California Regional Water Quality Control Board
San Diego Region

and

United States Environmental Protection Agency, Region 9

Response to Comments Report

Tentative Order No. R9-2026-0002
NPDES Permit No. CA0107409

Waste Discharge Requirements and
National Pollutant Discharge Elimination System Permit
for the City of San Diego
E.W. Blom Point Loma Wastewater Treatment Plant
Discharge to the Pacific Ocean
Through the Point Loma Ocean Outfall

February 11, 2026

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INTRODUCTION

On March 1, 2024, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) and United States Environmental Protection Agency (USEPA) jointly released the Initial Tentative Order No. R9-2024-0004, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0107409, *Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for the City of San Diego E.W. Blom Point Loma Wastewater Treatment Plant Discharge to the Pacific Ocean Through the Point Loma Ocean Outfall* **(Initial Tentative Order and Permit)**. The San Diego Water Board and USEPA provided a period of at least 30 days for public review and comment on the Initial Tentative Order and Permit. The public comment period for the Initial Tentative Order and Permit ended on April 2, 2024.

Written comments on the Initial Tentative Order and Permit were received from:

A. Juan Guerreiro, Director, Public Utilities Department, City of San Diego, April 2, 2024.

B. Patrick McDonough, Senior Attorney, San Diego Coastkeeper, April 1, 2024.

C. Jared Voskuhl, Director of Regulatory Affairs, California Association of Sanitation Agencies (CASA), April 2, 2024.

The permit reissuance was delayed until 2025 to wait for the California Coastal Commission's consistency certification and the San Diego Water Board and USEPA obtained a new order number to reflect the year (i.e., R9-2025-0005). Also, in 2025 the U.S. Supreme Court issued a decision in *City and County of San Francisco* v. *Environmental Protection Agency* (145 S. Ct. 704), holding that NPDES permits issued by USEPA may not include "end-result" requirements under Clean Water Act section 301(b)(1)(C). Additionally, on August 5, 2025, in *Camarillo Sanitary District v. State Water Resources Control Board* (113 Cal.App.5th 407) the California Court of Appeal, Fifth Appellate District issued a decision that the use of the Test of Significant Toxicity (TST) in NPDES permits to measure whole effluent toxicity (WET) violates federal regulations. On September 15, 2025, the State Water Board filed a petition for review of the Fifth Circuit Court of Appeal's decision with the California Supreme Court. On November 12, 2025, the California Supreme Court granted review. Pending the California Supreme Court's review, the opinion of the Fifth Circuit Court of Appeal is not binding on the Water Boards.

On September 12, 2025, the San Diego Water Board and USEPA jointly released the Revised Tentative Order No. R9-2025-0005, NPDES Permit No. CA0107409, *Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for the City of San Diego E.W. Blom Point Loma Wastewater Treatment Plant Discharge to the Pacific Ocean Through the Point Loma Ocean Outfall* **(Revised Tentative Order and Permit)**. The Revised Tentative Order and Permit include the conditional requirements from the California Coastal Commission's 2025 consistency certification,

revisions to address with the *City and County of San Francisco* and *Camarillo* decisions, and some non-substantive corrections and clarifications. The San Diego Water Board and USEPA provided a period of at least 30 days for public review and comment on the Revised Tentative Order and Permit. The public comment period for the Revised Tentative Order and Permit ended on October 13, 2025.

Written comments on the Revised Tentative Order and Permit were received from:

D. Juan Guerreiro, Director, Public Utilities Department, City of San Diego, October 13, 2025.

E. Patrick McDonough, Senior Attorney, San Diego Coastkeeper, October 13, 2025.

F. Jared Voskuhl, Director of Regulatory Affairs, CASA; and Amanda Aspatore, Chief Legal Officer, National Association of Clean Water Agencies, October 13, 2025.

This report contains the San Diego Water Board and USEPA responses to written comments received in 2024 and 2025 on the Initial and Revised Tentative Order and Permit, respectively.

Comments and Responses

The summarized written comments and San Diego Water Board and USEPA responses are set forth below. If applicable, the section of the Initial or Revised Tentative Order and Permit the comment pertains to is shown in each comment below. The responses include a description of any actions taken to revise the Initial or Revised Tentative Order and Permit in response to the comment, with additions in red-underline and deletions show in ~~red strikeout~~ in the Final Tentative Order No. R9-2026-0002, NPDES Permit No. CA0107409, *Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for the City of San Diego E.W. Blom Point Loma Wastewater Treatment Plant Discharge to the Pacific Ocean Through the Point Loma Ocean Outfall* **(Final Tentative Order and Permit)**. Text which was deleted in the Revised Tentative Order and Permit but then re-added in the Final Tentative Order and Permit are in red-double underline. Text which was added in the Revised Tentative Order and Permit but then deleted in the Final Tentative Order and Permit are in ~~red-underline strikeout~~.

The board meeting to consider the permit reissuance was delayed until 2026 and the San Diego Water Board and USEPA obtained a new order number to reflect the year. All changes from the Initial Tentative Order and Permit (conditional requirements from the California Coastal Commission's 2025 consistency certification, revisions to comply with the 2025 Supreme Court ruling, actions taken in response to the 2024 and 2025 comments, and some non-substantive corrections) are contained in the Final Tentative Order and Permit.

COMMENTS AND RESPONSES

A. Comments from Juan Guerreiro, Director, Public Utilities Department, City of San Diego (City), dated April 2, 2024.

A1. Comment – *Physical Characteristics*
Section 5.1.3

The City requests the addition of the following language to section 5.1.3, *Physical Characteristics*, to maintain consistency with section 5.1.2.5 of the Order No. R9-2021-0011, NPDES No. CA0109045, *Waste Discharge Requirements for the City of San Diego South Bay Water Reclamation Plant Discharge to the Pacific Ocean Through the South Bay Ocean Outfall* (South Bay WRP Permit): "Trash shall not be present in ocean waters, along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance."

Response for A1:

To address the 2025 U.S. Supreme Court's decision in *City and County of San Francisco, California v. Environmental Protection Agency*, the generalized receiving water limitations from the prior permit, including those previously in section 5.1.3, physical characteristics, have been removed from the Initial Tentative Order and Permit. Thus, this comment is no longer applicable.

A2. Comment – Annual Pretreatment Report
Section 6.3.5.3.5

The City requests removal of the requirement in section 6.3.5.3.5 to submit the Annual Pretreatment Report to the San Diego County Department of Environmental Health and Quality, Hazardous Materials Division to maintain consistent reporting requirements with the South Bay WRP Permit. The City believes that the requirement to provide a copy to the County's Hazardous Materials Division likely predates the online availability of the reports and is no longer necessary.

Response for A2:

The San Diego Water Board and USEPA do not agree with this request. By email dated July 25, 2024, the San Diego County Department of Environmental Health and Quality, Hazardous Materials Division stated that the annual pretreatment reports were being sent to the wrong San Diego County staff and provided the correct point of contact and email address. To clarify where the City should send the report, the San Diego Water Board and USEPA have modified the Initial Tentative Order and Permit as follows:

Section 6.3.5.3.5, first sentence:

By March 1 of each year, the Discharger shall submit an annual pretreatment report to the USEPA by email (R9Pretreatment@epa.gov); San Diego Water Board via the State Water Board's CIWQS program website (https://www.waterboards.ca.gov/water_issues/programs/ciwqs/); and the San

Diego County Department of Environmental Health and Quality, Hazardous Materials Division by email (deh.hmdutyeh@sdcounty.ca.gov), describing its pretreatment activities over the previous calendar year.

A3. Comment – Asset Management Plan
Section 6.3.5.7
Attachment E, section 8.4, Table E-13

The City requests to change the submittal deadline for the Asset Management Plan in section 6.3.5.7 to 180 days prior to permit expiration to allow for time to conduct a thorough asset management planning process and align with the City's current asset management planning efforts.

Response for A3:

The San Diego Water Board and USEPA do not agree with the requested due date. The due date for the Asset Management Plan in the Initial Tentative Order and Permit (180 days of the effective date of this Order and Permit) is consistent with the South Bay WRP Permit. Also, both the South Bay WRP Permit and the Initial Tentative Order and Permit contain a requirement to re-evaluate and update the Asset Management Plan as needed at least 180 days prior to the expiration date of the Order and Permit. However, the San Diego Water Board and USEPA agreed to modify the due date in the Initial Tentative Order and Permit to provide the City with another year and a half to conduct a thorough asset management planning process as follows.

Section 6.3.5.7, first sentence:

The Discharger shall develop and submit to the San Diego Water Board and USEPA within ~~180 days~~ two years of the effective date of this Order~~/~~ and Permit an Asset Management Plan (AMP) to ensure proper operation and maintenance of the Facilities.

Attachment E, section 8.4, portion of Table E-13, middle of table:

Report	Location of requirement	Due Date
Asset Management Plan	Section 6.3.5.7	Within ~~180 days~~ two years of the effective date of this Order and Permit

A4. Comment – Pure Water Program Tasks
Section 6.3.6.1, Table 5

The City requests to add the following footnote to Table E-5:
"Statewide water efficiency and conservation regulations[1,2] set after the initial development of the Pure Water Program in 2011 are anticipated to impact the source water available for water reuse projects.[3] As these new standards are

realized over the next several years, tasks may need to be adjusted to reflect these previously unanticipated reductions in source water supply.

[1] AB 1668 (Friedman 2018)/SB 606 (Hertzberg 2018)

[2] SB 1157 (Hertzberg 2022)

[3] California State Water Resources Control Board. Evaluating effects of urban water use efficiency standards (AB 1668-SB 606) on wastewater management agencies. January 2022."

Response to A4:

The San Diego Water Board and USEPA do not agree with the request. If tasks need to be adjusted due to unanticipated reductions in source water supply for water reuse projects, the task(s) and/or completion date(s) can be modified at a later point based on actual data.

A5. Comment – Compliance For Each Day

Sections 7.1 through 7.4

The City requests that the San Diego Water Board and USEPA remove the penalties for each day in the compliance period for violations of the Average Annual Effluent Limitation, Six-Month Median Effluent Limitation, Average Monthly Effluent Limitation, and Average Weekly Effluent Limitation.

Response to A5:

The San Diego Water Board and USEPA do not agree with the request. To maintain consistent and fair enforcement of publicly-owned treatment works (POTW) permits, no changes were made.

A6. Comment – Return Streams

Section 7.9
Attachment E, section 2, Table E-1

The City requests to incorporate the following return stream associated with the North City Pure Water Program in sections 7.9 and Table E-1 Monitoring Location RS-001:

NCPWF Reverse Osmosis (Brine) – Brine from the NCPWF will combine with the Metro Biosolids Center (MBC) Centrate for subsequent sewer disposal to the North Metro Interceptor, eventually reaching the PLWTP. This will be monitored as a separate stream from the existing MBC Centrate return stream and will serve as a new return stream.

Response to A6:

The San Diego Water Board and USEPA agree with the request and have modified the Initial Tentative Order and Permit as follows:

Section 7.9, last two paragraphs:

System Influents: Facility Influent, North City Water Reclamation Plant (NCWRP) Influent Pump Station, and NCWRP Influent from Penasquitos Pump Station and Morena Pump Station.

~~Return Streams: NCWRP Filter Backwash, NCWRP Plant Drain, NCWRP Secondary and Un-disinfected Filtered Effluent Bypass, North City Water Reclamation Plant (NCWRP) Final Effluent, NCWRP and North City Pure Water Facility (NCPWF) Combined Waste, Out of Specification Final Effluent from North City Pure Water Facility (NCPWF), and MBC Centrate.~~
Return Streams: NCWRP Final Effluent, NCWRP and North City Pure Water Facility (NCPWF) Combined Waste, and MBC Centrate.

Attachment E, section 2, portion of Table E-1:

~~Discharge Point Name~~	Monitoring Location Name	Monitoring Location Description	Depth (meter, m)
~~--~~	RS-001	A location where a representative sample of a return stream can be obtained; for multiple return streams, the return streams shall be sampled and composited based on each return stream contributing flow (flow weighted). Return Streams includes ~~NCWRP Filter Backwash, NCWRP Plant Drain, NCWRP Secondary and Un-disinfected Filtered Effluent Bypass, North City Water Reclamation Plant (NCWRP) Final Effluent, NCWRP and North City Pure Water Facility (NCPWF) Combined Waste, Out of Specification Final Effluent from North City Pure Water Facility (NCPWF), and MBC Centrate.~~ Return Streams: NCWRP Final Effluent, NCWRP and North City Pure Water Facility (NCPWF) Combined Waste, and MBC Centrate.	--

A7. Comment – Ocean Plan Provisions
Sections 7.10 through 7.13

The City requests the addition of the following heading titled “Ocean Plan Provisions for Table 1 Parameters” over sections 7.10 through 7.13 to clarify that

they are only applicable to provisions required in the California Ocean Plan[1]. This is consistent with the 2017 NPDES permit language.

Response to A7:

The San Diego Water Board and USEPA do not agree with the request. Removing the title "Ocean Plan Provisions for Table 1 Parameters" over sections 7.10 through 7.13 is consistent with Order No. R9-2020-0001, NPDES No. CA0109398, W*aste Discharge Requirements for the City of San Diego North City Water Reclamation Plant and Pure Water Facility, Indirect Potable Reuse Reservoir Water Augmentation Discharge to Miramar Reservoir San Diego County*, and South Bay WRP Permit. The San Diego Water Board and USEPA apply this compliance determination language to other parameters besides Table 3 of the California Ocean Plan (formerly known as Table B) and to inland discharges.

A8. Comment – Colony Forming Units
Section 7.14.3

The City requests correction of the range for fecal coliform and enterococcus analyses from 2 to 16,000 CFU/100 mL to 2 to 12,000 CFU/100 mL for consistency with Standard Method 9222D and EPA method 1600, respectively.

Response to A8:

The San Diego Water Board and USEPA do not agree with the request. The California Ocean Plan, Appendix III, *Standard Monitoring Procedures*, section 11, *Analytical Requirements*, states, "Sample dilutions for total and fecal coliform bacterial analyses shall range from 2 to 16,000 [CFR]. Sample dilutions for enterococcus bacterial analyses shall range from 1 to 10,000 per 100 ml. Each test method number or name (e.g., EPA 600/4-85/076, *Test Methods for Escherichia coli and Enterococci in Water by Membrane Filter Procedure*) used for each analysis shall be specified and reported with the results." The Initial Tentative Order and Permit, section 7.14.3 states, "Sample dilutions for fecal coliform bacterial analyses should be performed so the range of values extends from 2 to 16,000 CFU. Sample dilutions for enterococci bacterial analyses shall range from 1 to 10,000 CFU per 100 ml." The Initial Tentative Order and Permit is consistent with the California Ocean Plan.

A9. Comment – Facilities/Inclusion of Sewage collection system

- Section 1;
  Attachment A, definition for Facilities;
  Attachment F, sections 1.1 and 1.2; and
  Attachment F, section 2.2
  (definition of Facilities).
- Sections 6.3.4.2 through 6.3.4.3; and

[1] *Water Quality Control Plan for Ocean Waters of California, California Ocean Plan, 2019.*

Attachment F, sections 6.2.4.2 through 6.2.4.3
(flood protection).

- Section 6.3.4.4;
  Attachment E, section 6.1;
  Attachment F, section 6.2.4.4; and
  Attachment F, section 7.4.1
  (protection against climate change and adequate power).
- Section 6.3.5.3.5.2; and
  Attachment F, section 6.2.5.3
  (pretreatment).
- Section 6.3.5.4.1.1, 6.3.5.4.1.7, 6.3.5.4.7.3; and
  Attachment F, section 6.2.5.4
  (sludge).

The City requests that the San Diego Water Board and USEPA remove the terms sewage collection system and other associated infrastructure from the term Facilities or modify the definition of Facilities to only include infrastructure owned and operated by the City. The City provides the following reasons for the requested change:

- The sewage collection system and associated infrastructure are not point sources and thus should not be included in the NPDES permit. The City states that the sewage collection system and associated infrastructure as a whole cannot be regulated under this NPDES permit because they are not point sources within the meaning of the Clean Water Act (i.e., "any discernible, confined, and discrete conveyance … from which pollutants are or may be discharged," title 40 of the Code of Federal Regulations (40 CFR) section 122.2). The City also states that point source refers only to the proximate source from which the pollutant is directly introduced to the destination water body, but a discharge from any one of the distinguishable facilities of the sewage collection system may not have any proximate or traceable path to any surface waters and many of the sewage collection system's distinguishable facilities do not directly introduce pollutants to waters of the United States.
- The NPDES Permit inclusion of the sewage collection system potentially creates conflicting, duplicate, and confusing requirements with the Statewide and Regional Orders[2] for the sewage collection system and adds new requirements without benefit to water quality.

[2] The State Water Board issued Order No. WQ 2022-0103-DWQ, *Statewide Waste Discharge Requirements General Order for Sanitary Sewer Systems* (Statewide General SSO Order) on December 6, 2022. The San Diego Water Board issued Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region* (Regional General SSO Order). The Regional General SSO Order is more stringent and prescriptive than the Statewide General SSO Order. The Discharger is enrolled in the Statewide General SSO Order and Regional General SSO Order.

Response to A9:

The San Diego Water Board and USEPA disagree with these comments. Along with the treatment plant, the City's sewage collection system and associated infrastructure are part of the POTW that discharges to waters of the United States. This interpretation is consistent with decisions made by other regional water boards, and based on the legal definitions provided in 33 U.S.C. section 1292(2)(A); 40 CFR sections 122.2, 403.3(q); and in *re Charles River Pollution Control Dist.* (2015) NPDES Appeal No. 14-01, 16 E.A.D. 623, at p. 632 ["municipal satellite sewage collection systems together with the treatment plant comprise the POTW"][3]. The City's POTW does discharge pollutants from a point source to the Pacific Ocean, a water of the United States, and there is a proximate or traceable discharge path throughout the City's POTW, from the sewage collection system to disinfection and final screening to the surface water through the City's Point Loma Ocean Outfall. In addition, since the City reported several sanitary sewer overflows over the previous permit term, there may be a discharge of pollutants directly to waters of the United States from these sanitary sewer overflows. Therefore, the City's POTW as a whole facility, including the City's sewage collection system, E.W. Blom Point Loma Wastewater Treatment Plant, Point Loma Ocean Outfall, and associated infrastructure, is subject to the NPDES Permit and must be regulated by the federal NPDES permit.

The San Diego Water Board and USEPA recognize that the City's sewage collection system is regulated by the Statewide and Regional General SSO Orders/Waste Discharge Requirements (WDRs) and there may be some overlap between the NPDES permit provisions and requirements in these orders, related to the sewage collection systems. However, the Final Tentative Order and Permit will serve as consolidated State of California (State) and federal NPDES permits adopted by the San Diego Water Board and issued by the USEPA. As such, USEPA requires the ability to enforce the requirements for the entire POTW, including the sewage collection system. USEPA is unable to enforce the requirements (e.g., operations and maintenance, spill prevention and response, reporting) in the Statewide General SSO Order and Regional General SSO Order. Therefore, the sewage collection system must be regulated by NPDES Permit CA0107409 regardless of the existing coverage obtained under the Statewide General SSO Order or Regional General SSO Order. This is consistent with other consolidated NPDES permits for POTWs (e.g., City of Los Angeles/Hyperion Water Reclamation Plant; Orange County Sanitation District/Reclamation Plant Number 1 (Fountain Valley), Treatment Plant Number 2 (Huntington Beach), Collection Systems, and Outfalls; and City and County of San Francisco/Oceanside Water Pollution Control Plant, and Outfalls, Wastewater Collection System, and Westside Recycled Water Project).

[3] https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Published%20and%20Unpublished%20Decisions/F89699D1A0710BCF85257DE200717A93/$File/Charles%20River%20Decision%20Vol%2016.pdf

A10. Comment – TCDD Equivalents

Attachment A, definition for TCDD Equivalents

The City requests correction of "1,2,3,6,7,8-hepta CDFs" to "1,2,3,4,6,7,8-hepta CDFs" in the TCDD Equivalents table.

Response to A10:

In lieu of agreeing with the request as specifically stated, the San Diego Water Board will update the definition of TCDD Equivalents in the Initial Tentative Order and Permit to match the current Order and Permit, and the California Ocean Plan.

Attachment A, TCDD Equivalency Definition:

The sum of the concentrations of chlorinated dibenzodioxins (2,3,7,8-CDDs) and chlorinated dibenzofurans (2,3,7,8-CDFs) multiplied by their respective toxicity factors, ~~and bioaccumulation equivalency factor,~~ as shown in the table below:

~~$TCDD\ Equivalents = \sum C_x \times TEF_x \times BEF_x$~~

~~where:~~
~~Cx is the measured or estimated concentration of congener x~~
~~TEFx is the toxicity equivalency factor for congener x; and~~
~~BEFx is the bioaccumulation equivalency factor for congener x.~~

~~Isomer Group~~	~~Minimum Level (picogram per liter, pg/L)~~	~~2005 Toxicity Equivalency Factor (TEF)~~	~~Bioaccumulation Equivalency Factor (BEF)~~
~~2,3,7,8-tetra CDD~~	~~10~~	~~1.0~~	~~1.0~~
~~1,2,3,7,8-penta CDD~~	~~50~~	~~1.0~~	~~0.9~~
~~1,2,3,4,7,8-hexa CDDs~~	~~50~~	~~0.1~~	~~0.3~~
~~1,2,3,6,7,8-hexa CDDs~~	~~50~~	~~0.1~~	~~0.1~~
~~1,2,3,7,8,9-hexa CDDs~~	~~50~~	~~.01~~	~~0.1~~
~~1,2,3,4,6,7,8-hepta CDD~~	~~50~~	~~0.01~~	~~0.05~~
~~octa CDD~~	~~100~~	~~0.0003~~	~~0.01~~
~~2,3,7,8-tetra CDF~~	~~10~~	~~0.1~~	~~0.8~~
~~1,2,3,7,8-penta CDF~~	~~50~~	~~0.03~~	~~0.2~~
~~2,3,4,7,8-penta CDF~~	~~50~~	~~0.3~~	~~1.6~~
~~1,2,3,4,7,8-hexa CDFs~~	~~50~~	~~0.1~~	~~0.08~~
~~1,2,3,6,7,8-hexa CDFs~~	~~50~~	~~0.1~~	~~0.2~~
~~1,2,3,7,8,9-hexa CDFs~~	~~50~~	~~0.1~~	~~0.6~~
~~2,3,4,6,7,8-hexa CDFs~~	~~50~~	~~0.1~~	~~0.7~~
~~1,2,3,6,7,8-hepta CDFs~~	~~50~~	~~0.01~~	~~0.01~~

~~Isomer Group~~	~~Minimum Level (picogram per liter, pg/L)~~	~~2005 Toxicity Equivalency Factor (TEF)~~	~~Bioaccumulation Equivalency Factor (BEF)~~
~~1,2,3,4,7,8,9-hepta CDFs~~	~~50~~	~~0.1~~	~~0.4~~
~~octa CDF~~	~~100~~	~~0.0003~~	~~0.02~~

Isomer Group	Toxicity Equivalence Factor
2,3,7,8-tetra CDD	1.0
2,3,7,8-penta CDD	0.5
2,3,7,8-hexa CDDs	0.1
2,3,7,8-hepta CDD	0.01
octa CDD	0.001
2,3,7,8 tetra CDF	0.1
1,2,3,7,8 penta CDF	0.05
2,3,4,7,8 penta CDF	0.5
2,3,7,8 hexa CDFs	0.1
2,3,7,8 hepta CDFs	0.01
octa CDF	0.001

A11. Comment – Monitoring Location Format
Attachment E, section 2, Table E-1

The City requests replacement of the current coordinates under the Monitoring Location Description in Table E-1 with degrees decimal minutes, as those are what is used by our monitoring vessels. The description for monitoring location F-001 is included below as an example of the requested change:

Offshore Station: Latitude: ~~32° 38' 15.659"N~~ 32°38.261'N, Longitude: ~~117° 14' 25.138~~ 117°14.419'W

Response to A11:

The San Diego Water Board and USEPA agree to the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 2, Table E-1:

~~Discharge Point Name~~	Monitoring Location Name	Monitoring Location Description	Depth (meter, m)
~~--~~	INF-001	At a location where all influent ~~wastestream~~ waste stream flows[1] to E.W. Blom Point Loma Wastewater Treatment Plant (Facility) are accounted for in monitoring events; upstream of any in-plant return flows; and where representative samples of influent can be collected before any process or treatment that could alter the properties of the influent.	--
~~001~~	EFF-001	Discharge Point 001: A location where a representative sample of the effluent can be obtained.	--
~~--~~	EMG-001	A location where a representative sample of the Tijuana Cross-Border Emergency Connection can be obtained.	--
~~--~~	RS-001	A location where a representative sample of a return stream can be obtained; for multiple return streams, the return streams shall be sampled and composited based on each return stream contributing flow (flow weighted). Return Streams includes ~~NCWRP Filter Backwash, NCWRP Plant Drain, NCWRP Secondary and Undisinfected Filtered Effluent Bypass, NCWRP Final Effluent, NCWRP Combined Waste, Out of Specification Final Effluent from North City Pure Water Facility (NCPWF), and MBC Centrate.~~ North City Water Reclamation Plant (NCWRP) Final Effluent, NCWRP and North City Pure Water Facility (NCPWF) Combined Waste, and MBC Centrate.	--
~~--~~	F-001	Offshore Station: Latitude: 32° 38.261' ~~15.659"~~N, Longitude: 117° 14.419' ~~25.138"~~W	18[2]
~~--~~	F-002	Offshore Station: Latitude: 32° 45.418' ~~25.077"~~N, Longitude: 117° 16.364' ~~21.838"~~W	18[2]
~~--~~	F-003	Offshore Station: Latitude: 32° 46.91' ~~54.598"~~N, Longitude: 117° 16.345' ~~20.698"~~W	18[2]
~~--~~	F-004	Offshore Station: Latitude: 32° 35.672' ~~40.318"~~N, Longitude: 117° 16.125' ~~7.500"~~W	60[3]
~~--~~	F-005	Offshore Station: Latitude: 32° 36.701' ~~42.058"~~N, Longitude: 117° 16.179' ~~10.739"~~W	60[3]
~~--~~	F-006	Offshore Station: Latitude: 32° 37.85' ~~50.999"~~N, Longitude: 117° 16.416' ~~24.96"~~W	60[3]
~~--~~	F-007	Offshore Station: Latitude: 32° 39.06809' ~~4.082"~~N, Longitude: 117° 16' 47.79968' ~~978"~~W	60[3]
~~--~~	F-008	Offshore Station: Latitude: 32° 40.329' ~~19.740"~~N, Longitude: 117° 16.979' ~~58.8"~~W	60[3]
~~--~~	F-009	Offshore Station: Latitude: 32° 41.133' ~~7.979"~~N, Longitude: 117° 17.179' ~~10.737"~~W	60[3]
~~--~~	F-010	Offshore Station: Latitude: 32° 42.3252' ~~19.508"~~N, Longitude: 117° 17.43951' ~~26.368"~~W	60[3]
~~--~~	F-011	Offshore Station: Latitude: 32° 43.53267' ~~31.958"~~N, Longitude: 117° 17.67793' ~~40.675"~~W	60[3]
~~--~~	F-012	Offshore Station: Latitude: 32° 44.795' ~~47.699"~~N, Longitude: 117° 18.124' ~~7.437"~~W	60[3]
~~--~~	F-013	Offshore Station: Latitude: 32° 45.923' ~~55.378"~~N, Longitude: 117° 18.432' ~~25.919""~~W	60[3]
~~--~~	F-014	Offshore Station: Latitude: 32° 46.89359' ~~53.612"~~N, Longitude: 117° 18.68543' ~~41.123"~~W	60[3]
~~--~~	F-015	Offshore Station: Latitude: 32° 35.646' ~~38.759"~~N, Longitude: 117° 17.187' ~~11.22"~~W	80[4]
~~--~~	F-016	Offshore Station: Latitude: 32° 36.71' ~~42.598"~~N, Longitude: 117° 17.404' ~~24.237"~~W	80[4]
~~--~~	F-017	Offshore Station: Latitude: 32° 37.801' ~~48.057"~~N, Longitude: 117° 17.65' ~~38.998"~~W	80[4]
~~--~~	F-018	Offshore Station: Latitude: 32° 38.986' ~~59.157"~~N, Longitude: 117° 17.9' ~~53.998"~~W	80[4]
	F-019	Offshore Station: Latitude: 32° 40.071' ~~4.26"~~N, Longitude: 117° 18.41' ~~24.598"~~W	80[4]
	F-020	Offshore Station: Latitude: 32° 41.125' ~~7.497"~~N, Longitude: 117° 18.658' ~~39.477"~~W	80[4]
	F-021	Offshore Station: Latitude: 32° 42.22802' ~~13.68"~~N, Longitude: 117° 19.12123' ~~7.273"~~W	80[4]
	F-022	Offshore Station: Latitude: 32° 43.36384' ~~21.827"~~N, Longitude: 117° 19.25415' ~~15.247"~~W	80[4]
	F-023	Offshore Station: Latitude: 32° 44.513' ~~30.779"~~N, Longitude: 117° 19.825' ~~49.497"~~W	80[4]
	F-024	Offshore Station: Latitude: 32° 45.673' ~~40.377"~~N, Longitude: 117° 20.187' ~~11.219"~~W	80[4]

~~Discharge Point Name~~	Monitoring Location Name	Monitoring Location Description	Depth (meter, m)
	F-025	Offshore Station: Latitude: 32° 46.737' ~~44.22"~~N, Longitude: 117° 20.615' ~~36.898"~~W	80[4]
	F-026	Offshore Station: Latitude: 32° 35.626' ~~37.558"~~N, Longitude: 117° 18.732' ~~43.92~~"W	98[5]
	F-027	Offshore Station: Latitude: 32° 36.707' ~~42.419"~~N, Longitude: 117° 19.283' ~~16.978"~~W	98[5]
	F-028	Offshore Station: Latitude: 32° 37.75727' ~~45.433"~~N, Longitude: 117° 19.42331' ~~25.391"~~W	98[5]
	F-029	Offshore Station: Latitude: 32° 38.86892' ~~52.134"~~N, Longitude: 117° 19.49581' ~~29.747"~~W	98[5]
	F-030	Offshore Station: Latitude: 32° 39.9402' ~~56.411"~~N, Longitude: 117° 19.4898' ~~29.388"~~W	98[5]
	F-031	Offshore Station: Latitude: 32° 41.08013' ~~4.805"~~N, Longitude: 117° 19.70122' ~~42.071"~~W	98[5]
	F-032	Offshore Station: Latitude: 32° 42.085' ~~5.098"~~N, Longitude: 117° 20.05' ~~2.997"~~W	98[5]
	F-033	Offshore Station: Latitude: 32° 43.225' ~~13.678"~~N, Longitude: 117° 20.395' ~~23.698"~~W	98[5]
	F-034	Offshore Station: Latitude: 32° 44.335' ~~20.04"~~N, Longitude: 117° 20.962' ~~57.718"~~W	98[5]
	F-035	Offshore Station: Latitude: 32° 45.462' ~~27.719"~~N, Longitude: 117° 21.803' ~~48.178"~~W	98[5]
	F-036	Offshore Station: Latitude: 32° 46.607' ~~36.419"~~N, Longitude: 117° 22.474' ~~28.438"~~W	98[5]
	A-001	Kelp Station: Latitude: 32° 39.55998' ~~33.6"~~N, Longitude: 117° 15.72' ~~43.2"~~W	18[2]
	A-006	Kelp Station: Latitude: 32° 41.56002' ~~33.6"~~N, Longitude: 117° 16.18002' ~~10.8"~~W	18[2]
	A-007	Kelp Station: Latitude: 32° 40.53' ~~31.8"~~N, Longitude: 117° 16.00998' ~~0.60"~~W	18[2]
	C-004	Kelp Station: Latitude: 32° 39.94998' ~~57.0"~~N, Longitude: 117° 14.98002' ~~58.8"~~W	9[6]
	C-005	Kelp Station: Latitude: 32° 40.75002' ~~45.0"~~N, Longitude: 117° 15.40002' ~~24.0"~~W	9[6]
	C-006	Kelp Station: Latitude: 32° 41.62002' ~~37.19~~"N, Longitude: 117° 15.67998' ~~40.8"~~W	9[6]
	C-007	Kelp Station: Latitude: 32° 42.97998' ~~58.8"~~N, Longitude: 117° 16.33002' ~~19.8"~~W	18[2]
	C-008	Kelp Station: Latitude: 32° 43.96002' ~~57.6"~~N, Longitude: 117° 16.39998' ~~24.0"~~W	18[2]
	D-004	Shoreline Station: At the southernmost tip of Point Loma just north of the lighthouse. Latitude: 32° 39.9398' ~~56.39"~~N, Longitude: 117° 14.6200' ~~37.2"~~W	--
	D-005	Shoreline Station: Directly in front of the E.W. Blom Point ~~Lama~~ Loma Wastewater Treatment Plant where the outfall enters the ocean. Latitude: 32° 40.8500' ~~51.0"~~N, Longitude: 117° 14.9400' ~~56.4"~~W	--
	D-007	Shoreline Station: Sunset Cliffs at the foot of the stairs seaward of Ladera Street. Latitude: 32° 43.1598' ~~9.59"~~N, Longitude: 117° 15.3000' ~~26.4"~~W	--
	D-008B	Shoreline Station: Ocean Beach at the foot of the stairs seaward of Bermuda Street. Latitude: 32° 44.3670' ~~22.02"~~N, Longitude: 117° 15.3000' ~~18.0"~~W	--
	D-009	Shoreline Station: Just south of the Ocean Beach pier at the foot of the stairs seaward of Narragansett. Latitude: 32° 44.8000' ~~48.0"~~N, Longitude: 117° 15.2400' ~~14.4"~~W	--
	D-010	Shoreline Station: Ocean Beach just north of west end of Newport Avenue, directly west of main lifeguard station. Latitude: 32° 44.9500' ~~57.0"~~N, Longitude: 117° 15.1800' ~~10.8"~~W	--
	D-011	Shoreline Station: North Ocean Beach, directly west of south end of Dog Beach parking area at Voltaire St terminus, south of stub jetty. Latitude: 32° 45.2400' ~~14.4"~~N, Longitude: 117° 15.1600' ~~9.6"~~W	--
	D-012	Shoreline Station: Mission Beach, directly west of main lifeguard station in Belmont Park located at the west end of Mission Bay Drive. Latitude: 32° 46.2800' ~~16.8"~~N, Longitude: 117° 15.2100' ~~12.6 "~~W	--

~~Discharge Point Name~~	Monitoring Location Name	Monitoring Location Description	Depth (meter, m)
	B-009	Offshore Benthic Station, Primary Core Station: Latitude: 32° 45.33' ~~19.8"~~N, Longitude: 117° 21.7' ~~42.0"~~W	98
	B-012	Offshore Benthic Station, Primary Core Station: Latitude: 32° 46.36' ~~21.6"~~N, Longitude: 117° 22.3' ~~18.0"~~W	98
~~--~~	E-002	Offshore Benthic Station, Primary Core Station: Latitude: 32° 37.45' ~~27.0"~~N, Longitude: 117° 19.09' ~~5.40"~~W	98
~~--~~	E-005	Offshore Benthic Station, Primary Core Station: Latitude: 32° 38.38' ~~22.8"~~N, Longitude: 117° 19.28' ~~16.8"~~W	98
~~--~~	E-008	Offshore Benthic Station, Primary Core Station: Latitude: 32° 38.91' ~~54.6~~"N, Longitude: 117° 19.34' ~~20.4"~~W	98
~~--~~	E-011	Offshore Benthic Station, Primary Core Station: Latitude: 32° 39.4' ~~24.0"~~N, Longitude: 117° 19.42' ~~25.2"~~W	98
~~--~~	E-014	Offshore Benthic Station, Primary Core Station: Latitude: 32° 39.94' ~~56.4"~~N, Longitude: 117° 19.49' ~~29.4"~~W	98
~~--~~	E-017	Offshore Benthic Station, Primary Core Station: Latitude: 32° 40.48' ~~28.8"~~N, Longitude: 117° 19.54' ~~32.4"~~W	98
~~--~~	E-020	Offshore Benthic Station, Primary Core Station: Latitude: 32° 40.96' ~~57.6"~~N, Longitude: 117° 19.67' ~~40.2"~~W	98
	E-023	Offshore Benthic Station, Primary Core Station: Latitude: 32° 41.47' ~~28.2"~~N, Longitude: 117° 19.77' ~~46.2"~~W	98
	E-025	Offshore Benthic Station, Primary Core Station: Latitude: 32° 42.38' ~~22.8"~~N, Longitude: 117° 20.07' ~~4.20"~~W	98
	E-026	Offshore Benthic Station, Primary Core Station: Latitude: 32° 43.82' ~~49.2"~~N, Longitude: 117° 20.57' ~~34.2"~~W	98
	B-008	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 45.5' ~~30.0"~~N, Longitude: 117° 20.77' ~~46.2"~~W	88
	B-011	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 46.57' ~~34.2"~~N, Longitude: 117° 21.35' ~~21.0"~~W	88
	E-001	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 37.53' ~~31.8"~~N, Longitude: 117° 18.35' ~~21.0"~~W	88
	E-007	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 39' ~~0.0"~~N, Longitude: 117° 18.65' ~~39.0"~~W	88
	E-019	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 41.04' ~~2.40"~~N, Longitude: 117° 19.18' ~~10.8"~~W	88
	B-010	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 45.22' ~~13.19"~~N, Longitude: 117° 22.16' ~~9.60"~~W	116
	E-003	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 37.29' ~~17.39"~~N, Longitude: 117° 20.09' ~~5.39"~~W	116
	E-009	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 38.75' ~~45"~~N, Longitude: 117° 20.06' ~~3.59"~~W	116
	E-015	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 39.88' ~~52.8'"~~N, Longitude: 117° 19.91' ~~54.6"~~W	116
	E-021	Offshore Benthic Station, Secondary Core Station: Latitude: 32° 40.89' ~~53.4"~~N, Longitude: 117° 20' ~~0.0"~~W	116

~~Discharge Point Name~~	Monitoring Location Name	Monitoring Location Description	Depth (meter, m)
	SD-007 (Zone 4)	Offshore Benthic Secondary Core Station, Trawl Station: Latitude: 32° 35.06' ~~3.6"~~N, Longitude: 117° 18.39' ~~23.4"~~W	100
	SD-008 (Zone 3)	Offshore Benthic Station, Trawl Station: Latitude: 32° 37.54' ~~32.4"~~N, Longitude: 117° 19.37' ~~22.2"~~W	100
	SD-010 (Zone 1)	Offshore Benthic Station, Trawl Station: Latitude: 32° 39.16' ~~9.60"~~N, Longitude: 117° 19.5' ~~30"~~W	100
	SD-012 (Zone 1)	Offshore Benthic Station, Trawl Station: Latitude: 32° 40.65' ~~39.0"~~N, Longitude: 117° 19.81' ~~48.6"~~W	100
	SD-013 (Zone 2)	Offshore Benthic Station, Trawl Station: Latitude: 32° 42.83' ~~49.8"~~N, Longitude: 117° 20.25' ~~15"~~W	100
	SD-014 (Zone 2)	Offshore Benthic Station, Trawl Station: Latitude: 32° 44.3' ~~18.0"~~N, Longitude: 117° 20.96' ~~57.6"~~W	100
	RF-001	Offshore Benthic Station, Rig Fishing Station: Latitude: 32° 40.32' ~~19.2"~~N, Longitude: 117° 19.78' ~~46.8"~~W	107
	RF-002	Offshore Benthic Station, Rig Fishing Station: Latitude: 32° 45.67' ~~40.2"~~N, Longitude: 117° 22.02' ~~1.19"~~W	96

Notes for Table E-1

1 All influent ~~wastestream~~ waste stream flows with the exception of the ~~storm water~~ stormwater flows that are diverted from Facility premises to the Facility headworks, downstream of the INF-001.

2 Discrete depths for bacteria samples include: 1m, 12m, and 18m.

3 Discrete depths for bacteria samples include: 1m, 25m, and 60m.

4 Discrete depths for bacteria samples include: 1m, 25m, 60m, and 80m.

5 Discrete depths for bacteria samples include: 1m, 25m, 60m, 80m, and 98m.

6 Discrete depths for bacteria samples include: 1m, 3m, and 9m.

A12. Comment – Bacterial Units

Attachment E, section 3.2, Table E-5

The City requests to change the units for total and fecal coliform from colony forming units (CFU)/100 mL to most probable number (MPN)/100 mL in Table E-5 for consistency with Standard Method 9221.

Response to A12:

The San Diego Water Board and USEPA agree to the request by adding a footnote to Table E-5 of the Initial Tentative Order and Permit, providing the option to report in CFU or MPN as follows:

Attachment E, section 3.2, portion of Table E-5:

Table E-1 Effluent Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Total Coliform	colony forming units (CFU) / 100 milliliters (ml)[14]	Grab	1/Week	As required under 40 CFR part 136.
Fecal Coliform	CFU / 100 ml[14]	Grab	1/Week	As required under 40 CFR part 136.
Enterococci	CFU / 100 ml[14]	Grab	1/Week	As required under 40 CFR part 136.

[14] Results may be reported as either Most Probable Number (MPN)/100 mL if the laboratory method used provides results in MPN/100 mL or CFU/100 mL if the laboratory method used provides results in CFU/100 ml.

A13. Comment – Minimum Number of Samples for Fecal Coliform
Attachment E, section 4.1, Table E-8, footnote 4

The City requests to update the language in Table 8 Footnote 4 to the following to clarify the "minimum of five samples" refers to five total samples from all eight sites, not five from each site.

"The Discharger shall ensure a minimum of five total samples from all eight sites are collected and analyzed within a rolling 30-day period, which may require more than one sample per week depending on the sampling schedule."

Response to A13:

The San Diego Water Board and USEPA do not agree with this request. For each shoreline monitoring location, for each 30-day period, five samples are required from each monitoring location to calculate the 30-day geometric mean. The 30-day geometric mean will be compared to the bacterial water quality objectives in the Ocean Plan, section II.B.1.a.(1). The Ocean Plan states, "Thirty-day geometric mean of fecal coliform density not to exceed 200 colony forming units (CFU) per 100 milliliters (ml) calculated based on the five most recent samples from each site." For example, the City could collect samples on Monday, June 3, 10, 17, and 24 and Monday, July 1 from each shoreline monitoring location, and determine compliance with the thirty-day geometric mean from June 3 to July 1.

Five samples for each 30-day period are also required to calculate the 30-day geometric mean to compare with the bacterial water quality objectives in the Ocean Plan at each of the kelp stations.

For both the shoreline and kelp stations, the San Diego Water Board and USEPA have modified the Initial Tentative Order and Permit for clarification as follows:

Attachment E, section 4.1, Table E-8, footnote 4:

~~The~~ For each shoreline station, the Discharger shall ensure a minimum of five samples are collected and analyzed within a rolling 30-day period, which may require more than one sample per week depending on the sampling schedule.

Attachment E, section 4.2, portion of Table E-9:

Table E-9. Offshore Water Quality and Kelp Monitoring Requirements

Parameter	Units	Sample Type	Offshore Station Sampling Frequency[1]	Kelp Station Sampling Frequency[1]
Fecal Coliform	CFU/100 ml	Grab[3]	--	1/Week[6]

Notes for Table E-9

6. For each kelp station, the Discharger shall ensure a minimum of five samples are collected and analyzed within a rolling 30-day period, which may require more than one sample per week depending on the sampling schedule.

A14. Comment – HF183 monitoring

Attachment E, section 4.2, Table E-9, footnote 6
Attachment E, section 4.2.2.1

The City requests that the language related to HF183 monitoring be changed for consistency with other permit sections:

Table E-9 Footnote 6: "HF183 monitoring is required only if the overall compliance rate with the receiving water limitations for bacterial characteristics at sections 5.1.1 and 5.1.2 of this Order and Permit is below 90 percent within a rolling one-year period or a single monitoring location exceeds the bacteria receiving water limitations more than 50 percent of the time within a rolling one-year period at the kelp and offshore stations near the PLOO, excluding offshore station F-030, and the source of the receiving water limitation exceedances is unknown. If HF183 sampling is required, fecal coliform samples shall be collected concurrently at applicable stations."

4.2.2.1: "If required, the Discharger shall collect samples for HF183 concurrently with samples collected for fecal coliform at the ~~offshore and~~ kelp stations experiencing the bacteria receiving water limitation exceedances."

Response to A14:

In response to the 2025 U.S. Supreme Court's ruling in City and County of San Francisco, California v. Environmental Protection Agency (No. 23-753), HF183 monitoring requirements have been removed in the Revised Tentative Order and Permit because the requirements were triggered by receiving water limitations.

A15. Comment – Dissolved Sulfide
Attachment E, section 4.3, Table E-10

The City requests removal of the requirement to test for dissolved sulfide in sediment in Table E-10 as it is not applicable to solid matrices and the permit already requires monitoring of acid volatile sulfides.

Response to A15:

The San Diego Water Board and USEPA do not agree with this request. The San Diego Water Board and USEPA added dissolved sulfide to the receiving water monitoring requirements to compare the results with the Ocean Plan water quality objectives which states "The dissolved sulfide concentration of waters in and near sediments shall not be significantly increased above that present under natural conditions."

However, the San Diego Water Board and USEPA will modify the Initial Tentative Order and Permit to match the requirement with the Ocean Plan water quality objectives for dissolved sulfide as follows:

Attachment E, section 4.3, portion of Table E-10:

Table E-10. Parameter List for Sediment Monitoring Requirements

Parameter	Units	Type of Sample	Minimum Frequency
Dissolved Sulfide	~~mg/kg~~ mg/L	Grab[1]	2/Year

Notes for Table E-10

1 The concentration of dissolved sulfide shall be measured in the sediment porewater from the sediment grab sample.

A16. Comment – Reference to South Bay Ocean Outfall Permits
Attachment E, section 4.3.3.4

The City requests inclusion of the following footnotes to cite the South Bay Water Reclamation Plant and United States International Boundary Water Commission NPDES permits referenced in text.

[1] Order No. R9-2021-0011, NPDES No. CA0109045, Waste Discharge Requirements for the City of San Diego South Bay Water Reclamation Plant Discharge to the Pacific Ocean through the South Bay Ocean Outfall.

[2] Order No. R9-2021-0001, NPDES No. CA0108928, Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission South Bay International Wastewater Treatment Plant Discharge to the Pacific Ocean through the South Bay Ocean Outfall.

Response to A16:

The San Diego Water Board and USEPA agree with the request and have modified the Initial Tentative Order and Permit as follows. With the addition of this footnote, the subsequent footnotes will be renumbered:

Attachment E, section 4.3.3.4, first paragraph:

Benthic Random Sampling. This MRP and the MRPs for the South Bay Ocean Outfall (SBOO)[6] require United States Section of the International Boundary and Water Commission (USIBWC) and the Discharger to sample and analyze annually for sediment chemistry and benthic community conditions at an additional array of 40 randomly selected stations. The same sampling and processing procedures must be followed as outlined above for core benthic sediment and benthic community condition monitoring. These 40 randomly selected stations shall be reselected each year by San Diego Water Board and USEPA, or their designee to meet the requirements for both this MRP and the MRPs for the SBOO, using the USEPA probability-based Environmental Monitoring and Assessment Program (EMAP) design.

[6] Order No. R9-2021-0011, NPDES No. CA0109045, *Waste Discharge Requirements for the City of San Diego South Bay Water Reclamation Plant Discharge to the Pacific Ocean Through the South Bay Ocean Outfall* was adopted by the San Diego Water Board on May 12, 2021.
Order No. R9-2021-0001, as amended by Order No. R9-2023-0009, NPDES No. CA0108928, *Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission South Bay International Wastewater Treatment Plant Discharge to the Pacific Ocean Through the South Bay Ocean Outfall* was adopted by the San Diego Water Board on May 12, 2021, and amended on March 8, 2023.

A17. Comment – *Pleuroncodes Planipes*
Attachment E, section 4.4.1.2

The City requests the correction of the spelling of *Grimothea planipes* in Attachment E, section 4.4.1.2.

Response to A17:

The San Diego Water Board and USEPA agree with the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 4.4.1.2, last sentence:

Examples of such unusual events include the presence of large populations of red tuna crabs (*Pleuroncodes planipes*, also known as *Grimothea ~~planipe~~ planipes*) associated with El Niño and the occurrence of large squid egg masses that prevent hauling in the trawl nets.

A18. Comment – Fish Tissue Chemical Analysis
Attachment E, section 4.4.1.4

The City requests to update the language pertaining to rig fishing methods at trawl stations in Attachment E, section 4.4.1.4 to: "~~If sufficient numbers of trawl zone target species cannot be, or are unlikely to be, captured by trawling, f~~ Fish for tissue analysis from ~~these areas~~ trawl zones may be collected using alternative methods such as those described below under Rig Fishing [in section 4.4.2 of this MRP (e.g., hook and line, baited lines)] in order to minimize bycatch associated with otter trawls."

Response to A18:

The San Diego Water Board and USEPA do not agree with this request to remove the conditional language. Rig fishing should only be used at the trawl zones if sufficient numbers of trawl zone target species cannot be, or are unlikely to be, captured by trawling. Rig fishing should not be a permanent replacement for trawling at the trawl zones.

A19. Comment – Parameter List for Fish Tissue Monitoring Requirements
Attachment E, section 4.4, Table E-11

The City requests the correction of the spelling of Dibenz(ah)anthracesne in Attachment E Table E-11.

Response to A19:

The San Diego Water Board and USEPA agree with the request and modified the Initial Tentative Order and Permit as follows:

Attachment E, section 4.4.2.3, portion of Table E-11, middle of table:

Parameter	Units	Type of Sample	Minimum Frequency
Dibenzo(ah)~~anthracesanthracene~~	µg/kg	Composite	Annual

A20. Comment – California Environmental Data Exchange Network
Attachment E, section 4.5

The City requests to update the following items in Attachment E, section 4.5:

1. "Shoreline and offshore water quality" to "Shoreline water quality" and "Offshore water quality and kelp" for consistency with section 4.6.1.
2. "Fish and invertebrate" to "Fish and invertebrate trawls" for clarity.

Response to A20:

The San Diego Water Board and USEPA agree with the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 4.5, list at the end of the section:

- Shoreline water quality and offshore water quality and kelp (sections 4.1 and 4.2 of this MRP);
- Sediment assessment for physical and chemistry properties (section 4.3.1 of this MRP);
- Sediment toxicity (section 4.3.2 of this MRP);
- Benthic community condition (section 4.3.3 of this MRP);
- Fish and invertebrate trawls, when CEDEN is updated to accept the data (section 4.4.1 of this MRP); and
- Rig fishing (section 4.4.2 of this MRP).

A21. Comment – Region Nine Kelp Survey Consortium
Attachment E, section 5.1

The City requests language be added to Attachment E section 5.1 to allow for use of satellite imagery as an optional alternative to vertical aerial infrared photography. This transition will benefit the program by making the City's data useful to statewide kelp monitoring efforts.

Response to A21:

The San Diego Water Board and USEPA agree with the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 5.1, third paragraph, first sentence:

Kelp beds shall be monitored by means of vertical aerial infrared photography, satellite imagery, or an alternative method approved by the Executive Officer to determine the maximum areal extent of the canopies of coastal kelp beds each year.

A22. Comment – Interim and Biennial Receiving Water Monitoring Reports
Attachment E, section 5.1

The City requests the addition of the following language to Attachment E., section 5.1, for consistency with the Region 9 Kelp Survey Consortium contract:

"Annually by October 1, the Discharger shall submit Interim and Biennial Receiving Water Monitoring Reports to the San Diego Water Board and USEPA. The Interim Receiving Water Monitoring Reports shall cover one year of receiving water monitoring and shall be submitted every other year (e.g., 2024, 2026, 2028). The Biennial Receiving Water Monitoring Reports shall provide a more thorough discussion, evaluation (e.g., detailed statistical analyses), and interpretation than the Interim Receiving Water Monitoring Reports, shall cover two years of receiving water monitoring (e.g., biennial reports for calendar years 2023-2024, 2025-2026, and 2027-2028), and shall be submitted the opposite years from the Interim Receiving Water Monitoring Reports."

By email dated July 11, 2024, the City provided clarification on this comment, stating, "Comment 22 – I was able to clarify this comment as well. The request was actually to submit an interim and biennial kelp report, not to submit the kelp report data with the interim and biennial receiving water monitoring reports. … We've revised our suggested language below to help clarify:

'Annually by October 1, the Discharger shall submit to the San Diego Water Board and USEPA Region IX a report which summarizes the status of all kelp beds found within Region IX, alternating between Interim Data Summaries and Biennial Assessment Reports. The Interim kelp reports will include brief summaries of data and images produced during one year of kelp aerial surveys (e.g., 2025, 2027, 2029), whereas the Biennial kelp reports will provide a more thorough discussion, evaluation, and interpretation than the Interim kelp reports, and will cover two years of kelp aerial surveys (e.g., biennial reports for calendar years 2023-2024, 2025-2026, 2027-2028).'

The dates given in parentheses above match the current RNKSC contract, with the 2023 interim report due October 1, 2024, the 2023-2024 Biennial report due October 1, 2025, etc."

Response to A22:

The San Diego Water Board and USEPA agree to the request as explained in the July 11, 2024, email and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 5.1:

~~Annually by October 1, t~~ The Discharger shall submit Interim and Biennial Kelp Bed Canopy Reports to the San Diego Water Board and USEPA ~~a report which summarizes the data, analyses, assessment, and images produced by the surveys~~. The reports are ~~report is~~ a joint collaboration among multiple ocean dischargers in Southern California (e.g., Regional 9 Kelp Survey Consortium member agencies). The Interim Kelp Bed Canopy Reports will include brief summaries of data and images produced during one year of kelp aerial surveys (e.g., separate reports for calendar years 2025, 2027, and 2029) and shall be submitted every other year. The Biennial Kelp Bed Canopy Reports will provide a more thorough discussion, evaluation (e.g., detailed statistical analyses), and interpretation than the Interim Kelp Bed Canopy Reports; will cover two years of kelp aerial surveys (e.g., biennial reports for calendar years 2025-2026, 2027-2028, and 2029-2030), and shall be submitted the opposite years as the Interim Kelp Bed Canopy Reports. In addition to the kelp bed canopies, the images shall show onshore reference points, locations of all ocean outfalls and diffusers, artificial reefs, areas of known hard-bottom substrate (i.e., rocky reefs), and depth contours at intervals of 30-feet mean lower low water (MLLW). The report shall also be made available in a user-friendly format on a website that is readily available to the public.

Attachment E, section 8.4, portion of Table E-13:

Report	Location of requirement	Due Date
Interim Kelp Bed Canopy Report	Section 5.1 of this MRP	~~Annually no later than October 1~~ October 1 of the year following the even years (e.g., separate interim reports for calendar years 2024 (due 10/1/2025), 2026 (due 10/1/2027), and 2028 (due 10/1/2029))
Biennial Kelp Bed Canopy Reports	Section 5.1 of this MRP	October 1 of the year following the odd years (e.g., separate biennial reports for calendar years 2022-2023 (due 10/1/2024), 2024-2025 (due 10/1/2026), and 2026-2027 (due 10/1/2028))

A23. Comment – Bight Regional Monitoring Program
Attachment E, section 5.2

The City requests the addition of the following language to the end of the second paragraph of Attachment E section 5.2 for consistency with the South Bay WRP Permit:

"When feasible, the Discharger shall reference the results and conclusions of the Southern California Bight Regional Monitoring Program to provide comparison and perspective on the results of the receiving water monitoring conducted by the Discharger. This analysis and comparison shall be reported in the receiving water monitoring reports described in section 4.6 of this MRP."

Response to A23:

The San Diego Water Board and USEPA agree with the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, added text to the end of section 5.2:

When feasible, the Discharger shall reference the results and conclusions of the Southern California Bight Regional Monitoring Program to provide comparison and perspective on the results of the receiving water monitoring conducted by the Discharger. This analysis and comparison shall be reported in the receiving water monitoring reports described in section 4.6 of this MRP.

A24. Comment – Monitoring Periods and Reporting Schedule
Attachment E, section 8.2, Table E-12

The City requests the following changes to Table E-12:

1. Correction of the title of Table E-12 table to "Monitoring Periods and Reporting Schedule"

2. Addition of “First day of the calendar month following the permit effective date” to the Monitoring Period begins On… column for the Continuous and 1/Day Sample Frequency.
3. Update to “First Sunday of the calendar month following the permit effective date or on permit effective date if that date is the first Sunday of the calendar month” to the Monitoring Period begins On… column for the 1/Week Sample Frequency
4. Addition of “January 1 following (or on) the permit effective date” to the Monitoring Period begins On… column for the Interim Receiving Water Monitoring Report, Biennial Receiving Water Monitoring and Assessment Report, and the oral/Written Biennial State of the Ocean Report.
5. Addition of “One calendar year” to the Monitoring Period for the Interim Receiving Water Monitoring Report and “Two calendar years” to the Monitoring Period for the Biennial Receiving Water Monitoring and Assessment Report, and the oral/Written Biennial State of the Ocean Report.

Response to A24:

- For request number 1:
  The San Diego Water Board and USEPA agree to make the corrections to the Initial Tentative Order and Permit as follows:

Attachment E, section 8.2, title of Table E-12:

Table E-12. ~~Parameter List for Fish Tissue Monitoring Requirements~~ Monitoring Periods and Reporting Schedule

- For requests 2 through 3:
  The San Diego Water Board and USEPA do not agree to modify Attachment E, Table E-12, second column, “Monitoring Period Begins On… ,” for “Continuous,” “1/Day,” and “1/Week.” This text follows the State Board template for NPDES permits and is consistent with the South Bay WRP Permit. The San Diego Water Board and USEPA typically select the first of the second calendar month following the adoption date (or in the case of the permit for the Point Loma Ocean Outfall, the issuance date) as the effective date.
- For requests 4 through 5:
  The San Diego Water Board and USEPA agree to modify the second column, “Monitoring Period Begins On… ,” for “Interim Receiving Water Monitoring Report (executive summary),” “Biennial Receiving Water Monitoring and Assessment Report (full assessment),” and “Oral/Written Biennial State of the Ocean Report.” This modification is consistent with the current NPDES permit for Point Loma Ocean Outfall. The San Diego Water Board and USEPA have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 8.2, portion of Table E-12, last three rows:

Sampling Frequency	Monitoring Period Begins	Monitoring Period	SMR Due Date
Interim Receiving Water Monitoring Report (executive summary)[3]	–January 1 following (or on) the Order and Permit effective date.	–One calendar year (January 1 through December 31)	July 1 of the year following the even years (e.g., separate interim reports for calendar years 2024 (due 7/1/2025), 2026 (due 7/1/2027), and 2028 (due 7/1/2029))
Biennial Receiving Water Monitoring and Assessment Report (full assessment)[4]	–January 1 following (or on) the Order and Permit effective date.	–Two calendar years (January 1 of the year through December 31 of the following year)	July 1 of the year following the odd years (e.g., separate biennial reports for calendar years 2022-2023 (due 7/1/2024), 2024-2025 (due 7/1/2026), and 2026-2027 (due 7/1/2028))
Oral/Written Biennial State of the Ocean Report[5]	–January 1 following (or on) the Order and Permit effective date.	–Two calendar years (January 1 of the year through December 31 of the following year)	By December 31 of the year following the odd years (e.g., separate biennial reports for calendar years 2022-2023 (due 12/31/2024), 2024-2025 (due 12/31/2026), and 2026-2027 (due 12/31/2028))

A25. Comment – Other Reports
Attachment E, section 8.4, Table E-13

The City requests to update the following items in Table E-13:

1. Due Dates for the Performance Goal Exceedance Investigation Work Plan and Benchmark Exceedance Investigation Work Plan to "within 30 days of the Discharger becoming aware of the third successive exceedance" for consistency with sections 4.1.2 and 4.1.3.
2. Report title for the DMR-QA Study to the Water Pollution Performance Evaluation Study and cite section 7.1 of the Attachment E. The City submits a

Water Pollution Performance Evaluation Study in lieu of the DMR-QA Study as described in Attachment F, section 7.5.1.

3. Due date for the Initial Investigation TRE Work Plan to "Within 90 days of the effective date of this Order."
4. Due Date for the Euphotic Zone Study Phase Two Status Report to "Annually no later than March 1, in accordance with the Discharger's Euphotic Zone Study Phase Two Work Plan."
5. The Location of Requirement for the Outfall and Diffuser Inspection report to Attachment E, section 7.2.

Response to A25:

The San Diego Water Board and USEPA agree to the requested corrections to the Initial Tentative Order and Permit as follows.

In addition to the requested corrections, the due date for the Phytoplankton Stimulation Study Final Report was added based on the City's Euphotic Zone Study Phase Two Work Plan. The changes shown below were also made 1) between the Initial Tentative Order and Permit and the Revised Tentative Order and Permit and 2) in response to Comment A3:

Attachment E, section 8.4, Table E-13:

Report	Location of requirement	Due Date
Report of Waste Discharge (ROWD) (for reissuance)	Page 2 of ~~the~~ this Order and Permit	No later than 180 days before the ~~Order~~ expiration date of this Order and Permit
Performance Goal Exceedance Investigation Work Plan	Section 4.~~1.~~2	Within 30 days of the Discharger becoming aware of ~~after~~ the third successive exceedance of a performance goal
Performance Goal Exceedance Report	Section 4.~~1.~~2	As specified in the Performance Goal Exceedance Investigation Work Plan
Benchmark Exceedance Investigation Work Plan	Section 4.~~1.~~3	Within 30 days of the Discharger becoming aware of ~~after~~ the third successive exceedance of a benchmark
Benchmark Exceedance Report	Section 4.~~1.~~3	As specified in the Benchmark Exceedance Investigation Work Plan
~~Receiving Water~~ Special Assessment of Violation ~~Assessment~~	Section 6.3.2.3	Within 90 days of receipt of the San Diego Water Board's and/or USEPA's notification to perform

Report	Location of requirement	Due Date
and Noncompliance		a ~~Receiving Water~~ Special Assessment of Violation ~~Assessment~~ and Noncompliance.
Updated Dilution Analysis	Section 6.3.2.4	No later than 4 years after the effective date of this Order~~/~~ and Permit
Point Loma Ocean Outfall Capacity Report	Section 6.3.5.1	No later than 180 days prior to ~~this Order's~~ the expiration date of this Order and Permit
Treatment Plant Capacity Report	Section 6.3.5.2	Four years prior to reaching plant design capacity
Annual Local Limits Analysis	Section 6.3.5.3.2.2	Annually no later than July 1
Annual Pretreatment Report	Section 6.3.5.3.5	Annually no later than March 1
Annual Biosolids Report	Section 6.3.5.4.8	Annually no later than February 19
Asset Management Plan	Section 6.3.5.7	Within ~~180 days~~ two years of the effective date of this Order and Permit
Semiannual Progress Report	Section 6.3.6.2	January 1 through June 30 (due January 14) July 1 through December 31 (due July 14)
Flow Measurement	Section 1.2 of this MRP	Annually no later than July 1
Annual QA Report	Section 1.6 of this MRP	Annually no later than April 1
~~DMR-QA Study~~	~~Section 1.7 of this MRP~~	~~Annually no later than December 31~~[4]
Annual Additional Influent and Effluent Monitoring	Sections 3.1.2 and 3.2.2 of this MRP	Annually no later than June 30
Initial Investigation TRE Work Plan	Section 3.3.~~7~~6 of this MRP	Within 90 days of the effective date of this Order and Permit
California Environmental Data Exchange Network Data Submittal Certification	Section 4.5 of this MRP	Annually no later than March 1

Report	Location of requirement	Due Date
Interim Kelp Bed Canopy Report	Section 5.1 of this MRP	~~Annually no later than October 1~~ October 1 of the year following the even years (e.g., separate interim reports for calendar years 2024 (due 10/1/2025), 2026 (due 10/1/2027), and 2028 (due 10/1/2029))
Biennial Kelp Bed Canopy Reports	Section 5.1 of this MRP	October 1 of the year following the odd years (e.g., separate biennial reports for calendar years 2022-2023 (due 10/1/2024), 2024-2025 (due 10/1/2026), and 2026-2027 (due 10/1/2028))
Euphotic Zone Study Phase Two Work Plan Implementation Notification	Section 6.~~2~~1.1 of this MRP	In accordance with the Discharger's Euphotic Zone Study Phase Two Work Plan
Euphotic Zone Study Phase Two Status Report	Section 6.~~2~~1.2 of this MRP	Annually no later than March 1, in accordance with the Discharger's Euphotic Zone Study Phase Two Work Plan
Phytoplankton Stimulation Study Final Report	Section 6.~~2~~1.3 of this MRP	December 1, 2027, in ~~In~~ accordance with the Discharger's Euphotic Zone Study Phase Two Work Plan
Discharge Monitoring Report-Quality Assurance Study or Water Pollution Performance Evaluation Study	Section 7.1 of this MRP	Annually no later than December 31[1]
Outfall and Diffuser Inspection	Section 7.~~1~~2 of this MRP	Annually no later than July 1

Notes for Table E-13

1. See section ~~1.~~7.1 of this MRP for instructions on how to submit the study.

A26. Comment – Compliance Summary
Attachment F, section 2.5

The City requests to update the Compliance Summary date from December 4 to December 31 for consistency with Attachment F, section 2.5.5.

Response to A26:

The San Diego Water Board and USEPA agree to the request to correct the date. The Initial Tentative Order and Permit, Attachment F, section 2.5, Compliance Summary, was last updated February 26, 2024. The Revised Tentative Order and Permit was updated to September 11, 2025, and the Final Tentative Order and Permit is updated to November 19, 2025. The re-revised compliance summary includes the self-reported violation for the September 2025 self-monitoring report that was due November 1, 2025. The Final Tentative Order and Permit will not include any violations reported after November 19, 2025 (i.e., within reports that were due after November 19, 2025). The San Diego Water Board and USEPA have modified the Initial Tentative Order and Permit as follows:

Attachment F, section 2.5:

As of ~~December 4, 2023~~ ~~September 11, 2025~~ January 8, 2026, the Discharger has reported the following alleged violations of the Previous Order~~/~~ and Permit:

Attachment F, section 2.5.5:

2.5.5 Order No. R9-2017-0007, section IV.A.1, table 5 states that the settleable solids instantaneous maximum limitation is 3.0 ml/L. On November 28, 2017; March 12 and 23, 2019; September 12, 2019; August 12 and 30, 2021; December 14, 2021; May 4, 2022; ~~and~~ December 21, 2022; ~~and~~ August 22, 2023; ~~and~~ December 29, 2023; March 15, 2024; ~~and~~ January 17, 2025; August 26, 2025; and September 3 and 9, 2025, the Discharger reported settleable solids instantaneous maximums of 3.15; 3.15; 3.15; 4.0; 6.5; 4.0; 3.5; 7.0; 5.0; ~~3.2, and 4.2; 4.0; and 8, 4; 3.5; and 6~~3.2; 4.25; 4; 8; 4; 3.5; and 6 ml/L, respectively, greater than the limitation.

Attachment F, section 2.5.11:

2.5.11 Order No. R9-2017-0007, Attachment E, Monitoring and Reporting Program, (MRP) contains the minimum monitoring requirements. The Discharger reported ~~22~~ ~~45~~ 65deficient monitoring and reporting violations due to changes in monitoring requirements in the permit (2022 permit addendum adding monitoring requirements), missing values for calculated results, laboratory staff who lacked experience or made errors, monitoring results not available at the time the SMR was due, samples not analyzed, and Discharger's staff not appropriately collecting samples from shoreline monitoring stations and/or falsifying metadata.

B. Comments from Patrick McDonough, Senior Attorney, San Diego Coastkeeper, dated April 1, 2024.

B1. Comment – Tentative Decision Document

Coastkeeper supports the adoption of the Initial Tentative Order and Permit, which incorporates the Tentative Decision Document to grant a variance from secondary treatment requirements pursuant to the Clean Water Act sections 301(h) and (j)(5).

Response for B1:

Comment Noted.

B2. Comment – Pure Water San Diego Potable Reuse Tasks and Goals

Section 6.3.6

Coastkeeper supports the adoption of the Initial Tentative Order and Permit, which incorporates the Pure Water schedule of tasks.

Response for B2:

Comment Noted.

B3. Comment – Asset Management Plan

Section 6.3.5.7

Coastkeeper supports the adoption of the Initial Tentative Order and Permit, which requires the City to develop an Asset Management Plan.

Response for B3:

Comment Noted.

B4. Comment – Per- and Polyfluoroalkyl Substances ("PFAS")

Attachment E, section 3.2.2.2

Coastkeeper also supports the Initial Tentative Order and Permit's addition of effluent monitoring requirements for PFAS compounds to identify and understand PFAS in the wastewater.

Response for B4:

Comment Noted.

B5. Comment – Stormwater

Attachment E, section 2, Table E-1

Coastkeeper also supports the Initial Tentative Order and Permit's revision to influent monitoring to account for the planned changes at the Facility to accept onsite stormwater flows to the Facility headworks, downstream of Monitoring Location INF-001. Stormwater diversion to the sanitary system, and stormwater capture and reuse must be more widely implemented throughout the San Diego region to reduce pollution in our surface waters and ensure a secure and sustainable water future. Storm water inputs will likely be needed in the Pure

Water system to account for continuing improved conservation and efficiency. Although monitoring the Facility's onsite stormwater does not address this larger need for stormwater reuse, the data collected from such monitoring will better inform future strategic and regulatory decisions. Therefore, Coastkeeper supports these revisions.

Response for B5:

The Initial Tentative Order and Permit does not require any monitoring of the storm water flows that are diverted from the premises of the E.W. Blom Point Loma Wastewater Treatment Plant (Facility) to the Facility headworks. Footnote 1 of Table E-1 provides an exception to the requirement that all influent wastestream flows to the Facility are accounted for in monitoring events for Monitoring Location INF-001. In other words, Monitoring Location INF-001 will not include the onsite storm water and the Initial Tentative Order and Permit does not propose any separate monitoring requirements for this onsite storm water. Thus, the San Diego Water Board and USEPA have made no changes to the Initial Tentative Order and Permit regarding the influent monitoring description or storm water monitoring.

B6. Comment – Aldrin
Section 4.2, Table 3

The Initial Tentative Order and Permit replace effluent limitations for aldrin with performance goals and reduces the monitoring frequency for aldrin from weekly to monthly. Based on the Initial Tentative Order and Permit's Fact Sheet, "in 2020 and 2021, aldrin was not detected in any PLOO sediment samples or liver samples from fishes collected from the PLOO region." Fact Sheet at F-47. While these sampling results may justify reduced monitoring frequency for aldrin, they do not justify revising the Permit's effluent limitations for aldrin to non-enforceable performance goals. This runs afoul of the CWA's anti-backsliding policy that a permit may not be renewed or reissued with less stringent effluent limitations than those contained in the previous permit. Simply because aldrin has not been detected in past, does not mean that it won't be detected in the future. Complete removal of the effluent limitations for aldrin would constitute a "less stringent" renewal or reissuance. As such, Coastkeeper opposes this departure from the current Permit.

Response for B6:

The San Diego Water Board and USEPA removed the effluent limitations for aldrin based on the reasonable potential analysis conducted for the Initial Tentative Order and Permit. The previous permit established aldrin limits because reasonable potential was determined for aldrin based on the effluent data from August 2010 to July 2015. However, aldrin is not deemed to have reasonable potential to cause or contribute to an exceedance of water quality objectives in the Ocean Plan using the new monitoring data collected after October 2017 (see Attachment F, pages F-31 through F-37, section 4.3.3).

Removal of the aldrin limits due to a finding of no reasonable potential meets the new information exception to anti-backsliding under section 402(o)(2)(B)(i) of the CWA as well as complies with CWA section 303(d)(4).

CWA section 402(o)(1) prohibits the establishment of less stringent water quality-based effluent limitations (WQBELs) except in compliance with section 303(d)(4) (33 U.S.C. section 1313(d)(4)). CWA section 303(d)(4) has two parts: paragraph (A) which applies to nonattainment waters and paragraph (B) which applies to attainment waters. The receiving water in the vicinity of the Point Loma Ocean Outfall is considered an attainment water for aldrin because it is not listed as impaired under section 303(d) for this parameter. For attainment waters, CWA section 303(d)(4)(B) specifies that a limitation based on a water quality standard may be relaxed where the action is consistent with the antidegradation policy. Since the removal of WQBELs for aldrin will not result in a decrease in the level of treatment or control, an increase in the quantity of aldrin discharged, or a violation of water quality standards for aldrin, the San Diego Water Board and USEPA find that the removal of aldrin limitations does not lower receiving water quality and is consistent with the federal and state antidegradation policies, which meets the anti-backsliding exception in CWA sections 303(d)(4)(B).

The Discharger is still required to monitor for the parameters not displaying reasonable potential pursuant to the Monitoring and Reporting Program (Attachment E of the Initial Tentative Order and Permit) in order to compare to water quality objectives in Table 3 of the Ocean Plan and gather data for use in reasonable potential analysis for future permit reissuances. Therefore, the San Diego Water Board and USEPA included performance goals for aldrin in the Initial Tentative Order and Permit. Effluent concentrations above the performance goals will not be considered as violations of the Initial Tentative Order and Permit but serve as indicators that the effluent may be causing or contributing to an exceedance of water quality objectives. Any two consecutive exceedances of the performance goals will trigger an investigation into the cause of the exceedance. If the exceedance persists in three successive monitoring events, the Discharger is required to submit a Performance Goal Exceedance Investigation Work Plan to the San Diego Water Board and USEPA within 30 days of the Discharger becoming aware of the third successive exceedance. The Performance Goal Exceedance Investigation Work Plan is required to outline the investigative steps being taken, whether outside technical expertise is being retained to assist in the investigation, and the proposed schedule for completing a Performance Goal Exceedance Report. Repeated exceedances of performance goals may prompt the San Diego Water Board and USEPA to reopen and amend this Order and Permit to replace performance goals for constituents of concern with effluent limitations, or the San Diego Water Board and USEPA may coordinate such actions with the next permit reissuance.

C. Comments from Jared Voskuhl, CASA Director of Regulatory Affairs, California Association of Sanitation Agencies, dated April 2, 2024.

- Page 5, section I;
  Attachment A, Pages A-2 and A-9, definition for Facilities,
  Attachment F, Page F-5, sections 1.1 and 1.2; and
  Attachment F, Page F-7, section 2.2
  (definition of Facilities).
- Page 30, sections 6.3.4.2 through 6.3.4.3; and
  Attachment F, Page F-52, sections 6.2.4.2 through 6.2.4.3
  (flood protection).
- Page 31, section 6.3.4.4; Attachment E, Page E-48, section 6.1;
  Attachment F, Page F-53, section 6.2.4.4; and
  Attachment F, Pages F-67 through F-68, section 7.4.1
  (protection against climate change).
- Page 34, section 6.3.5.3.5.2; and
  Attachment F, Page F-53, section 6.2.5.3
  (pretreatment).
- Pages 36 through 40, section 6.3.5.4.1.1, 6.3.5.4.1.7, 6.3.5.4.7.3; and
  Attachment F, Pages F-53 through F-54, section 6.2.5.4
  (sludge).

CASA appreciates the opportunity to comment on the tentative NPDES Permit, and would like to express their concern regarding the inclusion of the day-to-day operation of the collection system within the tentative NPDES permit, thereby creating duplicative regulatory burdens between the tentative NPDES Permit and existing Waste Discharge Requirements (State Water Resources Control Board (SWRCB) Order WQ 2022-0103-DWQ, also known as the reissued Sanitary Sewer Systems Waste Discharge Requirements General Order (reissued SSS WDR), already applicable to the collection system at issue here. CASA was very engaged with the SWRCB in 2021 and 2022 when the SWRCB developed and eventually adopted the reissued SSS WDR. This process involved years of stakeholder meetings to create an Order that would fully encapsulate all regulatory oversight needed in the operation of a collection system, and CASA understands the City of San Diego is already enrolled, as required, as a permittee under the reissued SSS WDR. After the reissued SSS WDR was adopted, CASA continued collaborating with SWRCB staff to provide free educational resources to collection system managers, as well as hosted four free virtual webinars over the last year featuring SWRCB staff and our expert members to help agencies comply with all of the new requirements in the reissued SSS WDR and ensure sound collection system operations; those resources are archived online at https://casaweb.org/sss-wdr/.

Through these efforts, and the adoption of the reissued SSS WDR, the SWRCB re-established a specifically designed and uniform regulation for California-enrolled collection systems; hence our concern with the inclusion of the City's

collection system in the tentative NPDES Permit creating duplicative and at points, divergent, requirements that can result in confusion and misunderstanding during operation of a collection system. For example, the tentative NPDES permit includes the collection system and associated infrastructure in the definition of “Facilities” subject to regulation by other sections of the permit, such as flood protection (sections 6.3.4.2 and 6.3.4.3), protection against climate change (section 6.3.4.4), pretreatment reports (section 6.3.5.3.5.2), sludge disposal (sections 6.3.5.4.1.1 and 6.3.5.4.1.7), biosolids (section 6.3.5.4.7.3), and Toxicity Reduction Evaluation Work Plans (Attachment E, section 3.3.7). How or whether these requirements apply to collection system operations is not clear. For these reasons, collection systems should be uniformly regulated by the SSS WDR rather than by individual NPDES permits with potentially confusing or differing requirements.

Response for C:

Please see the response to Comment A9.

D. Comments from Juan Guerreiro, Director, Public Utilities Department, City of San Diego, dated October 13, 2025.

D1.1. Comment – Tentative 401 Certification (Tentative Order No. R9-2025-0145)
Section 2.3
Section 3.3.10
Attachment G

The San Diego Water Board and USEPA should remove the Tentative 401 Certification and all conditions or cross-references in Tentative Order No. R9-2025-0005 to the Tentative 401 Certification. As provided in the comment letter, the Tentative 401 Certification has serious procedural and substantive defects. Procedurally, certification has been waived. Substantively, the certification and the permit include impermissible end-result requirements.

Response for D1.1:

The San Diego Water Board and USEPA disagrees that the CWA section 401 certification was waived. For States, Territories, or Tribes with USEPA approved water quality standards, USEPA requests certification from the affected State, Territory, or Tribe that the NPDES permit will meet all applicable water quality standards. Certification under section 401 of the CWA shall be in writing and shall include the conditions necessary to assure compliance with referenced applicable provisions of sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of State, Territory, or Tribal law. USEPA cannot issue the NPDES permit until the certifying State, Territory, or Tribe has granted certification under 40 CFR section 124.53 or waived its right to certify. On September 11, 2025, USEPA requested CWA section 401 certification of the NPDES permit from the San Diego Water Board in accordance with 40 CFR section 121.5. The San Diego Water Board drafted the Tentative CWA section 401 Certification as requested by USEPA. The Tentative 401 Certification was released for public comment on September 12, 2025.

In its 2025 decision in *City and County of San Francisco, California v. Environmental Protection Agency, the* U.S. Supreme Court held that USEPA is not authorized to include end-result requirements in NPDES permits issued under Clean Water Act section 301(b)(1)(C). *The Court did not address whether or how its holding might apply to state water quality requirements that a state agency is required by state law to consider when evaluating a request for a CWA section 401 water quality certification.* As such, The City's assertion that the U.S. Supreme Court prohibited the inclusion of provisions to ensure state requirements are satisfied under CWA section 401 is inaccurate. However, this issue is moot for this permit as the San Diego Water Board's CWA section 401 certification no longer includes receiving water limitations.

The San Diego Water Board and USEPA have converted the end-result requirements to discharge prohibitions or effluent limitations in the NPDES permit

itself, such that separate receiving water limitations were no longer needed in the CWA section 401 certification. The San Diego Water Board's adoption of the Final Order and Permit will serve as its CWA Section 401 Water Quality Certification of the federal permit issued by USEPA because all state law requirements will be satisfied. The Final Tentative Order and Permit are consolidated State and federal NPDES permits developed by both the San Diego Water Board and USEPA. The San Diego Water Board's participation in the development of the Final Order and Permit ensures that the federal permit includes the conditions necessary for the authorized discharge to comply with applicable provisions of the CWA and State water quality requirements, including water quality standards. As such, the Final Order and Permit remove the CWA Section 401 Water Quality Certification from Attachment G and replaced it with a detailed analysis of all the end-result requirements and how those requirements are included in the permit. The analysis evaluates each of these requirements to determine how to apply the requirement in the Final Order and Permit. The State Water Board's CWA section 401 certification is now included as a finding in the Order and Permit.

Given the above, the San Diego Water Board and USEPA have modified the Revised Tentative Order and Permit as follows:

Section 2.3:

~~**CWA Section 401 Water Quality Certification.** The Discharger shall comply with all requirements set forth in the San Diego Water Board's CWA Section 401 Water Quality Certification R9-2025-145 associated with this Order. See Attachment G.~~

Section 2.5.5:

Certification by the San Diego Water Board that the discharge will comply with applicable state water quality requirements, including water quality standards (CWA section 401); and concurrence by the San Diego Water Board that the discharge will comply with water quality standards applicable to the pollutants for which the 301(h) variance is requested (40 CFR section 125.61). The issuance of this Order and Permit, which incorporates both the 301(h) variance and State WDRs, will serve as the San Diego Water Board's concurrence that the discharge will comply with the applicable water quality standards for the Pacific Ocean in the *Water Quality Control Plan for Ocean Waters of California* (Ocean Plan) and *Water Quality Control Plan for the San Diego Basin* (Basin Plan), including any amendments to date. ~~. The joint issuance of a consolidated NPDES permit, which incorporates both the 301(h) variance and State WDRs, will serve as the San Diego Water Board's concurrence~~; and

Add Sections 2.6, 2.7, 2.71, 2.72, and 2,73. Renumber subsequent sections:

2.6 **CWA Section 301(h) Certification, Concurrence, and Determinations.** Pursuant to CWA section 301(h) and 40 CFR section 124.54 the issuance of this Order and Permit serves as the San Diego Water Board's certification and concurrence with the Discharger's CWA section 301(h) variance. Pursuant to 40 CFR section 125.61(b)(2), the San Diego Water Board has determined that the modified discharge will comply with applicable provisions of State law, including water quality standards applicable to the pollutants for which the CWA section 301(h) variance is requested. Pursuant to 40 CFR section 125.64(b), the San Diego Water Board has determined that the discharge will not result in an additional treatment pollution control, or other requirement, on any other point or nonpoint sources.

2.7 **CWA Section 401 Water Quality Certification.** Pursuant to Clean Water Act section 401, 40 CFR section 124.53, and Water Code section 13160, the San Diego Water Board certifies that the discharge authorized by this Order and Permit will comply with applicable State water quality requirements, including water quality standards. This certification will continue in effect as long as this Order and Permit are in effect. Pursuant to California Code of Regulations, title 23, section 3860, the following three standard conditions apply to all water quality certification actions:

2.7.1 This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section13330 and California Code of Regulations, title 23, sections 3867-3869.

2.7.2 This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, section 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

2.7.3 This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, chapter 28 and owed by the applicant.

2.8~~6~~ **Executive Officer Delegation of Authority.** The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to Water Code section 13223. Therefore, the Executive Officer is authorized to act on the San

Diego Water Board's behalf on any matter within this Order~~/~~ and Permit unless such delegation is unlawful under Water Code section 13223, or this Order~~/~~ and Permit explicitly ~~states~~ state otherwise.

2.~~9~~7 **Notification of Interested Parties**. The San Diego Water Board and USEPA notified the Discharger and interested agencies and persons of its intent to consider a consolidated federal NPDES permit that incorporates State WDRs for the discharge and provided them with an opportunity to submit their written comments and recommendations. The San Diego Water Board also provided an opportunity for the Discharger and interested agencies and persons to submit oral comments and recommendations at a public meeting. Details of the notification are provided in the Fact Sheet (Attachment F).

2.10~~8~~ **Consideration of Public Comment**. The San Diego Water Board and USEPA considered all written comments pertaining to the discharge. Details of the comment period are provided in the Fact Sheet (Attachment F).

Attachment F, section 3.3.10:

3.3.10 **Water Quality Certification Requirements** (CWA section 401; 40 CFR sections 124.53 and 124.54).

For States, Territories, or Tribes with USEPA approved water quality standards, USEPA requests certification from the affected State, Territory, or Tribe that the permit will meet all applicable water quality standards. Certification under section 401 of the CWA shall be in writing and shall include the conditions necessary to assure compliance with referenced applicable provisions of sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of State, Territory, or Tribal law. USEPA cannot issue the Permit ~~permit~~ until the certifying State, Territory, or Tribe has granted certification under 40 CFR section 124.53 or waived its right to certify. ~~If the State, Territory, or Tribe does not respond within 60 days of the requested deadline, it will be deemed to have waived certification.~~

Based on conversations between USEPA and the San Diego Water Board on September 10, 2025, the San Diego Water Board ~~has~~ agreed to waive the requirement for a pre-filing meeting request (see 40 CFR section 121.4). On September 11, 2025, USEPA requested a CWA section 401 water quality certification of the NPDES permit (401 Water Quality Certification). In their letter, USEPA proposed a 60-day timeframe for the reasonable period of time to act on the 401 Water Quality Certification, but in the event that the USEPA and San Diego

Water Board did not agree on a reasonable period of time then the reasonable period of time shall be 6 months. The San Diego Water Board did not agree to the 60-day timeframe. Thus, the reasonable period of time to act on the 401 Water Quality Certification request was 6 months. The San Diego Water Board acted on this request on February 11, 2026, by adopting this Order, in lieu of issuing a separate, stand-alone 401 Water Quality Certification. This Order and Permit are consolidated State and federal NPDES permits developed by both the San Diego Water Board and USEPA. The San Diego Water Board's participation in the development of this Order and Permit ensures that the federal permit includes the conditions necessary for the authorized discharge to comply with applicable provisions of the CWA and State water quality requirements, including water quality standards, and serves as its CWA section 401 Water Quality Certification of the federal permit issued by USEPA. ~~On September 11, 2025, USEPA requested CWA section 401 certification from the San Diego Water Board in accordance with 40 CFR section 121.5. September 12, 2025, the San Diego Water Board provided USEPA the water quality certification. See Attachment G of this Order and Permit.~~

Attachment F, section 8.1:

8.1 Notification of Joint Public Comment Period

By electronic mail dated March 1, 2024, the San Diego Water Board and USEPA notified the Discharger and interested agencies and persons of its intent to jointly consider adoption of the tentative Order~~/~~ and Permit. The San Diego Water Board and USEPA also provided notice that this tentative Order~~/~~ and Permit ~~was~~ were posted on both the San Diego Water Board and USEPA websites and provided a period of at least 30 days for public review and comment. The San Diego Water Board did not act on the NPDES permit at the March 13, 2024, board meeting. The San Diego Water Board acted on the tentative Order~~/~~ and Permit at a subsequent Board meeting.

USEPA also participated at the March 13, 2024, meeting to provide information on the Tentative Decision for a waiver of secondary treatment requirements pursuant to Clean Water Act 301(h). USEPA did not act on the 301(h) waiver at the March 13, 2024, meeting.

Due to significant changes in the tentative Order and Permit, by electronic mail dated September 12, 2025, the San Diego Water Board and USEPA notified the Discharger and interested agencies and persons of the revised tentative Order and Permit and provided a period of at least 30 days for public review and comment. The San Diego Water Board's and USEPA's

websites contained the Public Notice and revised tentative Order and Permit.

~~By electronic mail dated September 12, 2025, the San Diego Water Board provided public notice for the 401 Certification document. The San Diego Water Board also provided notice that this revised tentative Order and Permit were posted on both the San Diego Water Board website and provided a period of at least 30 days for public review and comment.~~

The public also had access to the meeting agenda including all supporting documents and any changes in meeting dates and locations through the San Diego Water Board's website at: https://www.waterboards.ca.gov/sandiego/.

Attachment G, header:

~~ATTACHMENT G – Clean Water Act Section 401 Water Quality Certification DISCHARGE PROHIBTIONS CONTAINED IN THE OCEAN PLAN AND BASIN PLAN~~

ATTACHMENT G - ANALYSIS OF OCEAN PLAN AND BASIN PLAN REQUIREMENTS

Attachment G, content:

Please see the Final Tentative Order and Permit for the content of Attachment G.

D1.2. Comment – Discharge Prohibitions – Attachment G
Section 2.3
Sections 3.2 and 3.3
Section 3.3.10
Attachment G

The Tentative 401 Certification includes requirements that the City "fully comply" with the Ocean Plan and Basin Plan. These conditions are end-result requirements, impermissibly vague, and far broader than any conditions in Initial Tentative Order and Permit released for public comment in 2024 (Tentative Order No. R9-2024-0004). The San Diego Water Board and USEPA should consider using as a model section 3.2, section 3.3, and Attachment G from Tentative Order No. R9-2024-0004. Together, these provisions provide more specific and clear discharge prohibitions.

Proposed language to be included in section 3 – Discharge Prohibitions:

"The Discharger must comply with the Discharge Prohibitions provided in Attachment G as a condition of this Order and Permit. The Discharge Prohibitions are based on the Water Quality Control Plan for Ocean Waters of

California (Ocean Plan) and chapter 4 of the Water Quality Control Plan for the San Diego Basin (Basin Plan)."

Proposal to include the requirements from Attachment G – Discharge Prohibitions Contained in the Ocean Plan and Basin Plan:

The San Diego Water Board and USEPA should consider re-inserting the discharge prohibitions provided in the Tentative Order No. R9-2024-0004, Attachment G, provided that Attachment G, section 2.1 should be removed for compliance with San Francisco. Section 2.1 is substantively the same condition that the Court ordered to be removed.

The discharge of waste to waters of the State in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in Water Code section 13050, is prohibited.

Response for D1.2:

See response to Comment D1.1. As described in Attachment G of the Final Tentative Order and Permit (towards the end of the table), the San Diego Water Board and USEPA analyzed the applicability of each Ocean Plan and Basin Plan discharge prohibition to this discharge and how the applicable prohibitions were applied in the Final Tentative Order and Permit (see Attachment G of Final Tentative Order and Permit)..

D1.3. Comment - Limitation of Liability for Provisions and Requirements Implementing State Law
Section 2.3

Tentative Order No. R-2024-0004 recognized that certain provisions or requirements are not required or authorized under the CWA that could not be enforced as NPDES or CWA violations.

Tentative Order No. R-2024-0004, section 2.3 states, "**Provisions and Requirements Implementing State Law**. The provisions/requirements in subsections 4.3, 4.4, and 5.2 are included to implement State law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations."

For any provision or requirement that purports to implement state law only, the San Diego Water Board should re-insert Condition 2.3 from Tentative Order No. R9-2024-0004.

Proposed language to be included in section 2 – Findings

"The provisions or requirements in sections _____ are included to implement State law only. These provisions or requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are

available for NPDES violations, including but not limited to citizens suits under 33 U.S.C. § 1365."

Response for D1.3:

The Revised Tentative Order and Permit remove subsections 4.3, 4.4, and 5.2 since these subsections are not applicable to Tentative Order and Permit. The City's proposed language does not include sections that are State law only. The San Diego Water Board and USEPA agree with the comment and added the language as a finding in section 2.3, omitting references to the subsections that have been removed as follows:

Section 2.3:

Provisions and Requirements Implementing State Law. Any provisions or requirements that are included to implement State law only are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations, including but not limited to citizens suits under 33 U.S.C. section 1365.

D2. Comment – Benchmark Exceedance Investigation Work Plans
Section 4.3
Attachment F, section 4.4.4

The City requests removal of the proposed requirement for Benchmark Exceedance Investigation Work Plans in section 4.3. An Exceedance Investigation Work Plan is applicable to benchmarks based on water quality standards (such as the Performance Goals established in Table 3), but not applicable to mass emission benchmarks presented in Table 4 that have no relation to water quality standards and are instead established for purposes of assessing the need for future antidegradation analysis in NPDES permit renewals.

As noted in all prior Point Loma NPDES 301(h) permits, the purpose of the 12-month average mass emission benchmarks presented in Table 4 is to compare mass emissions with historical levels in order to identify parameters that require antidegradation analysis as part of the permit renewal. Periodic or chronic exceedance of any of the 12-month antidegradation benchmarks (as with prior NPDES permits) should not trigger the need for any immediate work plans or compliance assessments. Instead, exceedances should trigger the need for antidegradation assessment in permit renewals. Each of the City of San Diego 301(h) applications submitted after the adoption of the original 301(h) permit (Order No. 95-106) have included antidegradation assessments that concluded compliance with federal antidegradation requirements. The City requests removal of the following language in the Revised Tentative Order and Permit.

Section 4.3: "~~However, the discharger shall maintain, if not improve, the effluent quality to levels at or below the 12-month mass emission benchmarks. The Discharger shall report all exceedances of 12-month mass emission benchmarks in the cover letter of the applicable monthly self-monitoring report (SMR). Any two consecutive exceedances of the 12-month mass emission benchmarks shall trigger an investigation into the cause of the exceedance. If the exceedance persists in three successive monitoring events, the Discharger shall submit a written Benchmark Exceedance Investigation Work Plan to the San Diego Water Board and USEPA within 30 days of the Discharger becoming aware of the third successive exceedance. The Benchmark Exceedance Investigation Work Plan shall outline the investigative steps being taken, whether outside technical expertise is being retained to assist in the investigation, and the proposed schedule for completing a Benchmark Exceedance Report. The Benchmark Exceedance Report shall include a description of the nature of the exceedance(s), the results of the investigation including the cause of the exceedance(s), the corrective actions taken, any proposed corrective measures, and a schedule for implementation, if necessary. The San Diego Water Board and USEPA may reopen this Order and Permit to include effluent limitations for parameters that exceed 12-month mass emission benchmarks.~~"

Attachment F, section 4.4.4: "~~However, any two consecutive exceedances of the benchmarks will trigger an investigation into the cause of the exceedance. If the exceedance persists in three successive monitoring events, the Discharger is required to submit a Benchmark Exceedance Investigation Work Plan to the San Diego Water Board and USEPA within 30 days of the Discharger becoming aware of the third successive exceedance. The Benchmark Exceedance Investigation Work Plan is required to outline the investigative steps being taken, whether outside technical expertise is being retained to assist in the investigation, and the proposed schedule for completing a Benchmark Exceedance Report. The Benchmark Exceedance Report is required to include a description of the nature of the exceedance(s), the results of the investigation including the cause of the exceedance(s), the corrective actions taken, any proposed corrective measures, and a schedule for implementation, if necessary. Repeated exceedances of benchmarks may prompt the San Diego Water Board and USEPA to reopen and amend this Order and Permit to replace benchmarks for constituents of concern with effluent limitations, or the San Diego Water Board and USEPA may coordinate such actions with the next permit reissuance. The Discharger is in violation of this Order and Permit if it does not comply with the benchmark investigation and reporting requirements, when required by the terms of this Order and Permit. The benchmarks are provided in Table 3 [sic – actually Table 4], section 4.3 of this Order and Permit.~~"

Response for D2:

This comment is not within the scope of the 2025 public comment period. For the 2025 public comment period, the San Diego Water Board and USEPA were

seeking public comments only on the revisions to the Initial Tentative Order and Permit.

Regardless, the San Diego Water Board and USEPA do not agree with the request. The toxics mass emission benchmarks were established to address the uncertainty due to projected increases in toxic pollutant loadings from the Facility to the marine environment during the 5-year 301(h) variance, and to maintain the current treatment quality since the mass emission benchmarks set final effluent targets for the permittee to meet based on performance. As such, no degradation will occur. We believe that the quantity of pollutants discharged, and the quality of the discharge are expected to remain relatively constant or improve during the permit term. Therefore, these mass emission benchmarks will provide a framework for evaluating the need for an antidegradation analysis to determine compliance with State and federal antidegradation requirements at the time of permit reissuance. This antidegradation assessment could be conducted during the permit term, especially when the effluent persistently exceeds the benchmarks (i.e., exceedances in three successive monitoring events). By proactively evaluating any consecutive exceedances, the 12-month mass emission benchmarks may be re-evaluated and modified during this Order and Permit term, or this Order and Permit may be modified to incorporate WQBELs for the parameters in Table 4 below, in accordance with the requirements set forth at 40 CFR sections 122.62 and 124.5.

D3. Comment – Benchmark for Non-chlorinated Phenolics
Section 4.3, Table 4

The 2.57 mt/year benchmark for non-chlorinated phenolics in Table 4 was established by USEPA and the San Diego Water Board in Order No. 95-06, using data from January 1990 to April 1995. The Order and Permit define Phenolic Compounds (non-chlorinated) as the sum of 2,4-dimethylphenol, 4,6-Dinitro-2-methylphenol, 2,3-dinitrophenol, 2-methylphenol, 4-methylphenol, 2-nitropheneol, 4-nitrophenol, and phenol.

After reviewing the data, the City found that the reported non-chlorinated phenolics effluent data from January 1990 to April 1994 was not representative of non-chlorinated phenol because the reported results only included phenol, only one of the parameters in the definition. Beginning in May 1994, the PLOO discharge was also monitored for 3-methylphenol (4-methylphenol unresolved) and 4-methylphenol (3-methylphenol unresolved), which was added to phenol to yield the reported value for non-chlorinated phenols.

To rectify this discrepancy, the City requests that the antidegradation benchmark for non-chlorinated phenol be recalculated using data from May 1994 through November 1995. Data from this period would accurately characterize total non-chlorinated phenol mass emissions prior to the implementation of Order No. 95-06 and would be an appropriate benchmark on which to assess future needs for antidegradation assessment. Precedent for re-calculating the non-chlorinated

phenol benchmark exists, as in 2002 the San Diego Water Board and USEPA re-calculated the benchmarks for selenium and copper using data from 1994 to reflect changes in copper and selenium concentrations in the City's water supply. The re-computation of the non-chlorinated phenol antidegradation benchmark using an appropriate data range (May 1994 through November 1995) allows for an "apples to apples" comparison of PLOO non-chlorinated phenol data throughout this pre-discharge period.

Response for D3:

This comment is not within the scope of the 2025 public comment period. For the 2025 public comment period, the San Diego Water Board and USEPA were seeking public comments only on the revisions to the Initial Tentative Order and Permit.

Regardless, the San Diego Water Board and USEPA agree with the request and recalculated the mass emission benchmark for non-chlorinated phenol using the May 1994 through November 1995 data as requested. The San Diego Water Board and USEPA modified the Initial Tentative Order and Permit as follows:

Section 4.3, portion of Table 4:

Effluent Constituent	Units	12-Month Mass Emission Benchmark
Phenolic Compounds (Non-Chlorinated)	mt/yr	~~2.57~~ 33.7

Attachment F, section 4.4.4, first paragraph:

Order Nos. 95-106, R9-2002-0025, R9-2009-0001, and the Previous Order~~/~~ and Permit contained toxics 12-month mass emission benchmarks for effluent discharged through the PLOO. These benchmarks were established to address the uncertainty due to projected increases in toxic pollutant loadings from the Facility to the marine environment during the 5-year 301(h) variance, and to establish a framework for evaluating the need for an antidegradation analysis to determine compliance with water quality standards at the time of permit reissuance. These benchmarks contained in the Previous Order~~/~~ and Permit have been carried over to this Order~~/~~ and Permit, except for the mass emission benchmark for non-chlorinated phenolics, which was recalculated based on new information. After reviewing the data, the Discharger found that the reported non-chlorinated phenolics effluent data from January 1990 to April 1994 was not representative of non-chlorinated phenolics because the reported results only included phenol, only one of the parameters in the definition for non-chlorinated phenolics. Beginning in May 1994, the PLOO effluent was also monitored for 3-methylphenol (4-methylphenol unresolved) and 4-methylphenol (3-methylphenol unresolved), which was added to phenol to yield the reported value for non-chlorinated phenols. The recalculated mass emission benchmark for non-

chlorinated phenolics was based the effluent data from May 1994 through November 1995, rather than January 1990 to April 1994.

D4. Comment – Sewage Collection System Spills
Section 6.3.2.1.1

In lieu of completing duplicative spill reporting for facilities subject to both Order No. R9-2025-0005 and the Statewide General Order No. WQ 2022-0103-DWQ, the City proposes to provide email notification to the San Diego Water Board (SanDiego@waterboards.ca.gov) and USEPA (R9NPDES@epa.gov) when spills are reported under the Statewide General Order No. WQ 2022-0103-DWQ and subsequent amendments. The City requests the following language changes in section 6.3.2.1.1 to reflect this modification:

6.3.2.1.1: A spill includes a discharge, or any other type of emission or release of treated or untreated wastewater, or other waste due to system overflow, flow stoppage, system leaks and breaks, operational failure and/or infrastructure failure from the Facilities. Spills subject to State Water Board Order No. WQ 2022-0103-DWQ, Statewide Waste Discharge General Order for Sanitary Sewer Systems (Statewide General SSO Order), and any subsequent amendment/reissuance order shall only be reported as required under the Statewide General SSO Order and those spill reports shall be provided upon certification in the CIWQS online spill reporting database via email to the San Diego Water Board (SanDiego@waterboards.ca.gov) and USEPA (R9NPDES@epa.gov). Please also refer to section 6.3.5.5 of this Order and Permit for more information regarding spills/sanitary sewer overflows under separate WDRs."

Response for D4:

The San Diego Water Board and USEPA agree with the request to avoid duplicative requirements and have modified the Initial Tentative Order and Permit as follows:

Section 6.3.2.1.1:

6.3.2.1.1 A spill includes a discharge, or any other type of emission or release of treated or untreated wastewater, or other waste due to system overflow, flow stoppage, system leaks and breaks, operational failure and/or infrastructure failure from the Facilities. Please also refer to section 6.3.5.5 of this Order~~/~~ and Permit for more information regarding spills/sanitary sewer overflows upstream of the Facility headworks that are also covered under separate WDRs.

Section 6.3.2.2, first paragraph:

6.3.2.2 **Spill Reporting Requirements**

For spills that occur upstream of the headworks, please see section 6.3.5.5 for reporting requirements. The Discharger shall report spills~~, as defined in section 6.3.2.1.1 above,~~ that occur at or downstream of the headworks in accordance with the following procedures:

Section 6.3.5.5:

6.3.5.5 **Sewage Collection System**

The Discharger is subject to the requirements of and must comply with State Water Board Order No. WQ 2022-0103-DWQ, *Statewide Waste Discharge Requirements General Order for Sanitary Sewer Systems* (Statewide General SSO Order), and any subsequent amendment/reissuance order. The Discharger is also subject to the requirements of and must comply with the San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region* (Regional General SSO Order), and any subsequent amendment/reissuance order.

Regardless of the coverage obtained under Order WQ 2022-0103-DWQ or Order No. R9-2007-0005, the Discharger's sewage collection system is part of the treatment system that is subject to this Order~~/~~ and Permit. As such, pursuant to federal regulations, the Discharger must report any noncompliance (40 CFR sections 122.~~44(1~~41(L)(6) and (7)), properly operate and maintain its sewage collection system (40 CFR section 122.41(e)), and mitigate or prevent any discharge from the sewage collection system in violation of this Order~~/~~ and Permit (40 CFR section 122.41(d)).

The Discharger is required to ensure that USEPA receives notifications and certified reports that are required under the Statewide General SSO Order for spills that:

- reach a surface water, including a surface water body that contains no flow or volume of water, or a drainage conveyance system that discharges to surface waters when the sewage is not fully captured and returned to the sanitary sewer system or disposed of properly, and/or
- are greater than 1000 gallons.

Attachment F, section 6.2.2.2:

6.2.2.2 Spill Reporting Requirements

To determine compliance with Discharge Prohibition 3.1 and provide appropriate notification to the general public for the protection of public health, spill reporting requirements have been established in sections 6.3.2.2 and 6.3.5.5 of this Order~~/~~ and Permit.

Attachment F, section 6.2.5.5:

6.2.5.5 Sewage Collection System

The State Water Board issued Order No. WQ 2022-0103-DWQ, *Statewide Waste Discharge General Order for Sanitary Sewer Systems* (Statewide General SSO Order) on December 6, 2022. The Statewide General SSO Order requires state agency, municipality, special district, or other public entity that owns and/or operates one or more sanitary sewer systems greater than one mile in length (each individual sanitary sewer system to enroll for coverage and comply with the Statewide General SSO Order. The Statewide General SSO Order requires agencies to develop Sewer System Management Plans (SSMPs) and report all sanitary sewer overflows, among other requirements and prohibitions.

The Statewide General SSO Order contains requirements for operation and maintenance of sewage collection systems and for reporting and mitigating sanitary sewer overflows that are more extensive, and therefore, more stringent than the requirements under federal standard provisions. The Discharger is enrolled in the Statewide General SSO Order.

The San Diego Water Board issued Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region* (Regional General SSO Order). The Regional General SSO Order is more stringent and prescriptive than the Statewide General SSO Order. The Discharger is also enrolled in the Regional General SSO Order.

Regardless of the coverage obtained under the Statewide General SSO Order or Regional General SSO Order, the Discharger's sewage collection system is part of the treatment system that is subject to this Order~~/~~ and Permit. As such, pursuant to federal regulations, the Discharger must report any noncompliance (40 CFR sections 122.44(l)(6) and (7)), properly operate and maintain its sewage

collection system [40 CFR section 122.41(e)], and mitigate or prevent any discharge from the sewage collection system in violation of this Order~~/~~ and Permit [40 CFR section 122.41(d)].

This Order and Permit add requirements for the Discharger to ensure that USEPA receives notifications and certified reports that are required under the Statewide General SSO Order for spills that:

- reach a surface water, including a surface water body that contains no flow or volume of water, or a drainage conveyance system that discharges to surface waters when the sewage is not fully captured and returned to the sanitary sewer system or disposed of properly, and/or
- are greater than 1000 gallons.

Sanitary sewer overflows that are reported under the Statewide General SSO Order and Regional General SSO Order are available to the public at the Sanitary Sewer Overflows (SSO) Data Visualization Tool - San Diego Region and State Water Board Public SSO Report Database.[24]

[24] https://cawaterboards.sharepoint.com/RB9/SitePages/DIViTs.aspx and https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_main

D5. Comment – Pretreatment Enforcement
Section 6.3.5.3.2.1

The City requests to leave the word “formal” in this section. Removing the word “formal” may create confusion about the requirements. The last sentence states the second level of enforcement is an Administrative Notice and Order which is from the “formal” enforcement section of the Enforcement Response Plan described in this section.

Response for D5:

The San Diego Water Board and USEPA agree with the request. The City’s pretreatment staff stated that second level enforcement action is the same as formal enforcement action and its Enforcement Response Plan includes the term “formal” enforcement actions but not “second level” enforcement actions. Thus, the Revised Tentative Order and Permit have been modified as follows:

Section 6.3.5.3.2.1:

The 15 percent noncompliance criteria include only SIUs that are in SNC and which have not received at least a ~~second level~~ formal enforcement action from

the Discharger, in accordance with the Enforcement Response Plan.[4] The second level of enforcement is the same as formal enforcement action. An example of a formal enforcement action is an Administrative Notice and Order.

D6. Comment – Pure Water San Diego
Section 6.3.6.1, Table 5, footnote 5
Attachment F, section 2.6.1

Footnote 5 on Table 5 and Attachment F, section 2.6.1 imply that the production of 83 MGD of water suitable for potable reuse will take into account all potable reuse production upstream. The City suggests the following language to allow the City to decide what to count and not count towards the 83 MGD, and to be consistent with the last sentence in section 6.3.6.3.

Table 5, Footnote 5: "Phase 2 Pure Water implements an ultimate annual average daily production of up to an additional 53 MGD of water suitable for potable reuse resulting in a cumulative total of 83 MGD. The tasks listed in this table represent the work necessary during the renewed permit period to allow for the ultimate production of 83 MGD of water suitable for potable reuse by December 31, 2035, and may take ~~taking~~ into account production of water suitable for potable reuse occurring at all treatment processes for wastewater upstream from and at the Facility."

Attachment F, section 2.6.1: "The Central Area Project is being designed to produce up to 53 MGD of purified water, for a cumulative total of 83 MGD by December 31, 2035, and may take ~~taking~~ into account production of water suitable for potable reuse occurring at all treatment processes for wastewater upstream from and at the Facility."

Response for D6:

The San Diego Water Board and USEPA agree with the request and have modified the Revised Tentative Order and Permit as follows:

Section 6.3.6.1, Table 5, footnote 5:

Phase 2 Pure Water implements an ultimate annual average daily production ~~of~~ up to an additional 53 MGD of water suitable for potable reuse resulting in a cumulative total of 83 MGD. The tasks listed in this table represent the work necessary during the renewed permit period to allow for the ultimate production of 83 MGD of water suitable for potable reuse by December 31, 2035, and may take ~~taking~~ into account production of water suitable for potable reuse occurring at all treatment processes for wastewater upstream from and at the Facility.

Attachment F, section 2.6.1, third paragraph, last sentence:

The Central Area Project is being designed to produce up to 53 MGD of purified water, for a cumulative total of 83 MGD by December 31, 2035, and may take ~~taking~~ into account production of water suitable for potable reuse occurring at all treatment processes for wastewater upstream from and at the Facility.

D7. Comment – Units for MER Equation
Section 7.13

The MER (mt/yr) calculation has an incorrect conversion for lbs to tons. As it is written, the numerical result obtained would have the incorrect units. The City requests the equation be corrected to:

MER (mt/yr) = 8.34 x Q x C x 0.9072 metric tons/ton * 365 days/year * 1/2000 ~~lbs/ton~~ ton/lbs

Response for D7:

The San Diego Water Board and USEPA agree with the request and have modified the Revised Tentative Order and Permit as follows:

Section 7.13:

MER (lbs/day)
= (1 lb/453592mg) x (3785410 L/1 million gallons)
x Q(million gallons/day) x C(mg/L)
= 8.34 x Q x C

In which Q and C are the flow rate in MGD and the constituent concentration in mg/L, respectively, and 8.34 is a conversion factor (lbs/gallon of water). If a composite sample is taken, then C is the concentration measured in the composite sample and Q is the average flow rate occurring during the period over which the samples are composited.

MER (mt/yr)
= (1 lb/453592mg) x (3785410 L/1 million gallons)
x Q(million gallons/day) x C (mg/L)
x (365 days/year) x (1 metric ton/2204.62 lbs)
= 8.34 x Q x C x 365/2204.62
~~8.34 x Q x C x 0.9072 metric tons/ton * 365 days/year * 1/2000 lbs/tonC (µg/L/litter) x Q (million gallons/day) x (1.0E+06 gallons/million gallons) x 3.785 (liter/gallon) x 365 (days/yr) x (1 mt/1.0E+12 µg/L)~~

In which Q is the average effluent flow rate for the calendar year in MGD and C ~~are the flow rate in MGD and~~ is the average constituent concentration in mg/L~~, respectively~~.

D8. Comment – Monitoring Location Format
Attachment E, section 2, Table E-1

The City requests the coordinates for monitoring location D-0008 be corrected to:

"Latitude: 32° 44.~~3670~~2200' N, Longitude: 117° 15.~~30~~200' W"

Response for D8:

The San Diego Water Board and USEPA agree to the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 2, portion of Table E-1:

Discharge Point Name	Monitoring Location Name	**Monitoring Location Description**
--	D-008~~B~~	Shoreline Station: Ocean Beach at the foot of the stairs seaward of Bermuda Street. Latitude: 32° 44.2200' ~~22.02"~~N, Longitude: 117° 15.200' ~~18.0"~~W

Please also see responses to Comments A11 and D10.

D9. Comment – Test of Significant Toxicity (TST)
Attachment E, sections 3.2 and 3.3
Attachment F, section 4.3.6

The City requests removal of all reporting requirements for toxicity based on TST. *Camarillo Sanitary District v. State Water Resources Control v Board*, 113 Cal.App.5th 407 (2025) held that TST is not an approved statistical method to be included in NPDES permits ("Upon review, this court agrees that the Test of Significant Toxicity cannot be used to comply with NPDES permitting requirements under the Clean Water Act."; "We have found that using the Test of Significant Toxicity is inconsistent with the Clean Water Act's requirements."; "The federal regulations have approved two statistical endpoints for defining toxicity. The Test of Significant Toxicity satisfies neither. To the extent the Toxicity Provisions determine compliance with NPDES permits based upon toxicity as defined by the Test of Significant Toxicity, they conflict with federal law and must be set aside.").

Characterizing TST as a method for informational reporting purposes only does not immunize it from the court's ruling. The TST reporting requirement is a condition in the NPDES permit that renders the City liable for violations if it does not report using TST. *See* section 6.2.1. Whether for evaluating compliance with a toxicity limit or a reporting requirement, the TST method becomes a permitting requirement under the NPDES permit and could form the predicate for a violation of the Clean Water Act, which authorizes civil or criminal penalties for violations of reporting and monitoring requirements. *See* 33 U.S.C. sections 1318, 1319. This directly contradicts *Camarillo*. Asserting that reporting TST would not be used to support reasonable potential determinations does not save the requirement. *See* Attachment F, sections 4.3.6.3. The fact that TST is a required method at all under the NDPES permit exposes the City to federal liability for a non-federally approved reporting method. *See* 33 U.S.C. section 1318(a)(4) (covering requirements that carry out section 1342 related to NPDES permitting).

Additionally, requiring the City to perform TST in addition to the NOEC method imposes a substantial burden, effectively doubling the time required for data analysis, data review, and the generation of regulatory reports.

Response for D9:

This comment is no longer applicable because by email dated December 23, 2025, the City requested TST as the sole methodology for determining compliance with the chronic toxicity effluent limitation. The San Diego Water Board and USEPA agree to the email request and modified the Final Tentative Order and Permit as follows:

Section 4.1, portion of Table 2:

Parameter	Unit	Average Annual[2]	Six-month Median[3]	Average Monthly[4]	Average Weekly[5]	Maximum Daily[6]	Instantaneous Minimum[7]	Instantaneous Maximum[8]
Chronic Toxicity[14,15]	"Pass" / "Fail" ~~Toxic Units Chronic (TUc)~~	--	--	--	--	"Pass" ~~205~~	--	--

14. As specified in section 7.16 of this Order~~/~~ and Permit and section 3.3 of the MRP (Attachment E).

15. The chronic toxicity final effluent limitation is protective of both the numeric acute and chronic toxicity Ocean Plan water quality objectives. The final effluent limitation will be implemented using *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995), current USEPA guidance in the *National Pollutant Discharge Elimination System Test of Significant Toxicity implementation Document* (EPA 833-R-10-003, June 2010) (https://www3.epa.gov/npdes/pubs/wet_final_tst_implementation2010.pdf) and *EPA Regions 8, 9, and 10, Toxicity Training Tool* (January 2010).

Section 7.16:

The discharge is subject to determination of "Pass" or "Fail" from a chronic toxicity test using the Test of Significant Toxicity (TST) statistical t-test approach described in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010), Appendix A, Figure A-1 and Table A-1, and Appendix B, Table B-1. The chronic toxicity WQBEL for Discharge Point 001 is expressed as a null hypothesis (H_o) and regulatory management decision (*b* value) of 0.75 for the chronic toxicity methods in Attachment E of this Order/Permit. The null hypothesis (H_o) for the TST statistical approach is:

H_o: Mean discharge "in-stream" waste concentration (IWC) response ≤ 0.75 × Mean control response.

A test result that rejects this null hypothesis is reported as "Pass." A test result that does not reject this null hypothesis is reported as "Fail." Percent effect shall also be reported:

Percent Effect" (or Effect, in percent) = [(Control mean response – IWC mean response) ÷ Control mean response)] ×100

~~Chronic toxicity is used to measure the acceptability of waters for supporting a healthy marine biota until approved methods are developed to evaluate biological response. Compliance with the chronic toxicity effluent limit established in section 4.1. of this Order for Discharge Point No. 001 shall be determined using critical life stage toxicity tests in accordance with procedures prescribed by the Ocean Plan (2019) and restated in the MRP (Attachment E). Chronic toxicity shall be expressed as toxic units chronic (TUc), where:~~

~~TUc = 100 / NOEC.~~

~~NOEC is the No Observed Effect Concentration (also referred to as the No Observed Effect Level or NOEL) and is expressed as the maximum percent of effluent that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test.~~ The MDEL for chronic toxicity is exceeded and a violation will be flagged when a chronic toxicity test, analyzed using the TST statistical approach, results in "Fail." ~~greater than 205 TUc.~~

The chronic toxicity MDEL is set at the IWC for the discharge (0.49 percent effluent) and expressed in units of the TST statistical approach ("Pass" or "Fail"). All NPDES effluent compliance monitoring for the chronic toxicity MDEL shall be reported using the IWC effluent concentration and negative control, expressed in units of the TST. The TST hypothesis (H_o) (see above) is statistically analyzed using the IWC and a negative control. Effluent toxicity tests shall be run using *Short-Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to West Coast Marine Estuarine Organisms* (EPA/600/R-95/136, 1995). The San Diego Water Board's and USEPA's review of reported toxicity test results will include review of concentration-response patterns as appropriate (see section 4.3.6 of the Fact Sheet (Attachment F)).

As described in the laboratory audit directives to the San Jose Creek Water Quality Laboratory from the State Water Board dated August 07, 2014, and from USEPA dated December 24, 2013, the Percent Minimum Significant Difference (PMSD) criteria only apply to compliance reporting for the no-observed-effect-concentration (NOEC) and the sublethal statistical endpoints of the NOEC, and therefore are not used to interpret TST results. SOPs used by the toxicity testing laboratory to identify and report valid, invalid, anomalous, or inconclusive effluent (and receiving water) toxicity test measurement results from the TST statistical approach, including those that incorporate a consideration of concentration-

response patterns, must be submitted to the San Diego Water Board and USEPA (40 CFR section 122.41(h)). The San Diego Water Board and USEPA will make a final determination as to whether a toxicity test result is valid, and may consult with the Discharger, USEPA, the State Water Board's Quality Assurance Officer, or the State Water Board, Division of Drinking Water (DDW) Environmental Laboratory Accreditation Program (ELAP) as needed.

Attachment A, part 1, a portion of the table:

Abbreviation	Definition
~~TUc~~	~~Toxic Units Chronic~~

Attachment A, part 2, definition for Chronic Toxicity:

Chronic Toxicity
Chronic toxicity is the measure of the sub-lethal effects of a discharge or ambient water sample (e.g., reduced growth or reproduction). Certain chronic toxicity tests include an additional measurement of lethality. Compliance with the effluent limitation for chronic toxicity in this Order~~/~~ and Permit is demonstrated by conducting chronic toxicity tests for the effluent as described in section 7.16 of this Order~~/~~ and Permit and section 3.3 of the MRP (Attachment E).
Chronic Toxicity effluent limitation is ~~205 TUc. The Discharger is also required to report~~ "Pass" or "Fail" and "Percent Effect" in this Order~~/~~ and Permit~~.~~
The discharge is subject to determination of "Pass" or "Fail" and "Percent Effect" from a chronic toxicity test using the Test of Significant Toxicity (TST) statistical t-test approach ~~as~~ described in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010), Appendix A, Figure A-1 and Table A-1, and Appendix B, Table B-1. The null hypothesis (Ho) for the TST statistical approach is: ~~section 3.3 of the MRP (Attachment E).~~
Mean discharge "in-stream" waste concentration (IWC) response ≤0.75 × Mean control response.

Attachment E, section 3.2, portion of Table E-5:

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Chronic Toxicity	"Pass" / "Fail"[9] ~~TUc~~[9]	24-hr Composite	1/Month	[10]

9 For compliance determination, chronic toxicity results shall be ~~expressed as toxic units chronic (TUc) = 100/No Observed Effect Concentration (NOEC, also referred to as the No Observed Effect Level or NOEL).~~ reported as "Pass" or "Fail." For monitoring ~~informational reporting~~ purpose~~s~~ only, chronic toxicity results shall also include ~~be reported as "Pass" or "Fail", along with the~~ "Percent Effect." ~~as described in section 3.3 of this MRP.~~

10 As specified in section 7.16 of this Order~~/~~ and Permit and section 3.3 of this MRP.

Attachment E, section 3.3:

3.3 Whole Effluent Toxicity (WET) Testing Requirements

The WET refers to the overall aggregate toxic effect of an effluent measured directly by an aquatic toxicity test(s). The control of WET is one approach this Order~~/~~ and Permit uses to control the discharge of toxic pollutants. WET tests evaluate the 1) aggregate toxic effects of all chemicals in the effluent including additive, synergistic, or antagonistic toxicity effects; 2) the toxicity effects of unmeasured chemicals in the effluent; and 3) variability in bioavailability of the chemicals in the effluent.

Monitoring to assess the overall toxicity of the effluent is required to answer the following questions:

(1) Does the effluent comply with effluent limitations for toxicity thereby ensuring that water quality standards are achieved in the receiving water?
(2) If the effluent does not comply with effluent limitations for toxicity, are unmeasured pollutants causing risk to aquatic life?
(3) If the effluent does not comply with effluent limitations for toxicity, are pollutants in combinations causing risk to aquatic life?

3.3.1 Discharge In-stream Waste Concentration (IWC) for Chronic Toxicity

The chronic IWC is calculated by dividing 100 percent by the dilution ratio. The chronic toxicity IWC is 0.49 percent effluent.

3.3.2 Sample Volume and Holding Time

The total sample volume shall be determined by the specific toxicity test method used. Sufficient sample volume of the effluent shall be collected to perform the required toxicity test. Sufficient sample volume shall also be collected during accelerated monitoring for subsequent Toxicity Identification Evaluation (TIE) studies, if necessary, at each sampling event. All toxicity tests shall be conducted as soon as possible following sample collection. No more than 36 hours shall elapse before the conclusion of sample collection and test initiation.

3.3.3~~2~~ Chronic Marine Species and Test Methods

If effluent samples are collected from outfalls discharging to receiving waters with salinity greater than one part per thousand (ppt), the ~~The~~ Discharger shall conduct the following chronic toxicity tests on effluent samples, at the Discharge IWC (0.49 percent effluent), in accordance with species and test methods in *Short-Term Methods for Estimating the*

Chronic Toxicity of Effluent and Receiving Waters to West Coast Marine Estuarine Organisms (EPA/600/R-95/136, 1995). Artificial sea salts or hypersaline brine shall be used to increase sample salinity if needed. In no case shall these species be substituted with another test species unless written authorization from the San Diego Water Board and USEPA is received.

3.3.32.1 A static renewal toxicity test with the topsmelt, *Atherinops affinis* (Larval Survival and Growth Test Method 1006.01). If laboratory-held cultures of the topsmelt, *Atherinops affinis*, are not available for testing, then the Discharger shall conduct a static renewal toxicity test with the inland silverside, *Menidia beryllina* (Larval Survival and Growth Test Method 1006.01), found in the third edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms* (EPA-821-R-02-014, 2002; Table IA, 40 CFR part 136). Additional species may be used by the Discharger if approved by the San Diego Water Board and USEPA.

3.3.32.2 A static non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus*/sand dollar, *Dendraster excentricus* (Fertilization Test Method 1008.0 or Larval Development Test Method); or a static non-renewal toxicity test with the red abalone, *Haliotis rufescens* (Larval Shell Development Test Method).

3.3.32.3 A static non-renewal toxicity test with the giant kelp, *Macrocystis pyrifera* (Germination and Growth Test Method 1009.0).

3.3.43 **Species Sensitivity Screening**

Species sensitivity screening shall be conducted during this Order~~/~~ and Permit's first required sample collection, or within 24 months of the most recent screening, whichever is later.

For each suite during the species sensitivity screening, the Discharger shall collect a single effluent sample to initiate and concurrently conduct three toxicity tests using the fish, an invertebrate, and the alga species previously referenced. This sample shall also be analyzed for the parameters required on a monthly frequency for the discharge, during that given month. As allowed under the test method for the *Atherinops affinis*, a second and third sample shall be collected for use as test solution renewal water as the seven-day toxicity test progresses. If the result of all three species is "Pass," then the species that exhibits the highest "Percent Effect" at the discharge IWC during species sensitivity screening shall be used for routine monitoring during this Order/Permit cycle. If only one species fails, then that species shall be used for routine monitoring during this

Order/Permit cycle. Likewise, if two or more species result in "Fail," then the species that exhibits the highest "Percent Effect" at the discharge IWC during the suite of species sensitivity screening shall be used for routine monitoring during this Order/Permit cycle, until such time as a rescreening is required ~~The species exhibiting the highest TUc is considered the most sensitive species for that suite~~.

If the first suite of rescreening tests demonstrates that the same species is the most sensitive, then the rescreening does not need to include more than one suite of tests. If a different species is the most sensitive or if there is ambiguity, then the Discharger shall proceed with suites of screening tests for a minimum of three, but not to exceed five suites.

Species sensitivity rescreening is required every 24 months. The Discharger shall rescreen with the marine vertebrate species, a marine invertebrate species, and the alga species previously referenced, and continue to monitor with the most sensitive species.

The species used during routine monitoring shall be the most sensitive species from the most recent species sensitivity screening.

During the calendar month, toxicity tests used to determine the most sensitive test species shall be reported as effluent compliance monitoring results for the chronic toxicity maximum daily effluent limitation (MDEL).

3.3.54 **Quality Assurance (QA) and Additional Requirements**

The QA measures, instructions, and other recommendations and requirements are found in the test methods manual previously referenced. Additional requirements are specified below.

3.3.54.1 The discharge is subject to determination ~~an MDEL for chronic toxicity based on toxic units chronic (TUc) using the No Observed Effect Concentration (NOEC; also referred to as the No Observed Effect Level or NOEL) approach described in Short Term Methods for Estimating the Chronic Toxicity~~ *of* ~~Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms, EPA-821/600/R-95/136. TUc is calculated by the following equation:~~

~~TUc = 100 / NOEC~~

~~For information reporting purpose only, chronic toxicity results shall also be reported as~~ "Pass" or "Fail" from a chronic toxicity test~~", along with the "Percent Effect,"~~ using the Test of Significant Toxicity (TST) statistical t-test approach described in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-

R-10-003, 2010), Appendix A, Figure A-1 and Table A-1 and Appendix B, Table B-1.[44] ~~The discharge in-stream waste concentration (IWC) for chronic toxicity under the TST statistical t-test approach is calculated by dividing 100 percent by the dilution ratio (1/204 = 0.0049 = 0.49 percent effluent).~~The null hypothesis (Ho) for the TST statistical approach is: Mean discharge IWC response ≤0.75 × Mean control response. A test result that rejects this null hypothesis is reported as "Pass." A test result that does not reject this null hypothesis is reported as "Fail." This is a t-test (formally Student's t-test), a statistical analysis comparing two sets of replicate observations—in the case of WET, only two test concentrations (i.e., a control and IWC). The purpose of this statistical test is to determine if the means of the two sets of observations are different (i.e., if the IWC or receiving water concentration differs from the control (the test result is "Pass" or "Fail"). The Welch's t-test employed by the TST statistical approach is an adaptation of Student's t-test and is used with two samples having unequal variances. The relative "Percent Effect" at the discharge IWC is defined and reported as: ((Mean control response - Mean discharge IWC response) ÷ Mean control response) × 100.

~~For the NOEC statistical approach, the Discharger shall use the following specific dilution series: 0.1225%, 0.245%, 0.49% (IWC), 0.98%, and 1.96%.~~

3.3.54.2 If the effluent toxicity test does not meet all test acceptability criteria (TAC) specified in the referenced test method, *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995), the test should be declared invalid, then the Discharger must resample and re-test within 14 days of test termination.

3.3.54.3 Dilution water and control water, including brine controls, shall be 1-mircrometer-filtered uncontaminated natural seawater, hypersaline brine prepared using uncontaminated natural seawater, or laboratory water prepared and used as specified in the test methods manual. Dilution water and control water, including brine controls, shall be uncontaminated natural water, as specified in the test methods manual. If dilution water and control water is different from test organism culture water, then a second control using culture water shall also be used.

3.3.54.4 Reference toxicant testing shall be conducted in accordance with *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995). Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test

duration, etc.). All reference toxicant test results should be reviewed and reported using the effects concentration at 25 percent (EC25).

3.3.54.5 The Discharger shall perform toxicity tests on final effluent samples. Chlorine and ammonia shall not be removed from the effluent sample prior to toxicity testing, unless explicitly authorized under this section of this MRP and the rationale is explained in the Fact Sheet (Attachment F).

3.3.65 **Reporting**

The self-monitoring Report (SMR) shall include a full laboratory report for each toxicity test. This report shall be prepared using the format and content of the test methods manual chapter called *Report Preparation*[5] and shall include:

3.3.65.1 The valid toxicity test results for the ~~NOEC approach, reported in TUc and, for informational reporting purposes only,~~ TST statistical approach, reported as "Pass" or "Fail" and "Percent Effect" at the chronic toxicity IWC for the discharge. All toxicity test results (whether identified as valid or otherwise) conducted during the calendar month shall be reported on the SMR due date specified in Table E-12.

3.3.65.2 Summary water quality measurements for each toxicity test (e.g., pH, dissolved oxygen, temperature, conductivity, hardness, salinity, chlorine, ammonia).

3.3.65.3 The ~~statistical methods used to calculate the endpoints. For informational reporting purposes only, the~~ statistical analysis used in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010) Appendix A, Figure A-1 and Table A-1, and Appendix B, Table B-1.

3.3.65.4 Statistical program output results, including graphical plots, for each toxicity test.

3.3.65.5 Graphical plots clearly showing the laboratory's performance for the reference toxicant for the previous 20 tests and the laboratory's performance for the control mean, control standard deviation, and control coefficient of variation for the previous 12-month period.

3.3.65.6 Any QA/QC documentation or any additional chronic toxicity-related information, upon written request from the San Diego Water Board and USEPA.

3.3.7~~6~~ **Preparation of an Initial Investigation Toxicity Reduction Evaluation (TRE) Work Plan**

Within 90 days of the effective date of this Order~~/~~ and Permit, the Discharger shall prepare and submit a copy of the Discharger's Initial Investigation TRE Work Plan to the San Diego Water Board and USEPA for approval. If the San Diego Water Board and USEPA do not disapprove the work plan within 60 days, the work plan shall become effective. The Discharger shall use USEPA manual *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA/ 833/B-99/002, 1999) , or most current version, as guidance. The TRE Work Plan shall describe the steps that the Discharger intends to follow if toxicity is measured above a chronic toxicity permit limit, and shall include, at a minimum:

- A description of the investigation and evaluation techniques that will be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency in removing toxic substances. This shall include a description of an accelerated chronic toxicity testing program;
- A description of the Discharger's methods of maximizing in-house treatment efficiency and good housekeeping practices, and a list of all chemicals used in the operation of the Facilities;
- A description of the evaluation process to be used to determine if implementation of a more detailed Toxicity Reduction Evaluation and Toxicity Identification Evaluation (TRE/TIE) is necessary; and
- If a TIE is necessary, an indication of the person who would conduct the TIEs (i.e., an in-house expert or an outside contractor).

3.3.8~~7~~ **Accelerated Monitoring Schedule for Maximum Daily Single Result**; "Fail"

When a Maximum Daily limitation is exceeded during regular toxicity monitoring and the testing meets all test acceptability criteria, the Discharger shall initiate accelerated monitoring as required below.

Once the Discharger becomes aware of this result, the Discharger shall notify the San Diego Water Board and USEPA and implement an accelerated monitoring schedule within five calendar days of the receipt of the result. However, if the sample is contracted out to a commercial laboratory, the Discharger shall ensure that the San Diego Water Board and USEPA are notified, and the first of six accelerated monitoring tests is initiated within seven calendar days of the Discharger becoming aware of the result. The accelerated monitoring schedule shall consist of six toxicity tests (including the discharge IWC), conducted at approximately two-week

intervals, over a twelve-week period; in preparation for the TRE process and associated reporting, these results shall also be reported using the EC25. If each of the accelerated toxicity tests results in "Pass," ~~are less than the effluent limitation,~~ the Discharger shall return to routine monitoring for the next monitoring period. If one of the accelerated toxicity tests results in "Fail," ~~are greater than the effluent limitation,~~ the Discharger shall immediately implement the TRE Process conditions set forth below. During accelerated monitoring schedules, only TST results ("Pass" or "Fail") for chronic toxicity tests ~~TUc~~ shall be reported as effluent compliance monitoring results for the chronic toxicity MDEL ~~and TST results ("Pass" or "Fail" and percent effect) shall be reported for reporting purpose only~~.

3.3.~~9~~8 **TRE Process**

During the TRE Process, minimum effluent monitoring shall resume and TST results ("Pass" or "Fail") for chronic toxicity shall be reported as effluent compliance monitoring results for chronic toxicity MDEL, ~~and TST results ("Pass" or "Fail" and percent effect) shall be reported for informational reporting purposes only.~~

3.3.~~9~~8.1 Preparation and Implementation of Detailed TRE Work Plan. The Discharger shall immediately initiate a TRE using, according to the type of treatment facility, USEPA manual *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA/833/B-99/002, 1999) and, within 15 days of receiving validated results, submit to the San Diego Water Board and USEPA a Detailed TRE Work Plan, which shall follow the Initial Investigation TRE Work Plan revised as appropriate for this toxicity event. The TRE Work Plan shall include the following information, and comply with additional conditions set by the San Diego Water Board and USEPA:

- Further actions by the Discharger to investigate, identify, and correct the causes of toxicity;
- Actions the Discharger will take to mitigate the effects of the discharge and prevent the recurrence of toxicity; and
- A schedule for these actions, progress reports, and the final report.

3.3.~~9~~8.2 TIE Implementation. The Discharger may initiate a TIE as part of a TRE to identify the causes of toxicity using the same species and test method and, as guidance, USEPA manuals: *Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures* (EPA/600/6-91/003, 1991); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity*

Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity (EPA/600/R-92/081, 1993); *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA/600/6-91/005, 1991); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996). The TIE should be conducted on the species demonstrating the most sensitive toxicity response.

3.3.98.3 Many recommended TRE elements parallel required or recommended efforts for source control, pollution prevention, and ~~storm water~~ stormwater control programs. Whenever possible, TRE efforts should be coordinated with such efforts. As toxic substances are identified or characterized, the Discharger shall continue the TRE by determining the sources and evaluating alternative strategies for reducing or eliminating the substances from the discharge. All reasonable steps shall be taken to reduce toxicity to levels consistent with toxicity evaluation parameters.

3.3.98.4 The Discharger shall continue to conduct the minimum effluent monitoring while the TRE and/or TIE process is taking place. Additional accelerated monitoring and TRE Work Plans are not required once a TRE has begun.

3.3.98.5 The San Diego Water Board and USEPA recognize that toxicity may be episodic and identification of causes and reduction of sources of toxicity may not be successful in all cases. Upon approval from the San Diego Water Board and USEPA, the TRE may be ended at any stage if routine monitoring finds there is no longer toxicity.

3.3.98.6 TRE/TIE results. The San Diego Water Board and USEPA shall be notified no later than 30 days from completion of each aspect of TRE/TIE analyses. Prior to the completion of the final TRE/TIE report, the Discharger shall provide status updates in the monthly SMRs, indicating which TRE/TIE steps are underway, which steps have been completed, and the estimated time to completion of the final TRE/TIE report.

3.3.98.7 TRE/TIE Final Report. The final TRE/TIE report shall be submitted to the San Diego Water Board and USEPA within 30 days of report completion. At minimum, the TRE/TIE Final Report should include the following:

- A description of the probable source and cause of the toxicity effluent limitation exceedances (if known);
- A summary of the findings including a tabulation, evaluation, and interpretation of the data generated;
- A list of corrective actions taken or planned by the Discharger to reduce toxicity so that the Discharger can achieve consistent

compliance with the toxicity effluent limitation of this Order~~/~~ and Permit and prevent recurrence of exceedances of the limitation; and

- If the exceedances of the toxicity effluent limitation have not been corrected, the anticipated time it is expected to continue and a time schedule for the steps planned to reduce, eliminate, and prevent recurrence of the exceedances.

3.3.~~9~~8.8 The San Diego Water Board and USEPA may consider the results of any TRE/TIE studies in an enforcement action.

~~[44] Water Code section 13383 authorizes the San Diego Water Board to establish monitoring requirements for discharges to navigable waters from publicly-owned treatment works. TST results will not be used to determine regulatory compliance or to determine reasonable potential of the exceedance of water quality objectives for toxicity.~~

[5] Section 10 of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to the West Coast Marine and Estuarine Organisms*, August 1995, EPA/600/R-95-136, https://cfpub.epa.gov/si/si_public_file_download.cfm?p_download_id=524691

Attachment F, section 3.3.5:

3.3.5 **Section 403(c) of the Clean Water Act (CWA).** Discharges to marine waters are subject to section 403 of the CWA, which sets forth criteria to prevent unreasonable degradation of the marine environment and authorized imposition of any additional effluent limits necessary to protect the marine environment. Pursuant to 40 CFR section 125.122, unreasonable degradation of the marine environment is evaluated based on ten factors or based on the application of a state's water quality standards. Specifically, 40 CFR section 125.122(b) states that discharges in compliance with State water quality standards "shall be presumed not to cause unreasonable degradation of the marine environment, for any specific pollutants or conditions specified in the variance or the standard." USEPA and the San Diego Water Board are applying the Basin Plan and the Ocean Plan as specified in sections 3.3.1 and 3.3.2 of this Fact Sheet, except for evaluating chronic toxicity for Discharge Point 001 using the test of significant toxicity (TST) statistical approach. USEPA has reviewed the previous studies to examine the comparison of toxicity test results using the TST and No-Observed-Effect-Concentration (NOEC) statistical approaches and has determined that use of the TST statistical approach is consistent with the Ocean Plan and CWA ~~part~~ section 403(c) in that it provides protection of the designated beneficial uses of ocean waters. TST statistical approach is also used in other NPDES permits for large publicly owned treatment

works, including Orange County Sanitation District and City of Los Angeles. Given the available dilution (i.e. 204:1), the receiving water monitoring requirements, the Discharger's analysis of the ocean discharge criteria as part of its application, and USEPA's additional 403(c) analysis, USEPA makes a determination that the discharges authorized in this permit will not cause unreasonable degradation of the marine environment.

Attachment F, section 4.3.4.6, a portion of Table F-13:

Parameter	Unit	Six-Month Median[1]	Average Monthly [1]	Maximum Daily[1]	Instantaneous Maximum[1]
Chronic Toxicity[3,4]	"Pass" / "Fail" ~~Toxic Units Chronic (TUc)~~	--	--	"Pass"~~205~~	--

Attachment F, section 4.3.6:

4.3.6 Whole Effluent Toxicity (WET)

4.3.6.1 The WET testing protects receiving waters from the aggregate toxic effect of a mixture of pollutants in the effluent. Because of the nature of discharges into the POTW sewershed, it is possible that toxic constituents could be present in the Facility effluent or could have synergistic or additive effects.

4.3.6.2 In the Previous Order~~/~~ and Permit, the chronic toxicity is expressed as "Pass" or "Fail" for each maximum daily individual result. The Previous Order~~/~~ and Permit also required the Discharger to report the "Percent Effect" as part of the chronic toxicity result. From October 2017 to August 2023, the Discharger was in compliance with the effluent limitation for chronic toxicity with all the reported results as "Pass" in its self-monitoring reports.

However, as stated in section 4.3.3 of this Fact Sheet, the ~~this Order and Permit contain an~~ effluent limitation for chronic toxicity is being carried over from the Previous Order~~/~~ and Permit to this Order based on best professional judgement (Step 13 of the Ocean Plan Appendix VI). This Order~~/~~ and Permit also ~~retains~~ retain the monthly monitoring requirement for chronic toxicity to determine compliance with the effluent limitation.

4.3.6.3 ~~This Order/Permit also carries~~ This Order and Permit also carry ~~establish an effluent limitation for chronic toxicity based on the chronic toxicity water quality objective in the 2019 Ocean Plan. The effluent limitation shall be implemented using *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995). Chronic toxicity shall be expressed as toxic units chronic (TUc), where:~~

~~TUc = 100 / NOEC~~

~~NOEC is the No Observed Effect Concentration (also referred to as the No Observed Effect Level or NOEL) and is expressed as the maximum percent of effluent that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test.~~

4.3.6.3 ~~For informational reporting purposes only, this Order and Permit also carry~~ over the ~~Test of Significant Toxicity (~~TST~~)~~ statistical approach at the discharge "in-stream" waste concentration (IWC) from the Previous Order~~/~~ and Permit, with ~~a~~ compliance determination of ~~results reported as~~ "Pass" or "Fail," as described in section 7.16 of this Order~~/~~ and Permit and section 3.3 of the MRP (Attachment E). The TST statistical approach is described in the *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010), Appendix A, Figure A-1 and Table A-1. The TST null hypothesis shall be "mean discharge IWC response ≤ 0.75 × mean control response." A test that rejects this null hypothesis shall be reported as "Pass" (in compliance). A test that does not reject this null hypothesis shall be reported as "Fail" (not in compliance). The Discharger shall also continue reporting the "Percent Effect" as part of chronic toxicity result. Percent Effect" (or Effect, in percent) = [(Control mean response – IWC mean response) ÷ Control mean response)] ×100.

The Ocean Plan's approach to chronic toxicity WQBELs is based on a "toxic unit" derived from one multi-concentration toxicity test and relies on the No Observed Effect Limit. Section III.F of the 2019 Ocean Plan provides for more stringent requirements if necessary to protect the designated beneficial uses of ocean waters.

~~The information submitted using the TST approach results will not be used to determine regulatory compliance or to determine reasonable potential of the exceedance of water quality objectives for toxicity.~~ The decision to include the TST statistical approach for this Order/Permit

~~informational reporting purposes only~~ is based on the following information:

4.3.6.3.1 USEPA requires the TST statistical approach for analyzing chronic toxicity in USEPA-issued NPDES permits. This Order~~/~~ and Permit serve as ~~is a joint~~ consolidated State and federal NPDES permits adopted by the San Diego Water Board and issued by USEPA.

4.3.6.3.2 By email dated December 23, 2025, the City requested TST as the sole methodology for determining compliance with the chronic toxicity effluent limitation. ~~4.3.6.3.1~~ Evaluating chronic toxicity using the TST statistical approach more precisely identifies toxicity in the effluent ~~to protect the designated beneficial uses of ocean waters from potential toxic effects from the discharge~~.

4.3.6.3.3~~2~~ In 2010, USEPA endorsed the TST statistical approach in the *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010) used in this NPDES permit.~~).~~ This document states, “Permitting authorities should consider adding the TST approach to their implementation procedures for analyzing valid WET data for their current NPDES WET Program.” The TST approach is “another statistical option to analyze valid WET test data for NPDES WET reasonable potential and permit compliance determinations. … The TST approach does not result in changes to EPA’s WET test methods promulgated at Title 40 of the Code of Federal Regulations Part 136.” “The TST approach can be applied to acute (survival) and chronic (sublethal) endpoints and is appropriate to use for both freshwater and marine EPA WET test methods.”

4.3.6.3.4 Using ~~Reporting~~ the TST in this Order/Permit ~~results~~, in conjunction with ~~the NOEC results and~~ other Ocean Plan requirements (West Coast WET method/test species for monitoring and limiting chronic toxicity, the IWC representing the critical condition for water quality protection, the initial dilution procedure, and a single test for compliance) provides increased assurance that statistical error rates are more directly addressed and accounted for in decisions regarding chronic toxicity in the discharge. The TST statistical approach will improve consistency in assessing effluent toxicity and the impact of discharge. Diamond et al. (2013) examined the side-by-side comparison of ~~No-Observed-Effect-Concentration (~~NOEC~~)~~ and TST results using California chronic toxicity test data (including data from POTWs) for *Haliotis rufescens* used in the red abalone larval development WET method and *Mytilus* species used in the pacific oyster, *Crassostrea gigas* and mussel, *Mytilus* spp. shell

development test method 1005.0 (Diamond D, Denton D, Roberts, J, Zheng L. 2013. Evaluation of the Test of Significant Toxicity for Determining the Toxicity of Effluents and Ambient Water Samples. Environ Toxicol Chem 32:1101-1108; and California State Water Resources Control Board. 2011. *Whole Effluent Toxicity Test Drive Analysis of the Test of Significant Toxicity (TST)*. Sacramento, CA, USA). See Table 1 (method types 1 through 5) on page 1103. This comparison shows that while the TST and NOEC statistical approaches perform similarly most of the time, the TST performs better in identifying toxic and nontoxic samples, a desirable characteristic for chronic toxicity testing conducted under this Order~~/~~ and Permit. This examination also signals that the test methods' false positive rate (β no higher than 0.05 at a mean effect of 10 percent) and false negative rate (α no higher than 0.05 (0.25 for topsmelt) at a mean effect of 25 percent) are indeed low.

4.3.6.3.5 Fox et al. 2019[14] found that the TST approach incentivizes laboratories to produce more precise data and increase statistical power. When within-test variability is low and the percent effect is low, the NOEC approach is more likely to declare a sample toxic than the TST approach. When within-test variability is high and the percent effect is high, the NOEC approach is less likely to declare a sample toxic than the TST approach.

4.3.6.3.6 Using the TST approach, ~~provide~~ the San Diego Water Board will have ~~with~~ more confidence when making reasonable potential determinations as to whether the discharge is toxic or non-toxic. The use ~~reported results~~ of the TST approach will also allow for better data comparability to the Discharger's previous toxicity results reported under the previous Order and Permit. Additionally, the results will allow for data comparability with the toxicity results for South Bay Water Reclamation Plant,[15] as well as other coastal regions, that also implement the TST approach for analyzing chronic toxicity data from ocean outfall discharges, including the City of Los Angeles and Orange County Sanitation District.

4.3.6.3.7 The USEPA's WET testing program and acute and chronic WET methods rely on the measurement result for a specific test endpoint, not upon achievement of specified concentration-response patterns to determine toxicity. USEPA's WET methods do not require achievement of specified effluent or ambient concentration-response patterns prior to determining that toxicity is present.[16]

Nevertheless, USEPA's acute and chronic WET methods require that effluent and ambient concentration-response patterns generated for

multi-concentration acute and chronic toxicity tests be reviewed, as a component of test review following statistical analysis, to ensure that the calculated measurement result for the toxicity test is interpreted appropriately (EPA-821-R-02-012, section 12.2.6.2; EPA-821-R-02-013, section 10.2.6.2).

4.3.6.3.8 Pollutants, such as TCDD and DDT, have method detection limits that are greater than their effluent limitations. Thus, pollutants in excess of the effluent limitation may be discharged without detection, attach to suspended solids, be released into the Pacific Ocean, and harm designated beneficial uses. The effluent could also include harmful levels of PPCPs, pesticides, and PFAS that don't have effluent limitations or performance goals that could cause toxic conditions in the receiving water. ~~Using~~ ~~Reporting~~ ~~the more precise TST statistical approach may identify more exceedances~~ ~~instances of toxicity~~ ~~due to the inclusion of the false negative error rate.~~

4.3.6.3.94 The TST approach provides a precise statistical approach that ~~WET testing~~ is necessary to protect the Southern California Bight, Point Loma Kelp Beds, and Cabrillo State Marine Reserve. The San Diego Water Board performed an analysis of the beneficial uses in the area to determine that ~~WET testing~~ the TST approach is necessary to protect those beneficial uses. The beneficial uses of the Southern California Bight, Point Loma Kelp Beds, and Cabrillo State Marine Reserve include those listed under section I of the Water Quality Control Plan Ocean Waters of California (Ocean Plan) and in Table 2-3 of the San Diego Water Board's Basin Plan (Basin Plan), which include ~~Include~~ but are not limited to industrial water supply; water contact and non-contact recreation, including aesthetic enjoyment; navigation; commercial and sport fishing; mariculture; preservation and enhancement of designated ASBS; rare and endangered species; marine habitat; fish migration; fish spawning and shellfish harvesting.

4.3.6.3.94.1 The PLOO discharges into the Southern California Bight, which comprises 400 miles of recessed coastline from Santa Barbara County to Ensenada, Mexico. In the Southern California Bight, warm subtropical water flows north, close to the shore, while colder subarctic water flows south, offshore. This unique ocean circulation pattern creates a biological transition zone that supports approximately 500 marine fish species and more than 5,000 invertebrate species.

4.3.6.3.94.2 The PLOO discharges near the Point Loma kelp beds. The Point Loma kelp bed extends along the length of the Point Loma peninsula and is the largest in San Diego Region.[17] "Kelp forests, such as the [Point Loma kelp beds], are particularly appreciated for their high productivity and diversity. These thriving communities harbor an amazing variety of organisms because of the high productivity of these algae (kelps), the number of microhabitats (specialized living spaces characterized by their physical or biological structure) they provide, and the frequent disturbances that prevent domination by only a few species. Holdfasts, the convoluted structures that anchor kelps to the bottom, shelter more than 150 species of invertebrates seeking hiding places, food and living space. Other organisms live on the blades (analogous to leaves) and stipes (analogous to stems) of the kelp in different depths of the water column; some are associated with the surface canopy. Other animals shelter and hunt near the kelp. The net result is that more than 800 species have been identified in and around kelp forest communities of southern California."[18] "In addition to their ecological significance, kelp forests are also valued for other reasons. For instance, they support economically important commercial and recreational fisheries, as well as non-consumptive diving, snorkeling, and wildlife viewing."[19] The kelp beds also support abalone, "an economically important commercial fishery throughout California until the 1980's. Their primary food in southern California is giant kelp. … Historically, seven species of abalone have been common off San Diego. Two species, *Haliotis cracherodii* and *H. sorenseni*, are now on the federal endangered species list."[20]

4.3.6.3.94.3 California has designated the ocean waters surrounding the end of the Point Loma peninsula as one of the marine protected areas (MPAs), Cabrillo State Marine Reserve. This reserve contains numerous marine plants and animals including lacy red and slimy green algae, sluggish sea hares, leggy octopi, darting fish, hermit crabs, and kelp forest. The reserve provides views of the Pacific Gray Wale annual migration from Alaska to Baja California, Mexico.[21]

4.3.6.45 For acute toxicity, Order No. R9-2009-0001 established performance goals and semiannual monitoring. Subsequently, the Previous Order~~/~~ and Permit removed performance goals and monitoring requirements. An acute toxicity test is conducted over a short time period and measures mortality. A chronic toxicity test is conducted over a short or a longer exposure period of time and may measure mortality, reproduction, and growth. A chemical at a low concentration could

have chronic effects but no acute effects until the chemical was at a higher concentration. Thus, chronic toxicity is a more stringent requirement than acute toxicity. To ensure the aggregated impacts of pollutants present within the Discharger's effluent does not result in the presence of toxicity within the receiving water, this Order~~/~~ and Permit ~~continues~~ continue to leave out performance goals and monitoring requirements for acute toxicity and retains effluent limitations for chronic toxicity. Removal of the numeric acute toxicity performance goals did not constitute backsliding because chronic toxicity is a more stringent requirement than acute toxicity. Effluent limitations for chronic toxicity are necessary, feasible, and appropriate because effluent data exhibited reasonable potential to cause or contribute to an exceedance of the toxicity water quality objectives.

4.3.6.5~~6~~ In January 2010, USEPA published a guidance document entitled; *EPA Regions 8, 9 and 10 Toxicity Training Tool*, which among other things discusses permit limitation expression for chronic toxicity. The document acknowledges that NPDES regulations at 40 CFR section 122.45(d) require that all permit limits be expressed, unless impracticable, as an average weekly effluent limitation (AWEL) and AMEL for POTWs. Following section 5.2.3 of the Technical Support Document (TSD), the use of an AWEL and AMEL is not appropriate for WET. In lieu of an AWEL and AMEL for POTWs, USEPA recommends establishing a maximum daily effluent limitation (MDEL) for toxic pollutants and pollutants in water quality permitting, including WET. This is appropriate for two reasons. The basis for the average weekly and average monthly requirement for POTWs derives from secondary treatment regulations and is not related to the requirement to assure achievement of water quality standard. Moreover, an average weekly and average monthly requirement comprising up to seven and thirty-one daily samples, respectively, could average out daily peak toxic concentrations for WET and therefore, the discharge's potential for causing acute and chronic effects would be missed. It is impracticable to use an AWEL and AMEL, because short-term spikes of toxicity levels that would be permissible under the 7-day and 31-day average scheme, respectively, would not be adequately protective of all beneficial uses. The MDEL is the highest allowable value for the discharge measured during a calendar day or 24-hour period representing a calendar day. This approach is comparable to that of the Ocean Plan, which calls for a daily maximum chronic toxicity limit.

4.3.6.6~~7~~ USEPA designed its 2000 guidance as a standardized step-by step review process that investigates the causes for ten commonly observed concentration-response patterns and provides for the proper interpretation of the test endpoints derived from these patterns for

NOECs, LC 50, and EC25, thereby reducing the number of misclassified test results. The guidance provides one of three determinations based on the review steps: that calculated effect concentrations are reliable and should be reported, that calculated effect concentrations are anomalous and should be explained, or that the test was inconclusive and should be repeated with a newly collected sample. The standardized review of the effluent and receiving water concentration-response patterns provided by USEPA's 2000 guidance decreased discrepancies in data interpretation for NOEC, LC 50, and EC25 test results, thereby lowering the chance that a truly nontoxic sample would be misclassified and reported as toxic.

Appropriate interpretation of the measurement result from USEPA's TST statistical approach ("Pass"/"Fail") for effluent and receiving water samples is, by design, independent from the concentration-response patterns of the toxicity tests for those samples. Therefore, when using ~~reporting the results of~~ the TST ~~statistical approach in addition to the NOEC~~ statistical approach, application of USEPA's 2000 guidance on effluent and receiving waters concentration-response patterns will not improve the appropriate interpretation of TST results as long as all Test Acceptability Criteria and other test review procedures, including those related to quality assurance for effluent and receiving water toxicity tests, reference toxicity tests, and control performance (mean, standard deviation, and coefficient of variation), described by the WET test methods manual and TST guidance, are followed. The 2000 guidance may be used to identify reliable, anomalous, or inconclusive concentration-response patterns and associated statistical results to the extent that the guidance recommends review of test procedures and laboratory performance already recommended in the WET test methods manual. The guidance does not apply to single-concentration (IWC) and control statistical t-tests and does not apply to the statistical assumptions on which the TST is based. The San Diego Water Board and USEPA will not consider a concentration-response pattern as sufficient basis to determine that a TST t-test result for a toxicity test is anything other than valid, absent other evidence. In a toxicity laboratory, unexpected concentration-response patterns should not occur with any regular frequency and consistent reports of anomalous or inconclusive concentration-response patterns or test results that are not valid will require an investigation of laboratory practices.

4.3.6.~~7~~8 Any Data Quality Objectives or Standard Operating Procedure used by the toxicity testing laboratory to identify and report valid, invalid, anomalous, or inconclusive effluent or receiving water toxicity test measurement results from the ~~NOEC or~~ TST statistical approach which include a consideration of concentration-response patterns and/or

Percent Minimum Significant Differences (PMSDs) must be submitted for review by the San Diego Water Board and USEPA, in consultation with the State Water Board's Quality Assurance Officer and Environmental Laboratory Accreditation Program (ELAP) (40 CFR section 122.44(h)). As described in the bioassay laboratory audit directives to the San Jose Creek Water Quality Laboratory from the State Water Board dated August 7, 2014, and from the USEPA dated December 24, 2013, the PMSD criteria only apply to compliance for NOEC and the sublethal endpoints of the NOEC, and therefore are not used to interpret TST results.

4.3.6.~~8~~9 This Order~~/~~ and Permit ~~contains~~ contain a reopener to require the San Diego Water Board and USEPA to modify this Order~~/~~ and Permit, if necessary, to make it consistent with any new policy, law, or regulation.

Attachment F, section 4.4.1, last paragraph:

~~This Order and Permit contain new chronic toxicity effluent limitations based on the Ocean Plan and consistent with the California State Court Decision, *Camarillo Sanitary District v. State Water Resources Control Board (2025) 113 Cal.App.5th 407*. The new effluent limitations are expressed using a different testing methodology than the previous effluent limitations and are not clearly less stringent under CWA section 402(o). Even if the new limitations could be construed as being less stringent, CWA section 401(o)(1) allows for WQBELs to be revised consistent with the requirements of CWA section 303(d)(4). CWA section 303(d)(4)(B) applies to this discharge because the Pacific Ocean is not impaired for toxicity, making it an attainment water. Under CWA section 303(d)(4)(B), a limitation based on a water quality standard or any other permitting standard may be relaxed where the action is consistent with antidegradation policy. As explained in Fact Sheet section 4.4.2, there will be no degradation to water quality and the change in limits will not result in a violation of water quality standards.~~

Attachment F, section 4.4.2, third paragraph:

~~This Order and Permit impose a new aquatic toxicity limitation and requirements. The previous Order and Permit required analyzing whole effluent toxicity (WET) tests using the hypothesis testing method of the Test of Significant Toxicity (TST) and imposed chronic toxicity limits of "Pass/Fail" at IWC. This Order and Permit instead require the statistical endpoints of the NOEC and IC_{25} and appropriate dilution consisting of a control and a minimum five effluent concentrations for measuring WET and establish a new chronic toxicity limitation (i.e., Toxic Unit of 1) based on the water quality objectives for chronic toxicity in the Ocean Plan. In addition, this Order and Permit continue to require chronic toxicity monitoring using the TST approach and TRE triggers on chronic toxicity to ensure that a comparable level of treatment will be maintained. Therefore, the San Diego~~

~~Water Board and the USEPA determine that water quality will not be degraded by the changes in the chronic toxicity requirements.~~

Attachment F, section 4.5:

~~This Order and Permit remove the discharge specifications contained in the previous Order and Permit (Order No. R9-2017-0007, section IV.B).~~ The Ocean Plan includes ~~discharge specifications incorporated~~ section III.A.2 ~~of the Ocean Plan~~, General Requirements for Management of Waste Discharge to the Ocean. ~~This~~ The Previous Order~~/~~ and Permit ~~incorporates~~ incorporated these requirements ~~to this Order/Permit~~ for the discharge of waste to the ocean through the PLOO to be consistent with the Ocean Plan. Attachment G provides a detailed analysis of how this Order and Permit will conform with the Ocean Plan, section III.A.2. ~~However, these requirements are either redundant with other provisions (e.g., sections III.A.2.c of the Ocean Plan is redundant of discharge prohibition section 3.4 of this Order and Permit) or not consistent with the 2025 U.S. Supreme Court's ruling in City and County of San Francisco, California v. Environmental Protection Agency (No. 23-753), which held that the Clean Water Act does not authorize end-result requirements in NPDES permits. Therefore, this Order and Permit remove inconsistent provisions that are unnecessary or, where appropriate, include more stringent requirements (e.g., discharge prohibitions) that the Discharger must meet to achieve water quality goals. Described below are some specific examples that were considered when removing the discharge specification from this Order and Permit.~~

~~Ocean Plan section III.A.2.b. requires waste discharged to the ocean to be essentially free of material that is floatable or will become floatable upon discharge; settleable material or substances that may form sediments which will degrade benthic communities or other aquatic life; substances which will accumulate to toxic levels in marine water, sediments, or biota; substances that significantly decrease the natural light to benthic communities and other marine life; and material that result in aesthetically undesirable discoloration of the ocean surface. The Facility discharges advanced primary treated wastewater, which has been in compliance with effluent limitations for total suspended solids (TSS), oil and grease, settleable solids, turbidity, and chronic toxicity. The receiving water monitoring results also indicate that the waste discharge from the Facility is meeting the requirements of Ocean Plan section III.A.2.b (e.g., no observed floatable material, no reduction in light transmittance, or undesirable discoloration near the outfall). Furthermore, the technology-based effluent limitations in this Order and Permit, including those for TSS, settleable solids, oil and grease, and turbidity would be sufficient to prohibit these materials in the discharge that may negatively impact beneficial uses. Therefore, these discharge specifications were removed from this Order and Permit.~~

~~Ocean Plan section III.A.2.d. requires that the location of waste discharges be determined after a detailed assessment of the oceanographic characteristics and current patterns to assure that: (1) pathogenic organisms and viruses are not present in areas where shellfish are harvested for human consumption or in areas used for swimming or other body-contact sports; (2) natural water quality conditions are not altered in areas designated as being of special biological significance or areas that existing marine laboratories use as a source of seawater; and (3) maximum protection is provided to the marine environment. The federal waters near the discharge point are not areas which shellfish are harvested for human consumption or areas used for swimming or other body-contact sports. Thus, subsections (1) and (2) of this requirement do not apply to this Order and Permit. Additionally, the effluent limitations and performance goals that were derived from water quality objectives for the protection of marine aquatic life were designed to provide the maximum protection to the marine environment, satisfying the requirement of subsection (3) of Ocean Plan section III.A.2.d.. Therefore, these discharge specifications were removed from this Order and Permit.~~

~~Ocean Plan section III.A.2.e. requires waste that contains pathogenic organisms or viruses be discharged a sufficient distance from shellfishing and water-contact sports areas to maintain applicable bacterial standards without disinfection. As stated above, the federal waters near the discharge point are not areas in which shellfish are harvested for human consumption or areas used for swimming or other body-contact sports. Therefore, this discharge specification was removed from this Order and Permit.~~

D10. Comment – Receiving Water Monitoring Location Update
Attachment E, section 2, Table E-1

The City requests to change monitoring location D-008B back to D-008; access to the original site was restored in March 2025.

Response for D10:

The San Diego Water Board and USEPA agree to the request and have modified the Initial Tentative Order and Permit as follows:

Attachment E, section 2, one of the monitoring location names in Table E-1:

D-008~~B~~

D11. Comment –
Attachment E, section 4.2.1, Table E-9
Attachment E, section 4.2.2.2 (formerly numbered as section 4.2.3.2)

The City requests correction of two errors to make Table E-9 and section 4.2.2.2 consistent with the updated language in Footnote 5 of Table E-9 and section 4.2.2:

Table E-9: Please remove the requirement for quarterly monitoring of spectrophotometric pH and total alkalinity at the kelp stations. The City requests to maintain consistency with the current monitoring protocol in which parameters are collected quarterly offshore to validate the real-time oceanographic mooring systems (RTOMS).

Section 4.2.2.2: Please update this section to bring the language into alignment with current sampling at the RTOMS, and with language in Table 9 and section 4.2.2 of this permit. The requested language is as follows:

"The Discharger shall use the spectrophotometric pH and total alkalinity results to ~~calibrate~~ validate ~~and adjust~~ the pH samples collected quarterly ~~by the CTD~~ on the RTOMS and to calculate the aragonite saturation state. ~~Calibration of pH and calculation of aragonite saturation state is only required for the kelp/nearshore monitoring locations once per quarter.~~"

Response for D11:

The San Diego Water Board and USEPA agree with the request and have modified the Revised Tentative Order and Permit as follows:

Attachment E, section 4.2.1, portion of Table E-9:

Parameter	Units	Sample Type	Offshore Station Sampling Frequency[1]	Kelp Station Sampling Frequency[1]
Spectrophotometric pH ~~7~~5	standard units	Grab	1/Quarter	~~1/Quarter~~
Alkalinity, Total ~~7~~5	mg/L $CaCO_3$	Grab	1/Quarter	~~1/Quarter~~

Attachment E, section 4.2.2.2 of the Revised Tentative Order and Permit (formerly section 4.2.3.2 in the Initial Tentative Order and Permit):

4.2.2.2 Sample Analysis. Samples for pH shall be measured using the spectrophotometric technique described in An automated system for spectrophotometric seawater pH measurements (Carter et al. 2013), estimating pH at 25 degrees Celsius on the total hydrogen ion scale using m-cresol purple dye indicator and pH calibration equations based on Purification and characterization of meta-cresol purple for spectrophotometric seawater pH measurements (Liu et al. 2011). Grab samples for total alkalinity shall be measured by a two-stage, potentiometric, and open-celled titration using coulometrically analyzed hydrochloric acid as described in Reference material for oceanic CO_2 analysis: A method for the certification of total alkalinity (Dickson et al. 2003). The Discharger shall use the spectrophotometric pH and total alkalinity results to ~~calibrate and~~ adjust the pH samples collected quarterly ~~by the CTD~~ on the RTOMS and to calculate the aragonite

saturation state. ~~Calibration of pH and calculation of aragonite saturation state is only required for the kelp/nearshore monitoring locations once per quarter.~~ Results for alkalinity, the calibrated pH, and aragonite saturation state shall be reported in the interim and biennial receiving water monitoring reports described in section 4.6 of this MRP. Due to laboratory delays, the results for the last quarter in the monitoring period may be excluded from the interim and/or biennial receiving water monitoring reports if the data are not available. If the results are not included in the interim and/or biennial receiving water monitoring report, the Discharger shall submit the results by email to SanDiego@waterboards.ca.gov and R9NPDES@epa.gov.

D12. Comment –

Attachment E, section 4.2.1, Table E-9
Attachment E, section 4.2.2 (formerly numbered section 4.2.3)

The City requests to change the language in Attachment E Table E-9, Footnote 5 and section 4.2.2 to clarify that spectrophotometric pH is used to validate pH measurements from the RTOMS, rather than to calibrate them. The requested language is as follows:

Table E-9, Footnote 5: Spectrophotometric analysis, in accordance with section 4.2.2 of this MRP, shall be used to ~~calibrate the pH results~~ validate pH measurements on any unattended real-time oceanographic mooring systems (RTOMS). Samples for pH and total alkalinity shall be used to calculate aragonite saturation state.

Attachment E, section 4.2.2: "Results for pH measured by spectrophotometric analysis shall be used to ~~calibrate the pH results and~~ validate pH measurements on any unattended real-time oceanographic mooring systems (RTOMS)."

Response for D12:

The San Diego Water Board and USEPA agree with the request and have modified the Revised Tentative Order and Permit as follows:

Attachment E, section 4.2.1, Table E-9, footnote 5 of the Revised Tentative Order and Permit (formerly footnote 7 in Initial Tentative Order and Permit):

Spectrophotometric analysis, in accordance with section 4.2.2 of this MRP, shall be used to ~~calibrate the pH results and~~ validate pH measurements on any unattended real-time oceanographic mooring systems (RTOMS). ~~Samples for pH and total alkalinity shall be used to calculate aragonite saturation state. Monitoring alkalinity and spectrophotometric pH shall be conducted as described in section 4.2.3 of this MRP.~~

Attachment E, section 4.2.2 of Revised Tentative Order and Permit (formerly section 4.2.3 in the Initial Tentative Order and Permit):

~~4.2.3~~4.2.2 **Total Alkalinity and Spectrophotometric pH Monitoring Requirements.** Results for pH measured by spectrophotometric analysis shall be used to ~~calibrate the pH results and~~ validate pH measurements on any unattended real-time oceanographic mooring systems (RTOMS)~~measured by the CTD profiler~~. Samples for pH and total alkalinity shall be used to calculate aragonite saturation state.

E. Comments from Patrick McDonough, Senior Attorney, San Diego Coastkeeper, dated October 13, 2025.

E1. Comment – Insufficient Justification for Narrative Water Quality Objective Determinations

Attachment F, section 4.3.3.2

Coastkeeper requests significantly more support and rationale for the reasonable potential analysis determinations for the narrative water quality objectives in the Fact Sheet, section 4.3.3.2, including adequate evidence, data, citations, studies, appendices, etc., to justify the conclusions.

Coastkeeper is particularly concerned about the lack of support and rationale for the reasonable potential analysis for the bacterial water quality objectives, especially since wastewater poses an inherent risk of bacterial pollution. Coastkeeper is concerned that the removal of the bacterial receiving water limitation without the addition of bacterial effluent limitations raises serious concerns regarding compliance with the Clean Water Act's antidegradation and anti-backsliding provisions.

Response for E1:

The San Diego Water Board and USEPA agree to the request and have added an attachment to provide the more detailed support and rationale (see Attachment G of the Final Tentative Order and Permit).

E2. Comment – Bacteria Characteristics and the Removal of REC-1 Designation Beyond the Zone of Initial Dilution

Attachment F, section 4.3.3.2.1

Coastkeeper is concerned with the finding that primary contact recreation no longer applies in federal waters and thus the recommended Clean Water Act section 304(a)(1) water quality criteria for bacteria are not applicable. Coastkeeper is concerned that this finding is inconsistent with the Clean Water Act's antidegradation and anti-backsliding requirements. Coastkeeper states that these findings lack supporting data or analysis.

Response for E2:

The San Diego Water Board and USEPA agree to the request for more supporting data and analysis and have added an attachment to provide the detailed support and rationale (see Attachment G of the Second Revised Tentative Order). REC-1 bacteria water quality objectives from the Ocean Plan and Basin Plan do apply to State Waters as indicated in the Order.

Response from USEPA regarding Federal Waters:

However, section 4.3.3.2 of the Fact Sheet is consistent with the Clean Water Act's antidegradation and anti-backsliding requirements. As an initial matter, the REC-1 bacteria water quality objectives from the California Ocean Plan and

Basin Plan do not apply to federal waters (ocean waters beyond three nautical miles from shore). The USEPA Recreational Water Quality Criteria (RWQC) would instead apply to federal waters with primary contact recreational activities. However, in the City's 2007, 2015, and 2022 applications for renewal for its waste discharge requirements and 301(h)-modified NPDES permit, the City did not document any federally-defined primary contact recreational activities occurring in federal waters. Because there is no evidence of primary contact recreation occurring in the federal waters at or near the PLOO discharge, now or previously, USEPA does not apply USEPA RWQC for enterococci. Moreover, the REC-1 bacteria water quality objectives from the Ocean Plan and Basin Plan have never been applied to federal waters in the previous orders.

E3. Comment – Manner and Location of Discharges
Sections 4.2.3 through 4.2.5

Coastkeeper is concerned about the removal of sections 4.2.3 through 4.2.5 in the revised Tentative Order and Permit, which contained important provisions governing the manner and location of discharges to ensure protection of public health and sensitive marine environments. For instance, these sections addressed safeguards for areas used for shellfish harvesting and recreation. The revised Tentative Order and Permit provide no explanation for their removal, nor is it clear whether these protections are now covered under other Discharge Prohibition provisions elsewhere in the revised Tentative Order and Permit. It does not appear that these provisions, which govern the manner and location of discharges would run afoul of *City and County of San Francisco, California v. Environmental Protection Agency.* These provisions directly concern discharges and are thus not "end-result requirements." Given the significance of these provisions, Coastkeeper requests a clear rationale for their deletion, and a discussion of how these protections will be maintained elsewhere in the revised Tentative Order and Permit.

Response for E3:

The San Diego Water Board and USEPA agree to the request and have added an attachment to provide the more detailed support and rationale (see Attachment G of the Second Revised Tentative Order).

E4. Comment – HF183 Monitoring Requirements
Attachment E, section 4.2.2

Coastkeeper is concerned about the complete removal of the human associated HF183 genetic marker (HF183) monitoring requirements from the revised Tentative Order and Permit. While Coastkeeper understands that these requirements were tied to receiving water limitations, which have been deleted from in the revised Tentative Order and Permit, the absence of any HF183 monitoring raises serious concerns about the revised Tentative Order and Permit's ability to ensure ongoing protection of receiving water quality. Like other

degradation and backsliding concerns raised above, the removal of HF183 receiving water limitations and all HF183 monitoring requirements raises questions about how the revised Tentative Order and Permit legally requires, and actually maintains, the same level of water quality protection as the previous Order and Permit. This is particularly troubling given that the Facility is a wastewater treatment plant discharging directly to the Pacific Ocean. Furthermore, monitoring for human-specific sources of bacterial pollution, widely known to be the most dangerous source of pathogen contribution to human and environmental health, is essential for protecting marine environments and coastal water quality.

Therefore, Coastkeeper recommends that the San Diego Water Board and USEPA include provisions requiring HF183 analysis like the Initial Tentative Order and Permit's per- and polyfluoroalkyl substances (PFAS) monitoring requirements, which are not tied to any specific receiving water limitations.

Response for E4:

The San Diego Water Board and USEPA do not agree with the request. The purpose of receiving water monitoring for HF183 is to confirm if fecal contamination associated with the bacterial exceedances in the receiving water is from a human source. Requiring effluent monitoring for HF183, like the effluent monitoring for PFAS, would not add any value because wastewater is already known to be from human sources.

The current Order and Permit (Order No. R9-2017-0007) does not include any effluent or receiving water monitoring requirements for HF183. Thus, the Revised Tentative Order and Permit is not removing any HF183 requirements from the current Order and Permit. Removing conditional receiving water monitoring requirements for HF183 from the Initial Tentative Order and Permit is neither backsliding (relaxing effluent limitations) nor degradation (significant lowering of water quality) because the permit is not authorizing this discharge.

The Tentative Order does carry over the receiving water monitoring for bacterial indicators (total coliform, fecal coliform, and enterococcus) to determine if the receiving water is maintaining the water quality necessary for water contact beneficial use. If receiving water monitoring consistently indicates that bacterial concentrations exceed the water quality objectives, the San Diego Water Board and USEPA could require receiving water monitoring for HF183 to determine if the exceedances are from human sources through an investigative order issued by the Executive Officer.

F. Comments from Jared Voskuhl, CASA Director of Regulatory Affairs, California Association of Sanitation Agencies (CASA) and Amanda Aspatore, Chief Legal Officer, National Association of Clean Water Agencies (NACWA), dated October 13, 2025.

F1. Comment – 401 Water Quality Certification

Section 2.3
Attachment F, section 2.2.10
Attachment F, section 8.1

The San Diego Water Board and USEPA should remove the Tentative 401 Certification from the revised Tentative Order and Permit. The 401 Water Quality Certification was waived a year after the USEPA issued a tentative decision document in February 2025. The conditions of the 401 Water Quality Certification are federally enforceable NPDES permit provisions and thus should comply with the legal requirements applicable to all other NPDES permit conditions, the Clean Water Act, and 2025 U.S. Supreme Court's ruling in City and County of San Francisco, California v. Environmental Protection Agency (No. 23-753). The tentative 401 Water Quality Certification will undermine critical infrastructure investments and harm communities.

Response for F1:

Please refer to the responses to Comments D1.1 and D1.2.

F2. Comment – Clean Water Action section 402(k)

Paragraphs prior to section 3

The San Diego Water Board and USEPA should also remove the language in the proposed permit revisions purporting to limit the scope of CWA section 402(k), known as the "permit shield" provision, to San Diego's discharges.

Under the "permit shield" provision found at Clean Water Act section 402(k), Congress specified that "compliance with a[n NPDES] permit" amounts to compliance with the Clean Water Act. For this statutory safe harbor to mean anything, the effluent limitations included in permits must be sufficiently specific so that permittees know how to ensure that their discharges comply. Permit terms such as those proposed here which change depending on the reader and expose permittees to after-the-fact enforcement actions directly undermine Congress's decision to provide a safe harbor from Clean Water Act liability for dischargers acting in good faith and in accordance with their known obligations.

The 2025 U.S. Supreme Court's ruling in City and County of San Francisco, California v. Environmental Protection Agency (No. 23-753) decision emphasizes the importance of the "permit shield" provision to public clean water agencies like San Diego, and nothing the limited grant of authority in Clean Water Action section 401 to States to review federal licenses and permits for consistency with certain water quality requirements gives either a State or USEPA the ability to

undermine the statutory protections provided to permit holders by Congress. Nor does it allow States or USEPA to transfer the authority a State may have under any State law – water quality-related or not – to USEPA via a State water quality certification condition.

Under the "No Shield Clause" in section 6.1.3.12 of the proposed permit, the agencies state that "any discharges not expressly authorized…cannot become authorized or shielded from liability under the Clean Water Act section 402(k) by disclosure to San Diego Water Board, USEPA, State Water Board, or local authorities after issuance…via any means, including during an inspection." CASA and NACWA appreciate that, with that clause, the agencies are likely intending to provide clarity concerning their understanding of how the Clean Water Act section 402(k) applies to the Revised Tentative Order and Permit. However, by attempting to state as fact what is a question of law and limit the statutory protections afforded to a permittee, the provision violates the Constitutional separation of powers and Supreme Court precedent.

In the case of *Loper Bright Enterprises et. al. v. Raimondo, Secretary of Commerce, et. al.*, 603 U.S. 369 (2024), the U.S. Supreme Court, citing the Federalist No. 78, reiterated that under Article III of the U.S. Constitution, final "interpretation of the laws" is "the proper and peculiar province of the courts." The Court emphasized that "[i]t is emphatically the province and duty of the judicial department to say what the law is," *Marbury v. Madison*, 1 Cranch 137, 177, and when the meaning of a statute is at issue, the judicial role is to "interpret the act of Congress, in order to ascertain the rights of the parties." *Decatur v. Paulding*, 14 Pet. 497, 515.

Contrary to the Supreme Court's longstanding precedent, however, the proposed "No Shield Clause" in the Revised Tentative Order and Permit inappropriately attempts to define and limit the rights afforded to San Diego by CWA section 402(k)'s "permit shield." The agencies must therefore remove this provision.

Response for F2:

CWA section 402(k) (33 U.S.C. § 1342(k)) and the implementing regulations at 40 CFR section 122.5, provide that compliance with an NPDES permit during its term constitutes compliance, for purposes of enforcement, with key provisions of the CWA. Section 402(k) does not shield permit holders from enforcement pertaining to discharges that are not authorized in the permit..

In the Initial Tentative Order and Permit that was noticed for public comment on March 1, 2024, Provision 6.1.3.12 provided that any discharges not expressly authorized by the Order and Permit cannot be shielded by subsequent disclosure to a regulatory authority. The revised Tentative Order and Permit of September 12, 2025, added language to further clarify that the permit shield does not apply to discharges of pollutants, or different pollutant loadings, that result from facility processes, waste streams, or operations that were not disclosed by the permittee or otherwise brought to the attention of USEPA and the San Diego Water Board

prior to issuance of the permit. The provision also notes that the permittee may request authorization to change or increase pollutant loadings, which may (or may not) trigger the need for a permit modification or reissuance. We believe Provision 6.1.3.12 clarifies the scope of the discharges authorized by the Order and Permit and does not alter the law regarding the permit shield at CWA section 402(k).