

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER QUALITY

WORKSHOP

CALIFORNIA OCEAN PLAN, AREAS OF SPECIAL

BIOLOGICAL SIGNIFICANCE (ASBS)

WASTE DISCHARGE PROHIBITION

MONTEREY CONFERENCE CENTER

STEINBECK FORUM THEATER

ONE PORTOLA PLAZA

MONTEREY, CALIFORNIA

WEDNESDAY, AUGUST 31, 2005

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 -oOo-

3 VICE CHAIR SILVA: We will call this public
4 workshop to order. My name is Peter Silva, I am Vice Chair
5 of the State Water Resources Control Board, and with me is
6 Jerry Secundy, who has been on the board now for, what, six
7 months, five months? And we will be co-chairing this
8 workshop.

9 The staff with us at this table is Bev Gians
10 (ph.), who's the new Acting Deputy Director. At the other
11 table, Betsy Jennings from legal, legal staff. Dominic
12 Gregorio, who's been really doing a lot of the legwork to
13 put this together. Thank you, Dominic. And Leslie Louden,
14 from our grant program, who can answer all the questions
15 about money.

16 And the purpose of the meeting today, of the
17 workshop today, is to receive and consider comments
18 regarding the ocean's ASBS waste discharge prohibition. The
19 ocean plan prohibits any discharge of waste into an ASBS
20 unless the State Water Board grants an exception. The State
21 Water Board is obligated to enforce the prohibition, but the
22 exception process and the requirements provide us with an
23 avenue to work cooperatively with all the stakeholders.

24 Our goal is to minimize waste and protect the
25 beneficial uses of ASBS while ensuring that the public

1 interests are served. As an example, the State Board
2 recognizes the need for flood protection and the value of
3 marine research and education. What we'll be doing this
4 morning, as for the agenda, staff will first give a
5 presentation as a, as a backdrop. Then we will go to public
6 comments from interested parties. And I think if you're
7 interested in speaking, as you came in there was blue cards
8 you need to fill out and give to staff, so we know who,
9 who's making the, who wants to speak. And if you haven't
10 already -- done that already, if you could please do that
11 for us.

12 When you come up, if you can just state your name
13 and affiliation for the record, so we have it on record.
14 And we do want to make this as interactive as possible, so
15 we may interrupt you with question, both from staff or, or
16 the board, because we do want to get, get input on this very
17 important issue. And unfortunately, we've, we've got about,
18 let's see, about two hours and 15 minutes for public
19 comment, and we've gotten quite a few comment cards, so I'm
20 going to ask you to keep it to around five minutes, if you
21 can. We're not going to keep it exactly, but again, I'll
22 try to keep you honest as we move forward, to give everybody
23 time to comment.

24 Jerry, did you want to make a quick comment?

25 CO-CHAIR SECUNDY: The only comment I would like

1 to make is really to thank the mayor and the city manager
2 and the city of Monterey for this absolutely marvelous
3 facility, so it certainly makes our life a lot easier to be
4 comfortable while we're going through this workshop, at
5 least in terms of the setting we'll be comfortable.

6 VICE CHAIR SILVA: Okay. With that, Dominic, did
7 you want to give the staff presentation? Thank you.

8 MR. GREGORIO: Good morning, members of the board,
9 my name is Dominic Gregorio from the Ocean Unit of the
10 Division of Water Quality, so I have a, hopefully what'll be
11 a short presentation on, sort of a status report on what's
12 going with ASBS's.

13 Just as some background information, the 2001
14 California Ocean Plan prohibits waste discharges to ASBS's,
15 and that has been in existence since 1983 in the present
16 format. Discharges must be kept at a sufficient distance
17 from ASBS to assure maintenance of natural water quality.
18 And the regional boards may certify or approve temporary
19 discharges that are due to maintenance and repair
20 activities. There's been a little bit of confusion over
21 that, but rest assured, what we're talking about there are,
22 are repairs to things like sea walls, bridges, and that sort
23 of thing.

24 So there's also been a little bit of confusion
25 about what is an exception. The Ocean Plan allows

1 exceptions and the requirements are that the public interest
2 must be served. Beneficial uses cannot be compromised, so
3 we have to protect beneficial uses. We have to comply with
4 the California Environmental Quality Act, and as we did with
5 the most recent exception that was issued for the Scripps
6 Institution of Oceanography, there were strict mitigating
7 conditions that went along with that.

8 And here's probably the thing that confuses people
9 the most. An exception is not a permit. What it is is a
10 gateway to a permit. So, for example, if there is a
11 stormwater permit, an MS4 permit, usually those MS4 permits
12 have a clause that states that you have to comply with
13 statewide or regional board water quality control plans.
14 The Ocean Plan is a water quality control plan, a statewide
15 one. The prohibition is in the water quality control plan,
16 in this case, the Ocean Plan. And so the permit just by
17 itself does not allow you to discharge into an ASBS. The
18 exception allows you to be part of a permit for those ASBS
19 discharges, so it's the way to be covered under a permit.

20 We recently made some changes to the Ocean Plan.
21 In January and April of this year the board approved
22 actually three different amendments. One amendment was
23 related to bacterial standards. Another amendment had to do
24 with reasonable potential analysis, and the third amendment
25 had to do with ASBS's and exceptions.

1 It recognized the classification of ASBS's as
2 state water quality protection areas, and specifically those
3 are a sub-set of state water quality protection areas that
4 are not only now written into the Ocean Plan, but are also
5 in state law according to SB 512 and the Public Resources
6 Code.

7 We named certain ASBS's consistent with other
8 marine managed areas. Here again, there's a little bit of
9 confusion. The marine managed areas are -- there are six
10 categories of marine managed areas, and the, the six
11 categories involve three that are what we call marine
12 protected areas, where marine resources are actively managed
13 by the Resources Agency departments, the Department of Fish
14 and Game and California State Parks. There are three other
15 types of marine managed areas. One is a cultural area,
16 another one is a recreation area, and then the sixth is a
17 state water quality protection area.

18 So AB 2800 created this new classification system
19 for all marine managed areas. There used to be 18 different
20 types and now there are just six. One of those are state
21 water quality protection areas, and sometimes they overlap
22 with one another. So, for example, you might have a marine
23 protected area like a marine reserve, and that will overlap,
24 or sometimes even coincide exactly with an ASBS in terms of
25 its boundaries. But, but they have different rules

1 associated with them. Fish and Game has their rules for
2 conserving marine resources there, and the state and
3 regional boards, we have our rules for protecting water
4 quality there. So we re-named certain ASBS's to be
5 consistent with the naming conventions of all the other
6 marine managed areas that are in existence now.

7 We added an appendix which lists all the
8 exceptions, and all of the exceptions to the Ocean Plan to
9 date are for ASBS's. And there is a new requirement that
10 all exceptions will be reviewed during the Ocean Plan tri-
11 annual review. That's doesn't mean they'll necessarily be
12 reopened, it just means that staff will be able to take a
13 look at those exceptions, get comments from the public. And
14 if there is cause to reopen them, we can at that time. It
15 doesn't mean we will.

16 So here are the five existing California Ocean
17 Plan exceptions. Shelter Cove, up in our Regional Board 1,
18 North Coast Region, has a treated wastewater plant
19 discharge. Carmel Wastewater District, which is associated
20 with Pebble Beach also, the treated wastewater from that
21 plant is allowed into the Carmel Bay ASBS. There are two
22 U.S. Navy exceptions. One is for San Nicholas Island for
23 desalination of brine, and the other one is for treated
24 wastewater from the San Clemente Island ASBS. And then I
25 recently just mentioned that we, the newest exception is for

1 Scripps Institution of Oceanography, which that exception
2 includes the marine lab point source discharges, as well as
3 their stormwater and non-point source discharges.

4 So as part of the recent exception there's a
5 requirement, and you can see it up on the, on the screen,
6 that natural water quality will be defined based on a review
7 of the monitoring data by an advisory committee. And that
8 advisory committee is -- excuse me -- set for its first
9 meeting on October 25th of this year, and we're going to
10 take a look at the data over the time of the permit, it's a
11 five-year permit, and, and will advise the regional board
12 whether or not natural water quality is being altered in the
13 ASBS.

14 So there's some frequently asked questions. How
15 do the ASBS fit within the state system of marine managed
16 areas. And I went through sort of the nomenclature, just a
17 minute ago. So the ASBS's are a sub-set of state water
18 quality protection areas. That's one type of marine managed
19 area. And they're designated by the State Water Board.
20 Only the State Water Board can designate a state water
21 quality protection area. And there are some issues. I know
22 recently, because of the Marine Life Protection Act
23 initiative that's going on in the central coast right now,
24 the possible siting of new marine protected areas, I wanted
25 to make it clear that just by siting a marine protected

1 area, like a marine reserve, for example, does not mean that
2 that area will become an ASBS. Any area that becomes an
3 ASBS, or any other kind of state water quality protection
4 area, that has to go through the board. So they're two
5 separate processes.

6 I get this question a lot, does the board want to
7 disrupt the natural runoff by prohibiting the wastes. And,
8 no, we only regulate waste. So, for example, if you had
9 natural runoff in a, in a pristine area, that's not a
10 prohibited situation. We only regulate waste. So if you
11 have runoff that then contains pollutants, that's what we
12 prohibit. And according to the Ocean Plan, once pollutants
13 enter the waste stream, in this case, let's say stormwater
14 runoff, the entire or gross amount becomes a prohibited
15 material. And that's according to the Ocean Plan.

16 So, you know, sometimes I get questions like well,
17 do you want to stop the rivers? No, we're not trying to do
18 that. Do you want to stop it from raining? No, we don't
19 want to do that.

20 So that brings up the next question, how clean is
21 clean. So, you know, if you have one part per trillion of
22 some chemical in the waste stream and it's otherwise very
23 clean, you know, that's an example that's sometimes asked of
24 me. And I think the receiving water in that case has to be
25 our guide. The Ocean Plan does allow for receiving water

1 for non-point sources as a guide to determine if the
2 standards are being met. The truth is, we'll probably never
3 get to zero in the near future. And there's a, there's a
4 couple of reasons that I give here; detection limits and
5 technology are just two of those. But that is no reason not
6 to begin to try to reduce our waste load into ASBS's.

7 So I wanted to give the status of some of the
8 exceptions that are working their way through the process.
9 The USC-Wrigley Marine Institute out on Catalina Island,
10 they're pretty far along in their request for an exception.
11 They have waste seawater from their point source, and they
12 do have some small amount of stormwater. It varies by the
13 year. Sometimes it's pretty dry out at Catalina Island, and
14 there's other years where, like this last year, where they
15 got deluged, but, and have a stormwater discharge as well as
16 their point source discharge.

17 Application has already been submitted to the L.A.
18 Regional Board. The state and regional board have been
19 working together to review that. And we do have a rough
20 draft of the initial study. It's not ready for public
21 review yet, but we've been working with the discharger, USC,
22 and with the environmental groups, and so we're pretty close
23 to being able to release that now. I would say probably
24 within a month it'll, it'll be released.

25 As I mentioned earlier, there's two islands that

1 have Navy discharges. The Navy has requested exceptions,
2 and you might wonder well, why do they need exceptions.
3 Well, they already got exceptions. Well, we sent letters to
4 the Navy, as well as to a lot of other folks here in the
5 room, stating that the stormwater discharges were not
6 covered and they would need an exception for that. At the
7 same time, the way I understand it is Vieques Island in
8 Puerto Rico was shut down or being shut down for Navy use,
9 and a lot of the Navy activities are being moved out to San
10 Nicholas and San Clemente Island, and so they're asking to
11 have the terms of their existing exception and permit
12 changed to allow some more flow.

13 Well, in the process of reopening up those
14 exceptions, we have, and through the L.A. regional board,
15 we've notified the navy that we are going to cover their, or
16 we're going to request that the board issue an exception to
17 cover their stormwater discharges, as well. So we would
18 include their stormwater and non-point sources and the
19 existing exception then would be reopened. So we would not
20 have a new exception added to our list. There would still
21 be, you know, two Navy exceptions, they would just be
22 changed to include the non-point sources.

23 Now, we did get some requests on certain
24 discharges that would be considered point sources, and I
25 have them listed here. The Fish and Wildlife Service out at

1 the Farallon Islands, verbally they've, they've informed me
2 that they're planning to replace that discharge with a land
3 discharge, and, and so it doesn't look like we're going to
4 need an exception there. We're still working that out with
5 Fish and Wildlife Service. But the point is that, you know,
6 we're not planning to issue an exception for sewage
7 discharge out at the Farallon Islands.

8 Redwood National Park has a sewage discharge.
9 It's up on top of a, a cliff. It probably only makes it
10 down to the ASBS when it rains, but on the north coast it
11 rains a lot. And they are in the process of designing and
12 building a, a new sewage plant inland, so we've sent a
13 letter to the National Park Service stating that staff would
14 not recommend including an exception for the point source
15 discharge, but for any of their stormwater and non-point
16 source discharges we would try to have those covered under
17 an, an exception.

18 And then Trinidad, which is a small community up
19 in the north coast region, they have a public fish-cleaning
20 station. We'll try to work with the discharger through the
21 planning process on how they can remove that, but basically
22 we sent a letter and said that we would not recommend an
23 exception for that fish-cleaning station.

24 So on the marine laboratories, and in the case of
25 Monterey Bay Aquarium, it's an aquarium discharge. We

1 recommend to the board that we work on individual exceptions
2 for those facilities, but those individual exceptions would
3 include the associated stormwater. That's been the approach
4 that we've taken with Scripps and with USC, and it's a
5 practical approach because sometimes the discharges are
6 actually commingled, so it's very hard to have separate,
7 definitely a separate exception wouldn't work, but also
8 separate permits in many cases wouldn't work.

9 And these are the four facilities that we would
10 recommend working on individual exceptions for, it's the
11 Bodega Marine Lab, Monterey Bay Aquarium, SU stands for
12 Stanford University Hopkins Marine Station, and Humboldt
13 State University, Tulana-Kerr (ph.) Marine Lab, which
14 actually does discharge at Trinidad, as well.

15 And I guess this is the, the main item that people
16 would like to know about. And this, again, it's just a
17 proposal at this point, a proposal to the board, as far as
18 how do we deal with the numerous stormwater discharges. As
19 you know, we had a survey done, lots of discharges. Most of
20 them are stormwater and non-point source. And some of these
21 stormwater were fairly large municipal type. Many of them
22 were from individual homes, I'd say the majority of the
23 stormwater from individual homes, as far as that, that
24 survey informed us.

25 So what would be some of the requirements for a

1 general exception if we approached all of these stormwater
2 and non-point source discharges with a general exception,
3 one exception for all of those types of discharges, which
4 are fairly similar. They would have to be covered after an
5 exception were granted, if one was granted, they would have
6 to be covered under an NPDS permit, a waste discharge
7 requirement, or a conditional waiver. That would be one of
8 the requirements that staff would propose. We would also
9 propose a prohibition of dry weather flows. Again, I'm not
10 talking about natural streams. I'm talking about stormwater
11 conveyances that carry dry weather flows.

12 We would recommend the control of wet weather
13 flows via an accelerated BMP -- process, and we would
14 recommend monitoring to ensure that natural water quality
15 and other beneficial uses are protected.

16 There's been some, maybe some misunderstanding
17 about the monitoring. We've kind of broken down the
18 monitoring into what we call pre-exception monitoring and
19 post-exception monitoring. The pre-exception monitoring, we
20 decided to take sort of a, you know, simple approach to it.
21 We realize it's not the, the most comprehensive approach,
22 but what we need to do is to get a basic idea up and down
23 the state, because we have these discharges that, you know,
24 many of the 34 ASBS's statewide. We'd like to get some idea
25 of what is being discharged now, and we'd like to

1 concentrate on the stormwater flows, because, as I mentioned
2 earlier, we're not going to recommend dry weather flows.

3 So in that, we sent out a letter, we identified
4 selected Ocean Plan constituents and some other likely
5 constituents. We'd like to encourage the groups to work
6 together, particularly when it comes to the marine biota
7 surveys. We are requesting inter-title and sub-title
8 surveys. And that collaboration I think would be very
9 useful if the stormwater dischargers worked with each other
10 and also maybe some of the marine labs in, in the areas, if,
11 if they do have those marine labs.

12 So the monitoring would include effluent
13 monitoring, receiving water and sediment. Oh, and I should
14 say, this is now what I'm describing is the post-exception
15 monitoring. If an exception were granted by the state
16 board, this is what staff would recommend. It would be much
17 more comprehensive, and it would include, as I said,
18 effluent monitoring and receding water and sediment
19 monitoring, marine biota community monitoring. Again, you
20 know, the inner tidal and the sub-tidal communities. And in
21 some cases, sub-tidal communities might be dangerous to
22 monitor, so you'd have to have some exception for that
23 exception, in the general sense of the word.

24 A mussel watch program for bio-cumulative
25 constituents, and in cases where there's sandy beaches we

1 could substitute sand crabs for mussel watch. I know the
2 central coast regional boards had a lot of success with sand
3 crab as a replacement for mussels. And, and I think this is
4 very important. We would recommend an allowance for
5 regional monitoring. Again, we're trying to encourage that
6 collaborative approach, and we realize that in certain parts
7 of the state where we have regional monitoring going on,
8 southern California and this local area here in Monterey
9 Bay, there is a great opportunity to expand those to, you
10 know, include ASBS's.

11 Here's a list of some other run-off activities
12 that we would recommend be included in a general exception.
13 There are some very limited agricultural discharges during
14 storms primarily in the Ano Nuevo area. There's grazing
15 discharges during storms that would be located in the Point
16 Reyes area. There are quite a few seeps at the area of
17 Trinidad, and, and those are mostly associated with septic
18 systems, but there's a possibility that some, like down in
19 Orange County, might be associated with irrigation systems
20 from golf courses and suburban development.

21 Mooring fields. Now, we have a couple of cases,
22 and I would recommend that in the general exemption we cover
23 those for the marine activities, mooring fields, piers, et
24 cetera, both cleaning activities. And small storm drains
25 from homes, I mentioned those earlier. That's the majority

1 of the discharges, is from individual homes. And so we're
2 going to have to, we're going to have to address that. I
3 don't really have the answers on that, I guess, yet. It's
4 possible that we might request that as part of the permit
5 coverage for an MS4, for example, to have some ordinance or
6 some attempt to address those homes through that. But I
7 think we're still working out some possible ways of
8 addressing that. That would be one of them.

9 So, again, about individual homeowners, how would
10 they be regulated. They could be regulated through the
11 MS4s. MS4s now do various types of regulation within their
12 areas for industrial activities and construction activities,
13 and could possibly do these individual homeowners that way.

14 How are we going to regulate natural streams?
15 Well, you know, I said that the exceptions and the discharge
16 prohibitions don't really relate to a natural stream. That
17 was an oversimplification. The natural streams do have
18 upstream discharges into them, and we realize that. And in
19 some cases, that upstream discharge might be, you know, it's
20 possible that that might be more of a problem than maybe
21 some of the coastal discharges, the direct discharges. But
22 we're not planning to try to regulate those natural streams
23 through this process. We're only planning to regulate the
24 direct discharges on the beach.

25 We do have a non-regulatory program that we worked

1 with with the California Coastal Commission, the critical
2 coastal areas program, and our state board non-point source
3 program and the regional boards' version of that non-point
4 source program. That would be one way to address those
5 natural streams, but we wouldn't recommend that we would
6 include those natural streams in the general exception.

7 Why not divert stormwater. Why don't we, why do
8 we have to have any discharge to ASBS, why can't we just
9 simply take all the stormwater and divert it. Well, the
10 truth of the matter is that the capacity does not exist at
11 wastewater treatment plants to do that, and it's doubtful
12 that in the near future that we would have that kind of
13 capacity. So we would not recommend the diversion of
14 stormwater. Now, you know, that's different than a dry
15 weather flow prohibition. Dry weather flows, if wastewater
16 treatment plant capacity exists, should be diverted, but not
17 stormwaters, because there's just not capacity to do that.
18 That's, again, staff recommendation.

19 And will there be a sunset clause proposed in a
20 general exception. I would not recommend that because I
21 don't see the technology to be able to handle a zero
22 discharge prohibition situation, because we don't have that
23 capacity in wastewater treatment plants. But we do have the
24 tri-annual review, and we could look at the exceptions over
25 time to see if they're adequate in protecting beneficial

1 uses. And from our point of view, as staff, that's what we
2 recommend would be the, the primary reason for this
3 exception, is to protect those beneficial uses.

4 You know, there's some controversy about the word
5 "exception". It's what we have to work with now. But I
6 like to think of it as protections for beneficial uses.
7 It's the special conditions that are allowed under state law
8 that are the mitigating conditions through CEQA in the
9 exception process. And so I think that the tri-annual
10 review is the way to go, rather than a sunset clause.

11 And I think that's the end of my slides, so I'll
12 turn it over to Leslie, from the Division of Financial
13 Assistance.

14 MS. LAUDON: Okay. Thanks, Dominic. I want to
15 give you a really quick overview of our upcoming 2005
16 consolidated grant program, and then I also just wanted to
17 mention that we will be taking funding recommendations for
18 our Chapter 8 integrated regional water management coastal
19 planning grants to the board at the October board meeting,
20 so those recommendations will be coming out in late
21 September and we'll have a board workshop.

22 Okay. Our 2005-06 consolidated grants are in the
23 planning process right now. We have the money from both
24 Props 40 and 50 and also federal 319 program. We may also
25 have some Prop 13 left over additional money that we can put

1 into the program. And in total, it's approximately \$152
2 million that will be available. We have eight different
3 funding programs that we're consolidating in this RSP
4 process. We have coastal non-point source, which is
5 probably of the most interest to the people here, and I'll
6 go into a little more detail on that program. We have \$43
7 million available for that.

8 We have Prop 40 non-point source, 19 million. We
9 have some federal money, about four million. We have Prop
10 40 and 50 ag water quality money, and that totals about \$14
11 million. We have Prop 40 urban stormwater for about \$14
12 million, also. And then we have an integrated watershed
13 management program that's a rather large one, that's 47 and
14 a half million. And then we have some money that we didn't
15 award during our 2003 consolidated grant programs, and those
16 are the CalFed drinking water and water quality programs, so
17 that's about \$9 million.

18 The Prop 50 coastal non-point source. As I
19 mentioned, we have \$43 million available, and our board
20 passed a resolution in June that designated at least \$10
21 million of that for ocean protection projects. And those
22 projects will have to meet the priorities of both the State
23 Water Board and the California Ocean Protection Council.

24 The Prop 50 coastal non-point source, the maximum
25 grant amount is \$5 million, and municipalities, local public

1 agencies, educational institutions and non-profit
2 organizations are all eligible to apply for that funding.
3 There are match requirements in the statute. It's 20
4 percent match for projects that are between \$1 and \$5
5 million dollars, 15 percent match for projects that are
6 between 125,000 and a million, and then ten percent for
7 smaller projects.

8 The types of projects that we can fund are
9 projects that improve water quality at public beaches to
10 meet bacteriological standards, projects that provide
11 comprehensive capability for monitoring, projects that make
12 improvements to sewer collection and septic systems, and
13 then projects that implement stormwater pollution prevention
14 programs, or projects, it's kind of a broad category, that
15 are consistent with the state's non-point source control
16 program. And the Prop 50 coastal non-point source also
17 requires us to give preference to ASBS's and to discharges
18 into areas that are on ASBS review list.

19 Some of the requirements that are in the statute
20 also for the projects, that the projects must demonstrate a
21 sustained benefit to water quality for 20 years; they have
22 to address the source of degradation, not the symptoms; be
23 consistent with water quality and resource protection plans;
24 and then include a monitoring and reporting program that
25 identifies the non-point source pollution and describes the

1 baseline water quality, and then describes how effective the
2 project (inaudible). So when you implement a project, there
3 is also money available to monitor the effectiveness of one
4 the main points here.

5 The timeline that we have for getting this money
6 out is we had some stakeholder workshops last month to do
7 some initial scoping on priorities and things like that, and
8 we're working right now to incorporate all of that into
9 guidelines which we will be putting up on our website
10 probably in late September, and then we will be having
11 workshops to take public comment on those guidelines during
12 October. And we plan to take the guidelines to the board at
13 the January board meeting to have the board adopt the
14 guidelines.

15 And we're planning to do a two-step process in
16 this grant program. So initially, people would provide us
17 with fairly brief concept proposals and we expect to have
18 those due then in February, and then a certain percentage
19 that really have the, the high priority projects and good
20 projects will be invited back to give us full proposals.
21 And we expect to invite people back probably in about March
22 to give us the full proposals, and have the proposals due in
23 April. And then, because of the large number of programs
24 and, and money, we'll probably stagger the awards, depending
25 on the programs and the funding appropriations when we need

1 to get the money out and take them to the board in a series
2 of recommendations, probably from September to November of
3 2006.

4 We have a lot more information. I just wanted to
5 give you a really quick overview at this meeting. There's a
6 lot of information on our website, and like I say, we'll be
7 getting the draft guidelines posted up there probably later,
8 at the end of September. We also have an electronic mailing
9 list that you can subscribe to. It's on the state board's
10 main web page, it's on the right side. We have a full
11 series of subscribe/unsubscribe button, and if you go there
12 you can go down and we do have a mailing list. So I'd
13 encourage you to sign up for that because that way you'll
14 get notices by e-mail of any workshops we have, or
15 availability of draft guidelines and documents and things
16 like that.

17 And then I just wanted to mention we're having a
18 couple other events. We are having a funding fair up in
19 Sacramento at the Cal EPA building, and bringing in the
20 regional boards and our partner agencies from like the
21 Resources Agency, a lot of different state agencies who have
22 grant programs. And so we'll all be there to answer
23 questions and, and give information on our various funding
24 programs. And then we also have an (inaudible) conference
25 up in Sacramento from November 7th and 8th, to talk about

1 various projects that we funded, and things like
2 (inaudible).

3 So that was my overview, and I'll be around if
4 people have questions, or you can always log on to our
5 website. Thank you.

6 VICE CHAIR SILVA: Thank you, Leslie, thank you,
7 Dominic. And you'll be available for, obviously for
8 questions from anybody.

9 Next on the agenda, before we go to the
10 commenters, we wanted to have Scripps Institution give us an
11 update on how they've been doing. They were one of the,
12 they were actually the first ones to come up in terms of
13 actually applying for a permit for ASBS discharges, so we
14 wanted to hear from Scripps. Is that -- yeah, you can come
15 up.

16 SPEAKER: This will be a really brief update. I
17 think it's really more important to hear from these people
18 here because a lot of people here have heard our story along
19 the way. And Kimberly O'Connell (ph.) at UCSC is the one
20 who is actually in the implementation of this now, and she
21 is involved with the technical details. And I think the
22 reason that she can't be here is, is probably the biggest
23 update I can give you, is that she is diligently working on
24 all of the reporting and monitoring, and cannot, cannot
25 break away from her (inaudible) in order to be here, so that

1 we can meet all the requirements and the reports that are
2 due.

3 I, I thought I would take this opportunity to make
4 one clarification that I don't think was substantially made
5 at the last workshop, and that is the Scripps exception with
6 -- it definitely should be made, made clear that we have
7 both a point source and a non-point source problem, or
8 issue, and that a major amount of the infrastructure and
9 funding that we are going to be designating towards this
10 project is re-plumbing our stormwater and our, and our other
11 plumbing. So we've talked about a number at the last
12 workshop of what this was going to cost us, and I think it
13 should be clear that over two-thirds of the pipe (inaudible)
14 that we have for this project, more than two-thirds, is
15 designated towards our particular re-plumbing the whole
16 institution as opposed to the stormwater part, and that
17 might have been a misperception from the last workshop. But
18 I just wanted to make clear at this time.

19 And also I think that one of the things that we
20 have needed in implementing this permit is cooperation from
21 the various agencies in, in some of the technical details.
22 It's sometimes just not possible to get -- well, we have
23 some (inaudible) now, but we're now trying to coordinate all
24 this. And, and having everybody work together as, as a team
25 as much as possible, because I think the intention is to

1 make sure that we don't harm our resources. The dialogue
2 that you're about to have here today and that we've been
3 engaged in the last couple of years is about how that is
4 done.

5 And I think that everybody should keep that the
6 intention is not bring harm to our, our areas of biological
7 significance. But I think everybody has to bring -- I mean,
8 the conversation is open on how that, how that was done, and
9 that's what the workshop is today. And that's my update.

10 VICE CHAIR SILVA: In terms of time, and any idea
11 in terms of when -- what's the timing in terms of getting
12 the permit from Region 9?

13 SPEAKER: The permit?

14 VICE CHAIR SILVA: Yeah, the permit itself. I, I
15 know you have one, but don't you have a monitoring program
16 and all that set up?

17 SPEAKER: Right. In 2007 we have to be --

18 VICE CHAIR SILVA: Okay.

19 SPEAKER: Yeah, 2007 is our, is our target date to
20 have everything (inaudible) and be in compliance.

21 VICE CHAIR SILVA: Well, it's fascinating to me, I
22 guess, I mean, we've sort of come full circle because I
23 think the ASBS's were started in part because of Scripps
24 asking to be, have an area protected for research, and now
25 we've come full circle in terms of asking Scripps to take

1 care of it itself. I mean, just a fascinating history of
2 ASBS's.

3 SPEAKER: And no one should underestimate this,
4 the bigger conversation about urban runoff, and the fact
5 that the thing you're taking on here is, is actually it may
6 be a bigger question for the people who are doing
7 (inaudible) for the research purposes in the beginning. So
8 we're, we're happy to be part of this dialogue and offer any
9 kind of -- we have tried to engage our research community
10 into certain areas of this, both -- we're going to be
11 focusing on how we might be able to bring some of the
12 investments that have already been made in the state and
13 some of the coastal monitoring and things to come up with an
14 information management and inspiration system that would
15 serve the, the -- as a model and leverage some of the money
16 that's being invested in, into the (inaudible). And begin
17 to talk about how we would frame a more (inaudible)
18 assessment in the receding water. And those, those are two
19 areas that we're going to focus on that are a little above
20 and beyond the permit, but hopefully it will speak to some
21 of the issues.

22 VICE CHAIR SILVA: Thanks a lot. Thanks a lot for
23 the update.

24 Again -- now we'll go public comment. Again, I've
25 kind of -- like 22 cards in five minutes, that's about the

1 two hours that we have, so I'm going to ask you to keep,
2 keep your comments to about five minutes, and I'll try to
3 keep you honest as we go forward.

4 First, Carlos Urrunaga.

5 MR. URRUNAGA: Good morning, ladies and gentlemen
6 and the board. My name is Carlos Urrunaga. I'm an
7 environmental scientist with the municipal stormwater unit
8 of the Los Angeles Regional Board.

9 I'm here this morning to express our concerns with
10 the monitoring instructions in the letters that were sent
11 out to municipal stormwater discharge (inaudible),
12 particularly because they involve the investment of
13 significant resources by the MS4's, it's important that the
14 data generated will adequately characterize the potential
15 impact of stormwater discharges to the ASBS's and assist the
16 state board in making an informed policy, long-term policy
17 on areas of special biological significance.

18 The southern California regions have worked for
19 many years with the MS4's to bring sophistication to the
20 stormwater monitoring programs, particularly through the
21 stormwater monitoring coalition. So what would we suggest.
22 The intended goal for the monitoring ought to be clear.
23 Dominic definitely made that clear today, so we encourage
24 that (inaudible) that there isn't this mis-communication.
25 This is very positive, so we thank you for that.

1 We, since the Southern California Coastal Water
2 Research project prepared the ASBS report and has excellent
3 expertise in coastal ocean monitoring, the state board, we
4 believe, should ask this board to recommend a monitoring
5 program that best meets the state board's purpose. Also,
6 communicate the objectives clearly and let the MS4's submit
7 the monitoring to the regions and state board for their
8 approval. We would personally prefer this (inaudible)
9 concentration option because it will advance consistency in
10 the statewide policy and alleviate staff demands in the
11 region.

12 Thank you for the opportunity to comment.

13 VICE CHAIR SILVA: Thank you.

14 Dan Albert.

15 MR. ALBERT: I'm Dan Albert, and I am the Mayor of
16 Monterey. And to start with, I would like to thank the
17 board for holding the workshop, this meeting and workshop,
18 in the city of Monterey. Also with me is our city attorney,
19 city manager, and one of our leaders in our public works
20 department. This is a vital issue, as you might well know,
21 for the city of Monterey.

22 Let me just start off by saying that the city of
23 Monterey, we feel that we've always been stewards of the
24 previous bay that we have and the, the sanctuary. And it
25 really is our intention to, to continue with that kind of an

1 attitude towards this great resource that we have. We have
2 also been acknowledged as leaders in our region and
3 throughout California for work, meeting federal stormwater
4 mandates.

5 But let me just, let me just say this as the mayor
6 of the city, that you might well understand that we have
7 responsibilities, great responsibilities, for our resources
8 that we have, to finance them. We have our police
9 departments, we have our libraries, we have our street
10 maintenance, we have all of those that we have to look out
11 after. And, and basically what we're, what I'm here to say
12 is that what I understand is being asked of us will take a
13 tremendous amount of resources, mainly money, that we need
14 desperately to, to handle the bunches that we have as a
15 city.

16 So I, I think, I think just in a few words to say
17 that we really believe that there needs to be some common
18 sense to all of this, and a realization that as a city that
19 has benefit greatly from, from the bay and from the ocean,
20 we understand that. But there needs to be some common sense
21 approach to this for, for cities to be able to afford those
22 necessary community needs that we, like I said, such as
23 libraries and, and safety in our communities.

24 So with that, I would plead in this workshop that
25 you understand that, and you understand that we do have

1 these concerns. Again, we're very very proud of what we
2 have and we want to work with you, and we believe this
3 workshop is a, is a step in the right direction.

4 Just one other thing. If the state is going to
5 ask us to, to do this, we look at that as a mandate and, and
6 state resources should come with that to help us, to help
7 cities. So with that, thank you very very much. And again,
8 I know that our city manager, I don't know if he's next, but
9 he would like to say --

10 VICE CHAIR SILVA: Sure. That'd be fine.

11 MR. ALBERT: -- that's Fred Meurer, our city
12 manager. Thank you.

13 VICE CHAIR SILVA: And again, thank you for, for
14 helping us out on the hearing today.

15 MR. MEURER: Thank you, Mr. Chairman. My name is
16 Fred Meurer. Before I start, I would like to submit for the
17 record the city council's policy regarding this issue, and
18 I'll give it to the staff.

19 VICE CHAIR SILVA: Sure.

20 MR. MEURER: Thank you. I've just come off
21 several months of working with the Base Closure Commission,
22 and as I see you sitting here I see a very similarly
23 difficult position that you're of trying to balance
24 sometimes competing public policy and public objectives.
25 And that's really what we are asking you to do as you move

1 forward with the rulemaking and the policy making associated
2 with the ASBS.

3 God had a plan for rainwater, and that was to flow
4 into the ocean. We're seeing what happens when people try
5 to defy that.

6 VICE CHAIR SILVA: We don't want to mess with God.

7 MR. MEURER: But some of the rules as they're
8 stated today sort of violate that plan. I mean, it is
9 somewhat irrational to think we're going to stop stormwater,
10 and as Dominic said, that's not your objective. But when
11 you look at some of the criteria associated with the
12 stormwater that is conceived as going into the bay, some of
13 those objectives are just not obtainable or will not be
14 rational to the common person on the street, the ones that
15 ultimately have to pay for this. And that's one of my
16 largest concerns. As we chase environmental protection we
17 get to the point of saying are we really going to ask for
18 stormwater standards that are higher than our --

19 (Note: End tape labeled Part 1,
20 Side A. Start tape labeled Part 2,
21 Side A.)

22 MR. MEURER: -- drinking water standards, that
23 will defy what the man on the street thinks is reasonable.
24 We shouldn't do that. If we are going to look at spending
25 millions and millions of dollars which are appropriately

1 spent, we need to make sure that the benefit associated with
2 that expenditure is relative to the cost. That the pure
3 pursuit of data for the benefit of collecting data, as
4 opposed to having a firm end goal in mind, will again work
5 against public support of what we all want to do, which is
6 to protect the ASBS.

7 The dollars that were shown on the screen sound
8 like big numbers. It might take care of L.A. County. It in
9 no way takes care of the problem that you are trying to
10 address for the coast of California, or even the central
11 coast of California. It is truly a drop in the bucket. As
12 the mayor said, in many ways we look at this as (inaudible)
13 creek on the part of the state, and therefore a high
14 obligation on the part of the state to help the
15 municipalities fund it.

16 I would argue that you should take those millions
17 of dollars that were discussed a moment ago and earmark
18 those for the highest priority ASBS's. Let's do the work
19 first, as you perceive it. And rather than going through
20 the ritual of the state granting process, allocate those
21 dollars to those worst first, and say cities, counties,
22 private sector folks, your match is such and such, the state
23 is bringing this money, as opposed to dribbling out these
24 dollars to make everybody feel they got a little bit and
25 nobody having enough money to actually meet the obligations

1 that come with the type of monitoring plan, and so on, that
2 we have.

3 We are all for a rational reduction of waste. I
4 hope you'll also take on let's stop some of the waste at the
5 source. We have a copper problem. Well, let's take on the
6 copper problem by talking about are we going to allow copper
7 gutters and downspouts, are we going to allow copper and
8 other heavy metals and (inaudible). We need state
9 regulations to keep the stuff from getting on the side of
10 the road so it doesn't flow to the bay at that time. Now,
11 that's a bigger issue than just regulating the so-called
12 middle men that we view ourselves as. We, we just happened
13 to be there when it rained and it flows off our streets.

14 We need to make sure collectively, as we're
15 working with the environmental groups, as we're working with
16 the regulators, that we don't let the pursuit of the perfect
17 blind us from the common sense good enough. You know, the
18 endangered species act was not perfect, but it brought us a
19 long way. We still have a long way to go. We need to
20 approach this in the same way. Let us be rational as we try
21 to describe (inaudible).

22 I mean, I looked at the ASBS's at state parks. We
23 had this discussion, what is natural water quality? In my
24 mind, that should be the state's obligation to define that,
25 and then let's measure how our stormwater deviates, or

1 causes a deviation from that. It may be that there is no
2 problem. Yes, we can measure and detect at the end of the
3 pipe, but what is happening in the (inaudible). That's what
4 we should be measuring. What is it that I can point to to a
5 person that's saying, okay, I'm going to take a dollar from
6 the library or from the police and I'm going to put it in
7 stormwater. And that, you know, I have to use general fund
8 because I don't have anything other than a taxing mechanism
9 to generate the other revenue.

10 So it's always a diversion from some other public
11 need. And I've got to prove to the public that spending
12 that dollar is going to make the environment better in a way
13 that they're going to recognize. And we need your help in
14 setting rules that will allow me to do that, allow the mayor
15 to do that.

16 The final request I have, and it's a request I
17 have to our environmental partners, is we have to convince
18 the state legislature that we need to amend Prop 218 so that
19 we treat stormwater as a utility like we treat sewage, and
20 that we have the capability of putting keys in place to
21 address this problem so we're not competing with policemen
22 and firemen, and librarians, because it just won't work
23 under the current funding mechanisms.

24 Again, thank you for coming to Monterey. We
25 really appreciate your being here and giving us this

1 opportunity.

2 VICE CHAIR SILVA: Thank you. You've brought up a
3 lot of, a lot of good points, concerning MS4's for example,
4 and other things you've been struggling with. So I'm sure
5 we'll talk, we'll talk at length about them.

6 I see -- Sue McCloud.

7 MS. McCLOUD: Mr. Chairman, members of the board,
8 and staff, I am not going to read the statement that
9 represents the views of counsel, but I think I gave each of
10 you a copy. But I would like to stress a few points and
11 also to endorse the comments of, that Fred Meurer just made,
12 because there's a lot of, a lot of wisdom and experience
13 there.

14 The context of my remarks would be that in the, in
15 the sense that we certainly place great value on everything
16 that your mission and statement and goals are trying to
17 achieve obviously (inaudible) Carmel by the Sea, it says it
18 right there, so we're definitely preaching to the choir.
19 But let me describe a little background, I think, about
20 Carmel by the Sea, so that it puts it in the context of what
21 our particular concerns are. And you get state agencies,
22 which are sometimes in conflict.

23 On the one hand, we're a very small community of
24 4,081, by the last census, but it swells to maybe several
25 times that, of course, with, with the people who come to

1 visit. And the Coastal Commission, we've just finished
2 getting our local coastal plan approved in the end of last
3 year, in October of '04, and, of course, they want to
4 promote access to the beach, and everything that we do is to
5 open it to the beach. So you have people coming in who we
6 have to try to instill the same goals and values that our
7 residents have.

8 Secondly, if you were in our chambers you would
9 see behind where the mayor sits that there is a sign, one of
10 the resolutions that was passed in 1927, which governs the
11 city, and that is that our primary goal is to be a
12 residential community, not commercial. Commercial is
13 secondary to our residential community. So what we have are
14 businesses that cater to the residents, about half of whom,
15 by the way, are full-time residents of the, of the area, and
16 half of them are, use them as second homes, and the
17 commercial that might support our tourism industry, such as
18 it is.

19 What I think illustrates rather dramatically, and
20 I apologize that the copy that's attached to what I passed
21 out is probably not clear and maybe this says it a little
22 more, courtesy of Triple A high tech here. But between
23 these two red dots here, this is the Carmel Bay. This is
24 the one-mile square Carmel, the western boundary is one
25 mile, so we cannot do anything on this bay without the

1 cooperation of all those others who border us. That
2 includes the Pebble Beach Company, the state and the county.
3 So we need to have your understanding that singularly, we
4 need to work together in order to achieve what your
5 objectives are.

6 Secondly, we have in the city about ten percent of
7 open space, so you have a lot of permeation, and we have
8 40,000 trees in that one mile square, so all of that helps
9 to, helps to stop the runoff and help it go into the ground.
10 We have a lot of springs, and as a matter of fact, that
11 helps the city water our landscape, but we also require our
12 residents to have drought tolerant landscaping so that
13 you're not seeing a lot of water going into the runoff.
14 Our, our problem within the city, if you wish to put it in
15 those terms, is that we're talking about stormwater. During
16 the dry season, we have very few effluents that go down our
17 slopes, and our city is virtually all sloped toward the sea.

18 I suppose what we, if we followed the exhortation
19 of a person who wrote a letter in the local newspaper
20 recently, and, and we all got down on our knees and prayed
21 that the water would run uphill, we would really not have a
22 problem that we would have to address with you.

23 We also have very narrow streets, and we, we've
24 retained 10 to 25 feet on each side of the roadway to have
25 what we call a linear greenbelt, again, to help permeate

1 the, the water instead of forcing it into the streets and
2 into the runoff. We've done a number of things, we think,
3 to be proactive over the, perhaps that last decade, since
4 1995, and those are enumerated in the, in the document. I
5 want to stress a couple of things. We've worked with the
6 city of Monterey and the Monterey Task Force to try to
7 educate the people as well, because that's one of the things
8 that the city manager of Monterey brought up, is that we
9 need to work with the citizens to understand what it is
10 we're asking them to achieve.

11 And to underscore a point that he made, we did
12 hire a firm to try to put together a stormwater utility
13 district, and the fee for that would have been less than \$3
14 per month to each resident of Carmel, and that was defeated.
15 So you can see that we have, if we wish to get people behind
16 what you're doing, we, we need more understanding of what
17 the consequences are to not support this.

18 By the same token, we've gone to the other extreme
19 and worked with the Boy Scouts each year, and every single
20 one of our storm drains is under (inaudible), no dumping
21 runs to the sea. So we're not only educating the Boy Scouts
22 and getting their help, but we're getting their help to, to
23 perpetrate the idea that we have an issue that we're going
24 to deal with.

25 So in sum, I underscore for the council and for

1 your consideration that there's not going to be a time that
2 I think we can just switch -- push a switch and we have no
3 runoff problems. We're going to have to set a reasonable
4 timeline, we're going to have to work together, as I hope
5 I've shown with the map, that we all share in the Carmel
6 Bay. And some of those things I've enumerated, there are
7 five points, I won't reiterate them, but it, it talks about
8 a working group with your help.

9 Some of the other things that I think we need your
10 help, not just the, the funding, and I thought Fred
11 presented an interesting idea, which is looking to you to
12 set priorities and maybe address those as the funds are
13 available down a priority list, rather than the old adage of
14 cutting off a little bit of a table leg each time and you
15 end up with, you know, an uneven table when you're finished.

16 But we, we do not permit motorboats, you know, any
17 zodiac or anything with a motor to land on the Carmel Beach.
18 We have no authority, because we've checked this with the
19 Coast Guard, we have no authority to stop boats that are in
20 the surf. So the pollution, no matter what we do with our
21 stormwater runoff and what's in that water, is undone by an
22 increasing number of boats whose motors are going up and
23 down pulling either people or just cruising, and whatever
24 effluents are coming from their, from their motors. So some
25 of those things we would need your help to undertake

1 something that would stop that.

2 So again, I thank you for coming here and, and
3 hearing our thoughts and consideration, and we're certainly
4 behind you all the way, but we hope that there's some
5 understanding that we can do this together. Thank you very
6 much.

7 SPEAKER: I have one question. You struck a chord
8 with me when you were talking about the fee, the \$3 fee that
9 was defeated, and that is our frustration also. The
10 citizens of California certainly want clean beaches, clean
11 streams, et cetera, but every time it comes to passing some
12 type of fee like that, almost invariably it gets defeated.
13 And you said they need more education. How do you think we
14 can better educate the public to the needs, because these
15 are the same people that are saying we don't want dirty
16 beaches, we want to be able to swim in them 365 days a year,
17 but, oh, no, don't tax me \$3 a month.

18 MS. McCLOUD: Well, it gets back to the -- the
19 first thing is the anti-tax. There's just a feeling against
20 further taxing. So that's a whole bigger issue than this
21 one. I think that people did not believe what we were
22 saying that was facing us and how we were going to be able
23 to fund it as a city. Perhaps some partnering, as we heard
24 today, as the funds that would be available, what we can
25 look at for the fund. Because every city, as you know, has

1 been hit this past couple of years with financial problems,
2 and we are increasingly getting state funded, federal funded
3 mandates with no funds. So if there's some way that it can
4 be done positively and show the partnership that we heard
5 earlier, that may be a good step in the right direction.

6 But I think pointing out the consequences, we live
7 by our sea, as Monterey does, and Pacific Grove, and, you
8 know, we don't want to see it polluted. We all support the
9 aquarium. So there should be some residents here, of any
10 place, you would think that there would be some receptivity
11 to exactly the point you're making.

12 SPEAKER: Thank you.

13 VICE CHAIR SILVA: Thank you.

14 Mayor Jim Costello. And then Rich Guillen, if you
15 can get ready. We'll just be calling the person after.

16 (Inaudible comments.)

17 VICE CHAIR SILVA: Oh, you will? Okay. Thank
18 you. Go ahead.

19 MR. COSTELLO: Thank you. And we're glad to see
20 you here on the peninsula.

21 I want to, I have a statement which I'd like to
22 give you, and I want to summarize it, but before I do I'd
23 like to address the last question.

24 Being a teacher, I happen to think strongly enough
25 about this that I left my kids today with a sub. But I am

1 convinced that kids are the answer to solving this problem.
2 We start educating kids as to the problem and it gets a lot
3 easier to pass something at the ballot place when they talk
4 to their parents. We have done that successfully in Pacific
5 Grove with a similar issue with our sewers, where we had
6 kids involved in a campaign to create grease containers.
7 And, you know, they're the ones who telling their parents
8 don't wash that grease down the drain. So I think that's
9 something that we really need to look at.

10 Our statement includes a lot of things you've
11 heard before. We know there's a problem. We want to work
12 on the problem. We have done something. You are going to
13 see this afternoon our diversion program, which is, we
14 think, fantastic. We have a city council that wants to put
15 nothing out there. We need to do that. We need some time.
16 We need some cooperative effort, and we need some money.
17 But we know it's there.

18 Sunday, I was out off Pacific Grove in my kayak
19 looking at a flock of pelicans, remembering when I first saw
20 a pelican, because DDT had almost eliminated them. And the
21 legislation brought them back, didn't it. So I think we can
22 do the same thing here. But monitoring is, is really
23 necessary. And we, you know, we're just seeing now copper
24 and zinc, where did they come from? Rain gutters, roofing.
25 There are other technologies. So we need to, we need to

1 have that monitored to get the data and see how we can make
2 those changes.

3 We're going to things that are going to be
4 required in our newest public buildings. Mitigation
5 measures. We want to work together, we have been approached
6 by environmental groups that are going to help us with the
7 funding. We want to do something. We need it to happen.
8 We need time, and we need money. We need to look at what's
9 being done elsewhere.

10 I happened to see a demonstration project at
11 Monterey's sister city in Japan, where they were
12 experimenting with the same thing. It's, it's happening
13 everywhere. We want to get on board. We want to look at
14 that. We want, as I say, funding. And we saw some ideas
15 for that. We have others. But we are, we are serious. We
16 love our bay. We're going to do something, and we
17 appreciate your coming here to listen to us. And let me
18 give you the statement. Thank you.

19 VICE CHAIR SILVA: Thank you, Mayor, and I guess
20 we're going to see your facility afterwards, so I look
21 forward to that.

22 Next, D'Anne Albers, and then Greg Nesty, after
23 that.

24 MS. ALBERS: Good morning, board members and
25 staff. I'm D'Anne Albers, Executive Director of Friends of

1 the Sea Otter, and I'm representing our 400 - 4,000 members.
2 And we feel that other than humans, we represent one of the
3 species most at risk from polluted stormwater runoff. We
4 support strong protection of the ASBS water quality and
5 discourage the board from taking any action that would
6 diminish this ocean protection.

7 As both the Pugh (ph.) ocean report and the
8 government ocean's commission reported, the oceans are in
9 crisis. The coastal pollution and polluted urban runoff
10 contributes to this crisis. Monterey's coastal waters have
11 consistently been shown to have among the highest levels of
12 zinc, copper and phosphate contamination among the central
13 coast cities monitored by the Monterey Bay Sanctuary First
14 (inaudible) project. We support bold actions to stem the
15 flow of land-based pollution.

16 And on another note, we, our organization does
17 have an active education program. We do go out to schools.
18 We do have otter spotting along the coast, and within that
19 we can incorporate education on the ASBS and the effects of
20 stormwater onto these areas.

21 So we urge you to adopt the compliance schedule
22 approach that will be discussed later in these comments.

23 Thank you.

24 VICE CHAIR SILVA: Thank you. Do you have a
25 question?

1 SPEAKER: We've heard from a number of mayors now,
2 and basically what they are saying is they have the same
3 goals that you do, but they need time, they need money, and
4 they certainly need education in terms of their populace.
5 So my question to you and for the other environmental groups
6 that'll speak today, I would like them to respond to this
7 also, is where do you propose that the cities and counties,
8 the entities, get the money in order to be able to comply
9 with the terms of the ASBS agreement?

10 MS. ALBERS: Well, I think, you know, the, the
11 list of available moneys that the staff presented I thought
12 offer great opportunities for grants. And I think our
13 organization, and some of the others, have offered to the
14 cities to work with them in helping do these grants and make
15 sure that the money is available, and to put it on a
16 timeframe that the cities can work with. And we all want
17 the same goal. We all love the bay, we all want it to be
18 the best that it can be. So I think if we can work
19 together, and hopefully we can, that all of this, you know,
20 can work to everyone's benefit.

21 VICE CHAIR SILVA: Okay. Greg Nesty. And then
22 after that is Chris Coburn.

23 MR. NESTY: I'm Greg Nesty, environmental director
24 --

25 VICE CHAIR SILVA: You have to come to the mic.

1 Just twist it up. Just twist it up.

2 MR. NESTY: I'm Greg Nesty, environmental director
3 for the Trinidad Rancheria. And we sent a letter to the
4 state just last week. I'd like to read that letter into the
5 record with some annotations.

6 SPEAKER: And we have received the letter, sir?

7 MR. NESTY: I can't tell you that.

8 SPEAKER: I haven't received it yet.

9 MR. NESTY: Okay.

10 SPEAKER: Well, please do give us a copy, but if
11 you could summarize the letter --

12 VICE CHAIR SILVA: If you could summarize. You
13 don't have to read it all.

14 MR. NESTY: We are primed for actively to respond
15 to issues that you raised in your various communications
16 with us. Trinidad Rancheria has purchased a refrigerator
17 van to hold fish carcasses from its fish cleaning station
18 until they can be picked up by a fish waste recycler. We've
19 conducted a test of the effectiveness of hot water cleaning
20 of our boat hulls, hot water pressure cleaning, rather than
21 a bleach cleaning method that we previously employed, and
22 we've had some success with that test and plan on purchasing
23 a pressure cleaner for our next boating season.

24 So, and not mentioned in my letter to you are some
25 additional proactive measures that the rancheria has taken.

1 We have conducted a water quality monitoring for the last --
2 program for the last two years, concentrating on the
3 possibility of effects from petroleum over the years, heavy
4 metal and bacteria, and we can share that data with you. It
5 wasn't an exhaustive program, but we have no evidence to
6 indicate that operations in the harbor are doing any harm to
7 the Trinidad ASBS.

8 We also have a water quality education program
9 with our youth. They go out on various field exercises. We
10 have done a cooperative presentation with the school system
11 in Trinidad on ocean -- plastics in the ocean. Our kids
12 every year do a beach clean-up. Trinidad Rancheria
13 sponsored a Humboldt State University diving club clean-up
14 of Trinidad Harbor and removed a couple truckload of metal
15 stuff. So we're working proactively, but we need to see a
16 measure of reasonableness in the state's enforcement
17 program.

18 We understand that the reason why Trinidad kelp
19 beds ASBS was selected for early high priority enforcement
20 was because of its pristine condition, and we understand
21 that it kind of makes sense to protect the most pristine,
22 the most pristine ASBS's from the possibility of damage.
23 And that would particularly make sense if Trinidad Harbor
24 were in a situation where we could expand our operations and
25 change the character of our operations. But we have a very

1 limited land base. The land base is already built out. We
2 have a very limited mooring field. It's protected by
3 Trinidad Head. That mooring field is already spoken for and
4 fully utilized.

5 So we don't visualize in the future that there is
6 any potential for increased discharges or an increase in the
7 character or the magnitude of our operations. So we do take
8 exception to the logic that the state has followed in this
9 case, particularly when it's based on kind of anecdotal
10 operations. We pull our moorings each year because we have
11 to. The wave climate is such that we can't keep a permanent
12 mooring in the water. It would wash up on the beach. So
13 the fishermen pull their moorings, and I guess in a drive-by
14 observation this was observed by one of the staff people,
15 and they said oops, we saw some kelp, some kelp on those
16 moorings, so it may be that pulling the moorings each year
17 was damaging the Trinidad ASBS kelp beds.

18 Well, you know, we really can't go into
19 prohibitively expensive monitoring and enforcement programs
20 and try to change mooring operations that have existed in
21 what the state itself classifies as a pristine ASBS for the
22 last 75 years. You know, these are the same operations that
23 have been going on as long as people have moored boats and
24 fished out of Trinidad Harbor, yet the harbor ASBS is still
25 viewed as pristine. So we think a measure of logic needs to

1 be introduced into that process and not force us down the
2 road to changing what, what may not even be feasible to be
3 changed, and to the wave plan that we have.

4 The letter that we most recently got mentioned for
5 the first time the state's concerns with stormwater
6 discharge. Our original letter in October of 2004 merely
7 mentioned the fish-cleaning station and associated marine
8 operations. And by phone conversation with state board
9 staff, we learned that they were also looking at the, the
10 pulling of the moorings, the washing of the moorings and the
11 washing of our, of boats in the harbor. But now most
12 recently, six months later, we learn -- actually ten months
13 later, we learn of a concern about stormwater discharge.
14 We, we ask why was this not put on the table in the
15 beginning so that we understood where we stood.

16 It has some practical implications, because we've
17 gone through a cycle of, of Prop 50 funding applications.
18 Trinidad Rancheria, as a Indian tribe, is not eligible to
19 apply for Prop 50 funds, as I understand it. We've
20 cooperated with the city of Trinidad in preparing their
21 application, and offered substantial help should they
22 receive grant funding to implement their program. But had
23 we known that stormwater discharge from the harbor parking
24 lot was also on the table, we would've taken a more
25 proactive role in that grant application to make sure that

1 adequate funding was there to deal with stormwater runoff,
2 also. So we really need to know what the state's full
3 program is there.

4 In summary, we're asking the board to note the
5 following practice specific to Trinidad Harbor in developing
6 a reasonable and feasible approach to kelp bed ASBS
7 protection.

8 One, the kelp beds have thrived for 75 years of
9 exposure to harbor operations that are similar in nature and
10 scale to current operations. Two, the potential for the
11 harbor to generate additional discharges of any kind is
12 negligible because limited land base and the size of the
13 harbor. The state should not rush into a prohibitively
14 expensive monitoring enforcement directive based on staff
15 opinions that are not supported by logic or science, in the
16 case of the kelp beds at Trinidad.

17 And finally, we believe that the proper framework
18 for addressing stormwater runoff issues for land that is
19 within the city limits of the city of Trinidad, and there is
20 no harbor district here, Trinidad Rancheria actually
21 operates as a private landowner in Trinidad Harbor, proper
22 framework for addressing that stormwater problem is the city
23 of Trinidad's overall stormwater management program,
24 especially since they're eligible for the funding and we're
25 not. So we ask that the city's Proposition 50 grant should

1 be funded to allow it to address the city as a whole,
2 including Trinidad Harbor.

3 In conclusion, Trinidad Rancheria is a, it's a
4 gaming tribe but it's not a wealthy gaming tribe. We suffer
5 from competitive pressures, from poor access, and from a
6 very limited population base. We run Trinidad Harbor, well,
7 we acquired Trinidad Harbor five years ago when it was put
8 up for sale because it was the initial point of contact
9 between European people and the coastal native populations,
10 and we thought it was appropriate for a tribal entity to
11 acquire. We run it as a financial liability. We would like
12 to keep the harbor operating for the benefit of the people
13 who use it, but we need the state's cooperation to do that
14 in terms of bringing a degree of reasonableness and good
15 science to this (inaudible).

16 Thank you.

17 VICE CHAIR SILVA: Thank you. Chris Coburn, and
18 then Jim Curland.

19 MR. COBURN: Good morning. Thank you for coming
20 to Monterey. My name is Chris Coburn, I'm the water quality
21 protection program director with the Monterey Bay National
22 Marine Sanctuary, and I just want to make a couple three
23 comments to you today on this issue.

24 The Monterey Bay National Marine Sanctuary is one
25 of the largest, is the largest national marine sanctuary in

1 the United States, and like the ASBS. It's an area of
2 special significance, it's a national treasure and it's
3 something that we need to protect. And along those lines,
4 we realize the urban runoff is an issue that is affecting
5 the Monterey Bay National Marine Sanctuary. We've seen the
6 levels of pollutants in the runoffs, we've seen trash on our
7 beaches, and we've seen beach closures. All of that affects
8 not only potentially the marine resources of the sanctuary,
9 but also the economic viability of this area.

10 And for that reason, we began working on the urban
11 runoff issues in 1996, and much of that work has been done
12 in partnership with the local jurisdictions that are
13 affected and are here today. And we look forward to
14 continuing to work with those jurisdictions. I think
15 education really is the key. We need to educate the public
16 about this issue and about why we need to support urban
17 runoff programs.

18 I think it should be said that polluted runoff
19 comes from hundreds of sources, thousands of sources, and
20 those sources are known as people. Local government is not
21 the source of the pollution, but local government is going
22 to be a part of the solution on this issue.

23 What I'm most concerned with now, after working in
24 this area for several years on urban runoff, is the
25 polarization that I've seen develop in this issue. We have

1 both camps on either side of the issue digging in their
2 heels, and instead of going and finding productive
3 solutions, which we have been doing for a number of years, I
4 feel that things have stalled a bit and we're looking
5 towards policy as opposed to finding real solutions to
6 addressing this issue and things that we've been working on
7 over the years.

8 Specifically regarding the ASBS's, the sanctuary
9 recognizes that stormwater will realistically need to be
10 conveyed via existing outfalls. However, those discharges
11 must -- discharges must be restricted to ensure that we're
12 not affecting beneficial uses or the Monterey Bay National
13 Marine Sanctuary resources. Instead, what we'd like to see
14 is an accelerated schedule for control through upstream
15 management. We've been working with the local
16 jurisdictions, we've been working through our urban runoff
17 action plan for a number of years, and we'd like to see that
18 process continue, and that's why this polarization issue
19 keeps coming up as we have this entrenchment in camps, and
20 it's sort of prohibiting real progress from being taking
21 place.

22 And then what's also important to point out, and I
23 think hasn't been raised yet today, is that these grant
24 programs are a good source of funding for these programs.
25 But what is equally important is that these programs need to

1 be stable. The jurisdictions need stable funding so they
2 can plan their capital improvement projects and they can
3 know that the funding will be there should they choose to
4 implement, and hopefully implement the upstream best
5 management practices. And not also like stable funding for
6 the capital project, but it's also ongoing maintenance
7 (inaudible) requirement, and that could be a huge cost to
8 the cities, as well.

9 And that's where I was encouraged to see something
10 out of southern California, the Measure O program, where
11 everyone got together behind this initiative in southern
12 California. We're talking business, local jurisdictions. I
13 think even Howard Jarvis Taxpayers Association supported it.
14 And it's that sort of collaborative approach that I hope we
15 can get to from this process, where we can engage the
16 community and develop that support and develop that
17 financing that will help us get these best management
18 practices in the ground.

19 I think that's all I really wanted to say today.
20 I do appreciate you coming to Monterey, and thank you.

21 VICE CHAIR SILVA: Thank you. Next, Jim Curland,
22 and then followed by Mike -- is it Flake?

23 MR. CURLAND: Good morning, Vice Chair Silva and
24 Board Members and staff. My name is Jim Curland, and I'm
25 the marine program associate for Defenders of Wildlife.

1 Defenders of Wildlife is a nationally recognized
2 conservation group representing nearly a half million
3 members and supporters nationwide, and more than one-quarter
4 of that in California, with our headquarters in Washington,
5 D.C., as well as two offices in California, an office in
6 Sacramento, and the marine program office headed up by me in
7 the Monterey Bay area.

8 We work on a variety of terrestrial and marine
9 species and habitat conservation issues. The primary focus
10 of Defenders' mission is to focus our programs on what
11 scientists consider two of the most serious environmental
12 threats to the planet, the accelerating rate of extinction
13 of species, and the associated loss of biological diversity
14 and habitat alteration and destruction. Our programs
15 encourage protection of entire eco-systems and inter-
16 connected habitats, while protecting predators that serve as
17 indicator species for eco-system health.

18 You've heard about the sea otter earlier, and this
19 is one species that is a key indicator for ocean health. In
20 recent years, a high mortality rate has been documented in
21 the California or southern sea otter. Researchers have
22 shown that infectious diseases and parasites consistently
23 account for 40 to 50 percent of southern sea otter deaths.
24 The Monterey Bay area and Morro Bay are two particular hot
25 spots for sea otter disease. Many of these diseases appear

1 to be newly introduced and are related to human activities
2 and pollution that originate on land.

3 This is a wake-up call to pay critical attention
4 to marine eco-system health. Defenders has recently
5 completely completed development of a poster which Mr.
6 Secundy saw at the California Ocean Protection Council
7 meeting back in June, and this is going to be used for
8 educational outreach depicting the land/sea connection and
9 how agricultural and urban runoff, coupled with industrial
10 and municipal discharge, contribute to rising pollution
11 levels in our coastal waters. And as the health of the
12 California sea otter population in the near shore marine
13 environment it inhabits is a concern, this strongly
14 correlates with having stringent protections of California's
15 ASBS's.

16 The Ocean Plan defines ASBS's as, quote, those
17 areas designated by the State Water Resources Control Board
18 as requiring protection of species or biological communities
19 to the extent that alteration of natural water quality is
20 undesirable, end quote. Protecting these areas is so
21 critical to the people of California that while preservation
22 and enhancement of ASBS's is a beneficial use explicitly
23 listed in the Ocean Plan, as well as in all the coastal
24 regional basin plans, protection of this beneficial use and
25 prevention of alteration of natural water quality is

1 accomplishing in what we believe is the only conceivable
2 way, given the definition of ASBS, through an outright
3 prohibition on discharge of waste. This provision of the
4 Ocean Plan is abundantly clear, quote, waste shall not be
5 discharged to areas designated as being of special
6 biological significance, end quote. This prohibition has
7 existed in its current form for over 20 years and should be
8 strictly adhered to.

9 Defenders strongly urges protection of ASBS water
10 quality and would discourage the board from taking any
11 action that would diminish this protection. These
12 exceptional places are currently under threat by illegal
13 discharges of pollution. As a result, some of the areas
14 have become so polluted that they cannot even be safely used
15 for wading, let alone as habitats for sensitive species like
16 the federally threatened southern sea otter.

17 We've heard before about reports coming out of the
18 U.S. Oceans Commission and the Pugh (ph.) Commission, two
19 independent commissions that concluded together that our
20 oceans are in crisis and that coastal pollution and polluted
21 urban runoff are some of the problems that are contributing
22 to this crisis. ASBS's are the jewels of the California
23 coast and they are especially vulnerable to harm from these
24 pollution sources. Defenders supports bold actions to stem
25 the flow of land-based pollution into them. We must not

1 respond to the crisis in ocean health by weakening the
2 protection of these valuable areas.

3 We believe the board must meet the challenge
4 directly, and Defenders urges you to maintain and strengthen
5 existing protections for ASBS's. And as D'Anne Albers
6 mentioned before, we, too, urge the board to adopt the
7 compliance schedule approach as referenced in other letters
8 from other environmental groups that we've been working
9 with.

10 And lastly, and again, Mr. Secundy heard this
11 testimony when we testified before the Coast -- California
12 Ocean Protection Council, but this sort of addresses the
13 question you asked all of our environmental groups on the
14 funding issue. And Defenders, through myself and Kim
15 Delfino (ph.), who's director of our California programs,
16 have been strongly advocating and searching for options in
17 terms of funding. We realize that programs like mussel
18 watch and swamp are severely under-funded. Researchers that
19 are trying to get at what's going on with sea otters and
20 near shore eco-system health need money, and we've been
21 exploring options through the California Ocean Protection
22 Council. We've had meetings with the California Coastal
23 Conservancy. Kim has explored bond funding possibilities.
24 I haven't asked, and we haven't spoken directly
25 about how to provide funding to cities, but we're certainly

1 willing to listen and, and help and strategize in any way we
2 can to get money to these severely under-funded programs, to
3 cities. As well as we believe a new monitoring program that
4 needs to be in place to monitor things like biological
5 pathogens.

6 So we thank you for your time and the opportunity
7 to provide these comments. Thank you very much.

8 VICE CHAIR SILVA: Thank you. Mike Flake, and
9 then Chris Zirkle.

10 MR. FLAKE: I have a power point presentation to
11 show you. I'm Mike Flake, Chief of Stormwater Policy for
12 Caltrans. Before I get into this power point -- oh, I'll
13 let it go.

14 I just want to point out some facts. We got a
15 letter in October of 2004 from the state board identifying
16 Caltrans as having ten ASBS locations adjacent to a state
17 highway. And in part of this letter, after they identified
18 these ten locations, they had asked that, one, we either
19 apply for an exception, or, two, divert the discharge. And
20 we had to respond by February 1st with information in the
21 development of an exception.

22 We have over 60 miles of roads that are affected
23 by an ASBS. As I said, there is ten ASBS locations that are
24 adjacent to state highways. State highways pre-dated the
25 Ocean Plan, so these highways have been there before they

1 became an ASBS. We were also told that we had 160
2 identified discharge points in those areas. These ASBS's
3 range from the redwoods ASBS all the way down to Crystal
4 Cove in Orange County.

5 In December 2004 we sent a letter to the state
6 board regarding many questions on the exception process. I
7 guess really what it was is just to help us frame what do we
8 do. Do we go into the exception and try to go along with
9 this, and maybe there's some end game that continues to
10 allow us to discharge, or do we make our diversion. So one
11 of the primary questions we had in that was what is a
12 discharge. So we look at the 160 discharge points from your
13 survey, and these are some of the photos of, of discharge
14 points that we've identified.

15 Now, these we might say are direct, like down here
16 in the lower left-hand corner you see a pipe directly into
17 the ocean. No question as to discharge. But when it comes
18 to examples of indirect discharges, this is where we have
19 questions. We've heard from staff that if you've got a
20 natural water course above the highway and below and you
21 discharge into that natural water course, then it's not a
22 direct discharge. Well, we'd like to get something in
23 writing that says that.

24 These are examples, actually the upper right-hand
25 corner shows basically that a curb cut-out, and water goes

1 through that curb cut-out and eventually makes it to the
2 ASBS which is in the background. I don't know the distance,
3 but is that a discharge to the ASBS. The outfall doesn't go
4 directly into the water body, it goes into this vegetated
5 area that eventually gets to the ASBS. Is that person who
6 owns that vegetated area responsible, or am I? You see some
7 other pictures here.

8 So these questions kind of loom in our mind. If
9 we are going to abide by the prohibition, do I have to
10 prohibit these discharges. And that's a fundamental
11 question in terms of how much money do we need to set aside
12 for addressing these discharges. And like I said, we
13 submitted that information back in December of 2004. We
14 have yet to hear a response.

15 We eventually fulfilled our obligation in your
16 letter. We submitted all the exception information that we
17 knew of on February 1st, and we have yet to hear a response
18 to that. However, I did get a letter in August of -- I'm
19 sorry, we submitted that letter in February '05. We did get
20 a letter this past August, or we're still in August,
21 actually, that asked for additional information, and a lot
22 of the information was repetitive of the same information
23 that was asked for in your October '04 letter.

24 So I'm confused, and I don't really know how much
25 do I need to react to that letter. I still have these

1 unanswerd questions which are going to be contained in the
2 next letter that I generate and send to you. So that's just
3 a statement.

4 I do want to let you know we, as Caltrans, we feel
5 that we are a leader in stormwater in California. We've
6 done extensive research. We have a stormwater permit. We
7 think that that's the priority, stormwater in general, where
8 it lies in the urban populace. And many of these ASBS
9 locations make sense to me. Yes, they're in Malibu, that's
10 an urban area. Perhaps they should do something, but it
11 should be in the normal framework of what we do for
12 stormwater. ASBS's which I'm going to show you later that
13 are out in rural locations don't appear to make sense, and I
14 would like some direction back from your staff in how we're
15 to contend with those areas.

16 And I'm going to show you an example here. This
17 is the Salmon Creek ASBS, which is just south of here.
18 That's Route 1 right through the hills. And basically,
19 we're the only discharger in this area because everything
20 basically in this area would be considered natural
21 background. And this is really one of the fundamental
22 questions that we also have, is what is natural water
23 quality. That's not answered to us. And because, as I said
24 before, we've done extensive research, we've identified
25 various treatment controls for treating stormwater.

1 However, if we don't know what is natural water quality, we
2 don't believe our treatment controls, the best technology
3 that we know that's available, would even get us close to
4 natural water quality.

5 So as a result, our mission is to really say what
6 can we do to abide by the prohibition, and that's to divert.
7 So this is what it would look like if we were to go in and
8 put in the diversionary structures. We'd have to basically
9 capture all the water, take it down to a pump house which is
10 over in the far right-hand corner, and actually we show a
11 treatment device there which is our sand filter, which is
12 probably the only treatment device that we think would be
13 viable in this area, and then bring it outside of the ASBS.
14 And actually, if you look at the lower bottom here, at the
15 ocean we drew a red dashed line. To the right of the red
16 dashed line is the ASBS. So this would get us in compliance
17 with not discharging into the ASBS. We would discharge just
18 outside of it. Does this ultimately solve the problem? I
19 don't know.

20 Also, one thing I heard in Dominic's presentation
21 was -- let me see if I can get a blow-up of this. That
22 shows the diversionary structure going down the slope.
23 Dominic said one of the challenges here was why not divert.
24 Well, he said that the capacity, the answer to the question
25 was capacity at treatment is not available. Well, I don't

1 even see treatment available in this area. But it's not,
2 that's not really still the answer. Even if you did have a
3 treatment plant here, it's really the engineering that goes
4 into hydraulic structures. Caltrans' standard for hydraulic
5 structures is they're designed for the 25 year return storm.
6 So that means that anything in excess of that means that
7 you're either going to see some localized flooding or you're
8 going to see these diversionary structures get overwhelmed,
9 and the discharge will still --

10 (Note: End Tape labeled Part 2,
11 Side A. Start Tape labeled Part 3,
12 Side B.)

13 MR. FLAKE: -- occur. What's that engineering
14 number that we need to use? Is it the hundred year return
15 storm? Is it beyond that? And what you need to realize is
16 that no matter what you engineer for, you could never --
17 there would always be some storm event sometime in the
18 future that would overwhelm those structures and would cause
19 you to discharge into the ASBS.

20 This is a blow-up. And these are just some
21 factoids on that example. It's only four miles to the State
22 Route 1 roadway. We only get 2400 vehicles per day on
23 average. And that's an annual average. And we're only .3
24 percent of the watershed. This project, just in capital
25 cost, would be at least \$25 million to make that happen,

1 what I just showed you in the pictures. That does not count
2 the environmental process that we would have to go through
3 to examine it. And what I would infer is that that
4 environmental process would say that the no build
5 alternative for that project is least damaging than trying
6 to come up with that diversionary project.

7 And if we were to try to build it, what would be
8 the cost of mitigating the environmental impact. There
9 would be temporary road closures. I don't know if people
10 would be able to tolerate the closure of Route 1 because of
11 construction. And the last bullet there just reinforces
12 significant environmental impact. Next, you need to think
13 of the other ASBS's is it's redwoods. What if we had to
14 tear down trees to get those structures in. What if we
15 threaten endangered species. What then?

16 So these things need to be taken into
17 consideration, how you apply the exception process and how
18 you apply the prohibition. Thank you.

19 VICE CHAIR SILVA: Thank you. Chris Zirkle.

20 MR. ZIRKLE: Good morning. Thank you for the
21 opportunity to comment. My name is Chris Zirkle. I'm the
22 Deputy Director of the city of San Diego stormwater
23 pollution prevention program. My presence today is twofold,
24 to demonstrate the importance of this matter to the city of
25 San Diego, and secondly, to share some information with you

1 about an engineering study that we have prepared in order to
2 evaluate the cost and for complying with the prohibition or
3 discharge.

4 The city of San Diego discharges through 17
5 outfalls into ASBS 29, which is the San Diego-La Jolla
6 ecological reserve, comprised of 1435 acres in the
7 watershed. Currently five of the storm drains are diverted
8 during dry weather to the sewer system. Despite the city's
9 fiscal constraints we are partnering with Scripps on the
10 exception study for the existing ASBS to the north, and we
11 are also moving towards a fee to go on the ballot in the
12 spring, and we hope to enlist the assistance, the free
13 assistance of stakeholders from the building industry to the
14 environmentalists to help with the PR campaign to make that
15 effort successful.

16 In addition to the 17 city operated outfalls,
17 drainage into the ASBS comes from commercial and residential
18 properties, along with some overflow that's not contained in
19 the city conveyance -- system. The analysis in the
20 engineering study looked at -- the numbers I'll provide you
21 with are for a hundred-year storm, so again, it's not a
22 necessarily guarantee that all flows would be captured and
23 diverted from the ASBS.

24 The first alternative was alternative discharge
25 point. The ASBS is located off the coast of a community

1 named La Jolla Shores in the city of San Diego. A potential
2 at this point, discharge point, would involve construction
3 of a conveyance system down south through La Jolla, down to
4 the vicinity of the children's pool. That alternative
5 obviously involves pump stations equalization, and a new
6 conveyance system is estimated at \$58 million.

7 A second alternative discharge point is southeast
8 through La Jolla into Rose Creek, with an ultimate discharge
9 into Mission Bay. The same type of engineering and capital
10 improvements at the end of the existing storm drains, \$77
11 million.

12 Alternative discharge point 7800 feet offshore via
13 an ocean outfall tunnel underneath the ASBS, and a half-mile
14 beyond the edge of the ASBS, conveying 55,630 gallons per
15 minute. \$85 million.

16 As I mentioned earlier, we can't divert wet
17 weather flows to Point Loma wastewater treatment plant.
18 Although we are proud of our existing low flow diversion
19 structures in San Diego, not only in this area but in
20 Mission Beach, the constraints on pumping to Point Loma
21 include capacity at the pipe -- at the plant, and with the
22 pipe sizes between the ASBS and the (inaudible).

23 For the third alternative analysis, analyzed was a
24 treatment plant consisting of about ten acres of land,
25 capacity of 11.4 million gallons per day. Not knowing what

1 would be considered detrimental or what natural water
2 quality would be -- how that would be standard, we assumed a
3 secondary treatment plant with traditional technology for
4 sewage treatment, \$163 million. Tertiary treatment, \$322
5 million.

6 Particular concerns about this alternative are the
7 intermittent use, the increased operations, the maintenance
8 costs associated with that. Some of these costs include
9 right-of-way acquisitions, mitigation, improvements to the
10 hydrology or hydraulics of Rose Creek, operations and
11 maintenance costs.

12 In closing, the city council of San Diego has
13 authorized us to proceed with an exception request for ASBS
14 29. We are in receipt of your letter. It is going to be
15 difficult for us to get the money to comply with the pre-
16 exception monitoring requirements, but we're going to try to
17 do that. And I would like to go ahead and submit this
18 report to your staff for evaluation and comment. Thank you.

19 VICE CHAIR SILVA: Thank you.

20 Next, Mark -- is it Pestrella? And then Kelly
21 Richardson.

22 MR. PESTRELLA: Good morning, board members and
23 staff. Mark Pestrella, with L.A. County Department of
24 Public Works, Assistant Deputy Director, representing the
25 county of Los Angeles in this matter.

1 I'm here today, and I want to thank you for having
2 the workshop on ASBS, a very big issue in L.A. County,
3 especially the Malibu area and out in Catalina Island.
4 We've heard today a little bit about the Catalina Island
5 issue with Wrigley. I'm very familiar with that area.

6 The county of Los Angeles has concerns in a couple
7 different areas, specifically, the way that the area of the
8 ASBS has been described hydrologically, and the description
9 of, or the, the way that we've been approached in terms of a
10 prohibition on this matter. The county shares the land area
11 in this ASBS with the city of Malibu, as you may know, and
12 85 percent of this area is open land area. I don't know if
13 you're aware of that. Fifty percent of that is primarily
14 residential.

15 The county, L.A. County Flood Control District is
16 involved because there are about 11 storm drains that drain
17 this area into the, specifically into the ASBS that the L.A.
18 County Flood Control District maintains. These, these storm
19 drains, you need to understand a little bit about what they
20 look like. Probably the longest run of storm drain that we
21 have out there is about a 60 foot run under PCH and some of
22 those smaller streets out there. So we're basically the
23 middle-man.

24 What would happen then is we would be looking for
25 the residents in the area to basically pony up for the

1 compliance in this ASBS prohibition, which would relate
2 basically back to our general fund. And this is where our
3 concerns come up which I'll be talking about in a second,
4 about funding, what we're currently doing with respect to
5 funding in L.A. County.

6 I've described the area a little bit, but I also
7 want to give you a few examples about what we worked out.
8 We've done some engineering, and I'm glad to see that the
9 civil engineers of the world are finally speaking about, up
10 about matters out here. Lots of times civil engineers are
11 in the back burners in this and are in the back room looking
12 at the numbers and pulling their hair out. But engineers
13 like myself are now coming to the forefront in these policy
14 issues and trying to come forward with some rational
15 approaches to compliance. Certainly in the county we want
16 good stormwater, clean stormwater, and we found that through
17 out activities out there. But let me give you an example of
18 one of the compliance, once scenario that we came up with
19 dry weather prohibition solution.

20 Currently in the Malibu area there is no sewer
21 treatment plant, and if we propose that in the city of
22 Malibu, we know what happened the last time the county of
23 Los Angeles proposed a, a sewage treatment plant in the area
24 of Malibu; we gained the city of Malibu. So what would
25 happen --

1 (Laughter.)

2 MR. PESTRELLA: And, and we're not, our supervisor
3 isn't willing to go there yet again. So what we've started
4 to look at is what if we took this target 11 storm drains
5 and reminded them that they're just basically culverts that
6 catch natural drainage courses and outlet to ASBS area. And
7 we came up with a scenario, we would actually construct
8 underground storage to accommodate dry weather flow. We
9 would have to use pump trucks to transport that stored
10 runoff to Hyperion Treatment Plant, which would be a
11 diversion of flow to, to Hyperion for treatment. And the
12 capital cost for this improvement would be somewhere on the
13 order of \$5 million.

14 Now, you've got to remember, too, that these
15 storage areas would be in residential areas, that we'd be
16 pumping on a, pumping on a weekly basis in those areas to
17 catch those, those flows, and our annual operating cost
18 would be somewhere in the order of \$1.35 million. That's
19 annual cost for operation and maintenance. It's been
20 brought up here already that operation and maintenance is a
21 significant cost when we talk about infrastructure
22 improvements.

23 Twenty-year lifetime cost for this project would
24 be somewhere in the order of \$40 million. Okay. Remember,
25 that's got to come from the citizens under the general fund.

1 L.A. County Flood Control District obviously would be, would
2 be also contributing to that because we are the middle-men.
3 On the wet weather prohibition, and I think everyone
4 recognizes here and it's probably overkill to state it, but
5 it's just impractical. From a hydrological standpoint, from
6 a hydrologic standpoint, it's absolutely impractical to
7 catch all the flows. And again, we would need a numerical
8 limit or a, a capital storm event that you would have to
9 describe for us to catch.

10 In the county we provide 50-year floor protection.
11 If we took a 50-year flood protection and tried to prohibit
12 those flows from reaching the ASBS, we're looking at
13 something like a dollar per gallon of water, and that comes
14 out to about \$650 million in capital cost alone.

15 Now, again, as the Caltrans representative
16 mentioned, this doesn't consider environmental impacts, the
17 permitting process, this is a coastal zone, CEQA. There are
18 huge restrictions in order for us to capture flows as
19 described, even, even under the dry weather scenario.

20 I would submit that it has already been admitted
21 that even capturing those flows, we would still be not in
22 compliance. Why do we know that. The county of Los
23 Angeles, along with the local L.A. Regional Water Quality
24 Control Board, has been doing extensive monitoring in the
25 Santa Monica Bay, along with our partners, Hilda Bay and the

1 bay keeper, we've been watching and monitoring that area
2 very very closely for many, many years. And we know that
3 it's a very complicated situation in terms of stormwater
4 pollution, septic system control, all the other pollutants
5 of concern that enter into the bay and affect the water
6 quality of the bay. And to simply say we're going to stop
7 the flows in dry weather does not, does not meet, or will
8 not meet that, that criteria that I expect will come out of
9 this. Remember, these are only 11 storm drains, and then we
10 have all the other small areas that drain.

11 And that's the one thing, the last thing I want to
12 address in this one area, is you brought up private property
13 owners. Private property owners are a major issue in terms
14 of changing the way we behave, changing how they drain their
15 properties. And you're impacting land use when you say
16 you're going to affect private property owners. And
17 somehow, the state always assumes that the local agency will
18 run up that creek and start knocking on people's doors and
19 saying stop draining your backyard, stop using your septic
20 system and -- and, and change your behavior. It, it is not
21 feasible, and sometimes it's not even legal to enter into
22 properties to, to actually point out the source of
23 pollution.

24 You have to be careful about saying we're going to
25 affect private property owners. We know that in the end it

1 probably is end, end of pipe treatment that will ultimately
2 make some difference. And on that point, the county of Los
3 Angeles is currently working again with our partners in the
4 area to bring about some treatment at end of pipe. For
5 example, in Marie Canyon, just south of Pepperdine
6 University, although they don't outlet into the ASBS, we are
7 currently working on a program to install a system to --
8 it's prior to (inaudible) so I won't name it, but we're
9 installing a system in one of these, these drains that we
10 have to actually treat for bacteria. That treatment is
11 going to cost us, just the device, something in the order of
12 \$10 million over a lifetime of ten years, for maintenance
13 costs, capital costs. And we're not sure, again, if we're
14 going to meet the objectives of the regional board.

15 So, yes, water quality is a major issue in L.A.
16 County. L.A. County Flood Control District currently spends
17 something in the order of \$64 million a year to comply with
18 our MS4 permit. We think this is the appropriate place for
19 us to be addressing water quality, including for the ASBS's,
20 considering the land area that we have, and the land uses.
21 I applaud the staff for looking at individual QOTW's, as
22 well as universities and industry that are out and are
23 making discharges, such as Wrigley. That's a very good case
24 example because you can confine hydrologic area that they
25 can treat. I've been on that campus many times myself, and

1 it's got to be something less than ten acres that's draining
2 there, and I can see that there's some capability in terms
3 of, of treatment of stormwater.

4 So lastly, on funding. Funding is a major issue,
5 and you've heard some of the cities talk already about an
6 initiative, that they're coming to the ballot asking people
7 for money. Someone's mentioned Measure O, and everyone's
8 applauding the city of L.A. for Measure O, which is a bond
9 measure. It's going to cost a lot of people a lot of money,
10 as you know. The county of Los Angeles is also considering
11 a regional, a regional funding source. Working with the
12 American Society of Civil Engineers, we're currently working
13 on taking a look at a ballot measure where we would actually
14 look for regional funds within, throughout the 88 cities in
15 the county of Los Angeles. We haven't even, to be honest
16 with you, approached our supervisors about that yet. I'm
17 not sure they can swallow it.

18 There is, someone said there is a major resistance
19 to taxation. We, for example, on the last thing on this,
20 have gone to the (inaudible) valley, in an area, a known
21 area of high water, water quality issues, and flood control,
22 necessary flood control, and proposed many times, three
23 times now in the last ten years, to actually introduce an
24 assessment for flood control and water quality and water
25 supply. It's been shot down each time. The last time we

1 asked, we asked for \$5 per property owner per year, and it
2 was shot down. The current capital cost to bring to this
3 community flood control, water supply and water quality
4 assessment is something in the order of \$175 per year. We,
5 and we are bringing that ballot measure in November to that
6 community.

7 So I want, I want everyone to remember that
8 funding does come from general fund from the public, and the
9 public has to buy in. Someone asked what do we need to do.
10 We need to make them aware of it, but I have to tell you, as
11 a public official, I know it's tough to able to stand up and
12 say this is rational measures, these are reasonable things
13 we're asking you to do. I feel, as a 20-year public
14 official, that it's improper for me to go them and say I'm
15 going to prohibit all the flows to an ASBS just because we
16 have no other idea of how to deal with this. It doesn't
17 make sense to me, as a good public official.

18 Thank you for the time today.

19 VICE CHAIR SILVA: Thank you. Kelly, Kelly
20 Richardson, and then Dan Lafferty.

21 MR. RICHARDSON: Thank you. My name is Kelly
22 Richardson. I'm an attorney at Latham and Watkins,
23 representing the Pebble Beach Company.

24 I'd first like to thank the board members and
25 staff and counsel for coming to Monterey to address this

1 significant statewide issue, and I appreciate the efforts of
2 the board at the hearings in April to make this a
3 possibility.

4 I'd also like to thank staff for the presentation
5 of the concept of a general exception today, and we look
6 forward to reviewing the details of that proposal and having
7 future discussion at a future workshop on that issue.

8 Pebble Beach Company is a well-known golf
9 community on the coast. It has been operating since 1919,
10 and discharges, at least from a portion of the facility,
11 into the Carmel Bay ASBS. As the cities, counties, and
12 other stakeholders today testified, an absolute ban on the
13 discharge of water through an ASBS is technically and
14 economically infeasible. For example, for the Carmel Bay
15 ASBS, the ASBS is the entire bay. It would effectively ban
16 the discharge of any water to an entire bay.

17 Similarly, the exception process as it's played
18 out to date is extraordinarily costly, onerous, and a
19 lengthy process. We believe that the policy statement
20 adopted by Monterey, which has been adopted and endorsed by
21 Pebble Beach Company, and possibly others, we believe it
22 addresses these concerns that have been raised and provides
23 a framework to allow for adequate protection of the ASBS and
24 at the same time would be workable for the stakeholders.

25 The policy statement, I know Monterey gave you a

1 copy of that. I will not read it, but I will highlight a
2 few things. The policy statement proposes that the state
3 board adopt a policy guidance document, a policy statement,
4 that interprets the Public Resources Code and California
5 Ocean Plan in a manner consistent with both, and consistent
6 with that policy statement. That is, communities would,
7 adjacent to ASBS, would continue to improve on BMPs under
8 the existing stormwater management programs and other
9 existing programs, and a stewardship council would be formed
10 to manage the ASBS, and participation in that stewardship
11 council could be deemed compliance with special conditions
12 under the Public Resources Code. It would be made up of
13 representatives from affected communities, public interest
14 groups, other agencies, it would be a collaborative
15 approach.

16 The goal would be to start with water quality
17 assessment plans. What is the condition of the ASBS, and
18 that would be the driver for then determining what the next
19 steps are. If there are adverse effects on the marine
20 communities, then appropriate measures would be taken. If
21 not, if there are no adverse effects and the ASBS are
22 thriving, then it's our position, under the policy statement
23 adopted by Monterey and Pebble Beach, that additional
24 measures would be unnecessary. And those resources would
25 simply be wasted performing studies and doing additional

1 research if the ASBS is thriving. It's a staged approach.

2 And we've heard much conversation today about the
3 funding that's available. I'm, I'm not aware yet of a lot
4 of money headed in this direction. Maybe that's coming in
5 the future for public entities, but I've seen nothing yet in
6 terms of private entities. But even if there were money
7 available for both public and private entities that
8 discharge into ASBS's, it does not justify spending that
9 money imprudently. If the ASBS is healthy and thriving,
10 then further resources should not -- should be allocated
11 elsewhere where priorities are equally high.

12 We think our proposal is, or a similar proposal,
13 is certainly permissible under existing law. The Public
14 Resources Code states that discharges into ASBS of waste
15 shall be prohibited or limited by special conditions. The
16 state board can deem compliance or participation with these
17 stewardship councils as a special condition. And
18 significantly, the provisions in the Public Resources Code
19 governing ASBS require this, this analysis of impact and
20 feasibility. The ASBS are designated to protect marine
21 species or biological communities from an undesirable
22 alteration of natural water quality. That's the threshold
23 issue, that's the trigger issue for determining what else
24 should be performed.

25 This reasonable flexible approach is also

1 consistent with the Porter Clone (ph.). For example,
2 Section 13000 states that activities and factors which may
3 affect quality of waters in the state shall be regulated to
4 attain the highest quality which is reasonable, considering
5 all demands being made and to be made on those waters and
6 the total values involved, beneficial and detrimental,
7 economic and social, tangible and intangible.

8 Further, Porter Clone states that it is recognized
9 that it may be possible for the quality of water to be
10 changed to some degree without unreasonably affecting
11 beneficial uses. So we look at the ASBS, we determine
12 whether there are any impacts. Is there an undesirable
13 alteration, and if there is, they must dedicate the
14 resources to it to protect them consistent with the Public
15 Resource Code.

16 I would just note that it's impossible to
17 implement the absolute ban, and could never have been
18 intended by the legislature as currently interpreted. For
19 example, in 2000 the state board staff wrote, the Ocean
20 Plan's ASBS prohibition may be literally interpreted to
21 disallow any run-off into the ocean adjacent to an ASBS,
22 including stormwater discharge prohibitions. Strict
23 prohibition of the discharges cannot be enforced, especially
24 during the wet seasons. I would submit that this statement
25 says the law won't require the impossible, which is

1 consistent with the Civil Code.

2 If the board adopted our proposed stewardship
3 council proposal, any action would be prefaced upon the
4 initial study of the ASBS. That's the right place to spend
5 the money. Currently, the water boards have so far moved
6 ahead without any consideration of the quality of the ASBS's
7 the -- as the primary driver. Our assessment would enable
8 the board, local governments, and other stakeholders to work
9 together to guarantee that the ASBS are protected for
10 Californians, while at the same time ensuring the
11 surrounding entities are only being asked to spend taxpayer
12 dollars and private money on meaningful actions.

13 We look forward to working with the state board
14 staff and the state board on the proposed general exception,
15 and we request that you review our proposed policy statement
16 that's been submitted by Monterey and endorsed by Pebble
17 Beach. Thank you.

18 VICE CHAIR SILVA: Thank you. You got that, you
19 got that information?

20 SPEAKER: Yes.

21 VICE CHAIR SILVA: Okay. Dan Lafferty, and then
22 followed by Sarah Newkirk.

23 MR. LAFFERTY: Good morning, members of the board
24 and state board staff. Appreciate the opportunity today
25 that we get together and talk about what is a, a very

1 difficult issue, and one that is certainly important to the
2 folks here in this room.

3 I'm representing CASQA today, the California
4 Stormwater Quality Association, and I think I'd like to
5 start first by we have already sent a letter proposing a
6 framework that we think is workable in terms of dealing with
7 the ASBS. We mailed it off to Dominic last week, and
8 hopefully he received it. If not, it should be coming
9 shortly.

10 VICE CHAIR SILVA: Not yet.

11 MR. LAFFERTY: Okay. I think I'd like to take the
12 opportunity, too, to reiterate a position that CASQA has
13 taken in several of these types of forums, and that is we
14 perceive that there's a real lack of cohesiveness, and we
15 think that a statewide policy on, on stormwater is what's
16 needed. We begin with NPDS permits, we see TMDLs rolling
17 out, and now we have ASBS provisions. I think if we had sat
18 down and created a sort of umbrella stormwater program at a
19 statewide level we could've addressed many of these issues
20 in that forum, and then, instead of doing this piecemeal,
21 one at a time, we'd've all had a floor plan that we could've
22 lived with.

23 And having said that, I'd like to talk about some
24 of the things that are in the letter that we sent. I think
25 we've heard today about many of the problems that the local

1 entities are having in terms of a strict prohibition on
2 flows into the, the ASBS. Now, we heard Dominic earlier
3 this morning say that the prohibition is not on flow. Yet a
4 dry weather prohibition is exactly that. It doesn't really
5 talk about impact, it just says you're not going to have any
6 flows.

7 So I think what we need to do is perhaps talk
8 about a, a framework that would be workable, one that
9 everybody could live with, and one that would assure us that
10 we are getting the kinds of protections we all would like to
11 see in the ASBS's.

12 But I think we begin with, you know, the current
13 framework, where we have this (inaudible) prohibition, and I
14 think if you apply it the way that it's being written really
15 does not make a whole lot of sense. And we've heard why,
16 especially in wet weather, (inaudible) prohibition isn't
17 workable. We've heard some suggestions that even if the
18 compliance with dry weather, it might not make too much
19 sense.

20 The other thing I think from, from a reasonable
21 perspective in terms of looking at what an exception means
22 to the average person, if you were going to create an
23 exception that everybody gets, the exception becomes the
24 rule. And I think rather than maintaining that fiction of
25 having an exception, let's make the rule. And the rule

1 should be that, that we can have these types of discharges
2 provided we have adequate assurances that these discharges
3 are not creating problems in the ASBS with respect to water
4 quality.

5 And I think that's, that's kind of at the heart of
6 what we're suggesting. And I know it's heresy to suggest,
7 but I think an amendment to the Ocean Plan is really what
8 we're talking about here, that we can memorialize in the
9 Ocean Plan itself that these discharges, in and of
10 themselves, aren't necessarily a bad thing, but that
11 oftentimes they do contain constituents that are
12 problematic, and that those are the things that we need to
13 be focusing on. Not that we have to stop the flows, but we
14 have to stop the pollutants that are contained in the flows.
15 And so long as the discharges are done under a series of
16 conditions that assure those water quality objectives are
17 being met, then those discharges should not be a problem.

18 We saw Dominic, your suggestion for monitoring
19 plans. Contained in our letter were more or less the same
20 types of conditions, that you would allow these, these
21 discharges to occur provided there was a NPDS permit that
22 allowed these discharges, and that you had a monitoring
23 program that was sufficient to assure that you weren't
24 contribute to the degradation. And I think that's the
25 important part, is really what we're really after here is

1 making sure that we are not degrading these areas.

2 So I think in terms of, of municipalities having
3 certainty that you can go forward and that, that, you know,
4 we have the ability to plan with a certain sense that, you
5 know, at some time in the future the exceptions are going to
6 be removed, but we know that, that those discharges are
7 occurring in a way that they're still protected, is, is the,
8 kind of the way that we ought to be moving towards.

9 So again, the details are contained in the letter.
10 Appreciate the opportunity to speak to you today on this
11 subject.

12 VICE CHAIR SILVA: Dan, just a clarification. We
13 did receive the CASQA letter. I'm just so used to you
14 presenting all --

15 MR. LAFFERTY: Right. You --

16 VICE CHAIR SILVA: -- L.A. County it threw me off
17 for a second.

18 MR. LAFFERTY: Yes. Okay, thank you.

19 SPEAKER: I was just going to say the same thing.
20 I've read through your letter.

21 MR. LAFFERTY: Okay. Thank you very much.

22 VICE CHAIR SILVA: Thank you.

23 Sarah Newkirk, and then Anjali.

24 MS. NEWKIRK: Come down about a foot and a half.
25 Good morning, board members and staff. My name is Sarah

1 Newkirk, and I represent the Ocean Conservancy. I thank you
2 for the opportunity to come and talk to you about the
3 statewide policy, developing a statewide policy to regulate
4 and reduce stormwater discharge into areas of special
5 biological significance. As you know, this is an issue
6 that's been very important to my organization and its more
7 than 25,000 California members, and it's an issue on which
8 we have been working actively with state board staff for
9 many years.

10 Specifically, we've worked to allocate state bond
11 funds towards projects for restoration and protection of
12 areas of special biological significance. We've
13 participated in state board programs to provide education to
14 dischargers of pollution on options for ASBS requirements.
15 Over the past year we've met with and offered assistance to
16 several cities in the central coast region on developing
17 ASBS compliance plans. We hope to and offer to continue
18 that effort in the spirit of cooperation as you move forward
19 to consider this policy.

20 An objective of any workshop like this would be --
21 should be to identify areas of common ground and to try to
22 develop strategies for overcoming areas of uncommon ground.
23 Having heard a lot of testimony this morning I actually
24 believe that there are significant areas of common ground on
25 this issue, and I'd like to outline what I think a couple of

1 them are.

2 First, the problem. The problem is real.
3 Stormwater pollution is among the most significant sources
4 of coastal and surface water contamination in the state of
5 California. This is a point on which the two national ocean
6 commissions have agreed, as do scores of scientists in reams
7 of studies. In this region, a range of monitoring studies,
8 including the mussel watch program, the sea clean program,
9 and the first flush program, all provide evidence of water
10 quality programs related to stormwater pollution.

11 Second, I think we can all agree that the
12 resources are critical. Everyone in this room can agree
13 that ASBS's are extraordinary areas that contain -- contain
14 communities that are extremely sensitive to pollution, and
15 they need to be protected from degradation. The communities
16 in the central coast region include California sea otters
17 and purple hydro corals, and they're resources that should
18 be protected for their own merits as well as for the sake of
19 the billions of dollars statewide in tourism income that
20 they generate.

21 Third, I think that we can all agree that
22 stewardship is the way forward. Stewardship of ASBS
23 resources is the way to ensure their sustained existence of
24 the biological communities, as well as the continuation of
25 the valuable coastal tourism industry they support.

1 However, stewardship means the development of rational and
2 practical approaches to cleaning up stormwater. It doesn't
3 mean denial and delay.

4 Identification of common ground is also easier if
5 we can clear the air about some things that we're not asking
6 for, and I wanted to do a couple of things that the
7 environmental community has not been asking for with respect
8 to this issue. First, immediate compliance. Both the state
9 and the environmental leaders agree with the common sense
10 fact that there is no way to switch off the switch and
11 prevent all pollution into areas of -- into all areas of
12 special biological significance. It's not going to happen
13 overnight. The Ocean Conservancy and our colleagues urge
14 the state board to adopt a common sense alternative to a
15 general exception that will provide time and a strategy to
16 get to ultimate compliance over a period of years.

17 Second, and, and with force, we are not asking for
18 rerouting of stormwater or the collection of all flows. As
19 Dominic mentioned at the beginning of his presentation, the
20 waste discharge prohibition in the Ocean Plan doesn't,
21 doesn't prohibit the discharge of water, as has been
22 referenced by some of the speakers, into the ASBS's. It
23 prevents pollution in the ASBS's. The idea that ASBS
24 compliance should be accomplished through multi-million
25 dollar massive rerouting solutions has never been proposed

1 by my organization, nor any other that I'm aware of. This
2 should not be used as a scare tactic to polarize the
3 stakeholders, to create fear, inflame the issue, and
4 distract us from collaborating to find practical proactive
5 solutions.

6 Let's not rehash old arguments, either. This is
7 an issue with a long history, and prohibiting pollution is
8 not a radical idea. For example, one of the primary
9 objectives of the 1972 Clean Water Act was to eliminate
10 discharges in waters of the United States by 1985. The
11 state board's own policy prohibiting the discharge of waste
12 into areas of special biological significance has existed in
13 its present form for at more than 20 years. Five years ago,
14 the state board heard some of the same arguments that we've
15 heard today that stormwater should not be a regulated
16 discharge because there's no practical way to deal with it.

17 We reiterate that it is our belief and the belief
18 of numerous scientists that there are practical ways of
19 dealing with stormwater, that we need proactive approaches
20 to getting to them and collecting them from the reams of BMP
21 studies that are available, best management practices are
22 available to deal with stormwater, and the state board
23 rejected those arguments back in 2000 when it heard them on
24 the Crystal Cove case, and it stated unequivocally that the
25 ASBS rule covers and should cover stormwater.

1 Two years ago the state board rejected Ocean Plan
2 amendments that would've dropped the pollution prohibition
3 and allowed discharges under special conditions. The board
4 cited the Pure Oceans Commission report, and its finding
5 that the oceans are in crisis and that stormwater related
6 pollution is a major source of contamination to coastal
7 areas. It said that in light of that study, it shouldn't
8 act then to diminish the protection of -- of areas of
9 special biological significance. It's time to reinforce our
10 protection of those areas.

11 It would be even less appropriate to reduce the
12 level of protection now, after the President's Ocean
13 Commission called for measurable water pollution reduction
14 goals and strengthened incentives. And the governor
15 committed the state to a policy that specifically mentioned
16 areas of special biological significance while standing at
17 the Point Lobos ASBS. (Inaudible) outlined in our position
18 on this issue, and this letter is on behalf of the Ocean
19 Conservancy, NRDC, United Anglers of California, the Pacific
20 Coast Federation of Fishermen's organization, the California
21 Coast Keeper Alliance, Friends of the Sea Otter, the
22 Monterey Bay chapter of the American (inaudible), Defenders
23 of Wildlife, the San Luis Obispo Coast Keeper, the Surfrider
24 Foundation, and (inaudible).

25 In it we call for a common sense alternative to a

1 general exception to the ASBS pollution prohibition. I'll
2 not read our letter in its entirety, but we believe that
3 there are better, more practical alternatives to a general
4 exception for the following reasons. The recommendation of
5 the two ocean commissions and the commitment of our governor
6 call for addressing this problem, not denying it or running
7 away from it. Given the insight of this significant
8 national report and our own state commitment, it defies
9 common sense that California would now act to diminish long-
10 standing protections of its most valuable coastal resources.

11 Areas of special biological significance are home
12 to the state's most sensitive and unique marine communities,
13 and they present both a challenge and an opportunity. The
14 challenge is that there are numerous existing sources of
15 pollution into these areas. But the opportunity is that the
16 tools for addressing this already exist in the form of the
17 Ocean Plan's prohibition against the discharge of waste into
18 areas of special biological significance.

19 It's neither balanced nor reflects common sense to
20 exempt a primary category of pollution into areas of special
21 biological significance, that is, discharges of polluted
22 urban stormwater run-off, when this is one of the most
23 significant sources of pollution to waters of the state of
24 California. Our alternative proposal creates a framework to
25 which these dischargers have time and flexibility to find

1 solutions that work for them. We have been talking with
2 cities, including Pacific Grove and Carmel, that are
3 interested in proactively seeking management practices that
4 address their pollution. We believe that our recommended
5 strategy would permit these cities to collaborate with the
6 state board and with environmental groups on developing
7 specific plans that lead to ultimate compliance with the
8 discharge ban. And my colleague, Angeli Jaiswal, will
9 discuss the proposal in more detail in a moment.

10 I wanted to take a special moment to --

11 VICE CHAIR SILVA: Can you wrap up? I've already
12 given you ten minutes.

13 MS. NEWKIRK: Absolutely. To discuss the funding
14 question which has been on the table a lot today. The Ocean
15 Conservancy has helped allocate bond funds to this purpose,
16 and we will continue to do so. We are delighted by the
17 fact, as confirmed by Measure O down south, that when
18 communities are properly briefed on this issue, they're
19 willing to pay for stormwater measures. My organization's
20 also supported ACA10, and hopes to make a commitment to
21 reintroduce another measure like it that would permit cities
22 to treat stormwater like the utilities for the purposes of
23 raising money.

24 As I outlined in the beginning of my presentation,
25 I think there is significant common ground on this issue.

1 The framework that we're presenting will provide a fair and
2 flexible means for the board to address existing discharges
3 and a jumping off point for the cities to start to select
4 management measures that are right for them.

5 Thank you again for the opportunity to address
6 you, and I'd be happy to answer any questions.

7 MR. SECUNDY: Yes, I do have one. Mr. Lafferty of
8 CASQA, if I understood his presentation correctly, basically
9 was proposing that why don't we monitor the quality of the
10 ASBS's first and see if we, quote, have a problem. Then, if
11 indeed we have a problem, then proceed to ameliorate that
12 problem. Listening to you, I get the feeling you feel we
13 have a problem.

14 MS. NEWKIRK: We do have a problem. We have -- at
15 least in the central coast, we've examined monitoring
16 studies that show that we have consistently above water
17 quality objectives levels of copper, zinc, some other heavy
18 metals, orthophosphates, and bacteria. And we are seeing,
19 you know, we're seeing effects in, in the ASBS's. I think
20 that requiring additional monitoring when we have clear
21 evidence of stormwater pollution in the ASBS's that we're
22 dealing with right now would just be a, it would just cause
23 delay in actually addressing the problem.

24 MR. SECUNDY: Thank you. I've got another
25 question, maybe both of you can think about this. But, I

1 mean, there's been already a couple of suggestions and ways
2 of taking this, regulating ASBS's out of the Ocean Plan.
3 And without taking the, at least the language of prohibition
4 of waste out of the Ocean Plan, I mean, is there any
5 problem, do you see any problem with taking sort of the
6 process, at least, out of the, out of the Ocean Plan in
7 terms of exceptions, for example, which, honestly, when we
8 went through the state board it felt a little bit awkward to
9 me in terms of all we do is help you find, looks good to us.
10 Regional board, you guys do the work.

11 You know, rather than having an exception process,
12 maybe having very specific guidelines at the statewide level
13 that would then be implemented through -- either through the
14 MS4 permits that already exist, or individual permits for
15 isolated areas. I mean, it seems like the process could be
16 fixed a little bit.

17 MS. NEWKIRK: Although we'd like to see the waste
18 discharge prohibition remain in the Ocean Plan, Anjali is
19 going to talk about our proposed alternative framework, and
20 we think that that will actually --

21 MR. SECUNDY: Oh, okay.

22 MS. NEWKIRK: -- address a lot of your concerns.

23 MR. SECUNDY: Oh, okay. Okay, good.

24 MS. NEWKIRK: I have other copies of the letter.

25 MR. SECUNDY: I'm sure we'll have competing ideas,

1 but -- thank you.

2 MS. JAISWAL: I don't want to have my back to
3 anybody at the workshop, and I want to be -- okay.

4 I'm Anjali Jaiswal, staff attorney at NRDC, that's
5 the National Resources Defense Council. Good morning, Vice
6 Chair Silva.

7 VICE CHAIR SILVA: Good morning.

8 MS. JAISWAL: Good morning, members. It's a
9 pleasure to appear before you, as well as staff and the
10 mayors of the region.

11 As I said, I'm a staff attorney at NRDC with over
12 a million members and over 100,000 members in California who
13 really care about these gems, these areas of special
14 biological significance, the 34 that we're talking about
15 today. And I just wanted to take a, take a step back and
16 recognize the truly critical and important role that the
17 State Water Board and the regional water boards play in
18 protecting public health. And as we've all seen in the news
19 today, the massive flooding happening in Louisiana and water
20 contaminated with pollutants, toxins, bacteria, flooding
21 streets, and the crisis that Louisiana is facing, really is
22 sobering. And what it does is, you know, it reminds me that
23 hopefully in California we will never have a crisis like
24 that. But it highlights the importance of maintaining and
25 protecting our water quality.

1 So Sarah nicely framed the discussion for us
2 today, and we, and the board heard a lot about concerns from
3 cities, especially regional cities here, confronting their
4 legal obligation for the first time that has been going on
5 since the seventies, this legal obligation has existed since
6 the seventies. And a lot of the debate has advanced and a
7 lot of the debate is over, and I think that, just to
8 summarize, that Sarah had said, that we know in the Ocean
9 Plan and all the amendments to it that this state board has
10 made has really clarified that there is a clear discharge
11 prohibition within the Ocean Plan, and that you cannot
12 discharge into an ASBS, that includes stormwater discharges.

13 So you also know stormwater pollution, the number
14 one source of pollution to California's coastal waters, the
15 state board has made that finding itself. Dischargers must
16 meet water quality standards. This board has found and has
17 litigated and defended affected BMPs that reduce stormwater
18 pollution, and these off the shelf technologies already
19 exist. And this board has already found that that question,
20 Mr. Secundy, that you asked about whether we should monitor
21 or further monitoring. Monitoring, yes. We all recognize
22 that monitoring is a critical component of water quality.
23 But this board has already determined that discharges into
24 ASBS's have an impact sufficient to trigger the discharge
25 prohibition in the Ocean Plan.

1 So, you know, today what we're really talking
2 about is the framework. How are we going to address the
3 over 1600 violations that were discovered by the state board
4 --

5 (Note: End Tape labeled Part 3, Side B.
6 Start Tape labeled Part 4, Side B.)

7 MS. JAISWAL: -- by the report over two years
8 ago. And, and what we've heard is the exception approach,
9 and we, we know that it's been used in specific
10 idiosyncratic places. However, this exception approach is a
11 departure from the state board precedential orders and
12 actions on the Ocean Plan. The, the exception is in the
13 wrong direction. That's not the way to deal with the 1600
14 violations that have been found in 2003. As, as you've
15 heard, the, it seems that some of the dischargers may not be
16 taking the prohibition seriously. In fact, we've heard like
17 why call it an exception, let's call it what it really is, a
18 permit to discharge.

19 That's not what the Ocean Plan contemplates.
20 That's not what the legislature contemplated. That's not
21 what this state board required. So it, it flies in the face
22 of the Ocean Plan and the law to actually relieve an entire
23 category of, of polluters of discharges from compliance.
24 But, but having said that, I do recognize that there is a
25 common ground that Sarah was talking about, and that we want

1 compliance with the Ocean Plan, we want to protect our
2 waters, that -- that we want to have a rational approach to
3 utilize existing practical solutions to protect these gems.
4 So, and a statewide approach for all of the region that's
5 sufficient for statewide resources and a coordinated effort
6 with cities and other entities.

7 So I'm -- so we're proposing today a practical
8 framework, and we have been looking at the water code and
9 looking at the regulations and, and the various things, and
10 we're happy to discuss those with your lawyers and your
11 legal team. But the first step is to have a tailored
12 program to achieve compliance over a reasonable amount of
13 time. And what this would first include, the first step is
14 to provide information. The state board has already
15 notified many of the discharging entities, but to notify
16 them that they're not -- that they are not complying with
17 the Ocean Plan, and then to invite them to participate in a
18 four-part stewardship remedy.

19 We've heard a lot about stewardship. Let's talk
20 about solutions and remedies. The stewardship remedy would
21 be in lieu of other approaches available to the board to
22 address violations, such as fines and ACLs and various
23 things like that. This four-part stewardship remedy would
24 say once the, once the discharger is notified, they could
25 propose a remedy in the form of a time schedule. And that

1 time schedule would guide the efforts which constitute a
2 formal commitment to protecting California's gems, our
3 ASBS's.

4 So one of the first steps is to have a plan for
5 immediate and long-term corrective and preventative action.
6 We already heard Caltrans seeming to take this approach with
7 finding after discharges which ones are clear discharges,
8 which ones they have questions about, which ones that they
9 can correct immediately. That's something that would be
10 included in the plan.

11 A second part, and something that this board knows
12 well, is a BMP implementation plan. And the BMP
13 implementation program would include proven off the shelf
14 best management practices, you know, BMPs, that reduce
15 pollution, provide green space, revitalize neighborhoods,
16 and recharge groundwater that's ultimately used for drinking
17 water. And, and you know, I didn't bring the, the manual
18 that I know that some of the agencies here know well, of the
19 various BMPs. This, this board knows these BMPs and has
20 defended them in court and has won, and has proven that
21 they're cost effective, that they're technologically
22 effective, and that they're practicable.

23 And then the part, the third step in the four-part
24 stewardship remedy is the dischargers set a interim timeline
25 with specific schedules to implement these BMPs, the

1 corrective action, the preventative actions, so that they
2 comply with the Ocean Plan. And the fourth step is a final
3 compliance stage justified by the nature of the discharge
4 and the necessary steps for the remedial action at the
5 earliest possible date.

6 Finally, a state approval process where the, where
7 the four-part stewardship remedy is submitted to the state
8 board, and it seemed like San Diego has already thought of
9 something along these lines, from what we're seeing. And
10 that would include review of the plan submitted by the
11 dischargers to first determine if they're violations that
12 are immediately correctable, and then review and
13 modification and approval of the stewardship remedy in the
14 form of a time schedule order to assure that compliance
15 occurs at the earliest date possible.

16 So as you can see, this, this practical framework
17 that we're proposing offers flexibility, that it's rational.
18 It doesn't require compliance overnight. It doesn't require
19 an absolute ban. It gives, it actually gives the state
20 board more authority to protect water quality. You know,
21 as, as I was saying, we've worked with the state board and
22 also defended the state board's authority in court. This
23 actually empowers the state board to have compliance with
24 the law, to adhere with the law.

25 And then where, where the exception in the other

1 proposals really take away from flexibility, because it
2 ties, it ties the state's hands. And what else it does is
3 that we've heard some of the same arguments. I mean, Vice-
4 Chair Silva, you must hear these arguments over and over
5 again, about, you know, cost and absolute ban, and calling
6 to, to question decades of science. And, you know, when,
7 when, as an engineer you might appreciate that. There
8 haven't even been really, I mean, maybe some instances, but
9 not rudimentary engineering approaches on how do we address
10 this discharge prohibition in various ways, and a wholesome
11 revision of the ocean plan --

12 VICE CHAIR SILVA: Could you, could you wrap up,
13 please, because it's --

14 MS. JAISWAL: Yes.

15 VICE CHAIR SILVA: -- you've gone ten minutes --

16 MS. JAISWAL: Okay. So I'm just going to say, you
17 know, instead of this general exception that really
18 effectively nullifies the discharge prohibition, at this
19 threshold the state board should take a step in the right
20 direction by adopting a flexible and practical framework for
21 dealing with -- for dealing with the ASBS's, and we look
22 forward to working with all of you.

23 VICE CHAIR SILVA: Okay. Thank you.

24 MS. JAISWAL: No questions?

25 VICE CHAIR SILVA: I think, I think -- well,

1 unfortunately, we're running out of time, too.

2 Gordon Hensley, next, and then Warner Chabot.

3 MR. HENSLEY: Good morning. Gordon Hensley. I'm
4 the San Luis Obispo Coastkeeper, and I'm here representing
5 the California Coastkeep Alliance. If I hadn't sat so far
6 back, I could've probably saved a little bit of time. I can
7 see that your eyes are glazing over --

8 VICE CHAIR SILVA: No, they're not, actually. I'm
9 still quite interested.

10 MR. HENSLEY: -- and in the, in the benefit of, of
11 time, I will cut right to the end.

12 You have heard most of what we are interested in
13 from our partners at the Ocean Conservancy. I thank you for
14 coming, and I urge you to continue to support enforcement of
15 clean water and our near shore waters. Thank you.

16 VICE CHAIR SILVA: Thank you.

17 Warner Chabot. And followed by Roxayne Spruance.

18 MR. CHABOT: In the interest of time I'll also try
19 to be brief. My name's Warner Chabot, I'm the vice-
20 president of the Ocean, Ocean Conservancy.

21 You did hear from Sarah Newkirk. I think
22 everybody in this room can agree that it is not, should not
23 be the goal of anybody in this room or the state water board
24 to defy the laws of God, Mother Nature, physics, gravity, or
25 common sense. Nor do we believe that ludicrously expensive

1 massive engineering projects are the answer, and we should
2 not waste time trying to debate them and whether they are or
3 are not. There's no enemy or black hats in this room, no
4 good guys or bad guys. Local governments don't pollute.
5 Polluted runoff comes from all of us, and we all have a role
6 in reducing it.

7 Local governments do, however, have the ability to
8 develop locally appropriate education programs and the BMPs
9 that are realistic and effective. I think we at the Ocean
10 Conservancy agree with and applaud the leadership of local
11 governments. Here in Monterey you are -- since we are here
12 in Monterey I'm going to talk more about local governments
13 and landowners in this region.

14 I think we applaud the leadership of local
15 governments and major landowners like the Pebble Beach
16 Corporation in the Monterey Bay region, and the Monterey Bay
17 Sanctuary who, over the past decade and several decades,
18 have been good stewards of the local environment including
19 providing excellent education programs and volunteer
20 programs to try to reduce pollution and do a better job of
21 monitoring.

22 We also recognize and respect the severe financial
23 constraints under which local governments operate, which get
24 more severe each year with more unfunded mandates. Cities
25 can't plan capital improvements based on uncertain funds.

1 City operations and maintenance costs of BMPs can be
2 significant. We accept and agree with local governments on
3 the need for additional funding to help finance practical,
4 common sense measures. That's why the Ocean Conservancy
5 has tried and has been successful in bringing forward at
6 least \$12 million allocation. We agree that that's not
7 enough, but we think it's a good start to help planning. We
8 remain committed to seeking additional funds.

9 But we've challenged the presumption that we limit
10 our vision only to within the framework of immediately
11 available funds. I would respectfully suggest that we first
12 define what should be done and then seek the public
13 education, legislative and other actions to identify those
14 funds and secure them.

15 When leaders from 30 environmental groups met with
16 the governor a couple of months ago, he asked us what is the
17 most important environmental issue in California? After
18 making reference to global warming, really the big kahuna of
19 environmental issues, we all did not rally around any one
20 environmental issue. We all agreed that it is funding, the
21 need for the state to reevaluate how we fund the
22 restoration, monitoring and management of our, of our
23 environment. We believe that that is an underlying problem
24 that this board faces, the resources agency faces, and, and
25 local governments face.

1 In conclusion, we want to applaud the attitude and
2 approach of local communities like Pacific Grove and Carmel
3 to tackle this difficult issue in a collaborative manner.
4 While we respect the need for a common sense, realistic
5 implementation schedule, we do not believe that a strategy
6 of denial or delay is the answer. We honestly believe that
7 some communities have received very expensive, and we
8 believe very bad advice, to adopt this type of a strategy.
9 We believe that similar advice has been offered in the past
10 and has not prevailed before this board.

11 The Ocean Conservancy has and will continue to
12 offer to work with the state and local communities to
13 identify funds and implement common sense solutions on a
14 realistic schedule. We ask the board to provide a framework
15 to move this forward.

16 You posed one question I think earlier about --
17 well, two things. One, stewardship councils. I think
18 stewardship councils is something that sounds good. I think
19 it walks and sounds and quacks like a duck. In reality, as
20 the framework has been handed to you, I think it is a dead
21 duck. I think it is a policy that's been put forward that
22 says we're not going to do anything unless the state puts
23 money on the table up front. I think it tries to substitute
24 a stakeholder group to try to do very complex scientific
25 assessments that is already being done by programs such as

1 the waste dischargers, mussel watch, and others. I think it
2 tries to set up a false solution in which a stakeholder
3 group tries to identify highly complex technical questions
4 about proving cause and effect. I think that is a very
5 difficult and dangerous trap that you should not fall into.

6 I think you should rely on the fact of existing
7 programs that are doing monitoring and are identifying
8 problems, and try to come up with programs to reduce the
9 pollutants that go into the ocean. Thank you.

10 VICE CHAIR SILVA: Thank you.

11 Next, is it Roxayne Spruance? I'm sorry.

12 MS. SPRUANCE: I'm simply here to put into the
13 record a letter from the city of San Luis Obispo, who
14 couldn't be here today, that is in support of the Monterey
15 draft policy. And they also wanted to point out that they
16 are not a discharger into the ASBS, so while they are in
17 some ways a stakeholder, they're not a direct discharger.
18 They just felt it was an important thing to support and
19 (inaudible).

20 VICE CHAIR SILVA: And they thank their lucky
21 stars every day.

22 (Laughter.)

23 VICE CHAIR SILVA: Thank you.

24 David Dilworth, and then Dana Palmer.

25 MR. PALMER: Hi, my name is -- my name is Dana

1 Palmer, staff attorney at Santa Monica Baykeeper,
2 representing Baykeeper and Hilda (ph.) Bay this morning.
3 And I know you guys have been listening to a lot today so
4 I'm going to keep this very short.

5 There's nothing I can say better or more clearly
6 than Sarah and Anjali and Warner have already said to you.
7 So I would just encourage the cities and counties, mayors
8 and officials in this room today to closely look at our
9 proposal. Santa Monica Baykeeper strongly endorses the
10 Ocean Conservancy and NRDC's proposal, so strongly look at
11 it.

12 The only other thing I would say is a lot has been
13 said about funding today in this room, and I think we really
14 have to look at Measure O, which was passed last November in
15 the city of L.A. by over 75 percent of the voters, over half
16 a billion dollar bond to help fund clean beaches and clean
17 stormwater. So when we say things like we don't think the
18 voters will support it, I think solid evidence like Measure
19 O really contradicts that.

20 And just another lesson that I've learned recently
21 from the TMDL process in L.A., where we see lots of entities
22 coming up before the regional board, putting up members and
23 making general assertions of economic infeasibility, I just
24 urge you and your staff to take a very close look at those
25 numbers. When they have, at least in our region down in

1 L.A., the numbers turn out very different from Caltrans'
2 numbers and the county of L.A.'s numbers. So I think the
3 devil is always in the details, and take a close look at any
4 numbers you're given.

5 Thank you very much.

6 VICE CHAIR SILVA: Thank you. I'm sorry, did we
7 miss David Dilworth? There he is. Okay.

8 MR. DILWORTH: Good morning. David Dilworth. I
9 also don't want to have my back to you. I'm in place here.

10 So, board members, thank you for coming. We
11 especially appreciate you coming down here and it saves
12 hundreds of hours, and I hope you appreciate your stay.
13 I represent Helping Our Peninsula's Environment. We have
14 two missions, protection of the environment and democracy.

15 Sincerity, said George Burns, is the key to
16 acting. Once you can fake that, you've got it made. You've
17 heard a lot of sincerity from a couple of the agencies that
18 are responsible for pollution here into our local ASBS's.
19 Monterey is notable for a lot of sewage spills, as well as
20 the heavy metals. They're fighting to allow the pollution.
21 Others are fighting to allow pollution. They want you to
22 deny and delay it. The Pebble Beach Company, regular
23 pollution, sewage goes into Stillwater Cove, the beautiful
24 Stillwater Cove, Pebble Beach Golf Course, you see on the,
25 ABC's Wide World of Sports, pollution regularly closes it.

1 It was closed last week. Caltrans gives you a straw man
2 argument. Oh, we can't do this, \$25 million for four miles.
3 Well, we're going to have to tear down redwoods in order to
4 comply with this.

5 Calvin and Hobbes, that's my favorite cartoon
6 today. Calvin doesn't want to make his bed, so he's going
7 to invent a machine to make his bed for him. So he goes to
8 his mom and asks for a \$50 grant to make a machine. The
9 analogy here with cities and other places that don't want to
10 comply with this and want you to come up with the money to
11 do, take care of their pollution, is similar to that. Mom
12 turned him down for the grant. I appreciate that you're
13 trying to provide incentives, but there's, there's a Calvin
14 and Hobbes issue going on here.

15 Asphalt, seven percent by weight of asphalt is not
16 just from oil. It's the dregs of the cracking and refining
17 process. Every road that Caltrans builds that's made of
18 asphalt, seven percent of it ends up either evaporating or
19 turning into run-off going into, in many cases, that four
20 miles in Big Sur, and into the ASBS. Pacific Grove I
21 would've included in the insincere category a year ago, but
22 they have truly turned the corner. It's a different
23 political makeup, it's a different staff, and I think for
24 once Pacific Grove is truly on the right track, and I think
25 you can actually believe them when they say they're

1 interested in making a difference here.

2 Monterey County is missing. Pebble Beach
3 Company's here, but Monterey County is missing. Monterey
4 County is responsible for the Carmel River, the Carmel
5 Point, and everything in that part of the Carmel ASBS.
6 There are eight golf courses that drain into Carmel Bay.
7 Six go into the Carmel River. Some are directly adjacent to
8 it. Tens of thousands of pounds of pesticides go into the
9 Carmel River and drain into the ASBS every year. About ten
10 times that much in fertilizers. Yet it's completely missing
11 from this entire discussion.

12 There is no monitoring of it. Hope has tried for
13 years to try to get Monterey County, your regional water
14 quality control board, to take a look at this and actually
15 do monitoring. Noah Fisheries doesn't have the funds. They
16 only do urban watch. Their first flush doesn't look at this
17 stuff. Tradition and reasonableness -- tradition and
18 reasonableness have put our oceans and our ASBS's in peril.
19 Traditions of pollution. We used to dump sewage and just
20 our raw garbage off the seawall at Lover's Point in Pacific
21 Grove. Reasonable denial and delay have got us where we
22 are.

23 Do not, please do not decrease protection. Do not
24 pursue a general exception. You have the authority to do
25 what the law is saying. Your tools are the Clean Water Act,

1 which prohibits any pollutants, Prop 65, our local voter
2 adopted law that does the same thing, and our ASBS discharge
3 prohibition. You know you have the duty under those same
4 laws which you may not avoid. We urge bold action because
5 no one here disputes that we have an ocean crisis. No one
6 disputes the pollution problem in our ASBS, except Pebble
7 Beach Company's Mark Stillwell, in the newspaper recently.

8 We urge you adopt strong compliance schedules.
9 And I'll leave you with the question, how much worse will it
10 have to get before you enforce our laws?

11 SPEAKER: I have a question before you leave the
12 microphone, and it's been raised by several environmental
13 groups now, which is basically if we adopt, quote, a general
14 exception, then in some way we are backsliding and we are
15 allowing discharges. I guess perhaps I'm a little confused
16 here. The word "exception" is an unfortunate terminology.
17 Perhaps a conditional permit would be a better terminology.
18 But would it not depend upon what exactly was in the
19 exception as to whether or not we were, quote, backsliding?

20 MR. DILWORTH: It seems to me that on the surface
21 your, your theory is correct, that the devil is in the
22 details, and what you put in the general exception permit.
23 If you have a very tight schedule, the best possible -- best
24 is probably the wrong word -- maybe we could have something
25 here. But by allowing a, an exception, you are essentially

1 authorizing pollution. There's, there's a fundamental
2 inherent wrong in that. And yet, a number of you have
3 already said that it would be impossible to prevent all
4 discharges into the ASBS's.

5 So if indeed that --

6 SPEAKER: We did, we did not assert that.

7 MR. DILWORTH: Excuse me?

8 SPEAKER: We did not assert that.

9 MR. DILWORTH: So are you asserting that it is
10 possible to prevent all discharges into the ASBS's?

11 SPEAKER: What I will tell you is as an expert on
12 environmental impacts and mitigations and alternatives, that
13 the alternatives and mitigations have barely been scratched.
14 There are true alternatives. For example, instead of the
15 seven percent oil that we put on all of our roads, Caltrans
16 also makes concrete roads. They have other impacts, but
17 they don't have the oil impacts that roll into our ASBS's.
18 There are similar types of alternatives and mitigations that
19 can dramatically, not just significantly, but dramatically
20 reduce our pollution.

21 And what I found over the years is that looking at
22 alternatives is not so much a matter of looking at the
23 technology, it's a matter of looking at yourself and your
24 attitude towards alternatives. Once you have the attitude
25 to embrace alternatives and to thoroughly evaluate them

1 objectively, alternatives can make huge improvements.

2 MR. DILWORTH: Thank you.

3 SPEAKER: Thank you.

4 VICE CHAIR SILVA: Kaya Freeman.

5 MS. FREEMAN: Hi, thank you. I'm Kaya Freeman,
6 with the Surfrider Foundation. I'm the Central Coast
7 Regional Manager. And I'd like to just tell you a little
8 bit about Surfrider and what we can do to partner with you
9 to achieve this goal of clean water, and highlight a few of
10 our concerns, and a few recommendations.

11 We're a non-profit grass roots activism
12 organization with 60 chapters nationwide. Twenty of those
13 are in California, and four are right here in the central
14 coast. And we have 45,000 members and thousands of
15 volunteers that work with us to do programs to protect
16 coastal water quality and conduct educational programs in
17 schools and in the public, do coastal mapping projects. And
18 we also, these are just a few of our programs that relate
19 directly to this issue. We produce a state, an annual state
20 of the beach report, which has just recently come out and is
21 accessible on our website at surfrider.org.

22 And in a similar report, I'd just like to mention
23 last year Stillwater Cove and Carmel Bay did come up as one
24 of the top five worst, having the worst water quality in the
25 state. So it definitely would probably top the worst case

1 list, which would then be a priority to look at.

2 So a couple of our concerns is the dry weather
3 non-point source pollution, and we would like to see this as
4 a starting point of action, and that could be complemented
5 with public education campaigns. For example, California
6 American Water Company right now is doing public campaigns
7 on the radio addressing reducing water supply, telling
8 people not to wash their cars in the street and talking
9 about drainage into the bay, and that's a perfect complement
10 to talking about connecting that with water quality issues
11 in, in the ocean.

12 Additionally, other things that could complement
13 that are capture and re-use program, which also, you know,
14 lays with the water supply problem. And possibly, in terms
15 of funding, some kind of emergency funds to help pretty
16 quickly stop dry weather non-point source pollution.

17 A big concern also is wet weather flow, especially
18 in first flush, which is coming up here in October. And we
19 recognize this will take time, but we still feel that
20 general exemptions are not the answer towards improvement,
21 and we endorse the compliance schedule which was highlighted
22 in our letter with the Ocean Conservancy. And we really
23 would like to gradually and cooperatively work towards the
24 goal of only rain in the drain. So I'd just like to clarify
25 we're not talking about no discharges into these ASBS's, but

1 natural water quality.

2 Also, I would like to extend this understanding of
3 exceptions as a gateway to permits, to permits as a gateway
4 to compliance. So temporary, you know, permits are
5 exemptions, but we do want to endorse a very proactive and
6 aggressive schedule towards working with these dischargers
7 to achieving clean water.

8 And I'd also just like to make a request to you,
9 to the board, to clarify the definition of compliance, what
10 it is, and when these exceptions are granted. And what is
11 the monitoring standard, what type of water, what is, as
12 it's been asked, natural water quality.

13 A couple of our recommendations, and to recap.
14 Start with stopping the dry weather discharge with
15 aggressive educational campaigns and possibly capture and
16 re-use of the water. Secondly, have the state work with
17 city and county agencies to submit a plan of safe
18 implementation for wet weather runoffs, and for these
19 exceptions and permits. And also, in relation to the
20 funding question, Sam Fahr (ph.), our congressman, he was
21 recently here on Monday and it's unfortunate he couldn't be
22 here today because he is on the House Appropriations
23 Committee, and I definitely think we should talk to him if
24 there's any federal funds available to help with this.

25 And also, I think providing a budget, I think

1 there's a lot of environmental organizations and grass roots
2 organizations that could help, it falls under our mission to
3 help with the educational and enforcement component of this,
4 this issue. And then I'd also just quickly like to address
5 your mentioning the easy perception that Californians don't
6 want to pay \$3 to, you know, improve water quality. But
7 you're familiar with Sea Web and there's other surveys of
8 Californians that actually indicate a majority of
9 Californians are willing to pay for keeping their beaches
10 clean and their water quality acceptable for recreational
11 use, and the general benefits to wild, wildlife that exist,
12 and, and even visitors. I think California's ocean
13 environment is nationally and recognized worldwide, so this
14 isn't a problem just for the cities or counties or the
15 state. I think we can seek help outside.

16 And there's a lot of organizations that are
17 willing to go upstream and knock on people's doors and run
18 public campaigns in terms of public education.

19 So thank you very much for the opportunity to
20 comment.

21 VICE CHAIR SILVA: Thank you. Fred Meurer.

22 MR. MEURER: Sir, if I could just make a few
23 comments on behalf of the cities, and sort of wrap up our
24 ideas.

25 I really don't think we are as far apart as it may

1 sound. Yes, we find it offensive when we are put in the
2 outlaw category because our stormwater quality doesn't meet
3 or exceed our drinking water quality. That's one of our
4 concerns, is that we feel that we are being put up and being
5 measured against an impossible standard. We are not
6 uncomfortable at all with stopping dry weather flows. That
7 is absolutely a smart, good investment of the public's
8 dollars for best management practice. We should be
9 exploring that.

10 But our concern is, you know, when the cities are
11 described as the polluters, it's the folks who drove here,
12 it's the folks who have the metal gutters, it's the folks
13 who applied their brakes on their way here, that are the
14 polluters. We just happen to be the owners of the pipes
15 that takes their pollution to the ocean. We need their
16 assistance, we need your assistance in providing us a
17 framework that we can continue to work with our
18 environmental partners, but we also need to be measured
19 against standards that are achievable.

20 And that's our frustration, is we see standards
21 and we testing requirements that aren't directly resulting
22 in improvements of the environment, and we, our frustration
23 is selling that to our own public, but also is that the
24 right thing to do. Let's put our limited dollars where we
25 know we're going to get a quick return.

1 It is a long-term process, and we are willing to
2 buy into that long-term process. But that's what the swamp
3 is. The swamp is also a long-term process. It involves
4 best management practices, and we are all embracing that.
5 We have been the leaders in this region, collectively, the
6 cities, working with the sanctuary in terms of the
7 educational program. We go to the schools with our little
8 storm drainage model, we get the Boy Scouts out there
9 painting all of the down -- the storm drains, and so on.
10 It's not as though we're doing nothing. We are just asking
11 you to describe a target that we can explain to our
12 constituents is a reasonable target, that is an achievable
13 target, and it will take time to get there.

14 And, to be truthful, we are asking for the state
15 to help fund the state's responsibilities, as opposed to
16 transferring it all to the other agencies. And the money
17 that is up there on the screen, that was up there earlier,
18 that's great. But there are real costs associated with the
19 city's operating the systems, there are real costs
20 associated with the testing and monitoring, and we need to
21 figure out how we're going to pay for those. And we need
22 our environmental partners who refer to the best management
23 practices and who refer to the dollars and cents that, that
24 we articulate as being wrong, to give us the correct dollars
25 and cents if they have a better answer or a better solution.

1 Thank you very much. You've got a tough job ahead
2 of you. Good luck with it.

3 VICE CHAIR SILVA: Thank you.

4 That's all the cards I have. Anybody we missed?

5 Yeah, come up. Did you submit cards? Why don't
6 you write one out? Do you have a card?

7 SPEAKER: Are there just two of you at this point?

8 VICE CHAIR SILVA: Well, just come up, then.

9 SPEAKER: Come on up, and please give your name
10 and addresses after you've spoken.

11 VICE CHAIR SILVA: Yeah. In the interest of time,
12 since you didn't have a card, just keep it as brief as you
13 can, please.

14 SPEAKER: Good afternoon, Vice-Chair and board
15 member. I wasn't going to speak at all, but after listening
16 to Anjali and a few others, I thought I should say a few
17 words.

18 VICE CHAIR SILVA: Could you give your name and --

19 MR. ADACKAPARA: Oh, sorry. My name is Mike
20 Adackapara. I work for Santa Ana Regional Board. Probably
21 we triggered this whole mess because late 1990 we looked at
22 some development in the Orange County area by the airline
23 company, and they were trying to put some conditions, and
24 the discharge happened to be into Crystal Cove. That's when
25 they started looking at the ASBS, and at that time I think

1 most of the state didn't even know that there was something
2 called ASBS in the Ocean Plan.

3 But we went ahead and adopted cease and desist
4 orders against the airline company, Caltrans, and the state
5 parks at that time. And I think most of those entities, the
6 airline company, as well as Caltrans, redirected their
7 discharge into Crystal Cove into, into the ASBS, and they
8 are in compliance. But my problem with that approach is
9 are, are we really getting water quality benefit by doing
10 that. Probably not, because all that has happened is they
11 have redirected their discharge, which probably is waste
12 discharge, into like muddy creek or (inaudible) creek, which
13 are indirect discharges. Sorry about that.

14 (Inaudible comments.)

15 MR. ADACKAPARA: So one thing that the state board
16 probably want to look at is a re-definition of direct
17 discharge. I know at that time Craig Wilson, the chief
18 counsel, issued a directive regarding the direct discharge
19 and how it is defined. Now, if it is not providing the
20 water quality benefit that we should get by eliminating that
21 discharge, then I don't know if that definition is any good.

22 So one of the things that -- the second thing that
23 I wanted to mention was I think Dominic very clearly defined
24 what we are trying to achieve here, what waste is. So
25 probably what we are trying to avoid is eliminate waste.

1 Now, state board in the MS4 appeal for San Diego permit,
2 made a determination that stormwater may not be defined as
3 waste. So probably what we need to do is to eliminate waste
4 in stormwater. And the BMV's probably should be what we
5 need to look at, and then all the cost estimates that
6 Caltrans, as well as L.A. County, put during today's
7 presentations, (inaudible). Because if you look at
8 Caltrans, what Caltrans has done at Crystal Cove ASBS, you
9 can see all that they have done is diverting the flow and
10 putting in several BMPs, which are very cost effective. And
11 those BMPs we believe they are effective in eliminating the
12 waste in stormwater runoff.

13 So if other BMPs such as those Caltrans
14 implemented could be implemented elsewhere, then probably we
15 don't have to spend the \$560 million that L.A. County
16 mentioned, or the \$25 million that Caltrans mentioned, to
17 take care of this problem.

18 Then in reference to what Anjali Jaiswal was
19 talking about, she was talking about a four point program in
20 lieu of this (inaudible) process. Now, how I see the four
21 point program that she mentioned, she talked about notifying
22 the dischargers of their violations, she talked about
23 getting a program from them implementing BMPs, and having a
24 schedule to implement those BMPs. All those elements are
25 there in the current MS4 permit. The current municipal

1 permittee permits actually how those elements, and I do not
2 know if he is making a proposal that is any different than
3 what is there in the MS4 permit. So maybe the MS4 permit is
4 the ultimate tool to take care of the problems of the
5 ASBS's.

6 And I also want to mention that at Crystal Cove,
7 at least, they have a significant amount of monitoring, both
8 background monitoring as well as discharge monitoring into
9 the ASBS. Now, if the state board or somebody could take
10 the stewardship and coordinate those monitoring efforts,
11 maybe we could save some money and all these cost
12 prohibitive things that everybody is talking about could be
13 eliminated.

14 I don't want to take up too much of your time. I
15 think that's what I wanted to mention. Thank you.

16 VICE CHAIR SILVA: Thank you. I would suggest
17 that you sit down with Ms. Jaiswal and ask her the same
18 questions you just asked us.

19 MR. ADACKAPARA: Thank you.

20 CHI-WEI-LIN: Thank you very much for allowing me
21 to speak. My name is Chi-Wei-Lin, I'm the mayor of Trinity,
22 400 mile north of here, population 311, the second smallest
23 city in California. And we are honored to be one of the
24 ASBS. Now, I'm coming here to ask one specific question,
25 and my comments will be very short.

1 Does the state board has any provision to deal
2 with the small, or to help a very small city like we have,
3 which is the population, like I said, is 311. If we want to
4 increase tax to thousand dollar apiece, we'll only get about
5 \$300,000, not enough to (inaudible). We have annual budget
6 of \$250,000. The entire city is operating on \$250,000 a
7 year. We have four full-time staff, so we don't have any
8 capability to do any of the things that are required for a
9 city to do to do the exception process. We don't have the
10 staff, we don't have the, the key, we don't have the human
11 power, and we don't have any financial support.

12 We can, if we apply for a grant, we're definitely
13 a poor competing situation, because we don't have expertise
14 to run a grant. So what can we do?

15 SPEAKER: Would you like an answer to that?

16 CHI-WEI-LIN: Yes, please.

17 SPEAKER: I was going to --

18 CHI-WEI-LIN: Yes, please.

19 VICE CHAIR SILVA: Go ahead and ask the, the
20 question.

21 CHI-WEI-LIN: So if, if a big city like San Diego
22 and others have problems --

23 VICE CHAIR SILVA: Actually, they have worse
24 problems than you do.

25 CHI-WEI-LIN: -- is it possible for us. We cannot

1 do anything, but we do like to keep the water clean. That
2 is our desire. We are very pleased to have clean air and
3 clean water. But we, we have, we need help.

4 VICE CHAIR SILVA: Mayor, if I could suggest, just
5 in the interest of time, actually you've got, we've got an
6 expert here, Leslie from staff. I would propose really,
7 maybe after the meeting rather than right now, if you could
8 sit down and talk with her, one on one.

9 CHI-WEI-LIN: I would be glad to do so. Thank you
10 very much.

11 VICE CHAIR SILVA: I think, I think you'd be
12 better served, I think all of us would be better served to
13 do that. I think she could give you a lot of input, and
14 perhaps how you can --

15 CHI-WEI-LIN: Thank you.

16 VICE CHAIR SILVA: Thank you very much, Mayor, for
17 coming over here.

18 Anybody else we missed, or --

19 SPEAKER: I think next time we're going to be a
20 little bit stricter about filling out blue cards. Your time
21 gets shortened.

22 MR. MILLER: I apologize for not submitting a
23 card, but it is -- I'm Tim Miller, I'm a deputy city
24 attorney with the city of San Diego, so I was one of the
25 ones chuckling about our other problems.

1 But one thing that I, I maybe disagree with is
2 that the points at which the municipalities and others have
3 common ground. I know from direction I have been given from
4 our city council and direction I have been given from the
5 city attorney, who's an elected official, that he's taken
6 the position that he has a, an independent mandate from the
7 people to do what's best for the city.

8 No one's going to stand up and say we don't want
9 clean water. It seems that we diverge on our common ground
10 at that point. And what I want to do is kind of give you
11 some insight as to the thought process on a city as to why
12 we come forward with multi-million dollar proposals for
13 infrastructure and all of that.

14 In ASBS 29 we have sand, we have a concrete
15 boardwalk, and we have a green park. If the limit of our
16 problem was rainwater falling on our, this little patch of
17 green grass and then flowing into the ocean, we could stop
18 fertilizing and we'd probably be fine. As you know, the
19 problem is we've got 1400 acres of hills that butt up to the
20 sand, that have roads. And so that's the water we're
21 worried about, that we have to stop at the scene. And so
22 we've heard about the application of BMPs in existing
23 infrastructure.

24 The San Diego Regional Board just passed a TMBL
25 for copper, zinc and lead for a watershed in San Diego that

1 has runoff that's very similar to what's going into La Jolla
2 Shores. That technical report, prepared by that regional
3 board staff, stops short of saying that existing BMPs would
4 achieve the reductions necessary to achieve the California
5 toxics rule standards. I have a feeling that if all we
6 needed to do were achieve California toxics rule standards
7 for water going into the La Jolla ASBS, that we wouldn't
8 need to be here. We'd just apply the toxics rule through
9 the MS4 permit and we'd be fine.

10 But we know that undesirable alterations to
11 natural water quality are going to probably require controls
12 better than what's necessary to achieve the California
13 toxics rule. And if existing BMPs won't achieve the toxics
14 rule, how do we achieve undesirable alterations to natural
15 water quality. We don't know, and regional board staff in
16 San Diego doesn't know. So we're left with whatever this
17 strict compliance schedule is, what are we complying with.
18 The only we know to achieve that at this point is to stop
19 the water at the sand and put it someplace else. If there
20 are BMPs less drastic than that that would achieve it, tell
21 us what they are and I'm sure we'd be happy to figure out
22 some time schedule upon which we could get the money to
23 implement it. But we're not here just trying to raise fear
24 about what's going on. We've looked at the options. We
25 don't see them.

1 I'll conclude on that. Thank you.

2 VICE CHAIR SILVA: Thank you.

3 Anybody else? Okay. Thank you.

4 Well, first of all I want to thank everybody and
5 staff for all the input. I think it's very helpful for me,
6 anyway, to hear all the issues. And I know it's complicated
7 and, and I hear the issues from the city and the MS4s. But
8 I've got to say, I mean, I think, to me, there's got to be
9 some benefit in terms of what the cities -- at least where
10 there's MS4s already in place, to what we should be doing in
11 the MS4s to complement whatever needs to be done in the
12 ASBS. And I, and I know it's not easy, but there's got to
13 be some, some way that you'd benefit from having the MS4
14 permit there and the associated BMPs.

15 And quite frankly, I mean, this whole definition
16 of waste, too, I think is critical in terms of how you
17 define it. Whether, you know, you base it on the receiving
18 waters or how else you want to define it. But to me, that's
19 critical. And this whole exception issue to me is more of a
20 process question. We've heard some very innovative ways,
21 perhaps, to approach it. The stewardship council, we've
22 heard I think two different kinds of --

23 (Note: End Tape labeled Part 4, Side B.

24 State Tape labeled Part 5, Side A.)

25 VICE CHAIR SILVA: -- stewardship council. I'm

1 sure they're not the same. There might be some benefit in
2 that. And clearly from where we want to go as a board, I'm
3 going to surprise staff, probably, right now, but I think it
4 would be beneficial to take all these comments, perhaps put
5 them in some kind of a matrix form in terms of what kind of
6 approaches we could take as, as a board, get it out to the
7 public.

8 And then I'd like to have another one of these in
9 southern California, after staff has had time to process all
10 the information, all the suggestions, and then get more
11 public input on those, maybe all those other ideas that have
12 come up. Because, again, I don't feel like I'm an expert on
13 this. I mean, having gone through the exception process for
14 Scripps, I was very, again, very confused, and I'm not sure
15 it was the best overall process we could have. I mean, I
16 want to keep those intact, but, I mean, I think there's
17 still some ways that we can skin this cat that might be
18 better.

19 And so, again, I'm, I want to give that direction
20 to staff, and maybe, I don't know how long it would take,
21 Dominic, but as soon as possible, get, get some things
22 written up. You don't have to answer right now, because I
23 want to give Jerry a chance to also --

24 CO-CHAIR SECUNDY: A couple of days. That'd be
25 fine.

1 (Laughter.)

2 VICE CHAIR SILVA: But again, I want to thank
3 everybody. I think the comments you've provided to us today
4 really give us some food for thought, and Jerry, I don't
5 know what --

6 CO-CHAIR SECUNDY: I would just add that this is a
7 workshop, and it is a workshop because -- I will just speak
8 for myself, I'm an undecided board member. I am taking in
9 information. I did not come here with any preconceived
10 ideas, except that, you know, water quality is job number
11 one. That's why I joined the water board. I'm certainly
12 determined to make certain that our oceans and beaches and
13 estuaries have clean water.

14 I'm also not a fan of spending money needlessly,
15 and I certainly understand cost benefit ratios. I also
16 understand the prohibition under the law right now in terms
17 of waste discharges into the ASBS's. And I certainly
18 understand the difficulties that our cities have in being
19 able to fund clean-ups, if you like, even if they wanted to
20 do that. The people of California, the people of the United
21 States, have aspirations of clean water, clean air, better
22 transportation, housing, education, you name it. But the
23 willingness to be taxed for that is sometimes lacking.

24 I hope I am wrong. I hope the public will become
25 better educated and realize that we are going to need

1 funding for this. It's fine for the cities to say we need
2 state help, but we go to the same pocketbooks, to a certain
3 extent, that they do. And we do have some state funding,
4 but it is not unlimited, that's for certain.

5 I think we've gotten some excellent ideas here
6 today. I certainly want to study them. I'm hoping the
7 sides are not as far apart as I originally anticipated.
8 There certainly seems to be some commonality, and I would
9 really urge all of you to continue to work together over the
10 next few weeks and months.

11 I would endorse Vice-Chairman Silva's of a second
12 workshop in southern California in the fairly near future.
13 I am not a fan of dragging things out, as Dominic and others
14 have started to learn. So that's something I would like to
15 see fairly quickly, as quickly as he can turn around these
16 comments, make certain we assimilate them, look at a matrix,
17 and then have a second workshop for some additional feedback
18 so that we can then, frankly, implement some of these
19 programs. This is not something I want to drag out for
20 months and years.

21 I would also, finally, like to very much thank the
22 city of Monterey for the facility and the hospitality, as
23 well as Pebble Beach and Carmel. If there's anyone from the
24 county of Monterey, since you were maligned somewhat -- is
25 there anyone from the county of Monterey here? Anyone want

1 to say anything? As well as anyone here from the city of
2 Malibu, since you were also maligned. I want to give you an
3 opportunity to tell the audience that indeed you are working
4 very hard and raising money very hard right now on a, both a
5 sewage treatment plant as well as a stormwater treatment
6 plant. So, that they have started to see the light, I will
7 put it that way.

8 SPEAKER: Delegating and -- our suggestion, I know
9 it's (inaudible) right now, but --

10 SPEAKER: Well, as you know, staff resources are
11 stretched right now, but I think, I think probably in about
12 a month we can get --

13 SPEAKER: Oh, good.

14 SPEAKER: -- the, the matrix together that you're
15 suggesting.

16 SPEAKER: Well, I would say, I would suggest maybe
17 a couple months from now, as maybe already posted -- post
18 the meeting, but then have the comments come out about a
19 month before, to give people time to comment.

20 SPEAKER: So sometime late in the fall, probably?

21 SPEAKER: That's what I'm thinking, yeah. So
22 that, that would be very beneficial.

23 SPEAKER: Not too late.

24 SPEAKER: And I understand, you know, but, you
25 know, that's -- if a month is workable, that's great.

1 And finally, the last thing on the agenda, we are,
2 for those of you who wish to join us, to reconvene at an
3 ASBS project in the city of Pacific Grove, and Steve Leiker,
4 I think he's here to give us directions on how to get there.
5 I think it's real close to here, so.

6 I think anybody that's here is welcome to attend.
7 There's enough parking, I guess.

8 MR. LEIKER: Vice-Chairman Silva and Board Member
9 Segundy, good to see you again.

10 We're going to reconvene, I don't know what time,
11 Dominic what --

12 VICE CHAIR SILVA: It's 1:00 o'clock.

13 MR. LEIKER: 1:00 o'clock, okay. You all know how
14 to get to Pacific Grove? There's only a couple of ways from
15 here. But if you're in the parking garage, you're going to
16 want to hit Del Monte Avenue and go through the tunnel to
17 Pacific Grove. If you're out here on the street, that's the
18 way to go. Another way you can go right up above the
19 conference center to Pacific, and make a right. That'll
20 take you into Pacific Grove, as well.

21 We're going to be meeting at the -- on Ocean View
22 Boulevard, between 12th and 13th Street, and there's not a
23 lot that's above ground there. You know, it's, it's an
24 urban run-off diversion project, and I just want to, want to
25 get you kind of going in the, in the direction here. But,

1 you know, we started back about five years ago, and this
2 particular project that we have was intended to stop or help
3 us to divert sewage overflows from getting into the National
4 Marine Sanctuary. The ASBS is something that we learned
5 about only last year, as all of you know.

6 So, we're going to meet down there, we're going to
7 talk about our project and we'll have an exchange. I'll
8 tell you what we're doing, and then you can take that with
9 you. And there's certainly some issues that we're needing
10 to deal with as you look at ASBS versus urban run-off
11 diversion. But I look forward to, to having that exchange
12 with you.

13 So we'll see you there at 1:00 o'clock.

14 VICE CHAIR SILVA: Okay. Thank you, Steve, and
15 thank you all. The workshop's adjourned.

16 (Thereupon, the Public Workshop of the
17 State Water Resources Control Board was
18 adjourned.)

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CERTIFICATE OF TRANSCRIBER

TITLE: State Water Resources Control Board
Public Workshop, California Ocean Plan,
Areas of Special Biological
Significance

DATE: August 31, 2005

I hereby certify that the foregoing is a
correct transcript from the tape recorded public workshop
of the above-referenced matter for the State Water
Resources Control Board, to the best of my ability.

Lee Robb

DATE: September 12, 2005

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