012,
18 immediately after the permit was adopted, and into early
19 2013.

20 Starting in June 2013 to June 2014 when the Draft
21 Watershed Management Programs were submitted to the Board,
22 the Board convened a Technical Advisory Committee, you may
23 remember that that was called for in the permit itself, with
24 representatives of the Watershed Management and Enhanced
25 Watershed Management Program groups, as well as NRDC, Heal

1 the Bay, and L.A. Waterkeeper. And we held monthly TAC
2 meetings during that period of June 2013 to June 2014.

3 A significant focus of these meetings was on the
4 Reasonable Assurance Analysis, and I'm going to be talking
5 about that a lot more in my presentation. These meetings
6 led to the development of a Reasonable Assurance Analysis
7 Guidance document that was prepared by Regional Board staff
8 and was authored by Dr. C.P. Lai (phonetic), among other
9 Board staff.

10 So moving into 2014, at the end of June 2014, as
11 you all know, permittees submitted their Draft Watershed
12 Management Programs as required in the permit. This began
13 the four-month review period by Board staff. And shortly
14 after their submission, the draft WMPs were also made
15 available for public review for a 46-day public comment
16 period.

17 The Board received several comment letters on the
18 draft WMPs, including one from the petitioners. And then at
19 the Board's regularly scheduled October Board meeting the
20 Board held a workshop on the Draft Watershed Management
21 Programs, which gave an opportunity for you to provide some
22 initial feedback on the drafts, as well as hear from the
23 permittees, as well as other stakeholders regarding the
24 Draft Watershed Management Programs. At the end of October
25 we provided our comments on the Draft Watershed Management

1 Programs, including the Reasonable Assurance Analysis.

2 Okay.

3 So now I'm going to just take a minute to talk
4 specifically about the Board staff, and also USEPA review
5 process of the Draft Watershed Management Programs.

6 As I discussed with you in the summer of 2013, I
7 don't know if you remember, it seems a long time ago now, I
8 presented a project management plan that specifically talked
9 about how Board staff were going to be overseeing
10 implementation of this MS4 Permit, given its many new
11 provisions and new framework. And I mentioned to you at
12 that time that we've approached the work involved in the new
13 L.A. MS4 Permit using a multi-disciplinary cross-program
14 team approach among Board staff.

15 In the case of the review of the Watershed
16 Management Programs, each of the programs was assigned a
17 lead reviewer who coordinated their review with a
18 counterpart at USEPA Region 9. And some of these staff are
19 here today. I'm not sure, if everybody is here or not, but
20 Mr. Ivar Ridgeway, the Unit Chief, is here, as well as a
21 number of his staff, and also Dr. C.P. Lai is -- is in the
22 audience, as well.

23 So Mr. Ridgeway and myself oversaw the review of
24 all of the Watershed Management Program reviews by the
25 staff. And additionally, we regularly met with the

1 Executive Officer and apprised him of our review process.

2 As we shared with you in your Board materials,
3 which was in folder 13 of your DVD, all Staff, including the
4 USEPA Region 9 staff, were given a common set of review and
5 evaluation questions that guided our review of the Draft
6 Watershed Management Programs. And the purpose of this was
7 to ensure consistency among the reviewers because we were
8 using a fairly large team of reviewers to conduct this work.

9 These review and evaluation questions were largely
10 derived from the permit provisions related to the Watershed
11 Management Programs that are found in Part VI.C of the
12 permit. But we also provided additional specificity within
13 those review and evaluation questions to guide Staff's
14 review. All Staff involved in the review met on a weekly
15 basis over the four-month review period to discuss
16 commonalities in the watershed management reviews and
17 emerging questions and comments about the drafts.

18 In conducting our review and preparing comments on
19 the Draft Watershed Management Programs, and later in
20 reviewing the revised Watershed Management Programs, we
21 considered a variety of input. First, we evaluated -- oh,
22 it's not coming up.

23 Do you know why it's not coming up, Jerry? Oh,
24 there we go. Thank you.

25 So first we evaluated the Draft Watershed

1 Management Programs relative to the permit provisions of
2 Part VI.C related to the required elements of a Watershed
3 Management Program. We also considered USEPA Region 9's
4 input on the Draft Watershed Management Programs, as well as
5 the public comments that were submitted during the public
6 comment period. We took into account feedback that was
7 provided during the Board workshop in October 2014.

8 And our review was further informed by the
9 detailed technical discussions at the TAC meeting and
10 subcommittee meetings over the previous year, as well as the
11 Reasonable Assurance Analysis Guidelines that Board staff
12 prepared, as I just mentioned. Finally, we considered the
13 existing TMDL implementation plans where they existed as we
14 reviewed the proposed actions in the Draft Watershed
15 Management Programs.

16 So we utilized all of this input, along with our
17 best professional judgment in evaluating and providing
18 comments on the Draft Watershed Management Programs. And at
19 the conclusion of our review we found that the Draft
20 Watershed Management Programs met the requirements of the
21 permit for the most part, but required some revisions which
22 we articulated in our written comments on the Draft
23 Watershed Management Programs.

24 So next I want to move into 2015. The issuance of
25 our comments on the Draft Watershed Management Programs

1 prompted a series of meetings and conference calls with
2 permittees, as well as with other stakeholders, to discuss
3 our comments and to discuss how permittees could best
4 address the issues that were raised in our comments. No
5 comments were ignored during this process.

6 In some cases during our discussions it became
7 clear that Staff's comment was better addressed through an
8 explanation, an alternate approach to address the issue, or
9 a commitment to data collection under the Coordinated
10 Integrated Monitoring Programs of this new permit, and the
11 adaptive management provisions which Sam was talking about
12 and I'll talk about a little bit later in my presentation.

13 And as Sam also mentioned, this is not at all
14 surprising since these permit provisions represent a
15 paradigm shift and have entailed new types of technical
16 analysis, such as the Reasonable Assurance Analysis which
17 involved many incremental technical decisions, not all of
18 which could be anticipated or articulated in the permit
19 itself.

20 So continuing on, in January of this year,
21 permittees submitted revised Draft Watershed Management
22 Programs in response to the comments we provided and the
23 discussions we held over the four-month -- or, excuse me,
24 the three-month period for them to revise the Watershed
25 Management Programs. And then in -- so we conducted then,

1 after those revised drafts were submitted, another review of
2 the revisions for a three-month period.

3 And during that time we also held a public
4 meeting, which some of the Board Members attended, and Sam
5 was also in attendance at that meeting, to discuss the
6 revised drafts and hear stakeholder comments on those
7 revised drafts. The Executive Officer, as I said, and
8 several Board Members were present. And those materials
9 from that meeting were also provided to you on your DVD.

10 In late April, after completing our review of the
11 revised drafts, the Executive Officer determined that each
12 met the requirements of the permit and approved each one of
13 them. At this point the Executive Officer directed the
14 permittees to begin the implementation of their Watershed
15 Management Program, and permittees did so.

16 So I want to emphasize here that the fact that the
17 Executive Officer's approval included some conditions has
18 not resulted in any sort of continuous loop of planning that
19 would delay implementation. In fact, as soon as those
20 letters were issued on April 28th the permittees were
21 directed to begin implementation of their Watershed
22 Management Program.

23 Because there were some remaining issues to be
24 addressed that would result in a better final Watershed
25 Management Program, the Executive Officer did include some

1 conditions in his approvals and a short timeframe to address
2 those conditions. And I want to talk about those conditions
3 and characterize them just a little bit.

4 Specifically, we determined, as I mentioned just
5 before, that including these conditions in the approvals was
6 an efficient and an effective way to ensure the best
7 possible final Watershed Management Programs without
8 delaying implementation of the programs themselves. The
9 Executive Officer's conditions did not require fundamental
10 changes to the Watershed Management Programs. Rather, the
11 conditions largely requested revisions, such as providing
12 additional information, clarification, providing consistency
13 within the WMP, and sometimes simply correcting
14 typographical errors.

15 Some of the conditions were related to a lack of
16 detail, particularly for actions and projects to be
17 conducted later in the Watershed Management Program
18 implementation in future permit cycles, or due to lack of
19 data. And we've talked -- and you've already heard some
20 people talking about that with regard to source assessment,
21 and in some cases a more localized calibration of the
22 Reasonable Assurance Analysis. And those things can really
23 only be remedied with data collection. So some of the
24 conditions directed the permittees to collect additional
25 data and then use that data through the adaptive management

1 process to improve upon their Watershed Management Program
2 and their Reasonable Assurance Analysis. Okay.

3 So the next thing I'd like to do is finish out the
4 timeline, which is that permittees then, after getting the
5 Executive Officer approval with conditions and beginning
6 Watershed Management Program implementation, after that
7 short period they did submit their final Watershed
8 Management Programs, addressing the conditions in the
9 approvals. That was done in late May and in June. And
10 after we reviewed the final Watershed Management Programs
11 relative to the conditions in the approvals, the Executive
12 Officer determined that the conditions of his approvals had
13 been met.

14 So in conclusion, with regard to our process,
15 Staff's evaluation relied on a consideration of the permit
16 requirements, as well as our professional judgment as to the
17 merits of the Watershed Management Program's response to the
18 technical and policy issues that we raised in our comments
19 and in the conditions. Staff found that the issues were
20 reasonable responded to with the revisions or with detailed
21 explanations and additional supporting information, as well
22 as commitments to future actions.

23 So that finishes out our timeline.

24 And now what I want to do is switch to the
25 specific discussion of the petitioner's contention three,

1 which I've put up here on the screen. And just to remind
2 you, that contention alleged that the terms of the
3 conditional approvals were inconsistent with permit
4 requirements and the Federal Clean Water Act. And,
5 therefore, that the only available course of action to the
6 Executive Officer was to deny the Watershed Management
7 Programs.

8 Petitioners further stated that following
9 submission of the initial Draft Watershed Management
10 Programs, that we, the Board staff, had identified numerous
11 and significant failures to comply with permit requirements
12 that were not addressed by the permittees in their revised
13 Watershed Management Programs, nor in the Executive
14 Officer's conditions.

15 And as Jennifer stated earlier, you did receive a
16 detailed assessment from Board staff regarding the
17 petition's allegations in your Board package, including
18 these specific allegations that were regarding technical
19 inadequacies of the three Watershed Management Programs that
20 you've heard a focus on today. And what I'm going to do in
21 the next part of the presentation is specifically discuss
22 our assessment of some of these allegations with regard to
23 the technical issues.

24 So first what I want to do is I want to start out
25 at a somewhat general level. And then I'm going to be

1 diving into some of the very specific comments that you
2 heard, for example, from Dr. Derek Booth.

3 So first of all, the Executive Officer determined
4 that the nine Watershed Management Programs, with the
5 conditions imposed, met the Watershed Management Program
6 provisions, and thus met the Clean Water Act as the permit
7 implements and meets the requirements of the Clean Water
8 Act.

9 Staff does disagree with the petitioner's
10 statement that we characterized the Draft Watershed
11 Management Programs as failing to address virtually all of
12 the identified noncompliance issues. In fact, Board staff
13 found and stated in our correspondence to the permittees
14 that each of the initial Draft Watershed Management Programs
15 for the most part included the elements and analysis
16 required in the L.A. County MS4 Permit.

17 As I indicated earlier, not all of Board staff's
18 comments ultimately required a change to be made to the
19 Draft Watershed Management Program or revised Draft
20 Watershed Management Program, though in many cases it did
21 and those changes were made.

22 After Board staff provided comments on the Draft
23 Watershed Management Programs, as I mentioned, we did have
24 many discussions with the permittees to provide
25 clarification on their approaches, and for permittees and

1 Board staff to discuss how to address the Board's comments.

2 Where the Board staff did not feel the issue was
3 fully addressed, Staff discussed this with the Executive
4 Officer. And the Executive Officer then included conditions
5 in his approval to ensure that the condition was addressed
6 satisfactorily.

7 Ultimately, Board staff did not find that any of
8 its comments on the Draft Watershed Management Programs or
9 conditions of the Executive Officer approvals were ignored.
10 In fact, many groups made significant efforts to address the
11 comments and conditions, including rerunning their
12 Reasonable Assurance Analyses, identifying and committing to
13 additional specific projects, among other revisions.

14 So the first thing I want to do is talk about the
15 Reasonable Assurance Analysis. The petitioners, in
16 particular, made a variety of allegations related to the RAA
17 conducted by, in particular, the three permittee groups.
18 The petition states that perhaps the most glaring deficiency
19 in the Watershed Management Programs is the flawed RAA in
20 each.

21 And I just want to start out by saying the
22 Reasonable Assurance Analysis, as you know, it's a detailed
23 modeling exercise. It's intended to ensure that the
24 Watershed Management Programs ultimately achieve the
25 required water quality outcomes in the permit. It is a key

1 element of the Watershed Management Programs. And initially
2 the Reasonable Assurance Analysis, per the permit, was
3 required to focus on deadlines in the current permit term
4 and the next permit term. We provided comments on these
5 RAAs specifically, along with our comments on the Draft
6 Watershed Management Programs.

7 And delving into the specifics, the petitioners
8 alleged that the final Draft Watershed Management Programs
9 for the Lower San Gabriel, Lower -- excuse me, Los Angeles
10 River Upper Reach 2 and Lower Los Angeles River Watershed
11 Management Programs either failed to meaningfully address or
12 completely ignored all of Board staff's comments. We
13 disagree with this.

14 The RAAs represent the most extensive use of
15 stormwater modeling to implement an MS4 to date, and all use
16 state-of-the-art peer-reviewed models that are regionally
17 calibrated for L.A. County watershed, including the L.A. --
18 excuse me, the L.A. River Watershed and the San Gabriel
19 River Watershed. And we feel that these models, as they've
20 been developed and for these particular watersheds, are a
21 very robust starting point at this point for the Reasonable
22 Assurance Analysis.

23 Unlike, I want to use an example from thinking
24 about being in another part of the country, unlike a
25 situation where a city from say Nevada or Wyoming might be

1 using a nationally-developed model that lacks region-
2 specific data, the permittees in L.A. County were able to
3 use models that were pre-calibrated at the countywide level,
4 namely the Watershed Management Modeling system that was
5 developed by the County of Los Angeles, and also the
6 Structural BMP Prioritization and Analysis Tool, or we refer
7 to it as SBPAT, which was developed by the City of Los
8 Angeles, along with the county, and Heal the Bay, as well,
9 participated in that. And those are the models that these
10 nine Watershed Management Programs used.

11 So they're all models that were specifically
12 developed and calibrated for use in Los Angeles County with
13 local precipitation data, local runoff data, local water
14 quality data.

15 Further, as I mentioned earlier, the Regional
16 Board, with input from the permittees and the petitioners
17 via the TAC, developed a guidance document on conducting
18 RAAs, which the permittees followed.

19 The Reasonable Assurance Analysis, as Sam
20 mentioned, will be further refined through the adaptive
21 management process as more local data become available from
22 the expanded monitoring programs that are going to be
23 implemented under this permit. And, in fact, those
24 monitoring programs, certain elements of those have already
25 begun. And we're going to see a significant amount of new

1 wet-weather monitoring, assuming we have some rain, during
2 the coming wet-weather season.

3 Now I'm going to take a look at some of the
4 specific examples that were raised by the petitioners in
5 their Memorandum of Points and Authorities and describe how
6 they were addressed in the Watershed Management Programs.
7 And I'll first address several of the issues raised related
8 to the Lower San Gabriel River Watershed Management Program.

9 The petition paraphrased a Board comment, stating
10 that there was no explanation for use of zinc as a limiting
11 pollutant, and no assurance that zinc will lead to
12 compliance with other parameters. While the revised
13 Watershed Management Program did not include individual
14 justification of this approach for each Category 2 and 3
15 pollutant, this was not necessary given the groups approach
16 which relies on relationships between runoff volume and
17 pollutant load. So essentially, by managing the necessary
18 volume of stormwater to adequately reduce the zinc load,
19 which was the largest calculated amount of stormwater that
20 would need to be managed, they're effectively addressing all
21 other pollutants that are of concern in that. And this is a
22 reasonable and well accepted assumption that the loads for
23 all other pollutants would be reduced by addressing the
24 pollutant that requires the largest load reduction.

25 A similar analysis was done for dry weather which

1 resulted in bacteria being identified as the limiting
2 pollutant, which then drove the permittees identification of
3 watershed control measures in dry weather to address
4 bacteria. The group commits to evaluating this and other
5 assumptions as part of its Watershed Management Program
6 implementation.

7 Another comment that was raised by the petitioners
8 was that we had initially commented, there was no summary or
9 time-series comparisons of baseline data and the applicable
10 water quality-based effluent limits. And this information
11 was provided by the Watershed Management Group in their
12 revised Watershed Management Program in which they provided
13 a completely new Attachment F which provided a whole series
14 of time plots, basically, one of which you see on this
15 slide, which did exactly what we asked for in terms of that
16 comparison.

17 A third comment that was highlighted by the
18 petitioners was that there were no measurable milestones for
19 implementing BMPs in two-year intervals provided in the
20 Watershed Management Programs. And between the draft and
21 the final Watershed Management Programs, additional
22 milestones were added by the group to address this issue.
23 And I'd like to spend just a minute walking through some of
24 the details of this. Because I think that, as you heard,
25 specificity was one of the three major concerns regarding

1 contention three that the petitioners raised. And so I'm
2 going to talk about it here, and again a little bit later in
3 my presentation.

4 To address this issue the groups Watershed
5 Management Program included several types of milestones. On
6 a large scale, they provided these volume reduction
7 milestones that you see here in 2017, 2020 and 2026 which
8 relate specifically to TMDL implementation deadlines. And
9 these milestones are based on the groups Reasonable
10 Assurance Analysis and quantitatively lists the volume of
11 stormwater that the group will need to manage to meet those
12 TMDL deadlines. The volume reductions are given both by
13 jurisdiction, as well as by sub-basin.

14 Since these milestones are quantitative, this is a
15 sufficient metric for us to use as Board staff to evaluate
16 progress, and also to assess compliance by these permittees
17 in this Watershed Management Program. At any point between
18 the Watershed Management Program approval and the final
19 compliance date, we can calculate what percentage of the
20 final required volume reduction has been achieved by the
21 group, year by year.

22 The WMP also includes milestones for other
23 specific elements such as for Nonstructural BMPs where they
24 identify milestones that they will have to achieve. And
25 then for some Structural BMPs that the group has planned

1 through a current Prop 84 grant award, the group identified
2 interim and final milestones to track progress and
3 completion of these BMPs. And finally, for the large
4 regional projects that they have planned, they've provided
5 milestone -- milestone dates to complete site assessments
6 and analysis of those regional projects. And if you look
7 specifically at the milestones, you'll see that there are
8 milestone dates in 2015, 2016, 2017, and then on into the
9 next permit term.

10 Another comment that was raised by the petition
11 was that there was no table providing runoff volume
12 reduction and proposed reductions by sub basin. Again, in
13 this slide you can see that that was provided, the volume is
14 provided, the -- the BMP volume that will be achieved, and
15 then the sub basin in which that volume will be achieved.

16 I want to switch to a comment on the Lower Los
17 Angeles River Watershed Management Program where the
18 petitioners raised that we had commented, San Pedro Bay was
19 omitted from the Watershed Management Program. And in this
20 case this was an issue that was clarified by the Watershed
21 Management Group, that discharges to San Pedro Bay would be
22 addressed by the City of Long Beach Watershed Management
23 Program under the Long Beach MS4 Permit.

24 So although the City of Long Beach is a member of
25 the Lower Los Angeles River Group, the city area discharging

1 to San Pedro Bay would actually be developed under the City
2 of Long Beach's Watershed Management Program. And you can
3 see an excerpt of that on the right-hand side of the slide.

4 Next I'd like to turn to the Los Angeles River
5 Upper Reach 2 Watershed Management Group and specifically
6 talk about a comment that we initially made about the lack
7 of a Reasonable Assurance Analysis for pollutants during
8 dry-weather conditions. And I want to talk about here the
9 fact that we had many discussions with permittees about this
10 and the fact that dry-weather modeling using the models that
11 we specifically identified for use in the permit is not
12 generally reliable given the unpredictability of dry-weather
13 runoff.

14 We discussed this constraint with the permittees
15 and the groups presented reasonable strategies for
16 addressing dry-weather runoff, which included a variety of
17 things, some of which I've listed up here. Those are
18 implementing the permits requirement to effectively prohibit
19 non-stormwater discharges, to implement their Illicit
20 Connection, Illicit Discharge Elimination Program, to
21 develop and implement what we call load reduction strategies
22 which are called for in Bacteria TMDLs, specifically in the
23 Los Angeles River Watershed, and also to implement the
24 stormwater measures which they did evaluate through the
25 Reasonable Assurance Analysis which will also address some

1 of those dry-weather discharges.

2 In the case of Upper Reach 2, the revised
3 Watershed Management Program was -- was modified from the
4 draft to include a discussion of the group's load reduction
5 strategy for bacteria in dry weather. And the final
6 Watershed Management Program was further modified to include
7 deadlines for full implementation of the load reduction
8 strategy which responded to Conditions 1 and 2 of the
9 Executive Officer's approval of the group's Watershed
10 Management Program.

11 The next thing I'd like to do is talk a little bit
12 about calibration, because you heard the petitioners talking
13 about that and I spoke about it a little bit earlier on.
14 But I'd like to speak to the issue here specifically with
15 regard to the Los Angeles River Upper Reach 2 Watershed
16 Management Program. And as I mentioned earlier, all of the
17 Watershed Management Groups are using these regionally
18 developed and calibrated models for their Reasonable
19 Assurance Analyses.

20 In the case of the Los Angeles River Watershed
21 within which this Upper Reach 2 Watershed Management Program
22 is located, the original county-developed model was
23 calibrated for hydrology and water quality within the Los
24 Angeles River Watershed. In fact, for hydrology they had a
25 number of locations. And when you look at the graphs on the

1 right, that shows the calibration comparing the observed and
2 modeled flow and water quality within the Los Angeles River,
3 downstream of the Upper Reach 2 group, and the hydrology
4 compared in the very good category, according to our
5 Reasonable Assurance Analysis Guidelines that we developed.

6 BOARD MEMBER MEHRANIAN: (Off mike.) I think
7 before you do that (inaudible).

8 MS. PURDY: Yes, I can. So the --

9 BOARD MEMBER MEHRANIAN: (Off mike.) (Inaudible.)

10 MS. PURDY: No, you can read it. Yeah. Yeah. So
11 the -- the dots represent the observed flow from the stream
12 gauge. And the bars represent the rainfall. And then the
13 red line is the modeled flow. And so you see that the red
14 line really very closely matches the blue dots and the
15 connected blue line, showing that the observed and the
16 modeled flow are in very good correlation with each other.

17 So the other thing that the Upper Reach 2 group
18 did, because they used a combination of models, they used
19 both the Watershed Management Modeling System, as well as
20 what we call the SBPAT, to evaluate their BMPs for their
21 watershed is knowing that the WMMS calibrated very well in
22 terms of hydrology, as I just showed you. They then took
23 that output from the -- and it's listed here as LSPC, that's
24 the Load Simulation Program in C++ which is a module within
25 the Watershed Management Modeling System which deals with

1 the hydrology and water quality aspects of that model. And
2 they took the output from that model and compared it with
3 the output from the SBPAT model to make sure that they were
4 matching up well. And where necessary, knowing that that
5 LSPC model was well calibrated, they used that to adjust
6 some of the input parameters on SBPAT to make sure that they
7 were getting a good result from that model that was
8 evaluating their BMPs that they were proposing.

9 Hopefully that made sense. It's a little
10 complicated, but I hope I explained it adequately. And if I
11 didn't, then I'm sure that somebody, either Dr. Lai or one
12 of the permittees, would also be able to explain that.

13 So the next thing that I'd like to do is I'd like
14 to go on and talk a little bit more about specificity in the
15 Watershed Management Programs, and particularly use the
16 Lower Los Angeles River Watershed Management Program as an
17 example. But I do want to say that a similar level of
18 specificity was provided in other Watershed Management
19 Programs. In fact, there are three Watershed Management
20 Programs that worked very closely together, the Lower Los
21 Angeles River, Lower San Gabriel River, and Los Cerritos
22 Channel. And so the level of specificity in each of those
23 is very similar.

24 So as I mentioned earlier, this Lower Los Angeles
25 River Watershed Management Program includes a quantitative

1 compliance target that each permittee that's in the group
2 needs to meet to comply with interim and final limits. And
3 you can see those interim and final limits on the -- the
4 second column from the left, the 31, 50 percent, and final
5 interim and final limits. And this is expressed as an
6 annual volume of stormwater that the group needs to manage.
7 And it is the direct result of their Reasonable Assurance
8 Analysis that they conducted.

9 So the group's Pollution Reduction Plan, which is
10 essentially what you see here on the slide, includes these
11 tables that specify an application of BMPs and BMP
12 capacities that the permittees can implement to comply with
13 their compliance target. This table provides the detail and
14 specificity that the MS4 Permit requires to determine
15 compliance.

16 And you can see -- oops, sorry, wrong one.

17 You can see at the top of the table the -- that
18 it's -- this provides the type of BMPs in terms of the BMP
19 categories listed which are Regional BMPs, basically Green
20 Street, that's the Right-of-Way BMPs, and then LID BMPs.
21 So that shows you the type of BMPS. The number of BMPs
22 is represented by the BMP capacities, the volume of
23 stormwater that will be captured. The location of the BMPs,
24 you can see, is provided by jurisdiction. But as I showed
25 you in an earlier slide, it's also provided by a sub basin

1 area within the jurisdiction. And then the schedule of BMPs
2 is provided in that milestone column that I pointed out,
3 which is directly related to TMDL deadlines.

4 So I'd like to show you another slide with regard
5 to specificity, and this is again for the Lower Los Angeles
6 River where they delve into a little bit more detail,
7 jurisdiction by jurisdiction for each of the permittees that
8 are members of the Watershed Management Program. And on
9 this page the Watershed Management Program clearly lists the
10 BMP capacity, that in this case the City of Signal Hill,
11 will have to install to comply with the interim pollutant
12 reduction compliance milestones. And then it further gives
13 a breakdown of the types of BMPs that the city can install
14 to meet the upcoming 31 percent and 50 percent milestones.
15 And then they list one of the original BMPs that the city
16 could use to help meet this load reduction.

17 So next, to track progress of these Regional BMPs,
18 the Watershed Management Program set milestones and
19 milestone dates for Regional BMP development that they will
20 have to follow in this permit term. The Lower Los Angeles
21 River Watershed Management Program includes an explicit
22 commitment from the group to construct the necessary amount
23 of Structural BMPs. The Compliance Schedule section of the
24 Lower Los Angeles River Management Program directly states,
25 "Even though not all projects can be specified and

1 scheduled at this time, the participating agencies are
2 committed to constructing the necessary Regional and
3 Right-of-Way BMPs to meet the determined load
4 reductions per applicable Compliance Schedules.”

5 Staff takes this as a direct commitment within the
6 Watershed Management Program to meet these milestones
7 and will use this to determine compliance with the
8 Watershed Management Program and the permit.

9 Next I want to talk a little bit about the
10 chronology and show you an example of the changes from the
11 Draft Watershed Management Program to the revised, to the
12 final Draft Watershed Management Program.

13 So when a Watershed Management Program was asked
14 to give more specificity on a project, they responded to the
15 Regional Board’s comments, and this is an example of that
16 progression of changes over time. In the Lower San Gabriel
17 River Watershed Management Program, that’s the example I’m
18 using here, the group included Structural BMP projects that
19 they were going to implement using funds from a Proposition
20 84 grant award. The Compliance Schedule description of this
21 project only gave a very brief description of the project
22 and an expected fiscal year that the project was to be
23 completed.

24 In the revised Watershed Management Program the
25 group included more specificity with regard to project

1 implementation by describing interim tasks that they will
2 complete within this permit term and estimated when they
3 will finish these tasks.

4 In the final Watershed Management Program the
5 group expanded the section on these projects by including
6 tables showing the responsibilities of the individual
7 permittees, the BMP treatment volumes, and a list of interim
8 and final milestones that the permittees are to follow under
9 the Watershed Management Program.

10 So the last thing that I'd like to do is discuss
11 the petitioner's contentions regarding the inadequacies of
12 the Watershed Management Programs relative to the adaptive
13 management process. Sam mentioned that the first time this
14 process will happen is in 2017. It was required to be
15 conducted every two years under the permit once a Watershed
16 Management Program is approved. So as these were approved
17 by the Executive Officer in Spring 2015, that process will
18 happen in spring of 2017.

19 Adaptive management is a well understood approach
20 that's used in many fields, including watershed and
21 stormwater management. In fact, you can see on the right-
22 hand side of this slide, USEPA included a module on adaptive
23 management on its online Watershed Academy.

24 Additionally, contrary to the petitioner's
25 assertion, the permit provides structure, timeline, and

1 process information for adaptive -- and direction for
2 adaptive management of Watershed Management Programs. And
3 this is shown on the left-hand side of the slide with
4 references to the parts of the permit provisions that
5 address each of these things, structure, timeline, and
6 process.

7 In our review of the Watershed Management Programs
8 we did find that permittees' descriptions of the adaptive
9 management process largely mirror the descriptions in the
10 permit. Therefore, the Executive Officer provided
11 additional direction in his approvals of the Watershed
12 Management Programs with regard to our expectations to the
13 scope and focus of adaptive management of these Watershed
14 Management Programs.

15 And specifically, in those approvals the Executive
16 Officer directed that the groups implement adaptive
17 management strategies, and I'll list off some of the things
18 that were described in the approval, that these strategies
19 would refine and recalibrate the Reasonable Assurance
20 Analysis based on data specific to the watershed management
21 area that are collected under the Coordinated Integrated
22 Monitoring Programs, that these adaptive management
23 strategies would identify the most effective control
24 measures and why they are effective, and how other control
25 measures can be optimized based on this understanding, that

1 they would identify the least effective control measures, as
2 well, why they're in effective and how the control measures
3 can be modified or replaced to be more effective, and to
4 identify the significant changes to the control measures
5 during the prior years, the rationale for the changes, and
6 then to describe all significant changes to control measures
7 that are anticipated to be made in the next years, based on
8 the update of the Reasonable Assurance Analysis and the
9 rationale for each change.

10 And I want to show you a slide here that I think
11 is very telling of where we've been and where we're headed
12 in terms of the amount of data that we will have to inform
13 the reasonable assurance analysis and the Watershed
14 Management Programs.

15 If you look at this slide, this shows the entire
16 L.A. County area covered by the L.A. MS4 Permit. The large
17 purple dots are the seven mass emission stations that were
18 monitored under the previous permit. The blue dots and the
19 red triangle -- I mean, excuse me, not blue, I'm not color
20 blind -- the green dots and the red triangles represent the
21 locations that are proposed by the permittees in their
22 Coordinated Integrated Monitoring Programs under the current
23 permit. The green represents receiving water monitoring
24 locations. And the red triangles represent outfall
25 locations, which we have not had in the past. And as Sam

1 mentioned and I mentioned, the monitoring of these locations
2 will be beginning during this coming wet-weather season.

3 So the last thing I'd like to do is I'd like to do
4 a conclusion of my own, and then I'll hand it back over to
5 Sam.

6 Staff and the Executive Officer in his approval
7 found that the Watershed Management Programs are clearly
8 defined, implementable, enforceable alternatives to permit
9 implementation that are based on appropriate Reasonable
10 Assurance Analyses, that are based on sound compliance
11 strategies that have been identified in the Watershed
12 Management Programs, and that these Watershed Management
13 Programs provide commitments to specific milestones and
14 compliance metrics, and commitments to collect additional
15 data and adapt the program and improve it based on updated
16 Reasonable Assurance Analyses.

17 And now I'm going to turn it back to Sam for some
18 closing remarks.

19 EXECUTIVE OFFICER UNGER: Thank you, Renee.

20 Real briefly, when the State Board upheld this
21 permit in June of this year it recognized that the permit
22 is, in the words of a State Board member, "A great leap
23 forward." And already there have been actions that have
24 been implemented that would not have been implemented under
25 the previous permit, such as LID Ordinances and Green Street

1 Policies adopted at municipalities throughout the county.

2 Chair Marcus recommended a "trust but verify
3 approach," quote unquote. And to that end, the Watershed
4 Management Program plans that I have approved all have real
5 projects or metrics for load reductions that must be met as
6 early as 2017. I'm not going to go through all of these
7 here, but these are certainly projects that would not have
8 happened under the previous permit.

9 There's no doubt that the Board has embarked on a
10 new regulatory path through this permit. And we look
11 forward to coming back to you and reporting stormwater
12 quality improvements through the results of real projects
13 that have been implemented in compliance with this permit.

14 Thank you.

15 CHAIR STRINGER: Thank you, Sam. Thank you,
16 Renee. That was extremely helpful.

17 So next up is L.A. County Flood Control. I
18 believe you have been allotted 15 minutes, is that right?

19 MS. GEORGE: I thought it was 20 but it's --

20 CHAIR STRINGER: Twenty? Okay.

21 MS. GEORGE: Thank you. Okay.

22 CHAIR STRINGER: Just hang on for a second.

23 Sam, what time do we get kicked out of here, just
24 so I know kind of what our end --

25 EXECUTIVE OFFICER UNGER: 6:00.

1 CHAIR STRINGER: Six o'clock? Okay. Well, we
2 need all of the time we have. Thank you.

3 MS. GEORGE: Okay. Good afternoon, Chair Stringer
4 and Members of the Board. My name is Angela George and I'm
5 an Assistant Deputy Directory with the Los Angeles County
6 Department of Public Works.

7 CHAIR STRINGER: Sorry, one second.

8 Ronji, could you, thank you, please set the timer
9 for 20 minutes please? We've got a marker on it.

10 MS. MOFFETT: Fifteen, did you say?

11 CHAIR STRINGER: Fifteen -- twenty. Twenty. I
12 had that wrong.

13 MS. GEORGE: I want to thank you for the
14 opportunity to briefly address you today.

15 I'm here on behalf of the Los Angeles County Flood
16 Control District and the County of Los Angeles to
17 respectfully ask your Board to deny the petition. The
18 Watershed Management Programs are the culmination of
19 unprecedented collaboration and commitment on the part of
20 permittees, as well as the Regional Board staff to address
21 the quality of water discharged from the MS4 Permit -- I
22 mean, MS4 system, excuse me.

23 Regional Board staff thoroughly reviewed the Draft
24 Watershed Management Programs, provided detailed comments,
25 and met with the Watershed Management Program Groups to

1 ensure that comments were fully comprehended. The Watershed
2 Management Groups then revised the programs, and the final
3 programs fully comply with the 2012 MS4 Permit.

4 We appreciate the Regional Board's staff's time
5 spent in reviewing and providing feedback on these programs
6 and acknowledge that although rigorous, the process was
7 constructive and ultimately beneficial for all parties.

8 Today we've heard a lot about adaptive management.
9 And I want to kind of complement something that I heard
10 today. When the State Board actually reviewed the permit
11 under the petitions, the permit -- the State Board said a
12 couple of things, and I want to cite two quotes.

13 The first one is, quote,

14 "Permittees are required as part of the adaptive
15 management process to proposed modifications to improve
16 the effectiveness of the Watershed Management Programs
17 and Enhanced Watershed Management Programs and
18 implement those modifications," end quote.

19 The State Board also said, quote,

20 "We are cognizant of the criticism that the adaptive
21 management process is just another version of the
22 ineffective iterative process of the receiving water
23 limitations. These arguments are misplaced. Unlike
24 the iterative process of the receiving water
25 limitations, the adaptive management process is the

1 only one component of a series of actions -- is only
2 one component," excuse me, "of a series of actions
3 required under the Watershed Management Program and
4 Enhanced Watershed Management Program and acts as a
5 periodic check to ensure that all the other
6 requirements are achieving the stated goals of the
7 Watershed Management Program and Enhanced Watershed
8 Management Program with clearly -- clearly stated
9 deadlines.

10 "As our discussion above," and they are referencing
11 their document, "makes clear, we would not endorse an
12 alternative compliance path with the sole requirements
13 to adaptability -- adaptively managed, implemented
14 control measures. Further, the adaptive management
15 process in the Los Angeles MS4 Order differs from the
16 iterative process in that permittees must carry out the
17 adaptive management process every two years, limiting
18 any discretionary determination as to when the program
19 must be evaluated," end quote.

20 It would be impossible to write a program immune
21 from criticism. However, when you look at the holistic
22 approach of the programs and see the extensive commitments
23 made, and you'll hear more of those today, it is clear that
24 implementing these programs will lead to significant
25 improvements in water quality and should achieve water

1 quality standards. Rejecting the Watershed Management
2 Programs would delay or potentially stop the progress
3 already being made by permittees. We therefore ask once
4 again that you're Board deny the petitions and allow the
5 approval of the Watershed Management Programs to stand.

6 I want to thank you very much for your time and
7 continued support of the successful implementation of the
8 MS4 Permit.

9 Now originally I was going to turn our
10 presentation over to our counsel, Tracy Egoscue, to address
11 some of the legal issues raised today. But instead of that,
12 because Ms. Fordyce covered those really well, I would like
13 to allow Steve Carter to use the remainder of my time to
14 discuss the model used in many of the Watershed Management
15 Programs.

16 Steve?

17 MR. CARTER: Good afternoon. My name is Steve
18 Carter and I'm a consultant with Paradigm Environmental.

19 I'd like to start off with just a statement. I'm
20 going to validate this statement throughout my discussion.
21 But the modeling behind the WMP or the Reasonable Assurance
22 Analysis that we're seeing truly represent the state of the
23 science in modeling of both hydrology and pollutant loading
24 in the region and throughout the state.

25 And I feel somewhat qualified to make this

1 statement, having been partly responsible for this regional
2 modeling approach we're going to be talking about. And I'm
3 going to give you a brief history of that so that we know
4 what this regional calibration effort means and what we're
5 basing it upon.

6 Just a little bit about me. I have a long history
7 in development of models within the region. Most of the
8 TMDLs that you have seen, I was the Technical Lead in the
9 model development and collaborated with the Regional Board
10 as a consultant to USEPA Region 9 to develop models to
11 support the pollutant source assessment for the Los Angeles
12 River Metals TMDL, the San Gabriel River Metals TMDL, the
13 Dominguez Channel and L.A. and Long Beach Harbors Toxics
14 TMDL, and multiple other TMDLs. Most basically, any TMDL
15 that you've seen a model -- TMDL that you've seen a model
16 behind, I was in some way touching that model over the past
17 13 years of so.

18 I was also the Project Manager of the Watershed
19 Management Monitoring System. So I'll talk a little bit
20 about that.

21 And most recently I was the Technical Lead of the
22 Reasonable Assurance Analysis behind four Watershed
23 Management Plans, specifically Lower Los Angeles River, Los
24 Cerritos Channel, Lower San Gabriel River, and East San
25 Gabriel River.

1 So that's who I am, if you haven't ever met me
2 before.

3 CHAIR STRINGER: Sorry. Sorry. That was really
4 helpful. If you could, just for the record, just state your
5 educational background, as well?

6 MR. CARTER: I have a bachelor's degree in civil
7 engineering and a master's degree in environmental
8 engineering. Okay.

9 So a lot of the discussion behind the modeling, in
10 the early 2000s, 2002 when we were ramping up for the TMDLs
11 that were developed in the region, you know, there was
12 some -- I was, as a consultant to USEPA and loaned to
13 support the Regional Board staff, I began discussions with
14 SCCWRP to talk about monitoring efforts that could be formed
15 in the region to help calibrate models. And we sat down
16 with them and talked about land use-specific monitoring, so
17 a site that's fairly homogenous in a single land use, you
18 could monitor some storms and some different samples
19 throughout the duration of those storms at that one site,
20 and do that for several different land use sites throughout
21 the county.

22 Then we set up models of those land use sites and
23 calibrated what we call land use-specific modeling
24 parameters. Okay. And those are the building blocks
25 behind -- within the models that we're talking about.

1 Then once we began the TMDL models, some of the
2 first were Ballona Creek and Los Angeles River. That formed
3 the basis for the Loading Simulation Program C++, LSPC, that
4 Renee and several others have mentioned. We began
5 calibrating that watershed-wide model and then comparing
6 results to in-stream monitoring locations like mass emission
7 stations that become somewhat of a validation of the
8 calibration that was incurred at the land-use level. And so
9 it's this iterative process between calibration and
10 validation.

11 And every subsequent watershed we moved over to
12 for the next TMDL, we learned more and more about these
13 regional calibrations and validations, and essentially ended
14 up modeling most of the watersheds and the coast -- the
15 coastal watershed within the region.

16 So that all occurred between, you know, 2003 and
17 2009.

18 As I started developing the Watershed Management
19 Modeling System, this was a collaborative effort of the co-
20 permittees, USEPA Region 9. There were quarterly meetings
21 for a few years that included participation with Regional
22 Board staff, Heal the Bay, several other stakeholders to
23 report on. But the purpose of that was now that we had some
24 TMDLs in place, the co-permittees were very interested in
25 understanding what are the implications, what kind of

1 projects are going to be required and what kind of costs are
2 we looking at to comply with these waste allocations for all
3 these various TMDLs?

4 So the first thing that we did is we took all
5 these various models that had been developed over time and
6 had evolved over time, each model seemed to get better as
7 we, you know, moved from watershed to another, we took all
8 those watershed and under one roof we just literally or
9 figuratively lifted the hood and looked at the engine to see
10 if there were any improvements that we could make. And some
11 of the major inputs to the model, as you can imagine, are
12 rainfall data, and the physical characteristics of the
13 watershed.

14 And, you know, rainfall data, there's hourly
15 rainfall data. We looked at all the rainfall records
16 throughout the county, looked at any improvements or any
17 faulty records that could be found. We also looked at the
18 imperviousness, the -- the land use, the soils, the slopes.
19 What could we do? There was a lot of additional spatial,
20 aerial, satellite imagery that could be used to better
21 configure the models for just the physical characteristics
22 themselves.

23 Once we reconfigured all these models in this
24 massive effort, things like hydrology essentially began to
25 calibrate itself. I mean, it's just physics; right? Water

1 goes downhill. If you have the rainfall right and you have
2 the imperviousness right, and you have the soils right, it
3 tends to move pretty efficiently to calibrate the hydrology.
4 And then we looked at the water quality for every coastal
5 watershed within Los Angeles County, and there was a marked
6 improvement in those calibrations. And that's what we mean
7 by the regional calibration is that, you know, these
8 calibrations occurred through these various TMDLs over time.

9 And I'd like to make one point. You know, one of
10 the major uses of models is to predict conditions in
11 watershed or tributaries or locations in the watershed where
12 you -- where you don't have data. I mean, that's what a
13 model is for, right, is to understand based on calibration
14 of a model to then look at other locations upstream or
15 downstream or adjacent tributaries to see what kind of
16 conditions of either flow or water quality occurred there.
17 And we do that on a regular basis.

18 I mean, a good example is for the Harbors TMDL we
19 had -- the Toxicity TMDL, we had models of L.A. River,
20 Dominguez Channel, Los Cerritos Channel, Lower San Gabriel
21 all flowing to this massive receiving water that included
22 most of San Pedro Bay and L.A. and Long Beach Harbors. But
23 many of those watershed didn't have data to calibrate. Los
24 Cerritos Channel was one of those. But we used the
25 calibrations that were performed in the L.A. River and the

1 San Gabriel River to -- and felt like we were doing pretty
2 well. And then that model of Los Cerritos that's in between
3 those two watershed was used to calculate a TMDL and a
4 wasteload allocation for Los Cerritos Channel discharging to
5 the bays.

6 Every single one of these TMDLs and these models
7 were subject to peer review, significantly through your
8 approval process statewide. The WMMS model itself was
9 published repeatedly and peer reviewed in journal articles.
10 And it's available for public download from the county's
11 website. So, you know, statements made that there broad
12 discussions of the calibration and pointing to WMMS is -- is
13 somewhat short in that, you know, these extensive documents
14 that -- that go through the extensive regional calibration
15 that these, you know, these reports all right referencing
16 can be easily downloaded from the county's website. And
17 it's a massive calibration document that's available. So
18 it's not -- not necessarily a broad discussion.

19 So just to move over a little bit to the -- the
20 WMMS Reasonable Assurance Analysis procedures, once we had
21 these regional calibrated models, yes, the Regional Board
22 had RAA Guidelines that had goal posts, we called them,
23 metrics that we're trying to calibrate to within a
24 statistical range. And where we had data we revisited some
25 of those calibrations. And a lot of that was what we call a

1 validation.

2 I mean, we're taking these models that were
3 previously calibrated. We're looking at newer data that
4 might have a few storms collected since the last time it was
5 calibrated. And validating to make sure it still performs
6 well. And in most cases it did. Wherever it didn't it was
7 usually because there was -- I know in Lower Los Angeles
8 River there was a new detention basin that was built after
9 the model was calibrated. And once we were aware of that
10 and realized we weren't validating, we put that detention
11 basin the model and suddenly we were calibrating.

12 So that is essentially that, you know, additional
13 validation-calibration that was occurring during the
14 Reasonable Assurance Analysis. But if there's no data
15 available when pointing to WMMS, documentation as to the
16 regional calibration, particularly within L.A. River where
17 there's more calibration, more TMDLs than anywhere within
18 the region, is -- you know, that was a pretty significant
19 calibration effort that occurred for that watershed.

20 So just in summary, you know, this is a lot of
21 work that's occurred over the last 13 or so years that's
22 culminated into this single point. And my point being that
23 this is the state of the science in modeling in the region,
24 throughout California.

25 I will say that I have participated in modeling

1 efforts that, of course, supporting -- my mouth is really
2 dry -- both TMDLs and stormwater management efforts. And in
3 the EPA Region 10, the Pacific Northwest, EPA Region 3 in
4 Chesapeake Bay, the Southeast, the Midwest, Texas, I have
5 seen and reviewed these models around the country. And I'm
6 often asked by other countries, I have a speaking engagement
7 I'm setting up now with the New Zealand and Taiwan, well,
8 Taiwan EPA, and then New Zealand who are very interested in
9 what's occurring in L.A. in these modeling systems that are
10 really the result of the Clean Water Act and the permit that
11 you have in place here.

12 I think my point is that, you know, the state of
13 the science that we're talking about, with just a number of
14 TMDLs, the amount of data that's going into the calibration,
15 everything having to do with these models as a result of
16 these permit and these Reasonable Assurance Analyses and
17 these 13 years of research aren't -- I mean, they're
18 certainly the state of the science California-wide and
19 nationally but, I mean, perhaps even the solar system. So I
20 just want to leave you with that.

21 And I'm available for any other questions that may
22 come up. And I'm --

23 CHAIR STRINGER: Great. Thank you very much.
24 Don't go away.

25 So next up is the Upper Los Angeles River Reach 2.

1 And I believe you've been allotted five minutes, according
2 to my list here. Hopefully that's consistent with what you
3 know.

4 MS. NILA: Good afternoon, Chairman, Members of
5 the Board. My name is Gina Nila. I'm the Deputy Director
6 of Public Works Operations for the City of Commerce, and I'm
7 also the Chair of the L.A. River Upper Reach 2 Group. I'd
8 like to just provide the Board -- we don't get too many
9 opportunities to provide the Board with an update, which is
10 going to be up soon. But I'll take you through it until it
11 does come up.

12 I'd like to start our presentation with just an
13 update of the progress and actions that the LARUR2 Group has
14 been doing. We are actively implementing the approved WMP
15 and permit. We've initiated the Rio Hondo Bacteria Load
16 Reduction Strategy Study.

17 We've conducted two monitoring events -- and here
18 we go, the second, advance. Okay.

19 So we've completed two monitoring events. We've
20 initiated the Coordinated Integrated Monitoring Program.
21 We've prepared outfall -- we've prepared outfall screening,
22 physical features, and GIS database. We've completed two
23 non-stormwater discharges inventories. We're finalizing a
24 scope of work and Requests for Proposals to conduct a
25 feasibility study for the first three regional projects that

1 are listed in our approved WMP.

2 We are seeking funding opportunities with Gateway
3 affiliates and through the Gateway Water Management
4 Authority, which are group members are all board members of.

5 We are looking to potentially adopt a grant policy on
6 funding feasibility planning studies for potential use, and
7 also through the Gateway COG, Strategic Transportation plan
8 which has been created and is looking for adoption by the
9 end of this calendar year. And through that Strategic
10 Transportation Plan, we have Chapter 13 which specifically
11 identifies stormwater so that we can identify Green and LID
12 Street funding opportunities to comply with the permit and
13 with the Basin Plan Water Quality Standards.

14 I'd like to turn over the presentation now to Dr.
15 Gerald Greene with CWE, who is serving as our consultant for
16 both the Watershed Management Program and also the CIMP.

17 MR. GREENE: I would like to start out by thanking
18 the Board for having done -- Board staff for having done
19 such a wonderful extensive presentation, which allows me to
20 do a very short focused presentation, mercifully for you.

21 First, I want to reiterate, we support that the
22 Executive Officer has done an approval and that this is a
23 normal path that the Board uses. We addressed the October
24 27 Board comments. We met with Board staff. We went
25 through all of the comments they had. We gave our

1 viewpoints. We heard their viewpoints. We made changes.
2 So we went through this whole process, iterative process
3 together to get to where we are today.

4 And again, following the receipt of the April 28,
5 2015 conditions approval, we started implementing. And that
6 is very clear, that we've moving forward with exactly what
7 we've all anticipated. The approval has us moving forward.

8 MS4 Permits, these are complex documents and
9 undertaking. I have not heard anybody coming up and saying
10 this is a walk in the park. This is a many, many month
11 activity. We're talking about different pollutants,
12 different weather, different reaches, different cities,
13 different activities. It's -- it's just complex. I don't
14 want to make it sound like it's a simple task.

15 It's been mentioned that we don't have specific
16 reference data for Upper Reach 2. That's a choice of where
17 monitoring sites have existed. We've mostly focused on the
18 mass emission sites to understand what's going on in the
19 watershed. We're a little bit in the middle. So -- but we
20 have calibrated and looked at it and used the same data to
21 look at a small area that was used for the big area. And
22 that is the intent, that you have a watershed, it should
23 apply throughout the watershed even if you're looking at
24 small areas, which is what we were focused on, what's
25 happening in the Upper Reach 2 area.

1 We went through, based on the comments received
2 from the Board, and did additional iterations of the RAA.
3 And you'll see that in just a few moments. In fact, there
4 it is right there. Now we've heard some statements made
5 that these were not particularly quantitative. And you
6 shouldn't be looking at this to know what's there. But this
7 is essentially something we added to the final to help
8 further your understanding and the public's understanding of
9 the outcome of the RAA. You want to sum it up. You can try
10 that, but you're not going to be real satisfied with the
11 results.

12 These are bacteria data coming down the L.A. River
13 for different storm events. And so beforehand you see all
14 the different colors and all the different heights. Those
15 heights are bacteria. We're talking about quantifying
16 trillions of bacteria in a storm event. This is not a
17 trivial task. And then after the planning that goes through
18 the WMP, and after the BMPs come in, boom, they have reduced
19 it. They have gotten rid of a lot of those bacteria, the
20 problem-causing bacterias, those areas in red shown on the
21 graph to the left. These were very quantitative, heavy
22 analyses.

23 This is meant to be a complex iterative program
24 with adaptive management. You know, we've talked a lot
25 about adaptive, and, you know, not having really defined it.

1 Well, I've been responsible for installing thousands of BMPs
2 in the city. Just like my toolbox at home, there are 20
3 tools that are the wrong tool for the job at hand. Just
4 because a plan says use a hammer, if I get to it and I see I
5 have to deal with a screw, I'm going to pick up a
6 screwdriver, and not just that, I'm going to pick up a
7 Phillips Number 2 with a power driver's torque set at 10
8 pounds to do the job right. We don't know what are going to
9 be the things that we need to adaptively manage. We want to
10 find the right tool for those jobs.

11 All right, times flying fast, so let's just finish
12 up.

13 We're -- we addressed the Board comments with the
14 staff. Not all of the comments given to us had to result in
15 a change in the WMP. The Executive Officer provided his
16 approvals and with conditions based on his past precedent to
17 do so. The final approved WMP identified substantial near
18 immediate, intermediate, and long-term actions. So look at
19 the plan. You'll see that we've said many things that are
20 planned to be done in the near and long future.

21 Thank you.

22 CHAIR STRINGER: Great. Thank you very much.

23 Let's see, we are at the Lower L.A. River Group,
24 Lower L.A. River and the lower San Gabriel River Group. And
25 this is a joint presentation, and I believe you've been

1 allotted 15 minutes; is that right?

2 MR. DUPONT: Yes.

3 CHAIR STRINGER: Great. Thank you.

4 Can we get the clock set for 15 please and get
5 started? Thank you.

6 MR. DUPONT: And if we could get the first slide
7 up there.

8 Good afternoon, Chair and Members of the Board.
9 My name is Norman Dupont. I'm Counsel to some of the
10 municipalities, specifically three in the Lower San Gabriel
11 River. With me is a consultant to both the Lower San
12 Gabriel River and the Lower L.A. River, is John Hunter of
13 John Hunter and Associates. We also have here
14 representatives of some of the Watershed Groups, including
15 Adriana Figueroa of the City of Norwalk, and others.

16 Very briefly, let me see if I can push forward,
17 the two groups are identified in slide number two, which I
18 will skip over quickly because you have that information
19 available to you.

20 Because Renee Purdy did a very good job in
21 explaining the process, I just wanted to highlight that we
22 have in slide three the PowerPoint presentation that we made
23 in April specifically addressing the initial Staff comments.
24 We didn't ignore them. We didn't disregard them. We
25 addressed them, both in written documents in January, both a

1 revised WMP and a Reasonable Assurance Analysis.

2 In April we came to the workshop that some of the
3 Board Members were at and others were at and we specifically
4 went through a set of comments. That's in the materials
5 that you have. I won't bore you further. But there was no
6 attempt to disregard, ignore, not address the staff comments
7 by both the Lower San Gabriel River and the Lower L.A.
8 River. And that's a joint set of comments from that
9 PowerPoint presentation.

10 You heard that we got an initial confirming letter
11 in April. And then we received a July 21st confirmation for
12 both the Watershed Groups, confirming that the Executive
13 Officer had approved those. And from what I've basically
14 heard I think the environmental petitioners today have
15 conceded that the concern they had about this conditional
16 approval process is essentially now mooted by the fact that
17 the Executive Officer has issued final approvals.

18 Whatever this Board may think of a conditional
19 approval process, and I am entirely behind the reasoned
20 analysis of Counsel Fordyce on this point, but whatever one
21 does on that, you have a final approval. The environmental
22 petitioners say that the language in table nine requires a
23 final approval. You have that now. Let's move on.

24 The NGO's challenges, we think the legal condition
25 has been met. They should be rejected, as has been pointed

1 out repeatedly here. They did not delay implementation of
2 any specific WMP projects, which Mr. Hunter is going to
3 address some specifics, will address specific projects that
4 are ongoing or committed to right now, right here.

5 We've talked about the legal comments. I'm going
6 to skip over that.

7 We would ask this Board in considering these
8 issues to only delve a little bit into the weeds. You
9 should not try and redo or examine Staff analysis of time
10 after time of reasonable assurance analysis documents that
11 in my looking at them the combined Reasonable Assurance
12 Analysis for the Lower L.A., Lower San Gabriel, and Los
13 Cerritos Channel was over 400 pages. It has more diagrams
14 and data than I could ever attempt to deal with, but your
15 Staff has the expertise. It has gone through this.

16 At some point there should be some credit to the
17 staff, some assurance that the staff is not toothless. They
18 are not suddenly taken oatmeal spoon fed them by the
19 municipal permittees in any sense. That's not what is going
20 on. And I can assure you that the dialogue, as previously
21 discussed by Angela George of the county, was a rigorous
22 dialogue. This was not a mere, oh, we'll give you something
23 and make you happy. That's not what happened.

24 On the Reasonable Assurance Analysis, if there are
25 any questions I would respectfully refer you to the

1 documents in the package in the administrative record on the
2 Reasonable Assurance Analysis. There was reference by Ms.
3 Purdy to the Lower L.A. River. Several pages back there is
4 a specific set of commitments, similar to the one that she
5 showed you on the slide for the Lower San Gabriel River. I
6 believe it's pages 62 and 63 of the Reasonable Assurance
7 Analysis in Table 9-6. But if got the wrong citation I
8 would -- I can supply you with the correct citation.

9 Finally, before I turn this over to Mr. Hunter, I
10 would like to simply object to the last minute submittal by
11 the environmental petitioners of a chart that we have not
12 seen, we do not have time to comment on. It supposedly has
13 comments on our comments, highlighted in a convenient bold
14 color, I think red as a matter of fact. We think that this
15 is unfair. It's a last minute addition.

16 And we would request that if the Regional Board is
17 going to consider that specific document -- you have all the
18 other documents on the record, you have the PowerPoints,
19 those are all part of the game. But if the Regional Board
20 were to consider that specific document in coming to its
21 final conclusion, and we urge the final conclusion be an
22 approval of what the Executive Officer has already done,
23 that we be given some time, ten days, to submit an
24 additional response. Because otherwise we haven't seen it,
25 we can't respond to it. There wasn't a lot of oral

1 discussion by Dr. Booth or anyone other, and we're
2 handicapped in that regard.

3 I'm now going to turn it over John Hunter,
4 consultant to both of the Watershed Groups.

5 CHAIR STRINGER: Thank you.

6 MR. HUNTER: All right. Thank you, Norm.

7 Mr. Chair, Members of the Board, I have been here
8 before you a number of times, and I have always hunched over
9 the -- the dais here -- or the podium here. And only today
10 did I learn that it goes up and down. So I will have to
11 take that under advisement next time, but I think this is
12 fine.

13 Yes, let me see if I can get this to work
14 correctly. There we go. Okay.

15 So we're going to talk about what we call
16 WMPlementation. There have been a lot of disparaging
17 remarks about the word WMP, but we have actually been fairly
18 creative in the -- in using it.

19 So what has the WMP process brought for us? I'm
20 going to skip a few of my slides. Renee Purdy, Steve
21 Carter, Sam has -- have all done a very extensive job about
22 describing the specifics of this. And I've got kind of two
23 slides that are a primer on this. I'm going to skip both of
24 those and I'm going to go right to what's going on.

25 I'm going to talk about the City of Artesia first,

1 just as example. Artesia begins with an A and it's first on
2 our list. They have been divided. The RAA divides them
3 into three sub watersheds. And you can see those outlined
4 in the purple. They've got a major street that goes through
5 the city, probably the major thoroughfare, Pioneer
6 Boulevard, and they're doing a revitalization there. And
7 that's highlighted in green and also circled in purple. So
8 you've got Watershed 1, 2, and 3. And they have been
9 assigned through the RAA a water capture goal. And I won't
10 get into details on that, that's all been repeated. But
11 they are installing 25 to 30 bioinfiltration systems there.

12 This is not just talk. There's a picture. It was
13 given to us last week. This is actually going in. So this
14 is a Right-of-Way Project that is going in right now. They
15 are substantially on their way to achieving their final
16 goal.

17 Other recent projects that we've got going, the
18 City of Downey, here's a 2.7 acre system, all infiltration
19 through dry wells.

20 Here is the City of Diamond Bar, 29.7 acres, all
21 going to be treated through modular wetlands. And that
22 project is underway right now.

23 Here we have Smith Park in Pico Rivera which is
24 both an infiltration system for the park itself because
25 there's curb cuts and landscaped curb extensions, so it

1 actually treats water from the street and the parking lot.
2 So those are going. This was recently completed.

3 Activities for, in this case, L.A. River, the
4 Board has seen this before. But I thought this would be a
5 nice -- well, I think the correct word is juxtaposition.
6 This is the Azalea Project. The area outlined is a 40-acre
7 shopping center, all infiltrated. You see the L.A. River
8 right there on the right-hand side of your screen. If you
9 go directly to the east, and now you can see the L.A. River
10 on the west side -- or on the left side, and I have a brand
11 new project, a six-acre project that's going to be
12 infiltrated. This is actual two projects, infiltration for
13 the area being developed, and while they're doing that, a
14 separate project, Green Streets for the major thoroughfare
15 there. And this project is underway right now.

16 Future plans, in the very near future, we have the
17 DeForest Project along the L.A. River. This is an enormous
18 project. You can see it outlined there in yellow. It's
19 going to be converted to a park/wetlands. It's going to
20 drain about 1,500 acres. All the water from the area to
21 the, we'll call it the right-hand side which is the east,
22 1,500 drains into that wetland areas. Groundbreaking is
23 scheduled for winter of 2016, just a few months away.

24 And then, of course, I think the Board has seen
25 this before, we have the Long Beach MUST Project. And if I

1 get the acronym correct it's Municipal Urban Stormwater
2 Treatment. You can see towards the lower section of the
3 L.A. River, Long Beach is going to be intercepting the water
4 before it gets into the L.A. River and diverting it to a
5 treatment system where the water is cleaned and hopefully
6 reused.

7 So in just a few minutes, and thanks because I
8 didn't have to go into the technical detail, those are the
9 projects that we've -- we've got going right now or have
10 been recently completed. And so I think it's important to
11 note that we're not just sitting on our hands thinking, oh,
12 the WMP has been approved, now we can do nothing until 2026.
13 We are moving forward.

14 And here is the WMP schedule. These big projects
15 take a long time to complete, a lot of steps. But you can
16 see, we've already finished the 2013-15 steps, and we're
17 moving in to 2016 on this.

18 What are we going to do in the interim? The Board
19 has seen pictures of our Watershed Groups meeting. You've
20 not seen this one. This one just happened in July. We
21 invited all the cities from the three watershed areas to
22 come together to a meeting to discuss watershed control
23 measures. Well, how we are going to do our street sweeping?

24 How are we going to clean out our catch basins? What are
25 you doing about your plan reviews? Fifty-three people, Long

1 Beach to Diamond Bar to Pico Rivera, all sat in this one
2 room for a presentation. So we are moving forward on the
3 nonstructural issues.

4 There has been talk about the Harbor Toxics, the
5 gateway cities, the Lower L.A. River, Lower San Gabriel
6 River said let's put a sampling point at the lower extremes
7 of the two rivers and let's invite everybody else to
8 participate. And we have representatives from all the other
9 major groups, Upper L.A. River Reach 2, the Upper L.A. River
10 Group, Rio Hondo, San Gabriel, Upper San Gabriel, East San
11 Gabriel, several individual cities, they're all
12 participating in this. And this is going to be new state-
13 of-the-art testing for the -- for the toxics, and it was all
14 started by our group, and we're sharing the data. We're all
15 working together for this.

16 And monitoring, I know Renee had the nice slide,
17 but let's put it in dollars and cents. The Lower L.A.
18 River, Lower San Gabriel River, together with the Los
19 Cerritos Channel which will be speaking right after me,
20 well, we just selected a contractor and we're entering into
21 a five-year term to do monitoring that will cost the groups
22 \$1 million a year, phenomenal new advancements in the scope
23 of monitoring.

24 So in conclusion, the elements of the WMP
25 development have been met. The watershed are already moving

1 forward. We've been moving forward for years with
2 implementation on this. And as we find that modifications
3 are needed, we're going to do that through the Adaptive
4 Management Program, as Sam has mentioned will be occurring
5 starting in 2017.

6 And with that, I've cut a minute and 14 seconds
7 off my presentation. All right. Thank you.

8 CHAIR STRINGER: That's appreciated. Thank you.
9 Los Cerritos Channel, eight minutes.

10 MR. AREVALO: Good afternoon, Chairman of the
11 Board and the Board Members and the Staff for the Regional
12 Board. My name is Anthony Arevalo. I'm the Stormwater
13 Officer for the City of Long Beach, and I'm the Chair for
14 the Los Cerritos Channel.

15 I'm going to go ahead and move ahead across my
16 slides. The slides are just basically saying that the size
17 of our acreage, which is over 17,000 acres, it identifies
18 the city and -- let's see, it identifies the cities that are
19 in the Los Cerritos Channel. Some of them are on the other
20 two channels of the L.A. River and the San Gabriel River.
21 Those cities are Bellflower, Cerritos, Downey, Lakewood,
22 Long Beach, Paramount, Signal Hill. And it also includes
23 Los Angeles County Flood Control District, which is also a
24 very active member within our group.

25 The -- our group is very grateful for -- for what

1 we believe that the WMP process has done for us. We're very
2 anxious to get started on this. And in working with the
3 Regional Board and with the NGOs, we've covered a lot of
4 ground. Right now to try to do something where you're going
5 to try to strike this down would be a big detriment to the
6 efforts that we're doing. You saw some of the projects that
7 John Hunter has presented. We're all anxious. We want to
8 get going. We want to -- we want to start doing this. And
9 we're all very excited, so we're all ready to do our share
10 and move forward.

11 So to go continue to let you know what's going on
12 with the Los Cerritos Channel, I'm going to introduce Rich
13 Watson, our consultant, who's going to tell you what's going
14 on with the Los Cerritos Channel.

15 MR. WATSON: Thank you, Tony.

16 As Tony said, my name is Richard Watson. I'm the
17 principal consultant to the Watershed Group. The Watershed
18 Group really believes that the -- the permit that's being
19 discussed today really represents a quantum leap in
20 stormwater permitting planning. We're now working together,
21 which is a real change, working together on a watershed and
22 sub watershed basis. And I think the commitment to
23 schedules for implementing some rather expensive projects is
24 really unprecedented in my experience.

25 We're also working with contract cities and the

1 League of Cities on developing a substantial -- oh, excuse
2 me, I didn't forward that thing, thank you -- substantial
3 and sustainable funding source while looking for grants.

4 The permittees -- or petitioners assert that
5 unlike the 2001 permit, the 2012 permit incorporates several
6 safe harbors. And we agree with them that the permit
7 encourages alternative means of compliance, namely the two
8 watershed planning and programming approaches which, as
9 people have said, include increased monitoring,
10 substantially increased monitoring, but we disagree with the
11 assertion that there are safe harbors.

12 But we think we've been allowed some time to do
13 planning, design, finance, and construction of these majors,
14 as long as we do what we said we're going to do, and that --
15 that's what we're doing. We also have to meet the final
16 water quality-based effluent limitations.

17 The petitioners also assert that the approved WMPs
18 are deficient, and we've had some discussion about that
19 today. We don't think that's true. We think they're
20 generally well defined and they're clearly enforceable. And
21 there are a couple of measures in the permit which contain
22 eight subsections on enforcement and lists of timelines and
23 conditions that have to be met.

24 In our case, the comments on the Draft WMP were
25 substantial, and we responded to those in detail and made

1 substantial changes. The conditions for the final approval
2 were minor, just mainly seeking information and
3 clarification. Now our members are obviously concerned
4 about funding all these expensive measures, and I say we're
5 working on that.

6 And in reality I'm a planner and I have a master's
7 degree. And no plan or program is perfect, but we think
8 these are strong documents and they're really pushing the
9 permittees to compliance.

10 The petitioners assert that we can select our own
11 control measures, BMPs, etcetera. We can't really do that.
12 We can propose and then the Regional Board approves it. And
13 I think in their assertion they forgot about 13360 in
14 Porter-Cologne which kind of limits the Regional Board's
15 ability to tell us exactly what to do.

16 The petitioners also state that once the BMP -- or
17 the WMP is approved, permittees are supposed to move
18 immediately into action. We're doing that. We actually
19 started implementing our plan before it was even submitted,
20 something like 18 months before it was approved because we
21 were proposing a TSS reduction strategy and we got the City
22 of Signal Hill going on setting up an ordinance and manual
23 for controlling sediment, because we think the transport of
24 sediment is pretty important, and that's well underway. And
25 it's going to be shared with other cities.

1 Also, prior to approval, as John mentioned, we
2 had -- we had -- he had mentioned the July workshop. The
3 previous year we had two other workshops, again with all
4 three watershed, trying to prepare the municipalities for
5 implementation.

6 The cities in the watershed have also initiated
7 several early actions, partially based on the Metals TMDL.
8 We supported SB 346 to reduce copper in brake pads. And
9 I'll be telling you more about that at another time. We've
10 committed \$50,000 to a local match for a Prop 84 project
11 that's really been helping us design and implement our
12 program. And we funded a later report estimating copper
13 reductions that's been very valuable.

14 Also, the City of Lakewood completed a concept
15 plan for Lakewood Boulevard Green Street Project which is
16 growing into a corridor. It's going to extend from the 405
17 to the 60 and involve many more cities and multiple
18 watershed now.

19 And then they also developed a concept for
20 conversion of a portion of Paramount Boulevard to a green
21 street, and that's up for funding now. The first program,
22 we're working with Metro, and the second one is being funded
23 now.

24 And then there's a third one. There's a program
25 now along Artesia Boulevard which includes many cities. And

1 the idea is to incorporate green street elements in that
2 particular major arterial.

3 Oh, this didn't move forward.

4 Also, the cities of Signal Hill, Long Beach and
5 Lakewood, on behalf of the permittees, are proceeding with
6 design and construction of two rather large water capture
7 projects, really designed to capture eight acre feet or
8 more. One is under a major golf course in Long Beach, the
9 other under a park in Lakewood. And both projects are now
10 scheduled to be completed before the timelines that we
11 committed to in the -- in the WMP.

12 In addition, the cities of Bellflower and
13 Paramount have budgeted money for additional work this year.

14 On the Reasonable Assurance Analysis, I don't
15 think I have to say too much because Steve Carter made
16 several comments about this. But I will say that it's a
17 complicated and imperfect process, but it's really an
18 important tool. It helps us as we move forward to implement
19 BMPs. And we're actually using it in those two that I
20 mentioned a moment ago.

21 In conclusion, I'd like to say that the Watershed
22 Group thinks the BMP -- or the WMP process in the permit is
23 sound and workable. We think the petition to reverse the
24 WMP approval should be denied. And we would really ask that
25 the Regional Board confirm its commitment to the WMP process

1 and to the approved WMPs.

2 Thank you.

3 CHAIR STRINGER: Thank you.

4 City of Los Angeles -- City of Claremont, sorry.
5 Sorry about that. Five minutes please.

6 MR. MONETTE: Good afternoon, Mr. Chair, Members
7 of the Board. My name is Andre Monette. I'm an attorney
8 with the law firm of Best, Best and Krieger. I'm appearing
9 on behalf of the City of Claremont. I have two just record
10 matters to take care of in the first instance.

11 The first, I'd like to reiterate Mr. Dupont's
12 objection to the addition of extra record evidence into
13 today's proceeding. Real parties in interest, including
14 Claremont, other -- other interested parties today didn't
15 get a chance to review that information that was submitted.

16 And we believe it's fundamentally unfair to have that be
17 part of the record of decision.

18 Another issue I'd like to raise is that the City
19 of Claremont, along with the San Gabriel Valley Watershed
20 Management Group submitted comments on the petitions. Along
21 with that, inadvertently, was submitted a draft -- a
22 separate comment letter from the City of Claremont that came
23 on a pleading paper. That was a draft document and it does
24 not include a full chart that is included in the -- in the
25 group letter. So if you peruse the comments that came in, I

1 would just call your attention to that chart and basically
2 incorporate that into the separate comments from the City of
3 Claremont.

4 So now onto the presentation.

5 Mr. Chair, I think you broke it down pretty well
6 as we started today's proceeding in trying to --

7 CHAIR STRINGER: Thank you. You're the only one.

8 MR. MONETTE: Kill them with kindness; right?

9 I think we can break this into two categories.
10 There's a procedural category of did Mr. Unger have the
11 authority to conditionally approve those -- the Watershed
12 Management Plans. And then the substantive issue is the
13 sufficiency of those plans.

14 I think on the first issue, the procedural issue,
15 there -- there really shouldn't be much question at all as
16 to whether Mr. Unger had that authority. The administrative
17 apparatus of both the state government and the federal
18 government would not be able to operate without delegations
19 of authority, like the one that this Board gave to Mr.
20 Unger, and without implied authorities, like the one that
21 this Board delegated to Mr. Unger.

22 Otherwise, you know, get out your phone book, get
23 out your list, because we're going to be writing everything
24 down. Does Mr. Unger have the authority to contact the
25 Metropolitan Water District to make sure we have a hearing

1 room today? Yes. Okay. We gave him that authority. I
2 mean, you can imagine how long this list has to be if we're
3 going to -- if we're going to make every single thing an
4 exact delegation. And there's plenty of case law on point.
5 It's an administrative issue. The cases on this go to the
6 '30s and they go at the state level and the federal level.

7 So again, there really should be no question. Mr.
8 Unger had the authority to approve those Watershed
9 Management Plans, and he exercised that authority. You gave
10 that to him through your resolutions. You gave that to him
11 through the permit itself.

12 As to the substance of the Watershed Management
13 Plans, I'd like to note at this point that the East San
14 Gabriel Valley Watershed Management Group's plan is not
15 subject to challenge. The substance of that plan was not
16 challenged at all. Any challenge to it now would be
17 untimely and inappropriate.

18 But it's very important to the City of Claremont
19 for this Board to know that it's moving forward with
20 implementation of their plan. These plans are -- are
21 politically very difficult for all of the cities in the
22 county. The Enhanced Watershed Management Plans and the
23 Watershed Management Plans. I'm sure you've heard from city
24 council members all over the place.

25 And so it's not an easy task and it's an expensive

1 task, but it's important to the city, again, for this Board
2 to understand that they're looking at the Regional Board as
3 a partner and working towards improvements in water quality.

4 So thank you very much for your time, and I'll
5 cede the rest of my time.

6 CHAIR STRINGER: Great. Thanks a lot.

7 Now the City of L.A.

8 Good afternoon. My name is Ryan Thiha. I'm the
9 Registered Civil Engineering with the City of Los Angeles
10 Watershed Protection Division and Bureau of Sanitation. I'm
11 here to basically echo the support letter that we submitted
12 to Mr. Unger on August 3, 2015, our position, the City of
13 Los Angeles, to basically support the Executive Officer's
14 decision to conditionally approve the Watershed Management
15 Plans.

16 The development of the Watershed Management Plans,
17 as well as the Enhanced Watershed Management Plans, they
18 have been guided by -- guided by the MS4 Permit
19 requirements, as well as the guidelines from the Technical
20 Advisory Committee, including the -- excuse me -- RAA
21 analysis which you all have here today. And they are all,
22 you know, with the inputs from the various stakeholders.
23 These Watershed Management Plans, they underwent rigorous
24 review process by the city, different cities, Regional
25 Board, and they included opportunities for the public to --

1 public to comment on those plans.

2 So any delay in the approval would definitely
3 delay the progress that has been made so far and delay the
4 implementation plan efforts.

5 In summary, City of Los Angeles support the
6 Executive Officer's action to conditionally approve the
7 Watershed Management Plans.

8 Thank you.

9 CHAIR STRINGER: Thank you very much.

10 El Monte, three minutes, I believe.

11 MS. JENG: Thank you. I didn't --

12 CHAIR STRINGER: Thank you.

13 MS. JENG: -- realize it was such a long walk down
14 the aisle.

15 Good afternoon, Chair and Board Members. My name
16 is Elaine Jeng and I'm the City Engineer for the City of El
17 Monte.

18 The city pursued a standalone Watershed Management
19 Program, and the submitted plan was conditionally approved
20 in April, and full approval on the plan was received in
21 August. Today I'd like to share with you the city's
22 experience through the WMP approval process.

23 After submitting supplemental information and
24 clarifications per the conditions from the Board staff's
25 review in April, the Board staff reached out to the city on

1 several occasions. Renee, Ivar and Erum and I conversed on
2 a number of occasions. The subject of exchange revolved
3 around the city's processes and how their proposed actions
4 as part of the overall Watershed Management Program would be
5 executed within the workflow of the city.

6 Capital improvement program is my livelihood. And
7 I often make the mistake that the processes relating to
8 implementing a capital improvement program or construction
9 of capital improvement projects is common knowledge. So
10 through the exchanges I personally had with the Board staff,
11 I'm reminded that the city's proposed Watershed Management
12 Program needs to be explicitly outlined, and no detail is
13 too small to include, so that the Board staff can
14 substantiate if the city's proposal is meeting the
15 requirements and intent of the MS4 Permit.

16 So taking a step back and in looking back at the
17 approval process -- or, I'm sorry. Excuse me

18 It was through this process that I realized the
19 amount of attention and effort in trying to understand the
20 city's proposed approach to meeting target load reduction,
21 the Board staff takes the discretion authority very
22 seriously.

23 Taking a step back and looking at the approval
24 process, I see that there's a similarity between the
25 Executive Officer's delegated authority for WMP approval and

1 the city engineer's delegated authority on a local level for
2 approving activities within the public right-of-way. Each
3 day I receive numerous requests to conduct work within a
4 public right-of-way.

5 My role as a city engineer is to ensure safety,
6 protection of public facilities, and adherence to municipal
7 code and applicable mandates. At my discretion I can
8 approve or deny or conditionally approve encroachment
9 permits, as long as a discretion is exercised within the
10 approved procedures, policies and intent as established by
11 the approving body, the city council.

12 So thinking out loud, if the requests I received
13 on a day-to-day requires city council approval the city
14 would not have been benefitted from the types and amounts of
15 public right-of-way improvements currently on the ground due
16 to the lengthy process involved.

17 I support the Executive Officer's authority to
18 approve Watershed Management Programs. And with the
19 Executive Officer's approval, assurance that the program
20 approach is an acceptable approach, the city has already
21 dedicated resources and staffing and designing and
22 constructing structural BMPs. Respectfully, the City of El
23 Monte requests that the petition be denied and that
24 Executive Officer's approval of the City of El Monte's WMP
25 to stand.

1 Thank you for allowing me to speak on the city's
2 experience.

3 And lastly, I'd like to formally thank the Board
4 staff's attention, time, insight and guidance through the
5 WMP preparation and approval process.

6 CHAIR STRINGER: Great. Thank you very much.

7 That concludes the list of speakers I have. And I
8 don't have any additional speaker cards, so I think that
9 concludes -- oh. Okay.

10 Ronji, do you have a speaker card for Ms. Dillard?

11 MS. MOFFETT: I don't.

12 CHAIR STRINGER: Oh, I do have it. Sorry. It was
13 buried in the pile, I apologize. Please come forward.

14 Was that it, Ronji? That's not -- that wasn't a
15 part of one of the groups?

16 MS. MOFFETT: No.

17 MS. DILLARD: No.

18 MS. MOFFETT: No, she's --

19 MS. DILLARD: I'm a citizen.

20 CHAIR STRINGER: Pardon me?

21 MS. DILLARD: I'm the public.

22 CHAIR STRINGER: No, I know. I'm just asking if
23 there are any other speaker cards for people not a part of
24 the groups? Okay. I apologize for --

25 MS. DILLARD: Okay.

1 CHAIR STRINGER: -- having you buried in the pile.

2 MS. DILLARD: My name is Joyce Dillard. I'm a
3 resident of the City of Los Angeles. I have written
4 comments on these plans, attended meetings I can. I've
5 tried to get into meetings I can't, like the TAC group. I
6 actually went to one. I got in. But the rest were -- some
7 were posted, some weren't. I actually left a meeting at the
8 county building there and saw there was a meeting for the
9 TAC group, but it was never posted. I asked to be notified
10 of those meetings, was never notified. So you played games
11 with this. You've cut the public out.

12 This is a permit based on source point
13 identification. Through all this testimony you have no
14 data. As a person, I should be able to see the data, see if
15 there's illicit discharges or some kind of discharges caused
16 by my city or an adjoining city into an impaired water body
17 and do something about it. This permit is layered with --
18 with TMDLs. It's really not a TMDL process. It's a source
19 point process.

20 If -- when I go to my financial statements of my
21 city, and I look at them, it's like a bible to me, the
22 consolidated annual financial report, and I'm sure other
23 cities, too, because they have to get bonds, I read what it
24 says about this permit. It doesn't describe what I am
25 hearing this permit is, either way, under the fed or the way

1 you've done it.

2 So now -- now the city has to go in debt without
3 the proper explanation of what this is about. It's a
4 process where unelected -- you're unelected Board makes a
5 decision, an Executive Officer makes a decision, and the
6 public really has very little stance in understanding what
7 goes on.

8 The modeling is a substitute for no data, that's
9 part of the problem. I didn't understand the modeling. I
10 downloaded all the county data. I don't know what to do
11 with it. I opened the folders. I'm not an engineer. Oh, I
12 don't understand it.

13 So all of this is based on adaptive management,
14 which none of us understand. I tried to get into a USEPA
15 meeting. They had someone come out from Washington. He
16 wouldn't let me come.

17 So you have really, really kind of an aspect of
18 let's -- it's a safe harbor. I mean, I have to rely on
19 these groups to do the petitions. I can't do them. I can't
20 get an attorney. And I think that's shameful, because we as
21 a public should be able to have a due process out of this.
22 So I'm relying on these groups who I'm not a member of to do
23 the work, to try and protect the public, and we're cut out
24 of just about everything.

25 I'm one of the few that write on it. If you go to

1 your website, do you really know how bad it is to look at
2 the permit or even look at these plans, that it's unclear,
3 it's just muddled everywhere? And I spent a lot of time
4 sorting out the approval letters, the Draft Watershed
5 Management Plans. It's ridiculous.

6 So what's the bottom line? It's going to cost us
7 a fortune. You have no data. I can't do anything of
8 understanding what my city is contributing to impaired water
9 bodies, nothing, no data. I follow the TMDL process. I'm
10 not convinced it's really part of what the Clean Water Act
11 is yet. You haven't convinced me of that, of what I've
12 seen. I've been around Prop O which is the city's local
13 bond funding for this. They don't have the data to show
14 improvement.

15 Get real in this. Do it so the public understands
16 it and so that if there are impaired water bodies there is
17 an improvement in water quality that we can see, or if there
18 isn't we can do something about it without costing us a
19 fortune and us going bankrupt, because that's basically
20 what's going to happen to a lot of these cities.

21 Thank you.

22 CHAIR STRINGER: Thank you. Okay.

23 So I'm sure there are lots of questions. I hope
24 my effort to organize things earlier is now a little bit
25 more clear with everybody.

1 What I'd like to do, if it's okay, is first focus
2 on the issues around the Executive Officer's authority to
3 issue the conditional approvals that were issued. So on
4 that -- on that issue squarely, do we have any questions?

5 Madelyn, why don't we start with you?

6 BOARD MEMBER GLICKFELD: Thank you, Mr. Chair.

7 I just want to say that I spent my whole Labor Day
8 weekend and a lot of time before that, I think some of my
9 colleagues did the same, we received a disk with 7,000 pages
10 of information. And we received a lot of other information
11 subsequent to that in print.

12 You know, I think that someone said today that we
13 cannot substitute our judgment for the staff. All we can do
14 is try to understand why there are so many factual
15 disagreements among all of these parties and what the staff
16 did to resolve those factual disagreements that they have
17 with the plaintiffs, and that the plaintiffs and the -- and
18 the permittees have. So I think the issue of whether or not
19 we gave the staff the right to conditionally approve these
20 is the less important issue in this -- in this process.

21 The more important issue is that there is
22 tremendous conflict here because Staff was not given the
23 benefit of enough direction from us to make it clear that we
24 wanted him to use the same exact process that -- that he
25 would use when he brought an item to the Board.

1 So in April we had the hearing on April 4th and it
2 became -- it became clear to me at that point, and I
3 communicated my concerns to the Chair and to -- and to Sam
4 that there were some problems with the WMPs. And we
5 discussed it, not only once but several times. And
6 that's -- the staff then tried to figure out what they were
7 going to do about these problems, and they decided on doing
8 the conditional permitting. They did it. They were right
9 up against the deadline and they went ahead and issued the
10 conditional approvals and requested responses. And I think
11 there was maybe, I don't know, 48 to -- 48 hours of notice
12 to all of the -- all of the other stakeholders that they did
13 this.

14 So here, at this point, we get back, six months
15 later we get -- or in June, 45 days later, they get back
16 responses to the condition requests from the -- from the
17 permitting group -- from the groups, the Watershed
18 Management Groups or the WMPs. And -- and then, Sam, you
19 approved those.

20 It wasn't until now, when this -- when this
21 document -- the documents were issued last week by our Staff
22 that anyone systematically went through and said, okay, this
23 is what the staff originally asked for, this is what they
24 got, this is what they asked for again in -- in that -- in
25 this conditional approval, and -- and this is how it

1 complies. This whole process has been a little less open
2 than has -- than it has been our case to do. We would never
3 normally bring an item to this Board. You would never
4 normally bring this kind of item to this Board in this way.

5 Just today we dealt with several different items.
6 The normal way we -- that things are brought to us is that
7 the staff puts out a tentative decision, it's noticed,
8 there's a period of time for comment, the comments come in.
9 The staff revises its final submission to the Board and
10 sends out not only the revisions, but they send out comments
11 responding to every single comment that's made. So by the
12 time something comes to us by the Board, at least everyone
13 understands what the staff agrees with and what they don't.

14 And here today the staff put together its
15 responses to comments, but there was no time, no legal time
16 for the petitioners to respond to that, so they did anyway.
17 And then the permittees say, hey, we haven't seen that.

18 So what we're getting in front of us now is a
19 lot -- is a process that simply doesn't work for our Board.
20 There's -- my rule of thumb after being a regulator for 18
21 years is that if there are more than three major disputes,
22 it's not ready for a Board to act on it. There are lots and
23 lots of disputes here.

24 So I just think that in terms of the process that
25 has been used to do this, I'm glad that there's a petition

1 because there's an opportunity for us to hear this. But I
2 think also that -- that we did not give enough direction to
3 the staff, making sure that every step that we would
4 normally follow in providing a tentative decision, giving
5 notice of that tentative decision, and then providing a
6 final decision and a comment period was the way we do things
7 here. And this process, which we crafted together with
8 great labor, just didn't -- was not -- was not -- did not
9 speak to that. And so we -- I think it was the Board's
10 responsibility that we find ourselves here in some
11 proportion.

12 So I would say that I think that the plaintiff's
13 contention that the -- that the Board did not allow the --
14 or the permit that we voted on did not allow any changing of
15 the deadlines, any extension of the deadlines, or any
16 conditional permit is a lesser problem than how the
17 conditional permit was issued.

18 CHAIR STRINGER: Okay.

19 BOARD MEMBER GLICKFELD: It is something that we
20 had no -- we were -- we don't have a lot of precedent for
21 this. This is a brand new permit and we're finding our way
22 along the process.

23 Now I would say that we would not be here arguing
24 about this at all if the stakes were not so high. And I
25 wanted to just -- I want to take a little bit more time on

1 this because I think --

2 CHAIR STRINGER: Can I --

3 BOARD MEMBER GLICKFELD: -- we have to have the --
4 we have to have the big conversation before we can have --

5 CHAIR STRINGER: Okay.

6 BOARD MEMBER GLICKFELD: -- small ones.

7 CHAIR STRINGER: Well --

8 BOARD MEMBER GLICKFELD: And I just would like to
9 say the following, and then I'll finish, which is that the
10 big issue here is not whether this -- these are good plans
11 or bad plans. I've seen tons of plans over the years. And
12 these, in general, look like pretty good plans to me.

13 The big question is do they rise to the level that
14 we expected them to rise in the MS4 Permit when we said we
15 wanted to be able to get assurances that there would be
16 modeling done that would tell us where projects were
17 supposed to be, when they would be done, and whether or not
18 they would help them meet water quality standards. And I
19 think that there is some -- there are some areas where we
20 didn't quite make that.

21 And the problem with that is that the -- the WMP
22 Groups still get to use those plans, whether they meet those
23 requirements or not, in lieu of having to be responsible for
24 receiving water limitations. The fact that we gave such a
25 great incentive, because it was the only way to get this

1 process going, is what's weighing on us now.

2 Whether these plans rise to that level, and
3 whether anyone could have done plans that rise to that level
4 within two years or the three years for the EWMPs I think is
5 the big question before us, whether or not we can actually
6 say, okay, for the rest of the term of this permit these
7 people, as long as they implement what's in here, whether
8 they have projects, whether they don't have projects,
9 whether they have water volumes, not projects but they can
10 do projects from them, it's -- I think that's what we need
11 to look at, is whether or not there's enough in there for
12 the -- for the staff to have done that.

13 And I think that I would like to have some
14 discussion on both of those issues, the procedural issues
15 and the substantive issue of whether the plan is good enough
16 for that. I think that's what's mostly of concern to me.

17 CHAIR STRINGER: So a couple of things. One is I
18 goofed on something.

19 And before I get to that, I would -- I would
20 appreciate if we could follow the -- the process I outlined.
21 I think that's my job, is to kind of organize.

22 BOARD MEMBER GLICKFELD: I understand that.

23 CHAIR STRINGER: So if -- and there is a very
24 significant issue raised by the petitioners that we need to
25 squarely address, and that issue is whether or not we, as a

1 Board, believe that Sam properly exercised his authority.
2 We have to make a decision on that. And I want to do it
3 squarely and discreetly. And I would prefer to do it first,
4 if that's okay, and get it out of the way. And then move to
5 the other issues that you're raising, which I totally agree
6 are far more weighty and substantial, if that's okay with
7 you.

8 The part that I goofed on is that I -- is that the
9 petitioners, I believe, asked for time for rebuttal, and I
10 forgot and --

11 BOARD MEMBER GLICKFELD: Okay.

12 CHAIR STRINGER: -- we got started, and I didn't
13 want to interrupt you, Madelyn.

14 And so -- and so why don't we, and this is, again,
15 my mistake, my apologies. Why don't we -- how much more
16 time do the petitioners have? Five minutes? Why don't we
17 take that five now, and then get back to, if we can, the
18 sort of narrow issue of decision-making authority and
19 conditional approvals.

20 So, Petitioners, my deepest apologies. Five
21 minutes.

22 DR. BOOTH: Thank you. This is Derek Booth again.
23 And I guess I also should apologize for having developed
24 these, actually an addition to these tables that were first
25 presented to the State Board. But, indeed, that's how I

1 spent my Labor Day weekend, as well, since I hadn't seen any
2 of the internal discussions between the staff and the
3 permittees either until last week. And, yes, it's true,
4 they are color coded. And you'll also notice that a
5 number -- any number of them are green. In fact, the issues
6 were raised and they have been resolved.

7 But as with the very first list, which was in
8 the -- in the record from the State Board hearing, we
9 endeavor to go through each and every one of the original
10 October 2014 comments, and that's why they are as voluminous
11 as they are. And, of course, none of us, myself, Staff, can
12 walk through each one of them before you in a hearing. But
13 I do support your interest in actually following the chain
14 of each one, because I think there is a story for many of
15 them, if not most of them.

16 I wanted to respond to a few specific comments
17 that were made by Staff. I do appreciate them. I think in
18 many cases what they raise is kind of a fundamental
19 perspective. It's ultimately whether the glass is half full
20 or the glass is half empty. I don't think any of us are
21 saying that it's completely full. And I don't know that any
22 of us, certainly not I, am saying that it's completely empty
23 either. And again, as someone who worked in local
24 government for ten years, I appreciate the squeeze that they
25 are in.

1 The table of BMPs that was brought forward as the
2 statement of commitment to milestones, I want to just remind
3 you that the permittees can apply them to meet their interim
4 and final milestones. Signal Hill, I don't mean to pick on
5 Signal Hill but it was raised, if you actually look at that
6 text, and I'll just read a little of it,

7 "According to the RAA results, the City of Signal Hill
8 will need to capture and/or treat 1.2 acre feet of
9 stormwater. Right-of-Way BMPs could be used for the
10 1.2 acre feet needed to meet the 31 percent compliance
11 milestone. If Signal Hill Park were transformed into
12 infiltration BMPs, the park would have the potential of
13 retaining 8.2 acre feet of stormwater."

14 It's a half full. Is that a commitment? To me it
15 looks like a hope-for outcome, but something far short of a
16 commitment.

17 The wording of Section 5, the Compliance Schedule
18 for the Lower San Gabriel and L.A. Rivers has been quoted,
19 and I do want to quote the rest of it.

20 "Notably, as described in Chapter 6, there is currently
21 no funding source to pay for these controls. Assuming
22 finances are available, conversion of available land
23 into a regional BMP is a protracted process that can
24 take several years, not accounting acquisition when
25 required. As such, the Group considers the Compliance

1 Schedule to be as short as possible."

2 Half full. Half empty. To me that is not a
3 commitment, except to take a run at it. And to my mind, and
4 I think the minds of many others, that simply falls short of
5 what's necessary.

6 There was discussion about the Reasonable
7 Assurance Analysis. It was nice to see Mr. Carter here. We
8 worked as colleagues on the same side, I might add, with the
9 Central Coast Regional Board . And we've endeavored to be
10 as careful as possible in distinguishing between two very
11 different modeling efforts between L.A. Upper Reach 2 and
12 the Lower L.A. and San Gabriel River.

13 There were some somewhat disparaging comments made
14 about my use of the term "broad approaches." I'll just read
15 from Section 4.1.3 of the Upper Reach 2.

16 "The following subsections address some of the broader
17 hydrology and pollutant modeling and calibration
18 efforts to which these models were subject and
19 evaluated."

20 I'll remind you that the Upper Reach 2 is three
21 percent of the area that was actually used for calibration.
22 And so the fact that there is good calibration down at the
23 mouth of the L.A. River does not constitute a calibration
24 that is even remotely applicable for the Upper Reach 2.

25 I would say a few more things about adaptive

1 management, but it would be the same thing. So thank you
2 very much. I appreciate your time and consideration.

3 CHAIR STRINGER: Thank you very much. And I
4 apologize for forgetting to come back to you.

5 DR. BOOTH: Not a problem.

6 CHAIR STRINGER: So starting, Madelyn, I guess
7 back to you. Do you have any questions or any questions on
8 the authority issue?

9 BOARD MEMBER GLICKFELD: I have no concerns over
10 the authority issue for whether or not the staff can use a
11 conditional approval. I have concerns about the process.

12 CHAIR STRINGER: Understood.

13 So, Jennifer, we may need your help.

14 And let's go down the line. I want to make sure,
15 everyone, do you have any -- any --

16 VICE CHAIR MUNOZ: I don't.

17 CHAIR STRINGER: Okay. Fran?

18 BOARD MEMBER DIAMOND: No.

19 BOARD MEMBER YEE: No. I strongly support the
20 authority for the Executive Officer to --

21 CHAIR STRINGER: Great. Maria?

22 BOARD MEMBER CAMACHO: I don't have any.

23 CHAIR STRINGER: So, Fran, I think we're going to
24 need your help potentially in crafting a --

25 BOARD MEMBER DIAMOND: My help? No.

1 CHAIR STRINGER: Sorry.

2 BOARD MEMBER MEHRANIAN: The end of the day.

3 CHAIR STRINGER: Jennifer, it's a long day, in
4 crafting a motion that -- that matches the -- the claim of
5 the petition on this particular issue. I just want to make
6 sure we get the language right in the motion. Is that okay?
7 Is that all right?

8 MS. FORDYCE: Yeah. And I'm -- and I'm with you
9 on the categories, I follow.

10 In terms of the procedural, they are sort of
11 making a two-part kind of procedural argument. One is in
12 general the permit did not allow conditional approval. But
13 they're also making a related argument that because they
14 allege that the Watershed Management Program are deficient,
15 that the conditional approval was not in conformance with
16 the permit.

17 So do you want to address both of those arguments
18 or --

19 CHAIR STRINGER: Well, it seems like question
20 number two goes to the sufficiency --

21 MS. FORDYCE: I agree.

22 CHAIR STRINGER: -- of the permits.

23 MS. FORDYCE: And I agree.

24 CHAIR STRINGER: So it's the first question,
25 really.

1 MS. FORDYCE: Okay.

2 CHAIR STRINGER: I'd like to -- I'd like to get
3 that resolved, and then move on.

4 So what I'd like to do is tee up a motion on this
5 issue. And I'd like, Jennifer, I'd like your help with
6 the -- with the language of the motion.

7 MS. FORDYCE: Like right now, huh?

8 CHAIR STRINGER: What's that?

9 MS. FORDYCE: You're looking at me like right now;
10 right?

11 CHAIR STRINGER: Yeah. Sorry. I mean, I could
12 say -- I could say something, but I want to make sure that
13 the record is clear and responsive.

14 MS. FORDYCE: Got it. Okay. Let me just take --
15 let me just write it down real quickly because I'm a visual
16 person.

17 CHAIR STRINGER: Do you need to -- do you need
18 some time? Because we could move on.

19 MS. FORDYCE: Yeah. Just a few minutes.

20 CHAIR STRINGER: Okay. So on the next set of
21 issues, Maria, do you want to just start with whatever
22 questions you have on the --

23 BOARD MEMBER CAMACHO: Sure. I appreciate the
24 discussion today. And Staff's report was very helpful,
25 along with the other comments that were made today by all of

1 the parties present. And I appreciate the follow through,
2 if you will, of Renee and Sam and what the Subcommittee was
3 discussing with you on helping us understand some of the
4 examples that we could understand from the claim of
5 deficiency. So to me the information you provided in your
6 very thorough review of examples and specific instances
7 was -- was very helpful, and actually more than I thought
8 you were going to provide.

9 But I think with that, along with the thousands of
10 pages that I reviewed on this, I don't have any questions at
11 this time.

12 CHAIR STRINGER: And -- and, Maria, you were a
13 part of the subgroup --

14 BOARD MEMBER CAMACHO: Subcommittee.

15 CHAIR STRINGER: -- Subcommittee that -- and we
16 talked about that earlier. And maybe you, and then, Fran,
17 you can add whatever you want when it's your turn, you can
18 fill us all in on -- on those discussions and what you
19 learned and perspective that you have.

20 BOARD MEMBER CAMACHO: Sure. I think -- I think
21 the goal, or at least my goal in meeting and getting briefed
22 on the topic, was to understand what the claims were and
23 what the petitioners arguments were, and going through those
24 arguments in this kind of two-bucket approach, if you will,
25 and understanding it. And that's what -- Fran and I were

1 able to sit at length and discuss that with the staff. And
2 what we had asked for was specific examples so that we could
3 understand a little bit more as to how -- how the
4 discussions had resulted in accurate and clear information
5 in terms of responsiveness and compliance with the permit
6 and the timeline. And we also discussed the process,
7 because I think that's a very important element of what
8 we're trying to do.

9 So all of those items were discussed. And we
10 specifically asked, the Subcommittee specifically asked, as
11 I said, that the staff outline some of those examples and so
12 that we could really truly understand, or at least hear what
13 that -- what has taken place in the dialogues and in the
14 conversations across the timeline.

15 So that's specifically what we -- what we talked
16 about. And I felt that they -- that the staff was very
17 responsive to the requests that we made as a Subcommittee.

18 That's my report.

19 CHAIR STRINGER: Great.

20 Larry?

21 BOARD MEMBER YEE: Thank you, Mr. Chair. And I
22 now appreciate the rationale which you came up with for
23 putting it in the two buckets.

24 In dealing with, you know, 7,000 pages of
25 information and an issue as complex and difficult as this

1 all is, my brain, my simple little brain just wants to find
2 a metaphor to begin to deal with all of this. And where my
3 brain went is to an old saying that says you can't cross a
4 chasm in two small steps.

5 But I don't think that's true in this case. I
6 think the chasm that we're faced with, you know, is a whole
7 new paradigm for stormwater and, you know, an ecological
8 approach, you know, Watershed Management Plans, to dealing
9 with that. And so to cross the chasm, you can't do it in
10 one flying leap and hope to get to, you know, optimum water
11 quality and perfect Watershed Management Plans in one fell
12 swoop. It doesn't happen.

13 And so you have to take it in small and
14 incremental steps. And I think what's been done is we've
15 taken a huge step to begin to cross that chasm. And I think
16 we have started to build a bridge to cross that chasm. And
17 I, you know, I appreciate, you know, the concern of the
18 petitioners. But to tear that bridge down now and to go
19 back to the other side of the chasm, to the glass half
20 empty, is not where I want to go. And I appreciate the
21 tremendous amount of work and effort that's gone into this.

22 So I, you know, really support where we're at.
23 And I'm pleased that we have approval, you know, for
24 these -- for these WMPs and EWMPs.

25 CHAIR STRINGER: Thanks.

1 Fran?

2 BOARD MEMBER DIAMOND: Well, first of all I want
3 to thank everybody here.

4 I think I want to start out with thanking the
5 petitioners. You came first today. Your petition was very
6 well written. It was -- it was something that I -- you
7 raise, as always, very important questions to this Board.
8 And I think I have to say that the NGO community is a big
9 reason why water quality has improved in the Los Angeles
10 region over many years. And you are part of the
11 partnership. I feel always that we are working with you, as
12 well as the permittees and, of course, our staff.

13 And then I want to say to our staff, I think you
14 have done a really incredible job. I was a little bit
15 concerned, as you know, and Maria and I came to meet with
16 you as our duties as a Subcommittee of an MS4 Permit, I had
17 concerns based on what I read from all of the information
18 that we got on the disks and the issues that were raised by
19 the petitioners.

20 And so we had a very robust conversation with Sam
21 and Renee and Jennifer. And we asked you to come up with a
22 response to the petitioners that were filled with examples
23 of why Sam and our staff approved the WMPs, and the
24 conditions, and then approved them after the conditions and
25 felt that the conditions were met.

1 And I think today the -- Renee and Sam, you did an
2 amazing job. I feel very comfortable with what you
3 presented today. And I, you know, I feel that you answered
4 the questions that I had.

5 The only question, excuse me, question that I have
6 going forward as an example of a question in terms of being
7 very practical about how this will work going forward, for
8 example, in 2017 the volume that the permittees need to
9 meet, I think there are -- well, there are numbers, the BMP
10 volume. And there's 10 percent and there's 35 percent. And
11 the final milestone dates occur in 2017 and 2020, and then
12 on beyond the life of this -- this particular -- this
13 period.

14 So I guess my question is: What -- what are we
15 going to see in 2017? What -- what will -- you know, if --
16 if the milestones are met we'll see that, and that will be
17 great and we'll all be thrilled. And -- but if the
18 milestones are not met, I am concerned about enforcement of
19 the permit. I think that this --

20 (Someone sneezes.)

21 BOARD MEMBER DIAMOND: Bless you.

22 I think this is a very ambitious and good permit
23 that can get us to water quality. To me, enforcement is a
24 big part of that.

25 So I want to know, what are we -- what -- what can

1 we expect to see? What might happen in 2017? I want kind
2 of an idea of what enforcement is going to look like so that
3 we can go -- I can at least be very comfortable with -- and
4 I'm not asking you for, you know, specific recommendations.
5 But what will it look like in the big picture?

6 EXECUTIVE OFFICER UNGER: That's a very good
7 question. And I don't think -- well, I'll try.

8 Basically, I think what happens in 2017, we're at
9 a juncture where some projects have been implemented, some
10 data have been collected, and we're looking at sort of an
11 adaptive management scenario at that point. And I think
12 it's going to come back if we stay in this process here with
13 essentially what we had in the sense that what we have now
14 to work -- to get to the point where we are now. There's
15 data, there's adaptive management, and then there's
16 professional judgment on the part of the staff.

17 And so I think I would say we would use our
18 judgment to make a decision, if you will, or a
19 recommendation to -- if the -- if the permittees are moving
20 ahead in a productive manner they may not need a course
21 correction. They may just need some more time. We might --
22 that would be a different action, if we find a permittee
23 that's taking no action at all and needs to -- you know, we
24 have to use alternative or other enforcement mechanisms to
25 bring them back into compliance.

1 So I don't think it's going to be any simpler than
2 it was today, basically, in what we've gone through to get
3 to this now where we're looking at are the data adequate? I
4 certainly hope there will be by this time. As Renee said
5 earlier, it's going to have to rain one of these days. But
6 we think the monitoring plans are certainly far more robust
7 than what we have to date.

8 The permittees themselves are responsible for
9 their adaptive management, and they'll be reporting that in
10 their annual reports. We will be looking at that. And
11 taking the two together, we're going to have to -- we're
12 going to have to rely on our professional judgment to make a
13 recommendation to Paula and Hugh as to whether we -- you
14 know, what sort of enforcement mechanism we would -- we
15 would look at.

16 BOARD MEMBER DIAMOND: And hopefully --

17 EXECUTIVE OFFICER UNGER: Yeah. And Renee has got
18 some --

19 BOARD MEMBER DIAMOND: Oh, I'm sorry.

20 EXECUTIVE OFFICER UNGER: -- adds to that.

21 BOARD MEMBER DIAMOND: Please.

22 MS. PURDY: Well, I just want to chime in, too,
23 because really we do view those volumes as compliance
24 metrics. So when we're thinking about compliance with these
25 Watershed Management Programs, we are going to be looking at

1 those volumes and we're going to be seeing, did the
2 permittees meet those volumes that they made commitments to
3 meet? And in some cases there are different ways that they
4 could meet those volumes.

5 And I think that was one of the things that Dr.
6 Booth was -- was trying to point out, that there are some
7 specific regional projects, like Signal Hill Park, that it
8 says it could be used. But what we see as the compliance
9 metric is the volume. It could be Signal Hill Park. It
10 could be another location. But that volume is what the
11 permittees have identified and committed to as a compliance
12 metric in the Watershed Management Program.

13 And so when we get annual reports from them, when
14 they report their adaptive management process, we're going
15 to be evaluating those annual reports against those
16 compliance metrics. And if they aren't meeting those
17 compliance metrics, then they're out of compliance.

18 And so I think, I mean, there are some, you know,
19 there are some additional options and mechanisms in the
20 permit. But ultimately what we said and we -- we allowed
21 for these Watershed Management Programs, but we said that
22 the reason we're allowing them is we're allowing you to
23 propose actions and milestones that we will use to determine
24 your compliance with the permit. And those are what are in
25 each one of the Watershed Management Programs. And they

1 differ based on watershed characteristics and the permittees
2 involved. But all of them have quantitative, measurable
3 milestones that we and you, the Board, can use to determine
4 whether they're in compliance or they're out of compliance.

5 BOARD MEMBER DIAMOND: And is that something -- I
6 guess I -- I guess I would want to ask that we, the Board,
7 are involved in making those decisions, with your input,
8 obviously, your scientific -- your judgment, but that those
9 kinds of decisions, we're not going to delegate in advance
10 of us hearing them and you hearing our concerns and comments
11 about compliance on those WMPs. Is that something that we
12 can -- I can just tell you, that's how I feel about it.

13 EXECUTIVE OFFICER UNGER: My only -- my reaction
14 is certainly we -- we value your input as much as possible.
15 I'd ask our lawyers to say whether we can engage in those
16 types of information exchange on an enforcement matter. But
17 certainly to the extent that we can, I'm more than willing
18 to -- to listen to this. I mean, really, it's no different
19 from other matters that you heard today with the Los
20 Alamitos Power Plant. Is the TSO the right order? It's our
21 recommendation, again, based on our technical judgment,
22 based on the data that are available and, you know, based on
23 their plans and whether they're committed to implementing
24 their plans.

25 So it -- I see the same paradigm in play in terms

1 of involving you differently from how we typically -- excuse
2 me -- involve you on a day-to-day basis. I'd like to work
3 with Jennifer and David and Frances and come up with
4 something that works.

5 MS. PURDY: And the -- oh, sorry. May I chime in
6 one more time?

7 The other thing that I would say is I certainly
8 think that, you know, one of the things that we can commit
9 to is reporting back to you, the Board, on the status of
10 compliance among the permittees in the Watershed Management
11 Programs. So regardless of the outcome of that report to
12 you, we can certainly report back to you on the status of
13 their compliance with the compliance metrics that they have
14 committed to within their Watershed Management Programs.

15 BOARD MEMBER DIAMOND: Well, that's -- that's a
16 concern, and you've satisfied that concern with your answer.

17 MS. FORDYCE: Yeah. And I was pretty much going
18 to say that. You can do the information items.

19 But I would just say, if Staff do think that
20 enforcement of the permit is, you know, is something that
21 they'd like to pursue, they'd issue a complaint and it would
22 go to the full Board. The Executive Officer pursuant to
23 delegation resolution is authorized to take certain
24 enforcement actions, but generally it's for noncontroversial
25 matters. And let's face it, this is the MS4 Permit.

1 BOARD MEMBER DIAMOND: Right.

2 MS. FORDYCE: Come on. So -- yeah.

3 EXECUTIVE OFFICER UNGER: Complete the thought,
4 Jennifer.

5 CHAIR STRINGER: Thanks. Just -- this is a little
6 bit out of order, just I'm thinking about it because you
7 guys are on the Subcommittee, I just want to make sure while
8 I'm thinking of it to just state that I -- that the
9 Subcommittee, and I'm looking at you, Sam, and I guess you,
10 Renee, just -- just really make sure that -- that there's a
11 healthy communication going on moving forward. We're all
12 learning, obviously, as this process unfolds. But it should
13 be a real two-way street. And, you know --

14 EXECUTIVE OFFICER UNGER: Absolutely.

15 CHAIR STRINGER: -- use -- the Subcommittee was
16 set up for a reason, and that's to make -- to ensure
17 connectivity between Staff and the Board on these issues
18 which are really complicated and they're all bleeding edge
19 stuff that, you know, we're sort of making up as we go.

20 But -- so I just want to make sure that I get that
21 out while I'm thinking of it.

22 EXECUTIVE OFFICER UNGER: Yeah. Message received.
23 I've --

24 CHAIR STRINGER: Great.

25 EXECUTIVE OFFICER UNGER: I think the

1 Subcommittees, and all the Subcommittees that we have on
2 outreach and things like that, have had very good results.

3 So --

4 CHAIR STRINGER: Yeah. Yeah.

5 EXECUTIVE OFFICER UNGER: Yeah.

6 CHAIR STRINGER: Fantastic.

7 So, Irma?

8 VICE CHAIR MUNOZ: Today reminded me of what I'm
9 trying to live my life as, and that is, knowledge speaks,
10 wisdom listens. And I'm very glad that I listened to
11 everybody who spoke before the mike because everybody had
12 knowledge to share with us. Whether I agree with it or not,
13 it was good to hear everybody's viewpoints.

14 And what I find so interesting is how complicated
15 this process is and how much disagreement we have on an
16 issue and a goal that we all have in common, and that's
17 water quality. And I think it's getting there that makes us
18 go through different journeys and interpret things
19 differently.

20 And the one thing that was reaffirmed to me today
21 is how fortunate we are to have such a knowledgeable staff
22 on very complicated issues. You know, they -- we have
23 meetings, but they put in hundreds and hundreds of hours
24 that we don't see. The whole process that we went through
25 a number of years ago was many meetings, many conversations,

1 focus groups, debates with the permittees, with the
2 environmental groups, with other NGOs, with stakeholders,
3 with elected officials, and I'm not sure we ever got a full
4 reading on how many hours that all that was and the hundreds
5 of people that were involved there.

6 And I say that because I think what we've done
7 here has been very historic. It's been different. It's
8 very challenging. And we started on a journey that we're
9 going to continue. And we're getting -- we're running into
10 some bumps in the road.

11 And, you know, I have an environmental
12 organization. And I have a different perspective on many
13 things that are said by my colleagues here, the
14 environmental groups, but also agree on many things that
15 they do say. But the one thing that I want to encourage
16 them to think about is that I don't remember in quite some
17 time where I hear from you that says we like that idea, we
18 support the idea, we're going to partner with you on that
19 idea, we have an idea that could work in El Monte or could
20 work here, could work there.

21 Because the truth is, is you're very knowledgeable
22 and you're very smart and you know this stuff very well.
23 And I think that they can -- all those cities and entities
24 can benefit from your talents and your wonderful rich ideas.
25 And I see a lot of this happening, and I'd like to see a lot

1 more of this happening.

2 So that's my ideas for my colleagues in the
3 environmental world.

4 I believe that we're on the right track. And I
5 think it's okay to be on a bumpy road. And I think it's
6 okay to have these conversations. I think it's okay to have
7 these discussions and confrontations, because I think with
8 that comes growth, you know? And I think that we all want
9 the best. I do believe we have the best Water Board in the
10 State of California. I think we lead the nation in so much,
11 you know? And I do believe that nobody here came with any
12 sense of malice or ill will, but we're all struggling
13 together to figure it out. I think that's the bottom line,
14 we're all trying to figure it out, you know?

15 And I also am very sympathetic to the cities
16 because I work with cities and communities that have -- that
17 are poor and trying to figure out what the next steps are.
18 But we've got Prop 1. And there's many opportunities for
19 you for Prop 1, and potentially other funding mechanisms.
20 If you do not know about Prop 1 by now, find out immediately
21 because the money is coming down the pipeline.

22 So I think that when a lot of you wrote your
23 plans, you didn't have that financial mechanism coming down
24 the line, and maybe you didn't know how you were going fund
25 this project, fund that project. But there is resources out

1 there now that you can rethink that. And I speak to the
2 smaller cities because sometimes you don't have the staff to
3 even think about, to investigate what's out there to do the
4 research, so talk to the larger cities for that to happen.

5 But I agree with my Board Member Yee that I think
6 we're on the right track. And I think that we're going to
7 continue having bumps in the road, but I think that's okay.

8 CHAIR STRINGER: Thank you.

9 Maria?

10 BOARD MEMBER MEHRANIAN: Since we listened for a
11 long time, I have made notes and I would appreciate if
12 you -- if you allow me to talk about a few things.

13 CHAIR STRINGER: Sure.

14 BOARD MEMBER MEHRANIAN: And one of them is the
15 whole idea that I would like to tell the staff and Sam that
16 I do not think that they illegally issued conditional
17 permits, that they improperly modified the changes, or they
18 approved something that are inconsistent with the permit
19 requirements. I want to give you that. I want to say that
20 because it was brought up as the three contentions. I want
21 to go on the record saying that.

22 And I appreciate all the work you did. I
23 appreciate the work that you did with the cities, with the
24 county. I appreciate their presentations here. And I'm
25 believing that there was scientific methodologies, and there

1 was processes, and there was science, and there was
2 modeling, and there was these things included and evolved,
3 and it's important to recognize it.

4 And I want to respectfully disagree with the
5 professor, it says "commitment to strategies but it doesn't
6 commit," or it says, "Reasonable Assurance Analysis maybe
7 works, maybe doesn't," these are huge -- some of these
8 projects are huge infrastructure projects. They should be
9 engineered. They're going to take time. They're going to
10 be tested. When it says it could have or it would have or
11 it might have, it's the only way to say some of these things
12 because they're quite complicated projects.

13 But the importance is that they're required. And
14 right now the cities have responded. We are monitoring
15 them. And the whole idea of the fact that they're -- I'm
16 excited that the guidelines for the stormwater capture on
17 the -- on the Water Bond is out. The cities can now go
18 apply and do more. And I agree with some of my colleagues,
19 I don't want to stop this process. I don't. I want them --
20 as one of the consultants said, we're going to have the
21 rainy season and we have more projects today that are going
22 to do stormwater capture. I was thrilled listening about
23 all these little projects here and there that are popping up
24 in the city because of this work. And I think in order to
25 understand this work and appreciate it, it's important to

1 understand the spirit of MS4, because the MS4 allows time
2 for -- for improving what we have.

3 And could this plan be better? Of course it can.
4 Could we develop a better plan? Yes. But is the process in
5 place? I think it is. Is there modeling? Is there science
6 involved? Yes, it is, and I'm proud and I want to stand by
7 it.

8 Thank you.

9 CHAIR STRINGER: Thanks.

10 Madelyn?

11 BOARD MEMBER GLICKFELD: Well, I really appreciate
12 my colleagues' comments, and I agree with almost all of
13 them. I do think that there are a lot of disputed facts
14 here. And I think that it's important for us, as we're
15 overseeing this process, if not approving it ourselves, we
16 are responsible for overseeing it. We need to ask ourselves
17 the question of whether what's being done can get us where
18 we want to go within a reasonable amount of time.

19 So if you'd give me a few minutes, I'd like to ask
20 some questions about the issues that concern me the most.

21 CHAIR STRINGER: Of course.

22 BOARD MEMBER GLICKFELD: I want to know -- I want
23 to ask, first, about the models. I'd like to have the
24 person that -- in the back, is it Parker?

25 EXECUTIVE OFFICER UNGER: Carter.

1 MS. PURDY: Steve Carter.

2 BOARD MEMBER GLICKFELD: Sorry. Well, that was
3 close. And Dr. Booth. And is C.P. Lai here? Is Mr. Lai
4 here?

5 MS. PURDY: He may have had --

6 BOARD MEMBER GLICKFELD: Did he think he would not
7 be wanted after all these hours? Oh, my gosh.

8 MS. PURDY: I know.

9 BOARD MEMBER GLICKFELD: All right. Well --

10 MS. PURDY: I think he tried to hang in as long as
11 he could.

12 BOARD MEMBER GLICKFELD: I see.

13 MS. PURDY: I apologize.

14 BOARD MEMBER GLICKFELD: Okay.

15 MS. PURDY: I think he had to leave.

16 BOARD MEMBER GLICKFELD: So I think it will be
17 fine. And I think what I'd like to do, both come up, and
18 I'd like to have you both see if you can bring your answers
19 closer together. It would make me very happy if you can do
20 this.

21 CHAIR STRINGER: Just arm wrestle.

22 DR. BOOTH: So like I said --

23 BOARD MEMBER GLICKFELD: So --

24 DR. BOOTH: -- we've been forced in this position
25 before and we're told to hug each other, so --

1 BOARD MEMBER GLICKFELD: Well, I -- well, I
2 haven't asked for that yet.

3 DR. BOOTH: It's okay.

4 BOARD MEMBER GLICKFELD: So, you know, what --
5 what -- here is what I'm concerned about, which is when
6 we -- when we -- when we adopted this permit our staff and
7 the county, not you, the county sat before us and they said
8 we have robust enough data and robust enough models to be
9 able to identify where projects should be, what kind of
10 project it should be, and how -- whether that project will
11 comply with water quality standards. And yet many of these
12 plans never got there. They never got to -- they got to
13 volumes to be infiltrated. They got to, you know, a lot
14 more vague stuff.

15 Why didn't it get to specific projects? That's --
16 that's a question for you, Mr. Carter. Is it Dr. Carter?

17 MR. CARTER: Mr. Carter.

18 BOARD MEMBER GLICKFELD: Okay.

19 MR. CARTER: So I will say that the connectivity
20 that you're looking for, for the water quality improvement
21 versus these volume reductions, they are in the Reasonable
22 Assurance Analyses. Renee showed some plots of the Critical
23 Pollutant Analysis and the overall load reductions that were
24 required for the various pollutants. And then for each
25 watershed, one critical pollutant was selected that had the

1 greatest required load reduction. The example Renee showed
2 was for zinc. And then the theory is that if you achieve
3 that load reduction for that highest critical pollutant,
4 predominantly through volume reduction, then you're going
5 to -- you know, if the volume reduction is the equivalent of
6 the load reduction, because most of your load reduction is
7 occurring through volume, retention, infiltration, whatever
8 it is, then that same volume reduction would apply to the
9 other pollutants --

10 BOARD MEMBER GLICKFELD: So are you --

11 MR. CARTER: -- and you'd get a load reduction.

12 BOARD MEMBER GLICKFELD: -- saying that this model
13 is exclusively testing infiltration strategies to prevent
14 pollution --

15 MR. CARTER: Yeah.

16 BOARD MEMBER GLICKFELD: -- and not testing
17 treatment strategies where there's no infiltration
18 possibility?

19 MR. CARTER: Yeah. That's a good question. So
20 the part of the Watershed Management Modeling System that I
21 did not talk about was the simulation of the different types
22 of green -- green infrastructure, regional facilities.
23 Those were all included in a large part through that large
24 WMMS's development effort that was applied in many of these
25 watersheds. So it has the capability to simulate green

1 street, regional detention facility, LID on a single parcel,
2 but the model doesn't select these strategies for you.

3 I mean, it's -- you basically -- there's some real
4 engineering work that goes into these plans that are
5 preceding the chapter to the RAA that identifies
6 opportunities to place all these different types of BMPs,
7 and there's a whole range. And one thing that we did that
8 was new to the Watershed Management Modeling System is to
9 provide this optimization technique to where once all these
10 opportunities were identified, the model, based on cost
11 functions associated with the construction of these BMPs,
12 would automatically simulate every possible combination and
13 size of these BMPs under the sun, you know, thousands of
14 them within a single watershed.

15 BOARD MEMBER GLICKFELD: And alternate sitings of
16 those same things?

17 MR. CARTER: Yes. So for instance, for one WMP --
18 and each city -- each city, by the way, within each WMP has
19 their own recipe for compliance, which was largely
20 determined by their willingness to do certain types of BMPs
21 versus others. And if you weren't willing to do a green
22 street, that didn't mean you were getting out of something.
23 That means that you were going to have to eventually do
24 something else to achieve that same volume reduction.

25 And so all the optimization did was provide a

1 snapshot into what could possibly be the most cost effective
2 solution for each individual city. And that's what
3 represents the right side of those recipe for compliance
4 tables that Renee showed that showed all the different
5 volumes being captured by the different BMP types. And, you
6 know, that -- that's an estimation of -- of an optimized
7 strategy.

8 But in reality, once implementation occurs there's
9 going to be opportunities that arise that are unforeseen.
10 There might be certain impediments to certain projects, but
11 it doesn't mean that those projects aren't going to be
12 implemented. It just means that something else has to be
13 achieved to ultimately meet that volume reduction that's
14 already been determined up front in the RAA that's needed to
15 meet the critical pollutant reduction, and hence all other
16 pollutant reduction.

17 BOARD MEMBER GLICKFELD: Okay. I need you to
18 shorten your answers.

19 So my last question --

20 CHAIR STRINGER: Just because you brought it up, I
21 just want to make sure, I'm checking with Ronji maybe on
22 when do we turn into a pumpkin here?

23 BOARD MEMBER DIAMOND: I have to leave at 6:00.

24 CHAIR STRINGER: Oh, you have to leave at 6:00.

25 BOARD MEMBER DIAMOND: I would like to.

1 CHAIR STRINGER: Okay. We have about 15 minutes.

2 BOARD MEMBER GLICKFELD: So what I want to quickly
3 ask you is whether or not -- in my work in L.A. County on
4 other -- on projects not related to the MS4, it's been noted
5 that there's a paucity of water quality data available
6 across the spectrum of the kinds of pollutants that this MS4
7 is meant to do -- meant to address.

8 How does -- and I ask you this, and please answer
9 quickly, you know, how does the -- how do you use these
10 models to see whether or not we're going to get to water
11 quality standards if we don't have enough information about
12 what the water quality is right now?

13 MR. CARTER: So the models are the best
14 representation of the data that we have right now. It's the
15 same data, largely, that was the basis of the TMDLs
16 themselves. So I would say that the -- these models we're
17 using for the RAAs are based on similar data sets to the
18 TMDLs that set the waste load allocations for the
19 reductions. So at least all those are the same.

20 And certain data sets we found are more useful to
21 others. If you go out into a street and you collect a
22 single sample, one grab sample to find out what the
23 conditions are, often times that one sample isn't useful for
24 an entire model calibration exercise where often times
25 you're trying to meet statistical comparisons and that sort

1 of thing. But -- but the --

2 BOARD MEMBER GLICKFELD: So my question now is for
3 Dr. Booth, which is hearing his answers, do you think now
4 that there's -- we should be able to rely on the modeling
5 and the Reasonable Assurance Analysis that the dischargers
6 have used in coming up with these plans?

7 DR. BOOTH: Well, I --

8 BOARD MEMBER GLICKFELD: I think that's the most
9 important thing for us to know.

10 DR. BOOTH: Of course.

11 BOARD MEMBER GLICKFELD: And I don't mean
12 perfectly rely on it. Are they heading in the right
13 direction? Are they going to be able to populate this with
14 enough data? Can they -- if they're putting a ton of money
15 into BMPs and spending millions of millions of dollars, are
16 we going to end up -- are these going to be the right BMPs
17 to get us to water quality?

18 DR. BOOTH: Well, to be clear there's -- I agree
19 with everything that Steve said. There's no disagreement
20 there. I would only point out that Steve's work on the
21 Lower L.A. and San Gabriel River is not necessarily directly
22 analogous or applicable to the Upper Reach 2, which has had
23 to because there are no data, to rely on much broader scale
24 modeling results. In my judgment an RAA for Upper Reach 2
25 is probably two years premature. And if they knew this was

1 coming, then it should have -- the right kind of data such
2 as are somewhat more available for the other watershed
3 should have been collected already.

4 BOARD MEMBER GLICKFELD: So with that in mind, is
5 there any way that the county and the NRDC and the
6 environmental groups could work together to see what we can
7 do with our staff in the immediate future to start
8 collecting the kind of data that's really important to make
9 this model more -- you know, will it be the Adaptive
10 Management Plan for the lack of data? Is there a way of us
11 doing this, trying to cure this to make sure that all the
12 projects that they've got going there, and they really are
13 trying to do projects, are going to actually get to where
14 they want to go?

15 DR. BOOTH: There is surely a way. And to be
16 clear, we have not reviewed the Monitoring Plan for Upper
17 Reach 2, nor have we been invited into an adaptive
18 management process because, as I've said before, we haven't
19 actually found one yet that might actually judge whether the
20 right data are now being collected and how to make use of
21 it. But could that happen? Absolutely.

22 BOARD MEMBER GLICKFELD: Thank you.

23 So my other questions are to Staff. I think
24 you've been put in a very difficult position of having to
25 justify what you did, rather than looking at the differences

1 between all the parties and trying to resolve those
2 differences in a way that everybody can agree to. This has
3 been a different process that wouldn't have allowed that.

4 I do think that there are some weaknesses in the
5 data. And I think you said so yourself in some of your
6 responses to comment. I really think that what -- I'm
7 beginning to sense that what Dr. Booth and the -- and the
8 petitioners are saying is that they think there should be an
9 Adaptive Management Plan, not for the plan but for the lack
10 of the data. I think that they need to -- they need to see
11 a way of solving the data problem.

12 And I'm asking you, Sam, if you would agree to
13 have our staff work with people to see whether or not in the
14 areas where we're -- they are data weak and where people
15 don't -- there is not an adequate competence that the
16 projects are being adequately modeled, that improvements
17 could be made so that we can turn this from being an
18 adversarial process into solving -- either showing that
19 there is no problem to solve or solving the problem.

20 EXECUTIVE OFFICER UNGER: Well, absolutely, I
21 agree with you, it's possible. In fact, it's written into
22 the permit. And we've already, at least from an
23 administrative standpoint, we've already put that plan into
24 place. We call it the Coordinated Integrated Monitoring
25 Program. And each WMP is responsible for having submitted

1 that to us with the types of data that, I think Ivar, Renee
2 and we would all agree, that there is a lack of certain
3 places. But that's the beauty of the adaptive management is
4 that it takes -- really, it takes that into case with the --
5 we call it the CIMP, the Coordinated Integrated Management -
6 -

7 BOARD MEMBER GLICKFELD: So the difference is, is
8 that the -- the groups don't think they have to do adaptive
9 management until they finish the projects. And I think that
10 the environmental groups -- in 2017. There's no need to do
11 that work. Whereas I think there may be a need in some
12 areas now, and my colleagues may disagree with me, there may
13 be a need somewhere -- in areas now where we know there is
14 inadequate data to begin to do a plan for making sure that
15 the monitoring data that we're requiring are adequate to
16 fill -- to make stronger Reasonable Assurance Analysis.

17 I think the only thing that this Board has to be
18 really concerned about is -- are two things. Are they
19 actually committed enough to raise the money to do this?
20 And we don't know that -- the answer to that. And do they
21 have the right projects that are -- if they're going to
22 spend that money do they -- don't you all want to know that
23 they've got the right projects that are going to bring us to
24 water quality? Or are they all going to come back and say,
25 well, we tried, we don't have any more money but we're still

1 not there?

2 And I think we -- I think that it's not a matter
3 of anybody not doing their best here. But I think it is a
4 matter to ask those questions constantly and make sure that
5 we get to the point where everyone has confidence that we
6 have not only adequate models, but we have adequate data,
7 and that we can predict whether the projects that people are
8 investing in are going to do the work or not. So I think
9 that's really important.

10 EXECUTIVE OFFICER UNGER: Absolutely. And I think
11 perhaps what might be beneficial sometime in the not so
12 distant future, that we come back to you with an information
13 item specifically on the adaptive management portion of
14 this. Because it is going to be due, you know, in 2017. So
15 it's already 2016 nearly. So maybe sometime next year we
16 come back to you because I'm sure or I expect that the
17 Watershed Management Groups have already undertaken or at
18 least started the planning for --

19 BOARD MEMBER GLICKFELD: So --

20 EXECUTIVE OFFICER UNGER: -- what they going to be
21 placing --

22 BOARD MEMBER GLICKFELD: -- will you come back to
23 us --

24 EXECUTIVE OFFICER UNGER: -- into their adaptive
25 management.

1 BOARD MEMBER GLICKFELD: -- as well, with a plan
2 that you describe a way in which you're going to involve the
3 petitioners in that process so they can participate early --

4 EXECUTIVE OFFICER UNGER: Yes.

5 BOARD MEMBER GLICKFELD: -- and so that we don't
6 have a problem with a decision being made, and then feeling
7 left out of the decision and not having an opportunity to
8 input to that decision?

9 EXECUTIVE OFFICER UNGER: Yes, absolutely.

10 BOARD MEMBER GLICKFELD: I think that will be
11 great.

12 My last point is -- and you know, for my
13 colleagues, as well, we only hear -- hear from people -- we
14 hear -- you know, I'm getting to know -- I should know
15 everybody in this room by first name now. I feel like I
16 know you really well. And over the last years I see every
17 single person here is incredibly motivated to make this
18 work. And I think I've heard several times today saying we
19 would have never done this together, and we're doing it
20 together well now, and we're really glad that you gave us
21 this opportunity.

22 So we can't really avoid -- I think we have to
23 make sure that -- are we -- who is the them that we're
24 hearing? Well, we're hearing from the staff. We're hearing
25 from the consultants. We're hearing from the scientists

1 they are hiring. Who we're not hearing from are the people
2 who have the money, except for one person who says they do
3 the capital improvements planning.

4 So, you know, I really -- I -- what -- I really
5 would like our Chair and our -- and our staff, and maybe the
6 Subcommittee to do, is can we find out -- one of the things
7 that worries me is that there are all these great plans, but
8 people keep saying we'll do them when the money comes. But
9 they're not in charge of the money, somebody else is in
10 charge of the money. We don't -- we don't have the
11 requirement to only have water quality standards when
12 there's money available, but the discharges do. And if they
13 can't do projects that will bring us to water quality in
14 time for these TMDL deadlines, they're going to be out of
15 compliance.

16 And I don't think -- I am guessing, but from what
17 I've seen from a distance, I don't believe their elected
18 officials think we're going to do anything, and I think
19 they're thinking wrong.

20 So I really think we waited -- since we brought
21 this in 2012 there was an active effort to do a countywide
22 financing plan. That fell apart and nothing has happened of
23 any substance since then. And I really appreciate what my
24 colleague, Vice Chair Munoz, said about Prop 1. But it,
25 frankly, will not be enough money.

1 BOARD MEMBER MEHRANIAN: And the bond.

2 BOARD MEMBER GLICKFELD: Well, that is the bond.

3 BOARD MEMBER MEHRANIAN: Yeah.

4 BOARD MEMBER GLICKFELD: That is --

5 BOARD MEMBER MEHRANIAN: The Water Bond, the --

6 BOARD MEMBER GLICKFELD: That is the Water Bond.

7 Prop 1 is the Water Bond. But it's statewide, and it
8 doesn't provide enough money for L.A. County to do this, and
9 we'll never compete for it. So there has to be a local
10 financing plan and it will -- and this Board has to be
11 willing to say, and I think we are, I think I am and I've
12 heard other people say this, that it's not our job to create
13 the financing. It's our job to enforce the water quality.
14 And when I see parts of plans saying, well, we can't commit
15 to this because we don't have the financing, that becomes
16 problematic for me.

17 So I hope that we could have some discussion about
18 how the Chair can help us determine whether or not there is
19 any -- there is any commitment on the part of the people who
20 are making decisions about whether they're going to put the
21 money behind this, whether they are actually going to do it
22 in the timeframe we need it.

23 CHAIR STRINGER: So thank you. I don't think
24 there's any disagreement on anything that you've shared,
25 Madelyn. Funding is a huge issue. It's an issue that gets

1 raised and discussed and fretted over every time we have
2 this conversation. And we all know it's an issue that --
3 that everyone has top of mind.

4 Fran and I met with one of the supervisors about
5 it. I texted Sam during our meeting today with a suggestion
6 that we set up a meeting with Supervisor Kuehl about it.
7 And what I -- what I think funding needs more than anything
8 is bold political leadership from -- at the county level and
9 at the city levels to -- to push through measures that will
10 support funding of these projects. And more bonds.

11 I mean, we've got one and there's -- so if I can
12 just finish, because we do have people that have to leave at
13 6:00. And I want to be able to get to it because I think
14 most are ready to -- to call for a vote, and I'd like to say
15 something before we get to that.

16 I -- it's a cliché, but I'm a big believer in not
17 letting perfection get in the way of good. And I think
18 these plans are good. Are they perfect? No. Nothing that
19 people do is. Is the work behind it great? Yes. Is our
20 staff the best? I believe so. I -- you know, we have all
21 done our best to understand some very, very complicated
22 issues here. And we have spent time weighing through, you
23 know, far more material than we can possibly get through or
24 understand.

25 I'm the first to say that I don't feel like it's

1 my purview or that I'm qualified to second guess technical
2 judgments on things. I trust Staff to do that. And I think
3 again today Staff has shown its extraordinary expertise on
4 some very difficult issues.

5 We're moving forward. The glass is half full from
6 my perspective, and will get more full as we move on. And I
7 think this is a step in a process that was a difficult
8 decision in the beginning several years ago when we -- when
9 we began this process. I feel like a lot of the issues that
10 were raised today relate back to that decision in some ways.
11 And my hope is that at some point those that -- that weren't
12 happy with that decision and continue to be unhappy with
13 that decision will understand that this is the process that
14 was laid out very carefully and is as good or the best that
15 we can do, given the circumstances that we're under.

16 So I would like to call for a vote now in honor of
17 people having to leave. I don't want to lose any of our
18 Members and their ability to vote on this very important
19 matter.

20 So with that, do I have a motion?

21 MS. FORDYCE: What are you -- what are you --
22 what's the motion?

23 EXECUTIVE OFFICER UNGER: Jennifer has two --

24 CHAIR STRINGER: Oh. So we have two things. I
25 forgot about that. I'm really spacey today, and I

1 apologize.

2 MS. FORDYCE: I think -- I mean, are you -- do you
3 want -- do you want a motion --

4 CHAIR STRINGER: So --

5 MS. FORDYCE: -- for all nine --

6 CHAIR STRINGER: So we had -- so --

7 MS. FORDYCE: -- of the Watershed Management
8 Programs for all three contentions?

9 CHAIR STRINGER: Yes. So --

10 MS. FORDYCE: Oh, okay.

11 CHAIR STRINGER: So here -- so the first one,
12 Jennifer, we need to work through. I forgot we left that
13 open. So why don't you tell us what the motion is on the
14 first motion please?

15 MS. FORDYCE: Okay. So actually what I did was --
16 and maybe I could have a little direction here, because I
17 kind of drafted two alternatives for contention one, and
18 then actually added in contention two in case you wanted to
19 build that one in too.

20 So for contention one, I didn't know if you wanted
21 something like very specific, just in terms of just the
22 April 28th? Or did you want something kind of a little bit
23 more global in terms of the L.A. MS4 Permit?

24 CHAIR STRINGER: Well, you know what, it sounds
25 like we're onboard for both issues. So what if we just --

1 we entertained a motion to support the -- the nine Watershed
2 Management Plans that were approved by Sam? Is that enough?

3 Do we --

4 MS. FORDYCE: You -- yes. You can make a motion
5 that -- that you ratify the Executive Officer's April 28th
6 conditional approvals for all nine WMPs. You can make
7 that -- you could make that motion.

8 CHAIR STRINGER: Okay. Do I hear a motion?

9 MS. FORDYCE: And that resolves all three
10 contentions for all nine of the Watershed Management
11 Programs.

12 BOARD MEMBER GLICKFELD: Mr. Chair, may I ask a
13 question?

14 CHAIR STRINGER: Yes?

15 BOARD MEMBER GLICKFELD: I would -- I would prefer
16 that we ratify the three that we actually investigated and
17 say nothing about the other six. Just let them -- let them
18 stand.

19 CHAIR STRINGER: Well, the --

20 BOARD MEMBER GLICKFELD: I don't think we should
21 ratify anything that we haven't examined. And what I think
22 is that we should let the six that -- that the petitioners
23 chose not to provide any evidence on stand, which is
24 different than us saying we've reviewed them and we approve
25 of them.

1 CHAIR STRINGER: I feel like -- I feel I heard --
2 as I heard petitioners today say, they looked at three of
3 them, but they believe that there are problems with all of
4 them. So I -- from my perspective I would like the decision
5 to support, ratify, whatever the proper term is in this
6 particular circumstance, all nine of them.

7 BOARD MEMBER YEE: So moved.

8 BOARD MEMBER CAMACHO: Second.

9 CHAIR STRINGER: So I have a motion from Larry.

10 BOARD MEMBER GLICKFELD: I'm going to have to
11 abstain. I don't feel -- and it's no -- please don't
12 anybody in any of these -- I don't think I'm saying that
13 there's another plan that I think is bad, I just don't know.
14 So I'm not -- I'm not going to vote. I'll just abstain.

15 CHAIR STRINGER: Okay.

16 VICE CHAIR MUNOZ: I call the question?

17 CHAIR STRINGER: So we have -- we have -- yeah, I
18 know. There's a motion.

19 BOARD MEMBER CAMACHO: And I seconded.

20 CHAIR STRINGER: And there's a second.

21 So, Ronji, roll call vote please?

22 MS. MOFFETT: Ms. Camacho?

23 BOARD MEMBER CAMACHO: Yes

24 MS. MOFFETT: Ms. Diamond?

25 BOARD MEMBER DIAMOND: Yes.

1 MS. MOFFETT: Ms. Glickfeld?

2 BOARD MEMBER GLICKFELD: Abstain.

3 MS. MOFFETT: You abstain?

4 BOARD MEMBER GLICKFELD: Uh-huh.

5 MS. MOFFETT: Ms. Mehranian?

6 BOARD MEMBER MEHRANIAN: Yes.

7 MS. MOFFETT: Ms. Munoz?

8 VICE CHAIR MUNOZ: Yes.

9 MS. MOFFETT: Mr. Stringer?

10 CHAIR STRINGER: Yes.

11 MS. MOFFETT: And Mr. Yee?

12 BOARD MEMBER YEE: Yes.

13 MS. MOFFETT: Six to one, the motion passes.

14 CHAIR STRINGER: Do we -- Jennifer, do we need to
15 make a separate decision on the authority issue?

16 MS. FORDYCE: You don't have to. I mean, by
17 ratifying all nine of the Watershed Management Programs
18 you've upheld his authority. If you want to sort of address
19 this issue in the future you can provide, you know,
20 clarification. You can direct us even to go back and we can
21 bring you back a clarification to the existing delegation
22 resolution. That really would just kind of cover it
23 globally.

24 CHAIR STRINGER: I don't see why that's necessary.
25 But if we've done our --

1 MS. FORDYCE: I mean, I wrote -- I wrote -- I
2 wrote a motion for you, if you want to hear it.

3 CHAIR STRINGER: No. If we've done our -- if
4 we've done our job we're done. Okay. Thank you very much.

5 BOARD MEMBER GLICKFELD: Mr. Chairman?

6 CHAIR STRINGER: Yes.

7 BOARD MEMBER GLICKFELD: I raised some issues at
8 the very beginning about the process that we want the staff
9 to use in reviewing these in the future. And I would like
10 to see us at least consider a motion that would -- that
11 would ask them to use the same public notice process that
12 they would use if we were -- if this was a Board hearing.

13 MS. FORDYCE: So let me --

14 CHAIR STRINGER: So --

15 MS. FORDYCE: Actually, can I add something on
16 that one.

17 CHAIR STRINGER: Okay.

18 MS. FORDYCE: So the EWMPs are --

19 CHAIR STRINGER: Hang on. Hang on.

20 MS. FORDYCE: -- are in our planning process.

21 CHAIR STRINGER: I just want to make sure this is
22 done really cleanly. So we passed the motion and we've made
23 a decision on the petition today.

24 MS. FORDYCE: Yeah.

25 CHAIR STRINGER: So we're losing Board Members.

1 I'm happy to stick around if we want to have this
2 conversation, as long as we have a quorum to do that, if
3 folks want to do that.

4 What I would suggest is that the Subcommittee work
5 on process, and that we bring this up later. We're not
6 going to be able to get this all in right now, Madelyn, I
7 don't think, to your satisfaction, that's my -- given the
8 time of the day and --

9 BOARD MEMBER GLICKFELD: I don't think it's that
10 complicated, but --

11 MS. FORDYCE: I was just going to note that
12 there's going to be a workshop, a Board workshop on the
13 EWMPs either in November or December. And at that point we
14 are going to ask you to tell us, do you want us to bring
15 this to the -- to bring either the approvals or the denials
16 to a Board meeting. And we need -- we need to know in
17 advance so we can build in that timeframe, because it's an
18 extended timeframe.

19 So you could defer that -- that discussion until
20 then if you -- if you like. Or we can have a conversation.

21 CHAIR STRINGER: I would -- what I would like, I
22 would like the Subcommittee to work on the issues regarding
23 process and to report back to --

24 BOARD MEMBER DIAMOND: I think we can do that.
25 And I also think that we will each get in touch with all of

1 the other Board Members to get input for --

2 CHAIR STRINGER: As long as we don't have serial
3 meetings.

4 MS. FORDYCE: Yeah. That's maybe a serial meeting
5 issue. We'll, I mean, we'll have -- we'll -- we will
6 schedule a meeting with the Subcommittee and talk about it,
7 and then perhaps the Subcommittee can make a recommendation
8 at the workshop.

9 BOARD MEMBER DIAMOND: Okay.

10 CHAIR STRINGER: Great. Fantastic.

11 BOARD MEMBER DIAMOND: Whatever is legal.

12 CHAIR STRINGER: Sorry it was a little messy
13 today. I apologize.

14 I think that -- I think that is our work for the
15 day. Thank you very much.

16 (The meeting of the Los Angeles Regional Water Quality
17 Control Board adjourned at 6:05 p.m.)

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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of October, 2015..



MARTHA L. NELSON

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

October 27, 2015