



Los Angeles Regional Water Quality Control Board

January 24, 2019

Mr. Wendell Johnson
Director of Public Works
City of Compton
205 S. Willowbrook Avenue
Compton, California 90200
Email: wjohnson@comptoncity.org

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO. 7018 1130 0001 5911 4646

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2019-0004, CITY OF COMPTON, VIOLATIONS OF THE LA COUNTY MS4 PERMIT

Enclosed is Complaint No. R4-2019-0004 (Complaint) issued pursuant to California Water Code (Water Code) section 13323 in the amount of \$128,843 in administrative civil liability against the City of Compton (City). The Los Angeles Regional Water Quality Control Board (Regional Board) Prosecution Team alleges that the City violated the monitoring requirements of the *Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4* (NPDES Permit CAS004001; Order R4-2012-0175) (LA County MS4 Permit or Permit).

Also enclosed is a copy of the Regional Board "Hearing Procedures for Administrative Civil Liability Complaint No. R4-2019-0004" (Hearing Procedures).

The City may waive its right to a hearing as indicated on the attached "Waiver Form for Administrative Civil Liability Complaint No. R4-2019-0004." The City has three options to waive its right to a hearing:

- Pay the proposed administrative civil liability and waive the right to a hearing (Option 1 on the Waiver Form);
- Ask that the hearing be postponed to facilitate settlement negotiations (Option 2 on the Waiver Form); or
- Ask that the hearing be postponed for other reasons and provide a written justification for the postponement (Option 3 on the Waiver Form).

If the Prosecution Team does not receive a signed waiver by **5:00 p.m. on February 25, 2019**, a hearing before the Regional Board will be held regarding this Complaint April 24, 2018. The hearing will be governed by the attached Hearing Procedures, which have been approved by the Regional Board's Executive Officer for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by Sophie Froelich, Attorney, whose contact information is listed in the Hearing Procedures, by **5:00 p.m. on February 4, 2019**.

An agenda containing the date, time, location, and specific procedures of the hearing will be sent to you prior to the hearing date.

If the City chooses to sign the wavier and pay the proposed administrative civil liability, this will be considered a tentative settlement of the violations. The settlement will be considered final pending a 30-day public comment period. Interested parties may comment on the proposed action during this period by submitting written comments to the Regional Board staff person listed below. Should the Regional Board receive new information or comments during this comment period, the Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new complaint. If the Regional Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

Persons or organizations who wish to participate in the hearing as a **Designated Party** must request designated party status by submitting a request in writing so that it is received no later than **5:00 p.m. on February 8, 2019**. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses, etc.), along with a statement explaining why the Regional Board Prosecution Team and the Discharger do not adequately represent the person's or organization's interest.

Interested Persons include any person or organization that is interested in the outcome of the hearing, but who has not been designated as a Designated Party. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, and monitoring data), but may present written and/or oral non-evidentiary comments and policy statements. Interested Persons may not cross-examine witnesses and are not subject to cross-examination. Written non-evidentiary policy statements from Interested Persons must be received by **5:00 p.m. on February 25, 2019**.

If you have any questions, please contact Prosecution Team contact Wendy Wyels, Wendy.Wyels@waterboards.ca.gov or (916) 323-0595.

Sincerely,



Hugh Marley
Assistant Executive Officer

Enclosures: Administrative Civil Liability Complaint No. R4-2019-0005
Attachment A and Attachments 1-5
Waiver Form
Hearing Procedures

cc list on next page

cc w/ enc:

City of Compton representatives [via US Mail]

Hien Nguyen, Assistant City Engineer
City of Compton
205 S. Willowbrook Avenue
Compton, California 90220

Advisory Team [via email only]

Ms. Deborah Smith, Los Angeles Regional Water Quality Control Board
Ms. Renee Purdy, Los Angeles Regional Water Quality Control Board
Ms. Sophie Froelich, Office of Chief Counsel, State Water Resources Control Board
Ms. Adriana Nunez, Office of Chief Counsel, State Water Resources Control Board

Prosecution Team [via email only]

Mr. Hugh Marley, Los Angeles Regional Water Quality Control Board
Mr. Russ Colby, Los Angeles Regional Water Quality Control Board
Mr. Ivar Ridgeway, Los Angeles Regional Water Quality Control Board
Ms. Erum Razzak, Los Angeles Regional Water Quality Control Board
Ms. Wendy Wyels, Office of Enforcement, State Water Resources Control Board
Ms. Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board
Ms. Catherine Hawe, Office of Enforcement, State Water Resources Control Board

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R4-2019-0004

IN THE MATTER OF

CITY OF COMPTON

Failure to Complete Baseline Monitoring Pursuant to Order R4-2012-0175
and Failure to Respond to CWC 13267 Order R4-2018-0122

This Administrative Civil Liability Complaint (Complaint) is issued by the Assistant Executive Officer of the Los Angeles Regional Water Quality Control Board (Regional Board) to the City of Compton (City) pursuant to California Water Code (Water Code) sections 13385 and 13268, which authorize the imposition of civil liability, Water Code section 13323, which authorizes the Executive Officer to issue this Complaint, and Water Code Division 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case, the Assistant Executive Officer. This Complaint is based on evidence that the City of Compton failed to comply with the monitoring requirements of the *Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4* (NPDES Permit CAS004001; Order R4-2012-0175) and failed to adequately respond to Order R4-2018-0122, a Water Code section 13267 Order for Technical Reports.

The Assistant Executive Officer of the Los Angeles Regional Water Quality Control Board alleges the following:

BACKGROUND

1. The City of Compton is located within Los Angeles County, about 10 miles south of downtown Los Angeles. The City covers an area of approximately 10.1 square miles, and at the time of the 2010 US Census, had a population of 96,455 people. The annual precipitation is approximately 15 inches. The City's municipal separate storm sewer system (MS4) discharges into two receiving waters: Compton Creek and Dominguez Channel.
2. On November 8, 2012, the Regional Board adopted Order R4-2012-0175, *Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4* (LA County MS4 Permit or Permit). This Permit was later amended by State Water Resources Control Board Order WQ 2015-0075 and Regional Board Order R4-2012-0175-A01. The City of Compton is one of the 84 incorporated cities named as a Permittee under the LA County MS4 Permit, and discharges from the City's MS4 are regulated by the Permit.
3. The Monitoring and Reporting Program (MRP; Attachment E) of the LA County MS4 Permit lists specific "baseline" monitoring and reporting requirements which must be completed by each Permittee. Alternatively, the MS4 Permit gives Permittees the option to individually develop and implement an integrated monitoring program (IMP), upon written approval of the Regional Board Executive Officer. The City submitted a proposed IMP and a revised

proposed IMP. On August 5, 2016, the Regional Board Executive Officer issued a letter (the "monitoring directive") informing the City that the IMP continued to be deficient and therefore the City must comply with the LA County MS4 Permit's baseline monitoring and reporting requirements within 30 days. To assist the City, the monitoring directive includes two tables detailing the specific monitoring locations, analytes, and sampling frequency for the City's baseline monitoring and reporting program.

4. Since issuance of the Regional Board's August 5, 2016 monitoring directive, the City should have submitted four semi-annual reports containing the results of monitoring conducted per the requirements of the LA County MS4 Permit.
5. The first required monitoring report was the June 2017 semi-annual report. This semi-annual report was to contain the results of the City's monitoring completed between September 4, 2016 (when monitoring was to begin) and December 31, 2016. During the dry weather, the City should have sampled for a total of 194 constituents (between three locations). However, the City did not complete any dry weather monitoring. During the wet weather, the City should have sampled for a total of 685 constituents (between six locations) and completed a benthic macroinvertebrate bioassessment. Instead, the City analyzed a total of nine constituents during the wet weather. In summary, between September and December 2016, the City completed less than 1% of the required baseline monitoring.
6. The second required monitoring report was the December 2017 semi-annual report. This semi-annual report was to contain the results of the City's monitoring completed between January 1, 2017 and June 30, 2017. During the dry weather, the City should have sampled for a total of 18 constituents (between two locations). However, the City did not complete any dry weather monitoring. During the wet weather, the City should have sampled for a total of 269 constituents (between six locations) and completed sediment and fish tissue testing. Instead, the City analyzed a total of 36 constituents during the wet weather. In summary, between January and June 2017, the City completed 13% of the required baseline monitoring.
7. The third required monitoring report was the June 2018 semi-annual report. This semi-annual report was to contain the results of the City's monitoring completed between July 1, 2017 and December 31, 2017. During the dry weather, the City should have sampled for a total of 55 constituents (between three locations). However, the City did not complete any dry weather monitoring. There were no storms during this period so wet weather monitoring could not be conducted. In summary, between July and December 2017, the City completed 0% of the required baseline monitoring.
8. The fourth required monitoring report was the December 2018 semi-annual report. This semi-annual report was to contain the results of the City's monitoring completed between January 1, 2018 and June 30, 2018. During the dry weather, the City should have sampled for a total of 18 constituents (between two locations). However, the City did not complete any dry weather monitoring. During the wet weather, the City should have sampled for a total of 377 constituents (between six locations) and completed a benthic macroinvertebrate bioassay. Instead, the City analyzed a total of 36 samples during the wet weather, of which four samples were not necessary (i.e. the City analyzed four constituents that were not

required). In summary, between January and June 2018, the City completed 8% of the required baseline monitoring.

9. On September 6, 2018, the Prosecution Team issued to the City Order R4-2018-0122, a *California Water Code Section 13267 Investigative Order for Technical Reports* (Investigative Order). The Investigative Order lists the deficiencies and inaccuracies identified by Board staff in the City's monitoring reports submitted after August 2016, and requires the City to submit updated, complete and accurate reports by October 16, 2018. The City responded on October 11, 2018; however, the City did not respond as required by the Investigative Order because four of the six required technical reports were not submitted in the City's October 11, 2018 response.
10. On November 14, 2018, the Prosecution Team issued a Notice of Violation (NOV) to the City. The purpose of the NOV was to (a) describe the inadequacies of the City's October 11, 2018 submittal, (b) allow the City another opportunity to submit technical reports that comply with the Investigative Order, and (c) respond to the City's concerns and misunderstandings regarding the MS4 monitoring requirements. The City was encouraged to contact Regional Board staff to arrange a meeting to discuss the issues. However, the City has neither contacted Regional Board staff nor has it submitted the four outstanding technical reports.

LEGAL AND REGULATORY CONSIDERATIONS

11. The LA County MS4 Permit was issued pursuant Clean Water Act section 402 and implementing regulations adopted by the US EPA and chapter 5.5, division 7 of the Water Code (commencing with section 13370), including Water Code section 13376. The Permit serves as an NPDES permit for point source discharges from the Permittees' MS4s to surface waters, including the City. The Permit also serves as waste discharge requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the Water Code (commencing with Section 13260).
12. Provision IV.B.1 of the LA County MS4 Permit requires that the Permittees (including the City) either comply with the Monitoring and Reporting Program (MRP) found in Attachment E of the Permit or, upon approval of a Watershed Management Program, implement a customized monitoring program. Not only was the City's Watershed Management Plan not approved, its proposed monitoring program was similarly not approved by the Regional Board, and therefore the City was required to comply with the MRP found in Attachment E.
13. Attachment E of the LA County MS4 Permit specifies the minimum wet weather and dry weather receiving water and outfall monitoring, including a list of constituents to be monitored. Attachment E also specifies that semi-annual monitoring reports shall be submitted. To assist the City, Regional Board staff summarized the monitoring program specific to the City in a letter to the City dated August 5, 2016.
14. The September 6, 2018 Investigative Order for Technical Reports was issued pursuant to Water Code section 13267, which authorizes the Regional Board to require submittal of technical reports.

Water Code and Clean Water Act

15. Water Code Section 13385, subdivision (a) states in relevant part:
A person who violates any of the following shall be liable civilly in accordance with this section:
 - (1) Section 13375 or 13376.
 - (2) A waste discharge requirement ... issued pursuant to this chapter [chapter 5.5].
 - (3) A requirement established pursuant to Section 13383.

16. Water Code section 13385, subdivision (c) states in relevant part:
Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum:
 - (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

17. Water Code section 13268, subdivision (a)(1) states in relevant part:
Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267... is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).

18. Water Code section 13268, subdivision (b)(1) states in relevant part:
Civil liability may be administratively imposed by a regional board ... in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

19. Pursuant to Water Code section 13385, subdivision (e), in determining the amount of civil liability, the Regional Board shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

Water Quality Enforcement Policy

20. On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 which adopted the 2010 Water Quality Enforcement Policy (2010 Enforcement Policy). The 2010 Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The 2010 Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing an administrative civil liability as outlined in Water Code section 13385, subdivision (e).

21. On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020, which adopted the 2017 Water Quality Enforcement Policy (2017 Enforcement Policy). The 2017 Enforcement Policy was approved by the Office of Administrative Law and became effective on October 5, 2017.

22. The Prosecution Team developed the proposed administrative civil liability based on both the 2010 and 2017 Enforcement Policies. Because the alleged violations for Violation 1 took place while the 2010 Enforcement Policy was still in effect it was used to develop the administrative civil liability for Violation 1. The 2017 Enforcement Policy was in effect during

the time that alleged violations for Violations 2-5 took place and therefore, it was used to develop the administrative civil liabilities for those four violations.

California Environmental Quality Act

23. Issuance of this Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §21000 et seq), in accordance with California Code of Regulations, title 14, section 15321, subdivision (a)(2).

ALLEGED VIOLATIONS

24. **Violation 1:** The Prosecution Team alleges that the City violated the LA County MS4 Permit by failing to complete the baseline monitoring program from September through December 2016. This failure to complete the required sampling and analysis resulted in the submission of a materially deficient and incomplete June 2017 semi-annual monitoring report.
25. **Violation 2:** The Prosecution Team alleges that the City violated the LA County MS4 Permit by failing to complete the baseline monitoring program from January through June 2017. This failure to complete the required sampling and analysis resulted in the submission of a materially deficient and incomplete December 2017 semi-annual monitoring report.
26. **Violation 3:** The Prosecution Team alleges that the City violated the LA County MS4 Permit by failing to complete the baseline monitoring program from July through December 2017. This failure to complete the required sampling and analysis resulted in the submission of a materially deficient and incomplete June 2018 semi-annual monitoring report.
27. **Violation 4:** The Prosecution Team alleges that the City violated the LA County MS4 Permit by failing to complete the baseline monitoring program from January through June 2018. This failure to complete the required sampling and analysis resulted in the submission of a materially deficient and incomplete December 2018 semi-annual report.
28. **Violation 5:** The Prosecution Team alleges that the City failed to fully comply with Order R4-2018-0122, *California Water Code Section 13267 Investigative Order for Technical Reports*. The City did not submit four of the required six reports.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

29. The Prosecution Team proposes an administrative civil liability of \$128,843 for Violations 1-5, as detailed in Attachment A to this Complaint. This proposed administrative civil liability was derived using the penalty methodology in the 2010 and 2017 Enforcement Policies. The proposed administrative civil liability takes into account the factors described in Water Code section 13385, subdivision (e), such as the City's culpability, history of violations, ability to pay and other factors as justice may require.
30. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional administrative civil liability for violations which have not yet been assessed or for violations that may subsequently occur.

MAXIMUM STATUTORY LIABILITY

31. Pursuant to Water Code section 13385, subdivision (c), the statutory maximum administrative civil liability for each violation in Violations 1-4 is \$10,000 per day of violation. Pursuant to Water Code section 13267, subdivision (b)(1), the statutory maximum liability for Violation 5 is \$1,000 per technical report per day of violation.
32. Violation 1 describes the City's failure to complete the required baseline sampling and analysis for the June 2017 semi-annual monitoring period. This mandatory monitoring, accompanied by the complete monitoring report required by the LA County MS4 Permit, remains outstanding for a total of 561 days (from June 30, 2017 through January 11, 2019). The statutory maximum liability for Violation 1 is \$5,610,000 [(10,000/day) x 561 days].
33. Violation 2 describes the City's failure to complete the required baseline sampling and analysis for the December 2017 semi-annual monitoring period. This mandatory monitoring, accompanied by the complete monitoring report required by the LA County MS4 Permit, remains outstanding for a total of 393 days (from December 15, 2017 through January 11, 2019). The statutory maximum liability for Violation 2 is \$3,930,000 [(10,000/day) x 393 days].
34. Violation 3 describes the City's failure to complete the required baseline sampling and analysis for the June 2018 semi-annual monitoring period. This mandatory monitoring, accompanied by the complete monitoring report required by the LA County MS4 Permit, remains outstanding for a total of 196 days (from June 30, 2018 through January 11, 2019). The statutory maximum liability for Violation 3 is \$1,960,000 [(10,000 day x 196 days)].
35. Violation 4 describes the City's failure to complete the required baseline sampling and analysis for the December 2018 semi-annual monitoring period. This mandatory monitoring, accompanied by the complete monitoring report required by the LA County MS4 Permit, remains outstanding for a total of 28 days (from December 15, 2018 through January 11, 2019). The statutory maximum liability for Violation 4 is \$280,000 [(10,000/day) x 28 days].
36. Violation 5 is comprised of four technical reports that the City failed to timely submit. Each report was due on October 16, 2018. As of January 11, 2019, each report is overdue by 88 days. The statutory maximum liability for Violation 5 is \$352,000 [(1,000/day) x 88 days x 4 reports].
37. The proposed administrative civil liability considers the statutory maximum liability for each violation.

MINIMUM LIABILITY

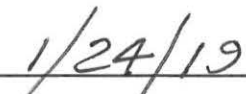
38. Both the 2010 and 2017 Enforcement Policies require the Regional Board to recover, at a minimum, the economic benefit plus 10%. The economic benefit for all five violations is approximately \$100,627. The minimum liability that may be imposed is the economic benefit plus 10%, which is equal to \$110,690. The proposed administrative civil liability is above the minimum liability amount.

THE CITY OF COMPTON IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Board proposes an administrative civil liability in the amount of \$128,843. The amount of the proposed administrative civil liability is based upon a review of the factors cited in Water Code section 13385, subdivision (e), as well as the 2010 and 2017 Enforcement Policies.
2. A hearing on this matter will be conducted by the Regional Board at a hearing scheduled on April 24, 2019, unless the City of Compton does any of the following by the February 25, 2019 deadline to submit the Waiver Form, as described in the Hearing Procedures.
 - a. The City of Compton waives the right to a hearing by completing the attached Waiver Form (checking the box next to Option 1) and returning it to the Regional Board, along with payment for the proposed administrative civil liability of \$128,843; or
 - b. The Regional Board agrees to postpone any necessary hearing after the City of Compton requests to engage in settlement discussions by checking the box next to Option 2 on the attached Waiver Form and returning it to the Regional Board; or
 - c. The Regional Board agrees to postpone any necessary hearing after the City of Compton requests a delay by checking the box next to Option 3 on the attached Waiver Form and returning it to the Regional Board along with a letter describing the items to be discussed.
3. If a hearing is held, it will be governed by the attached Hearing Procedures. During the hearing, the Regional Board will hear testimony and arguments and affirm, reject, or modify the proposed administrative civil liability, or determine whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The Assistant Executive Officer reserves the right to amend the proposed amount of administrative civil liability to conform to the evidence presented.



Hugh Marley
Assistant Executive Officer



Date

Attachment A: Penalty Calculation Methodology and Attachments 1-5
Waiver Form
Hearing Procedures

Attachment A - Specific Factors Considered in Determining Liability

City of Compton:

Failure to Complete Baseline Monitoring Pursuant to Order R4-2012-0175 and Failure to Respond to CWC 13267 Order R4-2018-0122

On November 8, 2012, the Los Angeles Regional Water Quality Control Board (Regional Board) adopted the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit (Order R4-2012-0175) (LA County MS4 Permit or Permit). This Permit was later amended by State Water Resources Control Board Order WQ 2015-0075 and Regional Board Order R4-2012-0175-A01. Discharges from the City of Compton's (City's) municipal separate storm sewer system (MS4) are regulated by the LA County MS4 Permit. Among other items, the Permit requires that the City submit semi-annual and annual reports containing analytical and other information related to implementation and compliance with the permit. The Permit also requires that the City comply with effluent and receiving water limits.

Attachment E of the Permit lists specific "baseline" monitoring and reporting requirements which must be completed by each Permittee. Alternatively, the Permit allows Permittees the option to individually develop and implement an integrated monitoring program (IMP), upon written approval of the Regional Board Executive Officer. The City submitted a proposed IMP and a revised proposed IMP. On August 5, 2016, the City was informed that neither its original nor its revised IMP met the requirements for an IMP and was formally notified that it must comply with the LA County MS4 Permit's baseline monitoring and reporting requirements within 30 days. To assist the City, the Regional Board's monitoring directive includes two tables detailing the specific monitoring locations, analytes, and sampling frequency for the City's baseline monitoring and reporting program.

The City was to comply with the monitoring program as of September 4, 2016. Since that time, the City should have submitted five semi-annual and three annual reports. The City submitted most of these reports, however, the reports are materially deficient in that they evidence a significant absence of the required sampling and analysis at the required locations, at the required frequency, or for the required analytes. Each of these materially deficient reports is discussed below.

On September 6, 2018, the Regional Board Prosecution Team issued the City a California Water Code Section 13267 Order for Technical Reports (Order R4-2018-0122) (Investigative Order). The Investigative Order lists the deficiencies and inaccuracies identified by Board staff in the City's monitoring reports submitted after August 2016, and requires the City to submit updated, complete and accurate reports by October 16, 2018. The City responded on October 11, 2018; however, the City did not respond as required by the Investigative Order because four of the six required technical reports were not submitted in the City's response, as discussed below.

Factors required to be considered in determining the amount of administrative civil liability pursuant to California Water Code section 13385, subdivision (e) and the State Water Resources Control Board's Enforcement Policy are discussed for each violation. Violations that occurred prior to October 5, 2017 are considered under the 2010 Enforcement Policy¹, while violations that

¹ https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

occurred after October 5, 2017 are considered under the 2017 Enforcement Policy.²

The following table summarizes the dates and activities pertinent to this discussion of violations.

Attachment A/Table 1: Chronology of Events

Date	Item	Comments
November 8, 2012	Regional Board adopts the LA County MS4 Permit	Became effective on December 28, 2012
August 5, 2016	Regional Board directs the City to follow baseline monitoring within 30 days ("monitoring directive")	Monitoring directive is Attachment 1 to this Attachment A Penalty Methodology analysis
September 4, 2016	City to begin baseline monitoring	
December 14, 2016	City submits 2015-2016 Annual Report	No analytical data
February 6, 2017	In response to staff requests, City submits December 2016 semi-annual report	Report was two months late. Contains results from January-March 2016, prior to the monitoring directive to begin baseline monitoring. Therefore, the adequacy and completeness of this monitoring and of this report is not being analyzed as part of the proposed liability.
June 15, 2017	City submits June 2017 semi-annual report	Report was to include monitoring from July-December 2016, but instead has results from December 2016-February 2017. Insufficient monitoring resulted in a materially deficient report. (Violation 1)
December 15, 2017	City submits 2016-2017 Annual Report	No analytical data
December 26, 2017	City declines to submit a December 2017 semi-annual report	Report was to include sampling from January- June 2017. No data; insufficient monitoring resulted in a materially deficient report. (Violation 2)
June 15, 2018	City submits June 2018 semi-annual report	Report was to include monitoring from July-December 2017 but instead has results for January-March 2018. Insufficient monitoring resulted in the submission of a materially deficient report. (Violation 3)
September 6, 2018	Prosecution Team issues CWC 13267 Order. Response due October 16, 2018	City responded on October 11, 2018; however, response was inadequate. (Violation 5)

²

https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

December 14, 2018	City does not submit a December 2018 semi-annual report	Report was to include sampling from January- June 2018. No data; insufficient monitoring resulted in the submission of a materially deficient report. (Violation 4)
December 14, 2018	City submits 2017-2018 Annual Report	No analytical data

Annual Reports

The 2015-2016 Annual Report was to describe the City’s compliance with the LA County MS4 Permit for the period of July 2015 through June 2016. The City submitted its 2015-2016 annual report on December 14, 2016. Regional Board staff reviewed the annual report and, in a letter, dated July 14, 2017, asked the City for additional information and clarification to numerous items. Although the City responded, it did not provide any of the requested information or clarifications. Because the period that the annual report covered was prior to when the City was directed to comply with the baseline monitoring program, this Complaint does not evaluate the adequacy or completeness of the monitoring and associated 2015-2016 annual report as a separate violation category for purposes of administrative civil liability.

The 2016-2017 Annual Report was to describe the City’s compliance with the Permit for the period of July 2016 through June 2017. The report was submitted on December 15, 2017. It follows a similar format as the 2015-2016 report, and many sections contains identical language as the previous year’s report (i.e., the document was not appropriately updated to reflect work completed in 2017). Although there is a brief discussion of constituent monitoring during 2016-2017, no analytical data is provided. The report does not address the comments and clarifications that Regional Board staff requested for the previous year’s Annual Report. This Complaint does not evaluate the adequacy and completeness of the monitoring and associated 2016-2017 annual report as a separate violation category for purposes of administrative civil liability.

The 2017-2018 Annual Report was to describe the City’s compliance with the Permit for the period of July 2017 through June 2018. The City submitted this report on time. There is a brief discussion of constituent monitoring and the data presented in the June 2018 semi-annual report is found as an appendix to this Annual Report. The City draws conclusions as to the adequacy of its compliance with the LA County MS4 Permit based on the monitoring results; however, the Prosecution Team contends that the Annual Report does not provide a full and accurate picture of the City’s compliance because the City did not comply with the baseline monitoring program as required by the LA County MS4 Permit. This Annual Report does not address the comments and clarifications that Regional Board staff requested for the 2015-2016 Annual Report. This Complaint does not evaluate the adequacy and completeness of the monitoring and associated 2017-2018 annual report as a separate violation category for purposes of administrative civil liability.

December 2016 Semi-Annual Report

In its August 5, 2016 letter, the Regional Board directed the City to comply with the LA County MS4 Permit’s baseline monitoring and reporting requirements within 30 days, or by September 4,

2016. The first monitoring report due after that time was the December 2016 semi-annual report, which was to contain the results of monitoring completed between January and June 2016. On February 6, 2017, in response to an email inquiry by staff, the City submitted a report which contained the results from three sampling events conducted in January, February, and March 2016. Because the City was not required to begin baseline monitoring until September 2016, this Complaint does not consider whether the sampling events complied with the requirements of the LA County MS4 Permit.

Violation 1:
Failure to complete required sampling and analysis
resulting in the submission of a materially deficient and incomplete
June 2017 semi-annual monitoring report

The City was directed to comply with the monitoring program as of September 4, 2016. The results of samples collected between that time and December 30, 2016 were to be submitted as part of the June 2017 semi-annual report. On June 15, 2017, the City submitted a semi-annual monitoring report. However, instead of containing results for samples collected in the second half of 2016, the report contained the results of samples collected in December 2016, January 2017, and February 2017. In determining compliance with the August 5, 2016 monitoring directive, the only samples collected for the relevant semi-annual monitoring period are the December 2016 samples, and therefore, are the only samples available to the Prosecution Team in its review of the June 2017 monitoring report. The samples collected in January and February 2017 are considered as part of the compliance review of the December 2017 semi-annual monitoring report, as discussed in Violation 2.

To assist the City, the Regional Board's August 5, 2016 monitoring directive (Attachment 1) contains Table 1, a listing of specific monitoring points, and Table 2, a listing of the frequency of sampling during wet weather and dry weather conditions and the constituents to be monitored at each location. The City's monitoring program consists of six different locations from which samples are to be collected. Each water year (July through June) the City is to complete four sampling events during the wet weather and two sampling events during the dry weather³. Not all constituents are to be analyzed during each sampling event, but there still must be four wet weather samples and two dry weather samples from multiple locations.

The baseline monitoring program became effective on September 4, 2016. For the period of September through December 2016, the first significant rainfall event occurred on November 21, 2016, and there were six rainfall events before the end of the year⁴. A reasonable Permittee would have collected one set of dry weather samples soon after the monitoring program's effective date. A reasonable Permittee would also have collected at least one set of wet weather samples by the end of December 2016.

³ It is noted that the "non-storm water" samples listed in Table 1 of the August 5, 2016 directive are not included in this penalty calculation. If they were included, then the City would be required to conduct an additional two sampling events in the dry season (for a total of four).

⁴ LA County Department of Public Works, storm summary reports.

Attachment A/ Table 2, below, describes the required monitoring program for the period of September through December 2016. During that time, the City should have completed one wet weather and one dry weather sample event. The right-hand column of the table also shows the samples that were actually collected by the City during this period. The sample locations (R1, FS1, FS2, FS6, S10, and DOM) are taken from Table 1 of the August 5, 2016 monitoring directive.

**Attachment A/ Table 2:
Failure to Comply with Monitoring Program and
Submit a Complete June 2017 Monitoring Report**

Constituent	Between Sept and Dec 2016, City should have sampled during <u>one wet event</u> at these locations	Between Sept and Dec 2016, City should have sampled during <u>one dry event</u> at these locations	Between Sept and Dec 2016, these samples were collected by City at one location. No dry event samples collected.
Table E-2 (139 constituents) ⁵	R1, FS1, FS2, FS6	R1	
Aquatic Toxicity	R1	R1	
Total Suspended Solids	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
Suspended sediment concentration	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
Flow	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
Hardness	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
pH	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
Dissolved Oxygen	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
Temperature	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
Electrical Conductivity	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	
E. Coli	R1, FS1, FS2, FS6	R1	R1-wet event, 12/16/16
Cadmium	R1, FS1, FS2, S10	S10	R1-wet event, 12/16/16
Aluminum	S10	S10	
Mercury	S10	S10	
Selenium	S10	S10	R1-wet event, 12/16/16
Copper	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	R1-wet event, 12/16/16
Lead	R1, FS1, FS2, S10, FS6, DOM	R1, S10, DOM	R1-wet event, 12/16/16
Nickel	S10	S10	
Zinc	R1, FS1, FS2, S10, FS6, DOM	S10, DOM	R1-wet event, 12/16/16
Antimony	S10	S10	

⁵ Table E-2 is found in Attachment E (the Monitoring and Reporting Program) of Order R4-2012-0175. It contains a list of 139 constituents. Sections VI.C.e and VI.D.d of Attachment E states that the parameters in Table E-2 shall be sampled in the first year of the monitoring program, during the first significant rain event of the year and during the critical dry weather event. If a parameter is detected, then it shall be added to the monitoring program at the station(s) where it was detected.

Constituent	Between Sept and Dec 2016, City should have sampled during <u>one wet event</u> at these locations	Between Sept and Dec 2016, City should have sampled during <u>one dry event</u> at these locations	Between Sept and Dec 2016, these samples were collected by City at one location. No dry event samples collected.
Benthic Macroinvertebrate Bioassay	R1	-	
Nitrate-N	R1, FS1, FS2	R1	R1-wet event, 12/16/16
Nitrite-N	R1, FS1, FS2	R1	R1-wet event, 12/16/16
Ammonia	R1, FS1, FS2, FS6	R1	R1-wet event, 12/16/16
Chlordane	S10	S10	
DDT	S10, FS6, DOM	S10, DOM	
PCBs	S10, FS6, DOM	S10, DOM	
PAHs	S10, DOM	S10, DOM	
Municipal Action Level (8 constituents)	FS1, FS2, FS6	-	
Pyrene	DOM	DOM	
Phenanthrene	DOM	DOM	
Chrysene	DOM	DOM	
Benzo(a)pyrene	DOM	DOM	
Benzo(a)anthracene	DOM	DOM	
TOTAL NUMBER OF SAMPLES	685	194	9

As illustrated in Attachment A/ Table 2, the City’s monitoring program for the second half of 2016 was extremely deficient. During the dry weather, the City should have sampled for a total of 194 constituents (between three locations). However, the City sampled for zero constituents during the dry weather. During the wet weather, the City should have sampled for a total of 685 constituents (between six locations) and completed a benthic macroinvertebrate bioassessment. Instead, the City analyzed for nine constituents during the wet weather. **Between September and December 2016, the City completed less than 1% of the required baseline monitoring.** The failure to monitor as required, and the corresponding failure to submit a complete June 2017 semi-annual monitoring report, is a violation of the LA County MS4 Permit and is subject to administrative civil liability under Water Code section 13385, subdivision (a)(3).

Violation 1 is analyzed under the 2010 Enforcement Policy. Step 1 (Potential for Harm for Discharge Violations) and Step 2 (Assessment for Discharge Violations) are not applicable, as Violation 1 is an alleged non-discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations: 0.55

The “per day” factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of deviation from the applicable requirements.

a. Potential for Harm: Moderate

The 2010 Enforcement Policy states that a violation is to be characterized as having either a Minor, Moderate, or Major potential for harm to beneficial uses. The failure to adequately monitor wet weather and dry weather discharges from the City pursuant to the LA County MS4 Permit poses a **Moderate** harm to beneficial uses. The 2010

Enforcement Policy defines a Moderate factor as "... The characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. Most incidents would be considered to present a moderate potential for harm."

As stated on page F-122 of the Fact Sheet of the LA County MS4 Permit the "purposes of receiving water monitoring are to measure the effects of storm water and non-storm water discharges from the MS4 to the receiving water, to identify water quality exceedances, to evaluate compliance with TMDL WLAs and receiving water limitations, and to evaluate whether water quality is improving, staying the same, or declining." With respect to outfall monitoring, page F-123 of the permit states that the "purpose of outfall monitoring is to characterize the storm water discharges ... within each sub watershed. Outfall monitoring is also conducted to assess compliance with WQBELs... Storm water outfall monitoring is linked to receiving water monitoring."

The fact that the City sampled less than 1% of the required constituents has led to a total failure to comply with the specified monitoring program and has prevented an assessment of the impacts of wet weather and dry weather discharges on the two receiving waters, Compton Creek and Dominguez Channel. Neither the Regional Boards nor the City can assess the City's compliance (or lack thereof) with water quality objectives due to the lack of data. Without full knowledge of the constituents in the discharge, the City cannot begin to take steps to reduce any constituents of concern in its discharges. The lack of dry weather monitoring has further hampered an understanding of whether there are any non-storm water, unpermitted discharges that have the potential to impact the receiving waters, and if so, how to mitigate them. Therefore, the failure to follow the monitoring program and submit a complete semi-annual monitoring report is appropriately characterized as having a Moderate potential for harm to beneficial uses.

b. Deviation from Requirement: Major

The Prosecution Team characterizes Violation 1 as a **Major** deviation from requirement. The 2010 Enforcement Policy defines a Major deviation as "the requirement was rendered ineffective..." As shown in Attachment A/Table 2, the City collected less than 1% of the samples required during this monitoring period. The City's extremely minimal monitoring was no different than if it had not monitored at all. The wholesale failure to comply with the monitoring program has resulted in little to no knowledge of the impacts of the City's discharges to Compton Creek and the Dominguez Channel.

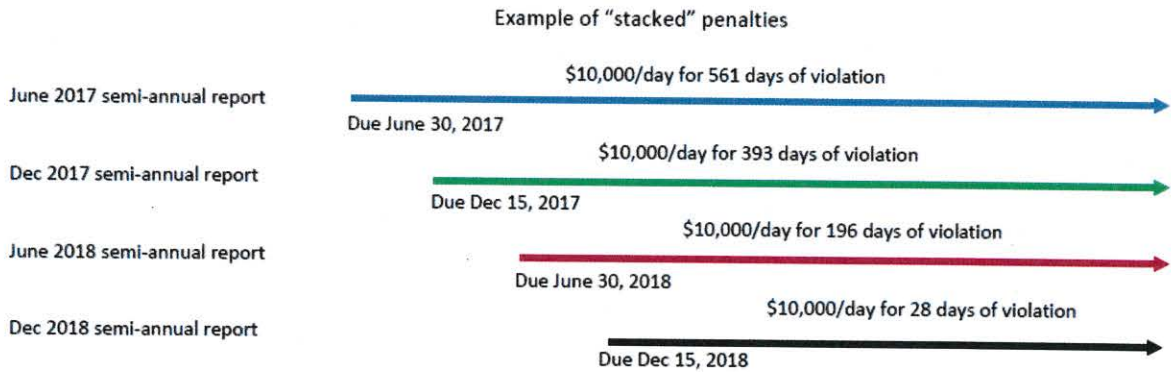
Using Table 3 in the 2010 Enforcement Policy, the Per Day Factor of 0.55 is assigned. The Per Day Factor is multiplied by the days of violation and the statutory maximum per day penalty.

Days of Violation: The June 2017 semi-annual monitoring report was due between June 15 and June 30, 2017⁶. As of January 11, 2019⁷, a complete June 2017 semi-annual

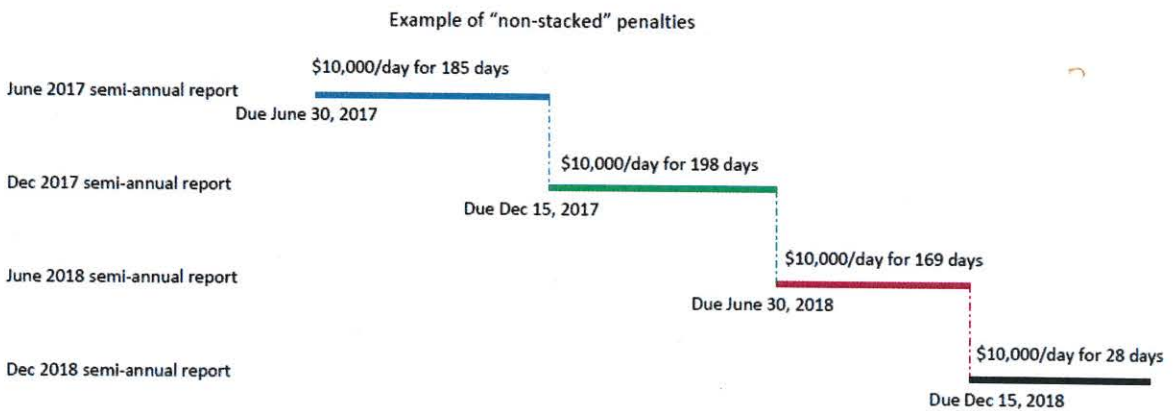
⁶ Declaration of Ivar Ridgeway, January 10, 2019 as Attachment 2.

⁷ January 11, 2019 was the originally anticipated issuance date of this Administrative Civil Liability Complaint.

monitoring report containing all of the required sampling and analysis remains outstanding. The missing and/or deficient components of the report have not been submitted to the Regional Board resulting in a cumulative total of 561 days of violation. Because the City failed to conduct sampling and analysis of many of the constituents during the required monitoring period of September through December 2016, resulting in the submission of a materially deficient and incomplete report, this type of alleged violation (along with Violations 2-4) could continue in perpetuity because the sampling, analysis, and ultimate reporting cannot be recreated for the corresponding monitoring period. This would result in administrative civil liabilities that begin to “stack” and accrue as depicted below.



For purposes of determining this proposed administrative civil liability in this case, the Prosecution Team recommends modifying the number of days of violation as shown below so that the number of days of violation equates to the number of days between the dues date of the June 2017 semi-annual report and the due date of the next semi-annual report; December 31, 2017. Using this approach, the number of days of violation between the June 30, 2017 due date and the December 15, 2017 due date for the next report is 185 days.



The 2010 Enforcement Policy states that for certain violations that are assessed a civil liability on a per-day basis, the number of days may be collapsed if one of three express findings are made. For this case, the Prosecution Team finds that the City’s failure to adequately monitor has not resulted in a discrete economic benefit that can be

measured on a daily basis. The Prosecution Team has elected to collapse the days of violation as described in the Policy: the first day of violation is counted, plus an assessment for each 5-day period of violation until the 30th day, plus an assessment for each 30 days of violation thereafter⁸. By using the methodology described, the Prosecution Team has collapsed the days of violation from 185 days to 12 days.

Statutory Maximum Penalty: The LA County MS4 Permit was issued pursuant to the Regional Board's authority under Water Code section 13376. The associated Monitoring and Reporting Program is authorized pursuant to Water Code section 13383. Water Code section 13385 subdivision (c)(1), sets forth an administrative liability of \$10,000 per day of violation for the failure to comply with a permit issued pursuant to section 13383.

Initial Liability Amount = (Statutory Maximum Liability) x (Per Day Factor) x (Days of Violation) = \$10,000/day x 0.55 x 12 days = \$66,000

Step 4. Adjustment Factors

Additional factors are considered and can modify the amount of the initial liability. These factors are culpability, cleanup and cooperation, and history of violations.

a. Culpability: 1.2

The 2010 Enforcement Policy's culpability multiplier ranges between 0.5 and 1.5 with a lower multiplier for accidental incidents and a higher multiplier for intentional or negligent behavior.

The LA County MS4 Permit provides Permittees with the option to propose their own monitoring and reporting program (an "IMP") instead of completing the baseline monitoring and reporting contained in the Permit. The City proposed an IMP and submitted several drafts to the Regional Board. However, the IMP was not approved, and the City was required to complete the baseline monitoring in Attachment E of the LA County MS4 Permit. The fact that the City submitted an IMP shows that it was familiar with the Permit and the required monitoring. It is also clear that the City received the Regional Board's August 5, 2016 baseline monitoring directive, as the City subsequently sent a letter and multiple emails disputing the findings of that letter. The August 5, 2016 monitoring directive requires that the City to comply with the baseline monitoring requirements contained in the Permit. Regional Board staff took the extra step of explicitly describing how that monitoring applies to the City. Enclosure 2 to the Regional Board's August 5, 2016 letter contains Table 1, a listing of the six locations which the City must monitor, and Table 2, a listing of the specific constituents and frequency of their monitoring. While the Permit's monitoring program is complicated because it applies to all 84 Permittees and multiple TMDLs, Regional Board staff made the effort to tailor the general program to that required of the City. The City should have understood its monitoring requirements, and if not, asked for clarification from Regional Board staff. The City is fully culpable for its failure to adequately monitor, and therefore a Culpability factor of

⁸ For example, a violation lasting 99 days would accrue a total of 9 days of violation, based on a per-day assessment for days 1, 5, 10, 15, 20, 25, 30, 60, and 90.

1.2 is appropriate.

b. History of Violations: 1.1

According to the 2010 Enforcement Policy, where there is a history of repeat violations, a minimum multiplier of 1.1 should be used.

On August 3-4, 2016, the U.S. EPA completed an audit of the City of Compton's compliance with two elements of the LA County MS4 permit. As described in the U.S. EPA's October 13, 2016 report, the inspectors found significant concerns regarding the City's oversight of the MS4 program, and a lack of effectiveness of both the City's Industrial/Commercial Facilities program and the Illicit Connection/Illicit Discharge Elimination program. Although the U.S. EPA identified numerous "areas of concern", it does not appear that the City has thus far made any progress in addressing these areas. However, because the Regional Board has not yet taken formal enforcement action for failure to adequately implement the MS4 permit, the U.S. EPA audit does not influence the History of Violations factor.

On September 29, 2016 a Consent Judgment was filed in the Superior Court of California, County of Los Angeles. The Plaintiff was the State of California, Los Angeles Regional Water Quality Control Board and the Defendant was the City of Compton. The Consent Judgment addressed the City's systemic failure to implement the provisions of State Water Resources Control Board Order 2006-0003-DWQ, the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems* (SSS Order). One of the many items discussed in the Consent Judgment is the City's failure to implement the monitoring and reporting program of the SSS Order.

Because the City has a history of violations, and because the prior violations relate to the failure to implement a monitoring and reporting program, the Prosecution Team has assessed a History of Violations factor of 1.1.

c. Cleanup and Cooperation- 1.1

This factor reflects the extent to which the City has voluntarily cooperated in returning to compliance and correcting environmental damage. The multiplier for this factor ranges from 0.75 to 1.5, with a lower multiplier being applied when there is a high degree of cleanup and cooperation, and a higher multiplier when this is absent. As previously discussed, the Regional Board's August 5, 2016 monitoring directive contains explicit information as to how the baseline monitoring is to be implemented for this City. If the City did not understand the monitoring requirements, it should have asked staff for clarification. It did not. Instead, the City continued to contend that it should be allowed to implement its deficient IMP. The November 14, 2018 Notice of Violation contains an offer to meet with the City to discuss the monitoring requirements, but the City has not responded. There is no indication that the City will begin to comply with the baseline monitoring requirements absent this enforcement order. Therefore, a Cleanup and Cooperation factor of 1.1 is appropriate.

Step 5. Total Base Liability for Violation 1

The Initial Liability is multiplied by each of the three adjustment factors described in Step 4.
Total Base Liability = Initial Liability x Culpability x Cleanup and Cooperation x History of
Violations= \$66,000 x 1.2 x 1.1 x 1.1 = **\$95,832**

Steps 6 through 10.

These last steps apply to the combined Total Base Liability amounts for all violations and are discussed later in this document.

Violation 2: Failure to complete required sampling and analysis resulting in the submission of a materially deficient and incomplete December 2017 semi-annual monitoring report

The results for samples collected between January 1 and June 30, 2017 were to be submitted in the December 2017 semi-annual report. The City did not submit a semi-annual report by December 15, 2017; therefore, on December 26, 2017, Regional Board staff emailed the City asking it to submit its monitoring data. The City's consultant replied that day, stating that "the monitoring data that should qualify as a semi-annual report is in the annual report submitted to you a few days ago." However, the 2016-2017 Annual Report does not contain any analytical data.

As stated in the Violation 1 discussion, the City conducted two sampling events between January 1 and June 30, 2017. These results were erroneously reported in the June 2017 semi-annual monitoring report. Even though the City did not submit a December 2017 semi-annual monitoring report, the Prosecution Team has elected to consider the two sampling events that took place between January and June 2017 as part of the December 2017 semi-annual monitoring report.

As described in the Regional Board's August 5, 2016 monitoring directive (Attachment 1), for each water year (July through June) the City is to complete four sampling events during the wet weather and two sampling events during the dry weather. Not all constituents are to be analyzed during each monitoring event, and not all locations are to be monitored, but there still must be four wet weather samples and two dry weather samples from multiple locations.

During the first half of the water year (July-December 2016; discussed in Violation 1), the City conducted one wet weather sampling event. Therefore, the City should have sampled during three more wet weather events during the second half of the water year (January-June 2017). There were 10 significant rainfall events during this time⁹, so the City had adequate opportunity to sample. With respect to dry weather sampling, Violation 1 assumes that the City would have completed one of its dry weather sampling events during the first half of the year. This Violation 2 discussion assumes that the City would have completed its second dry weather sampling event during the second half of the year.

⁹ LA County Department of Public Works, storm summary reports

Attachment A/Table 3, below, describes the required monitoring program for the period of January through June 2017. During that time, the City should have completed three wet weather and one dry weather sample events. It is noted that not all locations needed to be sampled each time and not all constituents needed to be analyzed during each sampling event. The right-hand column of the table shows the samples that were actually collected by the City during this period.

**Attachment A/Table 3: Failure to Comply with Monitoring Program
and Submit a December 2017 Monitoring Report**

Constituent	Between January and June 2017, City should have sampled during <u>wet events</u> at these locations. The number of required monitoring events is shown (one, two, three)	Between January and June 2017, City should have sampled during <u>one dry event</u> at these locations	Between January and June 2017, these samples were collected by City.
(Table E-2 ¹⁰)	(R1, FS1, FS2, FS6)	(R1)	
Aquatic Toxicity	R1-one event	-	
Total Suspended Solids	R1, FS1, FS2, FS6- two events S10- three events DOM-one event	-	
Suspended sediment concentration	R1, FS1, FS2, FS-6- two events S10- three events DOM- one events	R1 – one event	
Flow	R1, FS1, FS2, FS-6: two events S10 - three events DOM – one event	R1, S10 - one event	
Hardness	R1, FS1, FS2, FS-6: two events S10 - three events DOM – one event	R1- one event	
pH	R1, FS1, FS2, FS-6: two events S10 - three events DOM – one event	R1, S10 - one event	
Dissolved Oxygen	R1, FS1, FS2, FS-6 – two events S10 - three events DOM – one event	R1, S10 – one event	
Temperature	R1, FS1, FS2, FS-6 – two events S10 - three events DOM – one event	R1, S10 - one event	
Electrical Conductivity	R1, FS1, FS2, FS-6 – two events S10 - three events DOM – one event	R1, S10 - one event	
E. Coli	R1, FS1, FS2, FS-6 – two events	R1 – one event	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Cadmium	R1, FS1, FS2 – two events	-	R1, FS1-wet event, 1/9/17

¹⁰ To simplify this liability discussion, it is assumed that none of the Table E-2 constituents were detected, other than the constituents that the City is already required to analyze per the August 2016 monitoring directive. In order to fully comply with the LA County MS4 Permit, the City must still complete the Table E-2 sampling since it has not yet been done, and additional constituents may need to be added to the monitoring program.

Constituent	Between January and June 2017, City should have sampled during <u>wet events</u> at these locations. The number of required monitoring events is shown (one, two, three)	Between January and June 2017, City should have sampled during <u>one dry event</u> at these locations	Between January and June 2017, these samples were collected by City.
	S10- three events		R1, FS1-wet event, 2/17/17
Aluminum	S10- three events	-	
Mercury	S10- three events	-	
Selenium	S10 – three events	-	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Copper	R1, FS1, FS2, FS-6 – two events S10 -three events DOM – one event	R1 -one event	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Lead	R1, FS1, FS2, FS-6 – two events S10 –three events DOM – one event	R1 -one event	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Nickel	S10- three events	-	
Zinc	R1, FS1, FS2, FS-6 – two events S10 –three events DOM – one event	-	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Antimony	S10 – three events	-	
Benthic Macroinvertebrates	-	-	
Nitrate-N	R1, FS1, FS2 – two events	R1 –one event	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Nitrite-N	R1, FS1, FS2- two events	R1- one event	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Ammonia	R1, FS1, FS2, FS6 – two events	R1- one event	R1, FS1-wet event, 1/9/17 R1, FS1-wet event, 2/17/17
Chlordane	S10 –one event	-	
DDT	S10, DOM –one event FS6- two events	-	
PCBs	S10, DOM –one event FS-6- two events	-	
PAHs	S10, DOM – one event	-	
Municipal Action Level (8 constituents)	FS1, FS2, FS6 – two events	-	
Pyrene	DOM –one event	-	
Phenanthrene	DOM – one event	-	
Chrysene	DOM – one event	-	
Benzo(a)pyrene	DOM – one event	-	
Benzo(a)anthracene	DOM – one event	-	
Sediment ¹¹ (15 constituents)	S10, F6, DOM- one event	-	
Fish tissue ¹² (5 constituents)	DOM- one event	-	
TOTAL NUMBER OF SAMPLES	269	18	36

¹¹ Sediment and fish tissue are to be sampled once every two years.

As shown above, the City's monitoring program for the first half of 2017 was extremely deficient. During the dry weather, the City should have sampled for a total of 18 constituents (between two locations). However, the City sampled for zero constituents during the dry weather. During the wet weather, the City should have sampled for a total of 269 constituents (between six locations) and completed sediment and fish tissue testing. Instead, the City analyzed a total of 36 constituents during the wet weather. **Between January and June 2017, the City completed 13% of the required baseline monitoring.** The failure to monitor as required, and the corresponding failure to submit a complete December 2017 semi-annual monitoring report, is a violation of the LA County MS4 Permit and is subject to administrative civil liability under Water Code section 13385, subdivision (a)(3).

Violation 2 is analyzed under the 2017 Enforcement Policy. Step 1 (Potential for Harm for Discharge Violations) and Step 2 (Assessment for Discharge Violations) are not applicable, as Violation 2 is an alleged non-discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations: 0.55

The "per day" factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of deviation from the applicable requirements.

a. **Potential for Harm: *Moderate***

The discussion of the Potential for Harm for Violation 1 applies to this violation also.

b. **Deviation from Requirement: *Major***

The Prosecution Team characterizes Violation 2 as a **Major** deviation from requirement. As shown in Attachment A/Table 3, the City completed only 13% of the required baseline monitoring during this semi-annual period. No aquatic toxicity, sediment testing, fish tissue testing, or benthic macroinvertebrate bioassays were completed. The failure to comply with the monitoring program has resulted in little to no knowledge of the impacts of the City's wet weather and dry weather discharges to Compton Creek and Dominguez Channel.

Using Table 3 in the 2017 Enforcement Policy, the Per Day Factor of 0.55 is assigned. The Per Day Factor is then multiplied by the days of violation and the statutory maximum per day penalty.

Days of Violation: The December 2017 semi-annual monitoring report was due December 15, 2017. As of January 11, 2019, a complete semi-annual monitoring report has not been submitted. Therefore, there are 393 days of violation. However, for purposes of determining this proposed administrative civil liability, the Prosecution Team is recommending that the Regional Board consider the number of days of violation to be the corresponding number of days between the due date of the December 2017 semi-annual report due date and the due date of the June 2018 semi-annual report (i.e., December 15, 2017 to June 30, 2018), or 198 days of violation, as further discussed and depicted in Violation 1, above.

The 2017 Enforcement Policy states that for certain violations that are assessed a civil liability on a per-day basis, the number of days may be collapsed if one of three express findings is made. For this case, the Prosecution Team finds that the City's failure to

adequately monitor has not resulted in a discrete economic benefit that can be measured on a daily basis. The Prosecution Team has elected to collapse the days of violation as described in the 2017 Policy: the first 30 days of violation are counted, plus an assessment for each 5-day period of violation until the 60th day, plus an assessment for each 30 days of violation thereafter¹². By using the methodology described, the Prosecution Team has collapsed the days of violation from 198 days to 40 days.

Statutory Maximum Penalty: The statutory maximum per day liability, as found in Water Code section 13385, subdivision (c)(1), is \$10,000 per day of violation.

Initial Liability Amount = (Statutory Maximum Liability) x (Per Day Factor) x (Days of Violation) = \$10,000/day x 0.55 x 40 days = \$220,000

Step 4. Adjustment Factors

Three additional factors (culpability, history of violations, and cleanup and cooperation) are considered and can modify the amount of the initial liability.

a. Culpability: 1.2

Under the 2017 Enforcement Policy, the discharger's Culpability ranges between 0.75 and 1.5 with a higher multiplier for intentional misconduct and gross negligence and a lower multiplier for more simple negligence. The test for whether a discharger is negligent is what a reasonable and prudent person would have done or not done under similar circumstances. The discussion of this factor for Violation 1 applies to this violation. It is appropriate to assign a Culpability factor of 1.2.

b. History of Violations: 1.1

Where a discharger has no prior History of Violations, this factor should be neutral. However, where the discharger has prior violations within the last five years, a multiplier of 1.1 should be used. The discussion of this factor for Violation 1 applies to this violation. It is appropriate to assign a History of Violation factor of 1.1.

c. Cleanup and Cooperation: 1.1

Under the 2017 Enforcement Policy, the discharger's Cleanup and Cooperation ranges between 0.75 and 1.5 using the lower multiplier where there is exceptional cleanup and cooperation compared to what can be reasonably expected and a higher multiplier where there is not. A reasonable and prudent response to a violation or a timely response to a Regional Board order should receive a neutral adjustment as it is assumed a reasonable amount of cooperation is the warranted baseline. Adjustments above 1.0 reflects situations where the discharger's response falls below the normally-expected response. The discussion of this factor for Violation 1 applies to this violation. It is appropriate to assign a Cleanup and Cooperation factor of 1.1.

¹² For example, a violation lasting 90 days would accrue a total of 37 days of violation, based on a per-day assessment for days 1-30, 35, 40, 45, 50, 55, 60, and 90.

Step 5. Total Base Liability for Violation 2

The Initial Liability is multiplied by each of the three adjustment factors described in Step 4.
Total Base Liability = Initial Liability x Culpability x Cleanup and Cooperation x History of
Violations = \$220,000 x 1.2 x 1.1 x 1.1 = **\$319,440**

Steps 6 through 10.

These last steps apply to the combined Total Base Liability amounts for all violations and are discussed later in this document.

**Violation 3:
Failure to complete required sampling and analysis resulting
in the submission of a materially deficient and incomplete
June 2018 semi-annual monitoring report**

The results of samples collected between July 1 and December 31, 2017 were to be submitted in the June 2018 semi-annual report. The City submitted a monitoring report on June 15, 2018 but it did not contain any sampling results from the relevant monitoring period. Instead, the City submitted sampling results for samples collected between January and March 2018. These results should have been submitted as part of the December 2018 semi-annual report (discussed in Violation 4, below), not the June 2018 semi-annual monitoring report, and are therefore not considered in this discussion of Violation 3.

The water year (July through June) began again during this period. During the water year, the City is to complete four sampling events during the wet weather and two sampling events during the dry weather. The City is subject to the Dominguez Channel TMDL (Attachment N of the LA County MS4 Permit), which defines dry weather as the period from April 1 to October 31. Therefore, it is reasonable to expect the City to collect a dry weather sample sometime between July 1 (when the annual requirement was "reset") and October 31 (the end of the defined dry season). There were no significant storm events during this period¹³ so no wet weather samples could be collected. The left-hand column in Attachment A/Table 4, below, depicts the analyses, locations, and number of samples for the dry weather monitoring events that should have been conducted.

¹³ LA County Department of Public Works, storm summary reports.

**Attachment A/Table 4
Failure to Comply with Monitoring Program and
Submit a Complete June 2018 Monitoring Report**

Constituent	Between July and Dec 2017, City should have sampled during <u>one dry event</u> at these locations	Between July and Dec 2017, the City did not collect any dry event samples
(Table E-2 ¹⁴)	(R1)	
Aquatic Toxicity	R1	
Total Suspended Solids	R1, S10, DOM	
Suspended sediment concentration	R1, S10, DOM	
Flow	R1, S10, DOM	
Hardness	R1, S10, DOM	
Ph	R1, S10, DOM	
Dissolved Oxygen	R1, S10, DOM	
Temperature	R1, S10, DOM	
Electrical Conductivity	R1, S10, DOM	
E. Coli	R1	
Cadmium	S10	
Aluminum	S10	
Mercury	S10	
Selenium	S10	
Copper	R1, S10, DOM	
Lead	R1, S10, DOM	
Nickel	S10	
Zinc	S10, DOM	
Antimony	S10	
Nitrate-N	R1	
Nitrite-N	R1	
Ammonia	R1	
Chlordane	S10	
DDT	S10, DOM	
PCBs	S10, DOM	
PAHs	S10, DOM	
Pyrene	DOM	
Phenanthrene	DOM	
Chrysene	DOM	
Benzo(a)pyrene	DOM	
Benzo(a)anthracene	DOM	
TOTAL NUMBER OF SAMPLES	55	0

During the dry weather period, the City should have sampled for 55 constituents. However, the City did not complete any dry weather monitoring. Between July and December 2017, the City completed 0% of the required baseline monitoring. The failure to monitor as required, and the

¹⁴ To simplify this liability discussion, it is assumed that none of the Table E-2 constituents were detected, other than the constituents that the City is already required to analyze per the August 2016 monitoring directive. In order to fully comply with the LA County MS4 Permit, the City must still complete the Table E-2 sampling since it has not yet been done, and additional constituents may need to be added to the monitoring program.

corresponding failure to submit a complete June 2018 semi-annual monitoring report, is a violation of the LA County MS4 Permit and is subject to administrative civil liability under Water Code section 13385, subdivision (a)(3).

Violation 3 is analyzed under the 2017 Enforcement Policy. Step 1 (Potential for Harm for Discharge Violations) and Step 2 (Assessment for Discharge Violations) are not applicable, as Violation 3 is an alleged non-discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations: 0.55

The “per day” factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of deviation from the applicable requirements.

a. Potential for Harm: *Moderate*

The discussion of the Potential for Harm for Violation 1 applies to this violation also.

b. Deviation from Requirement: *Major*

The Prosecution Team characterizes Violation 3 as a **Major** deviation from requirement. As shown in Attachment A/Table 4, the City should have completed at least one, if not two, dry weather sampling events during this half of the water year. However, the City did not sample at all. The wholesale failure to comply with the monitoring program has resulted in little to no knowledge of the impacts of the City’s discharges to Compton Creek and the Dominguez Channel.

Using Table 3 in the 2017 Enforcement Policy, the Per Day Factor of 0.55 is assigned. The Per Day Factor is multiplied by the days of violation and the statutory maximum per day penalty.

Days of Violation: The June 2017 semi-annual monitoring report was due between June 15 and June 30, 2018¹⁵. As of January 11, 2019, a complete semi-annual monitoring report has not been submitted. Therefore, there are 196 days of violation. However, for purposes of determining this proposed administrative civil liability, the Prosecution Team is recommending that the Regional Board consider the number of days of violation to be the corresponding number of days between the due date of the June 2018 semi-annual report due date and the due date of the December 2018 semi-annual report, December 15, 2018, or 169 days of violation as further discussed in Violation 1, above. The Prosecution Team has elected to collapse the days of violation as described in the Policy and Violation 2 and has collapsed the days from 169 days to 39 days.

Statutory Maximum Penalty: The statutory maximum per day liability, as found in Water Code section 13385, subdivision (c)(1), is \$10,000 per day of violation.

Initial Liability Amount = (Statutory Maximum Liability) x (Per Day Factor) x (Days of Violation) = \$10,000/day x 0.55 x 39 days = \$214,500

Step 4. Adjustment Factors

Additional factors (culpability, history of violations, and cleanup and cooperation) are considered and can modify the amount of the initial liability. The discussion of these three factors for

¹⁵ Declaration of Ivar Ridgeway, January 10, 2019 as Attachment 2.

Violation 1 apply to this violation also. It is appropriate to assign a Culpability of 1.2, a History of Violations of 1.1, and a Cleanup and Cooperation of 1.1.

Step 5. Total Base Liability for Violation 3

The Initial Liability is multiplied by each of the three adjustment factors described in Step 4.
Total Base Liability = Initial Liability x culpability x cleanup and cooperation x history of violations
= 214,500 x 1.2 x 1.1 x 1.1 = **\$311,454**

Steps 6 through 10.

These last steps apply to the combined Total Base Liability amounts for all violations, and are discussed later in this document, after the Total Base Liability has been determined.

**Violation 4:
Failure to complete required sampling and analysis resulting
in the submission of a materially deficient and incomplete
December 2018 semi-annual monitoring report**

The results of samples collected between January 1 and June 30, 2018 were to be submitted in the December 2018 semi-annual report. This was a requirement of both the LA County MS4 Permit and the September 6, 2018 *California Water Code Section 13267 Investigative Order for Technical Reports* (discussed in Violation 5). The City did not submit a December 2018 semi-annual report. However, the results of samples collected between January 1 and June 30, 2018 were reported in the June 2018 semi-annual report and are discussed under this Violation. For this violation, the Prosecution Team is only recommending administrative civil liabilities associated with the City's failure to comply with the LA County MS4 Permit and not those associated with its failure to comply with the Investigative Order."

The City conducted one sampling event in January 2018 and two sampling events in March 2018. These results were erroneously reported in the June 2018 semi-annual monitoring report. However, as stated in the Violation 3 discussion, these three samples will be considered as part of the compliance review for the December 2018 semi-annual report because they were collected during the time relevant to this reporting period.

During each water year the City is to complete four sampling events during the wet weather and two sampling events during the dry weather. Not all constituents are to be analyzed during each sampling event, but there still must be four wet weather samples and two dry weather samples from multiple locations. For the first half of the water year (July-December 2017), there were no significant storm events so the City could not collect any wet weather samples. Therefore, assuming there were enough significant storm events, the City could have completed four wet weather monitoring events in the second half of the water year (January-June 2018). A review of the rainfall data¹⁶ finds that there were four significant rain events, and therefore the City had the opportunity to collect the samples needed to comply with the Permit. However, the City collected samples for only two wet weather events.

¹⁶ LA County Department of Public Works, storm summary reports. Storms occurred from January 8-9, March 1-3, March 10-11, and March 20-23, 2018.

Violation 3 assumes that the City would have completed one dry weather sampling event during the first half of the water year. Therefore, the City should have completed its second dry weather sampling event during the second half of the water year. The City reported that it collected “ambient” (i.e., dry weather) samples on March 5, 2018. However, the Prosecution Team contends that this date does not qualify as dry weather. Section VI.D.b of Attachment E of the MS4 permit defines “dry weather” several ways, including (a) not less than three days after a rain event of 0.1 inch or greater within the watershed, and (b) as defined by the TMDL for the watershed. March 5, 2018 does not qualify as dry weather under either of these definitions because (a) the previous storm ended on March 3 at 11:00 pm and therefore March 5, 2018 was less than three days after a rain event, and (b) the Dominguez Channel TMDL defines dry weather as the period of April 1 to October 31. The Prosecution Team also finds that the March 5, 2018 monitoring event does not qualify as wet weather monitoring pursuant to the definitions found in Section VI.C of Attachment E of the LA County MS4 Permit. Therefore, the results from the March 5, 2018 monitoring event have no applicability and will not be discussed further.

Attachment A/Table 5, below, describes the expected monitoring program for the period of January through June 2018. The right hand column of the table shows the samples that were collected by the City during this period.

Attachment A/Table 5: Failure to Comply with Monitoring Program and Submit a Complete December 2018 Monitoring Report

Constituent	Between January and June 2018, City should have sampled during <u>wet events</u> at these locations. Number of required events is noted	Between January and June 2018, City should have sampled during <u>one dry event</u> at these locations	Between January and June 2018, these samples were collected by City at these locations
(Table E-2 ¹⁷)	(R1, FS1, FS2, FS6)		
Aquatic Toxicity	R1-two events	-	
Total Suspended Solids	R1, FS1, FS2, FS6- three events S10- four events DOM-two events	R1-one event	
Suspended sediment concentration	R1, FS1, FS2, FS-6: three events S10- four events DOM- two events	R1, S10 – one event	
Flow	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1, S10 – one event	
Hardness	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1- one event	

¹⁷ To simplify this liability discussion, it is assumed that none of the Table E-2 constituents were detected, other than the constituents that the City is already required to analyze per the August 2016 monitoring directive. In order to fully comply with the LA County MS4 Permit, the City must still complete the Table E-2 sampling since it has not yet been done, and additional constituents may need to be added to the monitoring program.

Constituent	Between January and June 2018, City should have sampled during <u>wet events</u> at these locations. Number of required events is noted	Between January and June 2018, City should have sampled during <u>one dry event</u> at these locations	Between January and June 2018, these samples were collected by City at these locations
Ph	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1, S10 – one event	
Dissolved Oxygen	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1, S10 – one event	
Temperature	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1, S10 – one event	
Electrical Conductivity	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1, S10 – one event	
E. Coli	R1, FS1, FS2, FS-6 – three events	R1 – one event	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Cadmium	R1, FS1, FS2 – three events S10- four events	-	R1, FS1-wet event, 1/9/18 ¹⁸ R1, FS1-wet event, 3/2/18
Aluminum	S10- four events	-	
Mercury	S10- four events	-	
Selenium	S10 – four events	-	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Copper	R1, FS1, FS2, FS-6: three events S10 –four events DOM – two events	R1 –one event	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Lead	R1, FS1, FS2, FS-6: three events S10 – four events DOM – two events	R1 –one event	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Nickel	S10- four events	-	
Zinc	R1, FS1, FS2, FS-6: three events S10 –four events DOM – two events	-	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Antimony	S10 – four events	-	
Benthic Macroinvertebrate Bioassay	R1 – one event	-	
Nitrate-N	R1, FS1, FS2 – three events	R1 –one event	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Nitrite-N	R1, FS1, FS2- three events	R1- one event	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18

¹⁸ Reported as not detected, but a review of the laboratory reports show that it was not analyzed at R1 in either January or March.

Constituent	Between January and June 2018, City should have sampled during <u>wet events</u> at these locations. Number of required events is noted	Between January and June 2018, City should have sampled during <u>one dry event</u> at these locations	Between January and June 2018, these samples were collected by City at these locations
Ammonia	R1, FS1, FS2, FS6 – three events	R1- one event	R1, FS1-wet event, 1/9/18 R1, FS1-wet event, 3/2/18
Chlordane	S10 –two events	-	
DDT	S10, DOM –two events FS-6- three events	-	
PCBs	S10, DOM –two events FS-6- three events	-	
PAHs	S10, DOM – two events	-	
Municipal Action Level (8 parameters)	FS1, FS2, FS6 – three events	-	
Pyrene	DOM –two events	-	
Phenanthrene	DOM – two events	-	
Chrysene	DOM – two events	-	
Benzo(a)pyrene	DOM – two events	-	
Benzo(a)anthracene	DOM – two events	-	
TOTAL NUMBER OF SAMPLES	377	18	32 required analytes

As shown above, the City’s monitoring program for the first half of 2018 was extremely deficient. During the dry weather, the City should have sampled for a total of 18 constituents (between two locations). The City sampled for zero constituents during the dry weather. During the wet weather, the City should have sampled for a total of 377 constituents (between six locations) and completed a benthic macroinvertebrate bioassay. Instead, the City analyzed 36 samples during the wet weather, and four of these samples were not necessary (the City was not required to analyze for selenium at R1 and FS1, yet it did so). **Between January and June 2018, the City completed 8% of the required baseline monitoring.** The failure to monitor as required and the corresponding failure to submit a complete June 2017 semi-annual monitoring report, is a violation of the LA County MS4 Permit and is subject to administrative civil liability under Water Code section 13385, subdivision (a)(3).

Violation 4 is analyzed under the 2017 Enforcement Policy. Step 1 (Potential for Harm for Discharge Violations) and Step 2 (Assessment for Discharge Violations) are not applicable, as Violation 4 is an alleged non-discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations: 0.55

The “per day” factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of deviation from the applicable requirements.

a. Potential for Harm: Moderate

The discussion of the Potential for Harm for Violation 1 applies to this violation also.

b. Deviation from Requirement: Major

The Prosecution Team characterizes Violation 4 as a **Major** deviation from requirement. As shown in Attachment A/Table 5, the City completed only two of the required four wet weather sampling events; however, samples were collected at less

than half the monitoring locations and analyzed for only a few of the required constituents. No aquatic toxicity monitoring was done during the water year. Neither of the two dry weather sampling events were completed during the water year. The City completed only 8% of the required baseline monitoring during this semiannual period. The wholesale failure to comply with the monitoring program has resulted in little to no knowledge of the impacts of the City's discharges to Compton Creek and the Dominguez Channel.

Using Table 3 in the 2017 Enforcement Policy, the Per Day Factor of 0.55 is assigned. The Per Day Factor is multiplied by the days of violation and the statutory maximum per day penalty.

Days of Violation: The December 2018 semi-annual monitoring report was due December 15, 2018. As of January 11, 2019, a complete semi-annual monitoring report has not been submitted. Therefore, there are 28 days of violation. The 2017 Enforcement Policy allows the days of violation to be collapsed under certain conditions, and only if there are more than 30 days of violation. For this violation, it is not possible to collapse the days.

Statutory Maximum Penalty: The statutory maximum per day liability, as found in Water Code section 13385, subdivision (c)(1), is \$10,000 per day of violation.

Initial Liability Amount = (Statutory Maximum Liability) x (Per Day Factor) x (Days of Violation) = \$10,000/day x 0.55 x 28 days = \$154,000

Step 4. Adjustment Factors

Additional factors (culpability, history of violations, and cleanup and cooperation) are considered and can modify the amount of the initial liability. The discussion of these three factors for Violation 1 apply to this violation also. It is appropriate to assign a Culpability of 1.2, a History of Violations of 1.1, and a Cleanup and Cooperation of 1.1.

Step 5. Total Base Liability for Violation 4

The Initial Liability is multiplied by each of the three adjustment factors described in Step 4.
Total Base Liability = Initial Liability x culpability x cleanup and cooperation x history of violations
= \$154,000 x 1.2 x 1.1 x 1.1 = **\$223,608**

Steps 6 through 10.

These last steps apply to the combined Total Base Liability amounts for all violations, and are discussed later in this document, after the Total Base Liability has been determined.

Violation 5: Failure to Comply with CWC 13267 Investigative Order

On September 6, 2018, the Prosecution Team issued Order R4-2018-0122, a *California Water Code Section 13267 Investigative Order for Technical Reports* (Investigative Order), to the City of Compton (Attachment 3 to this Complaint). The Investigative Order lists the deficiencies and inaccuracies found in the monitoring reports submitted after August 2016, and required that the

City submit updated, accurate reports by October 16, 2018. The City responded on October 11, 2018; however, the response was inadequate.

The Investigative Order required that the City submit six technical reports by October 16, 2018: (1) a revised and updated December 2016 semi-annual monitoring report, (2) a revised and updated June 2017 semi-annual report, (3) if additional data is available, a December 2017 semi-annual monitoring report; (4) a revised and updated June 2018 semi-annual monitoring report, (5) an addendum to the 2015-2016 and 2016-2017 Annual Report, consisting of the Rainfall Summary information required by the LA County MS4 Permit, and (6) any other data collected to satisfy the monitoring requirements listed in the Regional Board's August 5, 2016 monitoring directive. Each of Technical Reports #1-4 (the updated monitoring reports) were to contain the analytical laboratory reports, chain of custodies, updated data results table in CEDEN format, field notes, a field results data table in CEDEN format, and an expanded description of each sampling location.

With respect to Technical Report #3 (the revised and updated December 2017 semi-annual monitoring report), the City stated that it did not have any additional analytical results to report. Similarly, for Technical Report #6, the City stated that it did not have any additional monitoring results. Therefore, the Prosecution Team has determined that the City complied with the intent of the Investigative Order Technical Reports #3 and #6.

With respect to Technical Reports #1, 2, and 4 (the December 2016, June 2017, and June 2018 updated and revised semi-annual reports), the City failed to submit the required information. Laboratory analytical reports and chain of custodies were submitted for some, but not all, of the sampling events without explanation¹⁹. The City did not submit updated data results tables, field notes, field results data tables, or an expanded description of each sampling location.

A brief review of the analytical laboratory results (received in the City's October 11, 2018 response) versus the City's previously submitted semi-annual reports finds that the City failed to appropriately transcribe the data and many of the results in the semi-annual reports are erroneous. For example, the laboratory reported nitrite (as nitrite) but the City reported the value as nitrite (as nitrogen). This means that the laboratory results are off by a factor of 3.2. The same mistake was made with nitrate: the laboratory reported the result as nitrate (as nitrate) but the City's semi-annual report misreported the laboratory results as nitrate (as nitrogen), and therefore the value is off by a factor of 4.5.

At times, the City did not analyze for a constituent (i.e., cadmium) yet the semi-annual report²⁰ states that cadmium is "not detected" instead of "not analyzed". Furthermore, there were errors in the units reported by the City. For example, the laboratory reported the nitrite result in units of micrograms per liter (ug/L), yet the City reported the result in units of milligrams per liter (mg/L) and did not convert the laboratory's result, meaning that the value in the semi-annual monitoring report is 1,000 times higher than actually detected and reported by the laboratory.

For some monitoring events, the City's reported dates of sample collection do not match the collection dates on the laboratory reports. Furthermore, many of the laboratory analyses were

¹⁹ The laboratory report for the January 8, 2018 receiving water samples was not submitted. Chain of custodies were not submitted for samples collected between February 2017 and March 2018.

²⁰ See, for example, the June 2018 semi-annual monitoring report

completed beyond the required U.S. EPA holding time. For example, two sets of samples (collected on February 20, 2016 and February 27, 2018) were not submitted to the laboratory until three days after collection, meaning that the holding time expired for several constituents, rendering the results for those constituents invalid. Many of the e-coli samples²¹ were analyzed outside of the holding time; however, the City's monitoring reports do not flag any of the results which exceeded holding time.

Compliance with the Investigative Order and the submission of updated semi-annual reports would have resulted in the City reviewing the laboratory reports and cleaning up the data errors. The failure to engage in this data review and cleanup has resulted in the Regional Board continuing to question the quality and utility of the three semi-annual reports.

The City has also violated the Investigative Order because it did not submit Technical Report #5, the Rainfall Summary, which is also a required component of the annual reports submitted pursuant to the Permit. The City stated that it was "challenged" by what to report, yet the City was provided with instructions in the Regional Board's July 14, 2017 review of the City's 2015-2016 Annual Report. This rainfall information is needed to help evaluate whether a Permittee conducted appropriate wet weather and dry weather sampling events.

The failure to submit four technical reports as required by the Investigative Order is a violation of Water Code section 13267 and is subject to administrative civil liability under Water Code section 13268. The 2017 Enforcement Policy sets forth a series of steps for calculating this administrative civil liability, as described below. Step 1 (Potential for Harm for Discharge Violations) and Step 2 (Assessment for Discharge Violations) are not applicable, as Violation 5 is an alleged non-discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations: 0.35

The "per day" factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of deviation from the applicable requirements.

a. Potential for Harm: *Moderate*

The failure to comply with the Investigative Order and submit updated, correct monitoring report and the Rainfall Summaries has resulted in a Moderate potential for harm. Without accurate monitoring reports, the results that the City has submitted thus far are of questionable quality and questionable utility and has prevented an assessment of the impacts of wet weather and dry weather discharges to Compton Creek and the Dominguez Channel.

b. Deviation from Requirement: *Moderate*

A "moderate" deviation from requirement is defined as "the intended effectiveness of the requirement was partially compromised." The City partially complied with the Investigative Order by providing most of the analytical laboratory reports and chain of custodies; however, these documents show inaccuracies in the City's previously submitted monitoring reports and highlight the need for the City to comply with the Investigative Order by submitting updated, corrected reports.

²¹ Including samples collected on January 6, 2016, February 2, 2016, February 18, 2016, February 20, 2016, March 7, 2016, and March 9, 2016.

Using Table 3 in the 2017 Enforcement Policy, the Per Day Factor of 0.35 is assigned. The Per Day Factor is multiplied by the days of violation and the statutory maximum per day penalty.

Days of Violation: The Investigative Order requires that the technical reports be submitted by October 16, 2018. As of January 11, 2019, the City has not submitted four of the required technical reports, which equates to 88 days of violation for each of the four reports, or a total of 352 days. The Prosecution Team has elected to collapse the days of violation as described in the Enforcement Policy and Violation 2. By using the methodology described, the Prosecution Team has collapsed the days of violation from 88 days to 36 days per report, for a total of 144 days (i.e., 36 days/report x 4 reports).

Statutory Maximum Penalty: The Investigative Order was issued pursuant to Water Code section 13267. Water Code section 13268(b)(1) states that the Regional Board may impose a penalty of \$1,000 per day for each violation of Water Code section 13267.

Initial Liability Amount

(Statutory Maximum Liability) x (Per Day Factor) x (Days of Violation)
= \$1,000/day x 144 days x 0.35 = \$50,400

Step 4. Adjustment Factors

Additional factors are considered and can modify the amount of the initial liability.

a. Culpability: 1.5

The culpability multiplier ranges between 0.75 and 1.5 with a lower multiplier for accidental incidents and a higher multiplier for intentional or negligent behavior. The City is fully culpable for the failure to submit the four technical reports. The Investigative Order clearly described what was required and provided Regional Board contact information. If the City had any questions, it could have contacted Regional Board staff. However, the City did not, and it submitted inadequate reports. Therefore, a multiplier of 1.5 is appropriate.

b. History of Violations: 1.1

The discussion of the History of Violations for Violation 1 applies to this violation also.

c. Cleanup and Cooperation- 1.3

This factor reflects the extent to which the City has voluntarily cooperated in returning to compliance after the violation, and ranges from 0.75 to 1.5. The Investigative Order was issued on September 6, 2018, and the City responded on October 11, 2018. However, that response was inadequate, and on November 14, 2018, the Regional Board issued a Notice of Violation (NOV) describing what was missing from the City's submittal. The NOV states that the City may still submit the four outstanding reports, thereby stopping the accrual of civil liability. The NOV also states that Regional Board staff would be happy to meet with the City to answer any questions about the missing reports. However, to date the City has not submitted the four outstanding reports nor has it contacted Board staff to arrange a meeting. A factor of 1.3 is appropriate.

Step 5. Total Base Liability for Violation 5

The Initial Liability is multiplied by each of the three adjustment factors described in Step 4.
Total Base Liability = Initial Liability x Culpability x Cleanup and Cooperation x History of violations = \$50,400 x 1.5 x 1.1 x 1.3 = **\$108,108**

Steps 6 through 10.

These last steps apply to the combined Total Base Liability amounts for all violations.

Combined Total Base Liability

The Combined Total Base Liability is the sum of the total base liabilities for Violations 1-5:

Violation 1: \$95,832

Violation 2: \$319,440

Violation 3: \$311,454

Violation 4: \$223,608

Violation 5: \$108,108

Combined Total Base Liability = \$1,058,442

Steps 6 through 10 are now applied to the Combined Total Base Liability.

Step 6: Ability to Pay and Continue in Business

The 2017 Enforcement Policy states that if the Water Board has sufficient financial information to assess the violator's ability to pay the Total Base Liability amount, then the liability may be adjusted to address the ability to pay or to continue in business. The Water Code requires that the Regional Board consider ability to pay when imposing administrative civil liabilities. However, as discussed in Step 7, administrative civil liabilities should be imposed at levels that do not allow violators to obtain a competitive economic advantage over dischargers that voluntarily incur the costs of regulatory compliance whether or not the violator is able to continue in business after incurring the liability. As discussed further in Step 7, the liability shall not be less than the economic benefit derived from the violations.

To conduct the ability to pay analysis, the following documents were analyzed by the Prosecution Team's financial expert Industrial Economics, Inc. (IEc)²²: the City's audited financial reports for fiscal years 2012 and 2013, the City's unaudited annual financial report for fiscal year 2014, the City's annual budgets for fiscal years 2014-2019, the City's bond prospectus for its 2016-2017 Tax and Revenue Anticipation Notes, and the California State Controller's Office March 2018 Audit Report of the City's administrative and internal accounting controls for the period of July 1, 2013 through June 30, 2016. There is very limited data available on the City's current financial condition.

To evaluate the City's ability to pay the Combined Total Base Liability of \$1,058,442, IEc reviewed the financial condition of the City's General Fund, which is the financial segment of the City's government most likely to be responsible for payment of a proposed administrative civil liability. IEc also reviewed the financial condition of the City's Total Governmental Funds, which is the full accounting of the City's governmental funds across the year, regardless of whether they might

²² See Memorandum from Industrial Economics, Inc. to Mayumi Okamoto and Catherine Hawe, January 9, 2019 as Attachment 4.

contribute to the payment (because these funds are restricted for specific uses), because it provides a complete picture of the City's financial condition. The City's General Fund balance had a deficit of negative \$36.5 million as of fiscal year 2014 and the limited financial data reported in the March 2018 State Controller's Office Audit suggests that the General Fund deficit has grown to \$38.5 million as of fiscal year 2016. IEC's analysis of the City's General Fund indicates that it has significant liquidity issues and an inability to pay the Combined Total Base Liability amount.

Step 7: Economic Benefit

The 2017 Enforcement Policy states that the economic benefit amount shall be estimated for every violation. Economic benefit is defined as the savings or monetary gain derived from the act or omission that constitutes the violation. The Enforcement Policy states that administrative civil liabilities should be imposed at levels which do not allow violators to obtain a competitive economic advantage over dischargers that voluntarily incur the costs of regulatory compliance. An administrative civil liability shall not be imposed below the economic benefit, as specified in Water Code section 13385. The Enforcement Policy provides that the minimum liability shall be the economic benefit, plus ten percent, absent exceptional circumstances.

The violations described herein have associated avoided expenses that have significantly benefited the City and placed other permittees of the LA County MS4 Permit at a competitive disadvantage as those permittees that voluntarily incur the costs to comply with the requirements of the LA County MS4 Permit. As stated elsewhere in the Enforcement Policy, fair enforcement requires, at a minimum, adequate administrative civil liabilities to ensure that no competitive advantage is attained through non-compliance. The economic benefit is estimated by determining the cost savings for each violation and then calculating the present value of the economic benefit using the U.S. EPA's BEN computer program. Attachment 5 shows that the economic benefit for all five violations is \$100,627. Although the City is in poor financial condition and has serious and pervasive deficiencies with its accounting practices, the Prosecution Team does not recommend imposing an administrative civil liability below the economic benefit plus ten percent minimum. The Prosecution Team asserts that the calculated economic benefit plus ten percent or \$110,689, and other factors discussed below as justice may require, establishes an appropriate level of specific deterrence to the City and general deterrence to the regulated community while taking into account the City's inability to pay the Combined Total Base Liability amount.

Step 8: Other Factors as Justice May Require

If the Regional Board believes that the liability determined using the above steps is inappropriate, then the amount may be adjusted under the provision for "other factors as justice may require" as long as express findings are made.

The Water Boards have incurred \$18,154 in staff costs to prepare this action. This represents 124 hours in reviewing the required monitoring program, reviewing the City's monitoring reports, issuing the Water Code section 13267 Order, reviewing the water quality limits, calculating the economic benefit, and preparing these enforcement documents. The amount was calculated using the lead staff person's hourly rate plus benefits and overhead. No attorneys' fees were included in this calculation. The Prosecution Team recommends that the costs of investigation and enforcement be included as part of the recommended final liability amount. The Prosecution Team finds that a proposed administrative civil liability amount of the economic benefit plus ten percent alone does not serve as a sufficient deterrent for the City of Compton given the

circumstances. Increasing the final proposed liability amount in this manner serves to create a more appropriate specific and general deterrent against future violations.

Step 9: Maximum and Minimum Liability Amounts

Water Code section 13385(c)(1) sets for the maximum liability and section 13385(e) sets the minimum liability for Violations 1-4, while Water Code section 13268(b)(1) sets the maximum liability amount for Violation 5. There is no statutory minimum liability under section 13268. The 2017 Enforcement Policy sets the minimum liability as the economic benefit plus 10%.

Maximum Liability

The total maximum liability in this case is the sum of the maximum liabilities for each violation.

Violation 1: \$10,000/day x 561 days = \$5,610,000

Violation 2: \$10,000/day x 393 days = \$3,930,000

Violation 3: \$10,000/day x 196 days = \$1,960,000

Violation 4: \$10,000/day x 28 days = \$280,000

Violation 6: \$1,000/day x 352 days = \$352,000

Total maximum liability: \$12,132,000

Minimum Liability: \$110,689

The minimum liability per section 13385 is the economic benefit. The minimum liability per the 2017 Enforcement Policy is the economic benefit plus 10%. Therefore, the economic benefit plus 10% becomes the minimum liability for this enforcement action.

Step 10: Final Liability Amount

The final liability amount consists of the sum of the penalty for each violation, with any allowed adjustments, provided that the final liability is within the statutory maximum and minimum. The Prosecution Team finds that a final liability of **\$128,843** is appropriate in this case, and is within the maximum and minimum liability amounts.

Attachment 1: August 5, 2016 letter from Samuel Unger, Regional Board Executive Officer, to Johnny Ford, Compton City Manager.

Attachment 2: Declaration of Ivar Ridgeway, January 10, 2019.

Attachment 3: Order R4-2018-0122, a California Water Code Section 13267 Order for Technical Reports, issued to the City of Compton on September 6, 2018.

Attachment 4: Memorandum from Industrial Economics, Inc. to Mayumi Okamoto and Catherine Hawe, January 9, 2019.

Attachment 5: Economic Benefit calculation and Memorandum.

Attachment 1:

August 5, 2016 letter from
Samuel Unger, Regional Board Executive Officer,
to Johnny Ford, Compton City Manager



Los Angeles Regional Water Quality Control Board

August 5, 2016

Mr. Johnny Ford
City Manager
City of Compton
205 S. Willowbrook Ave.
Compton, CA 90220

DISAPPROVAL OF THE CITY OF COMPTON'S PROPOSED INTEGRATED MONITORING PROGRAM; DIRECTIVE TO COMMENCE BASELINE MONITORING PURSUANT TO THE MONITORING AND REPORTING PROGRAM AS SET FORTH IN ATTACHMENT E (LOS ANGELES COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT - NPDES PERMIT NO. CAS004001; ORDER NO. R4-2012-0175)

Dear Mr. Ford:

Attachment E of the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit (NPDES Permit No. CAS004001; Order No. R4-2012-0175) (hereafter, LA County MS4 Permit) sets forth the monitoring and reporting program requirements for Permittees. It allows permittees the option to individually develop and implement an integrated monitoring program (IMP) to address all of the monitoring requirements in the Permit and other monitoring obligations or requirements in a cost efficient and effective manner. An IMP must achieve the five Primary Objectives set forth in Part II.A of Attachment E and include the elements set forth in Part II.E of Attachment E. These programs must be approved by the Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board or Board).

The Los Angeles Water Board has reviewed the City of Compton's (City) second revised IMP submitted on September 23, 2015. The purpose of this letter is to inform the City that the Board disapproves the City's second revised IMP as it does not meet the requirements for an IMP pursuant to Attachment E of the LA County MS4 Permit. Therefore, pursuant to Part VI.B.1 of the LA County MS4 Permit, the City shall comply with the monitoring and reporting provisions in Attachment E, described below.

Determination of IMP Deficiency

On June 30, 2014, the City submitted its draft IMP for Los Angeles Water Board review. On July 3, 2014, the Board provided public notice and a 46-day period to allow for public review and comment on the City's draft IMP. A separate notice of availability regarding the draft IMPs, including the City's draft IMP, was directed to State Senators and Assembly Members within the Coastal Watershed of Los Angeles County. The Board received two comment letters that had comments applicable to the City's draft IMP. One joint letter was from the Natural Resources Defense Council (NRDC), Heal the Bay, and Los Angeles Waterkeeper, and the other letter was from the Construction Industry Coalition on Water Quality (CICWQ). Concurrent with the public

review, the Los Angeles Water Board, along with U.S. EPA Region IX, reviewed the draft IMPs. During its review, the Los Angeles Water Board considered the written comments that were applicable to the City's draft IMP. Where appropriate, the public's comments were incorporated into the Board's review letter on the draft IMP to ensure that the public's comments were addressed appropriately in the revised IMP.

On January 16, 2015, the Los Angeles Water Board sent a letter¹ to the City detailing the Board's comments on the draft IMP, identifying revisions that needed to be addressed prior to the Board's approval of the City's IMP. The City submitted its revised IMP on March 16, 2015 for Los Angeles Water Board review and approval. On August 5, 2015, the Los Angeles Water Board sent a second letter to the City detailing the Board's comments on the revised IMP, identifying remaining deficiencies that needed to be addressed prior to the Board's approval of the City's IMP and allowing the City to submit a second revised IMP addressing the noted deficiencies. The City submitted its second revised IMP on September 23, 2015 for Los Angeles Water Board review and approval.

The Los Angeles Water Board has reviewed the City's second revised IMP and has determined that the submittal still does not meet the requirements for an IMP pursuant to Attachment E of the LA County MS4 Permit. The Board therefore disapproves of the City's second revised IMP and no further opportunities to address these deficiencies will be provided. A summary of the Board's comments and key deficiencies of the City's second revised IMP are identified in **Enclosure 1**.

In addition to these noted deficiencies, the City's second revised IMP contains multiple references to a purported administrative petition challenging the LA County MS4 Permit. These references generally assert that the City is not required to comply with certain requirements in the Permit, including certain provisions in Attachment E, on the basis that it has challenged those provisions in an administrative petition and that the City expects resolution by the State Water Resources Control Board (State Water Board). In its comments on the City's IMP submittals, the Los Angeles Water Board previously directed the City to remove these references from the draft and revised IMP as they were not appropriately included. Notably, the City did not actually timely file an administrative petition with the State Water Board; thus, these references are not even applicable to the City. Additionally, the administrative petitions filed by many other permittees have already been resolved through State Water Board Order WQ 2015-0075. The State Water Board adopted its order on June 16, 2015, which was several months prior to the City's submittal of its second revised IMP. Further, the State Water Board's order did not modify any monitoring and reporting requirements. The City's second revised IMP also largely restates the baseline stormwater management program requirements of the LA County MS4 Permit and enumerates the City's concerns with the Watershed Management Program (WMP) provisions of the LA County MS4 Permit. These references are not appropriate to include in the City's submittal of a proposed IMP as it is not the appropriate avenue for identifying purported concerns with the WMP/IMP provisions. As is made clear by the LA County MS4 Permit, participation in a WMP and IMP is voluntary. As such, if the City has concerns with either the WMP or IMP provisions, it is not required to participate in either a WMP or an IMP and is subject to baseline requirements of the Permit.

¹ The City of Compton's submittals and the Los Angeles Water Board's correspondence can be found at: http://www.swrcb.ca.gov/losangeles/water_issues/programs/stormwater/municipal/watershed_management/compton/index.shtml.

As the City does not have an approved IMP, the City is therefore immediately subject to the baseline monitoring and reporting requirements of the LA County MS4 Permit, as set forth in Attachment E and described below.

Directive to Commence Baseline Monitoring and Reporting as set forth in Attachment E

The City shall monitor and report pursuant to Attachment E of the LA County MS4 Permit, as described in **Enclosure 2** (Monitoring Requirements), **Enclosure 3** (Map of Monitoring Locations), and **Enclosure 4** (Aquatic Toxicity Monitoring Requirements). Enclosures 2, 3, and 4 contain the baseline monitoring requirements² specified in Attachment E of the LA County MS4 Permit. These baseline monitoring requirements include the elements set forth in Parts II.E and further detailed in Parts V - XII: receiving water monitoring during wet and dry weather, stormwater outfall based monitoring, non-stormwater outfall based screening and monitoring, new development/re-development effectiveness tracking, and regional studies.

The monitoring locations in Table 1 of Enclosure 2 and in Figures 2 and 3 in Enclosure 3 were selected consistent with criteria in Attachment E, Parts VI – IX and XI – XII of the LA County MS4 Permit.⁶ Enclosure 2 also identifies TMDL compliance monitoring that the City is required to conduct per Attachment E, Attachment N Part E (Dominguez Channel and Greater Harbor Waters Toxic Pollutants TMDL), and Attachment O (Los Angeles River TMDLs) of the LA County MS4 Permit.

Additionally, the City shall immediately implement a non-stormwater outfall-based screening and monitoring program, as required in Attachment E, Parts IX.A, IX.B.2, and IX.C-H of the LA County MS4 Permit. The non-stormwater outfall-based screening and monitoring program must use one of the following thresholds for field measurements to determine whether the non-stormwater discharge is significant:

1. Observed flow greater than a garden hose flow (>10 gpm), OR
2. Evidence that the non-stormwater discharge reaches the receiving water during dry weather and laboratory analysis for *E. coli* concentration, where the laboratory result shows that *E. coli* exceeds the Receiving Water Limitation of 235/100 mL daily maximum⁷ in the non-stormwater discharge.

The City shall screen each of its MS4 outfalls at least 3 times in order to determine the presence of significant non-stormwater discharge. The City must complete the screening and on the basis of the screening, identify all of its MS4 outfalls that have significant non-stormwater discharges, no later than February 6, 2016. If the City detects significant non-stormwater discharges at an outfall two or more times, it shall monitor that outfall thereafter as per Attachment E, Part IX.G-H of the LA County MS4 Permit.

² Baseline monitoring requirements are those monitoring requirements set forth in Attachment E that a Permittee is subject to where the Permittee does not have an approved IMP or CIMP.

⁶ Stormwater discharges from the MS4 may be monitored at outfalls or alternative access points such as manholes at the Permittee's jurisdictional boundary. The drainage(s) to the selected outfall(s) or alternative access point(s) must be representative of the land uses within the Permittee's jurisdiction. (Attachment E Part VIII.A of the LA County MS4 Permit)

⁷ Attachment G Part II and III of the LA County MS4 Permit.

Note that Enclosure 2 does not include monitoring requirements for Los Angeles River Reach 2 or the freshwater portion of Dominguez Channel (above Vermont Avenue). Per a desktop GIS analysis of the MS4 within the City of Compton, the Los Angeles Water Board determined that only "East Compton"⁸ drains to Los Angeles River Reach 2, and there is no MS4 discharge from the City of Compton to Los Angeles River Reach 2. Likewise, "West Compton"⁹ drains to the freshwater portion of Dominguez Channel (above Vermont Avenue), and there is no MS4 discharge from the City of Compton to the freshwater portion of Dominguez Channel (above Vermont Avenue). Monitoring for "East Compton" is addressed in the Upper Los Angeles River Group's coordinated integrated monitoring program (CIMP) and monitoring for "West Compton" is addressed in the Dominguez Channel Group's CIMP.

The City shall demonstrate compliance with: Receiving Water Limitations pursuant to Part V.A.1 and all applicable interim and final water quality-based effluent limitations in Part VI.E and Attachment N (Part E) and Attachment O (Parts A-D) pursuant to Part VI.E.2.d.i.(1)-(3) and/or Part VI.E.2.e.i.(1)-(3) in the LA County MS4 Permit.

Accordingly, the City must commence monitoring as described herein (including Enclosures 2 through 4) within 30 days of the date of this letter. Please note that the City is responsible for complying with all LA County MS4 Permit reporting provisions included in:

- Attachment E, Parts XIV to XVIII;
- Attachment E, Part XIX.C, "Reporting Requirements for Dominguez Channel and Greater Harbors Waters WMA TMDLs;"
- Attachment E, Part XIX.D, "Reporting Requirements for the Los Angeles River WMA TMDLs;" and
- Attachment D, Parts IV, V, and VII.A.

Finally, the City is also responsible for complying with the requirements below pertaining to Annual Reporting.

Annual Reporting

Pursuant to Attachment E, Part XVIII of the LA County MS4 Permit, the City's Annual Report shall provide an Integrated Monitoring Report that summarizes all identified exceedances of:

- outfall-based stormwater monitoring data,
- wet weather receiving water monitoring data,
- dry weather receiving water monitoring data, and
- non-stormwater outfall monitoring data

against all applicable receiving water limitations, water quality-based effluent limitations, non-storm water action levels, and aquatic toxicity thresholds as defined in Attachment E. All sample results that exceed one or more applicable thresholds shall be readily identified.

⁸ Also known as East Rancho Dominguez, East Compton is unincorporated Los Angeles County land and not part of the incorporated area of the City of Compton.

⁹ West Compton is unincorporated Los Angeles County land and not part of the incorporated area of the City of Compton.

The Annual Report shall also include a Municipal Action Level (MAL) Assessment Report, which shall present the stormwater outfall monitoring data in comparison to the applicable MALs, and identify those subwatersheds with a running average of twenty percent or greater of exceedances of the MALs in discharges of stormwater from the MS4. Pursuant to Attachment G, Part VIII of the LA County MS4 Permit, Permittees are required to submit a MAL Action Plan with the Annual Report to the Los Angeles Water Board, for those subwatersheds with a running average of twenty percent or greater of exceedances of the MALs in any discharge of storm water from the MS4. The deadline for submitting the MAL Action Plan was December 15, 2015; therefore the City shall submit a Plan to the Los Angeles Water Board within 30 days of this letter, by September 5, 2016.

Additionally, the City shall indicate which criterion (of those specified above) was used to determine a significant non-stormwater discharge in the Annual Report.

If you have any questions, please contact Ms. Erum Razzak of the Storm Water Permitting Unit by electronic mail at Erum.Razzak@waterboards.ca.gov or by phone at (213) 620-2095. Alternatively, you may also contact Mr. Ivar Ridgeway, Chief of the Storm Water Permitting Unit, by electronic mail at Ivar.Ridgeway@waterboards.ca.gov or by phone at (213) 620-2150.

Sincerely,



Samuel Unger, P.E.
Executive Officer

cc: Glen Kau, Director of Public Works, City of Compton
Mr. William Lewis, Assistant Civil Engineer, City of Compton
Ray Tahir, TECS Environmental, Inc.

Enclosures: Enclosure 1 – Summary of Comments and Deficiencies
Enclosure 2 – Monitoring Requirements
Enclosure 3 – Map of Monitoring Locations
Enclosure 4 – Memorandum from Executive Officer to LA County MS4
Permittees Clarifying Aquatic Toxicity Monitoring Requirements

Los Angeles Regional Water Quality Control Board

Enclosure 1 – Summary of Comments and Deficiencies¹

City of Compton's Second Revised IMP

1. The IMP does not indicate when receiving water monitoring will begin. Receiving water monitoring is required during both wet and dry weather. Ambient monitoring as proposed is inappropriate, and the City must conduct wet weather monitoring at the appropriate receiving water monitoring sites.
2. The IMP incorrectly states that the City does not discharge to Dominguez Channel Estuary. The City is required to participate in the water column, sediment, and fish tissue testing in the Dominguez Channel Estuary pursuant to Attachment K, Attachment N Part E (Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL (Harbor Toxics TMDL)), and Attachment E Part XIX.C of the LA County MS4 Permit
3. The City does not propose monitoring above the Los Angeles River Estuary as required by Attachment K, Attachment N Part E, and Attachment E Part XIX.C of the LA County MS4 Permit (Harbor Toxics TMDL).
4. The City's IMP did not include all wet and dry weather TMDL monitoring requirements of the LA County MS4 Permit for receiving water.
5. All open channels and underground pipes 18 inches in diameter or greater (with the exception of catch basin connector pipes) within the City's jurisdiction are not identified.
6. Dry weather diversions for any of the major outfalls within the City's jurisdiction are not clearly identified.
7. Storm drain outfall catchment area (drainage area) maps for each major outfall within the City's jurisdiction are missing. The IMP must include storm drain outfall catchment areas for each major outfall, or if not currently available, provide a schedule for delineating the catchment areas and submitting the delineations to the Los Angeles Water Board.
8. Although the IMP claims that each of the field screening points is representative of land uses within the City's jurisdiction, there is insufficient justification for selection of the points.
9. Section 1.10 does not specify that, for stormwater outfall monitoring, other parameters in Table E-2 identified as exceeding the lowest applicable water quality objective in the nearest downstream receiving water monitoring station will be monitored.
10. The IMP contains language stating that the City is not required to comply with certain required elements specified in Attachment E (i.e., receiving water limitations, wet weather WQBELs, and Action Levels). Note that while the permit provided an opportunity for Permittees to customize, within certain constraints, its monitoring program, the permit's compliance mechanisms are not customizable. Compliance will be determined as per the LA County MS4 Permit.
11. In Section 1.5, the screening frequency for identifying significant non-stormwater discharges is not clear.

¹ This enclosure does not provide a comprehensive enumeration of all deficiencies. Rather, it highlights the most significant of them.

12. The IMP is not specific on how a significant non-stormwater discharge will be determined. Greater specificity on thresholds for field measurements, including flow and water quality data that will be used to determine whether a non-stormwater discharge is significant (i.e., flow greater a garden hose) is required.
13. Section 1.12 contains inadequate non-stormwater outfall-based monitoring.
14. Monitoring for PCBs in sediment or water is insufficient as proposed. Monitoring should be reported as the summation of aroclors and minimum of 40 (and preferably at least 50) congeners.
15. Section 1.9.2 does not specify the saltwater sensitive species screening for Dominguez Channel Estuary.
16. Section 1.9.2 references the Dominguez Channel Watershed data to support the selection of *C. dubia* as a freshwater species for aquatic toxicity testing. However, the City is located in the Los Angeles River and the Dominguez Channel Watershed. Accordingly, Section 1.9.2 should be revised to include a test species for Compton Creek by either including test species sensitivity screening or choosing a test species on the basis of previous monitoring data and studies.
17. Typographical errors, such as:
 - a. Reference to Attachment U in Section 1.13 is incorrect.
 - b. In Section 1.16 part 1, wet weather receiving water monitoring must occur during wet weather, and not the wet season.
 - c. In the second to last sentence of the last paragraph in Section 1.5, "Attachment N" should be corrected to "Attachments N and O".

Los Angeles Regional Water Quality Control Board

Enclosure 2 – Monitoring Requirements

City of Compton

Enclosure 2 contains monitoring locations and monitoring requirements specified in Attachment E of the LA County MS4 Permit, including receiving water monitoring during wet and dry weather, stormwater outfall based monitoring, non-stormwater outfall based screening and monitoring, and aquatic toxicity monitoring. Enclosure 2 also identifies TMDL compliance monitoring that the City is required to conduct per Attachment E, Attachment N Part E (Dominguez Channel and Greater Harbor Waters Toxic Pollutants TMDL), and Attachment O (Los Angeles River TMDLs) of the LA County MS4 Permit. Furthermore, Attachment E Part VI.C–D, Part VIII.B, and Part IX.G of the LA County MS4 Permit require monitoring for 303(d) listed pollutants. Because the City of Compton discharges to 303(d) listed waterbodies (Compton Creek, the LA River Estuary, and the Dominguez Channel Estuary), it must monitor these pollutants.

Table 1. City of Compton Required Monitoring Sites¹

Station/Site ID	Description	Waterbody	Latitude	Longitude	Details
R1	Receiving Water	Compton Creek	33.869525	-118.215287	E. Artesia Blvd
FS1	Stormwater (SW) – Outfall	Compton Creek	33.872697	-118.218196	Artesia Blvd
FS2	Stormwater - Outfall	Compton Creek	33.883085	-118.223254	S. Willowbrook Ave
FS6	Stormwater - Outfall	Dominguez Channel Estuary	33.887762	-118.259493	S. Wilmington Ave
DOM-RW-DCE01	TMDL	Dominguez Channel Estuary	33.841922	-118.264579	S. Avalon Blvd
S10	Mass Emissions Station - TMDL	Los Angeles River	33.81900	-118.20556	above LA River Estuary

¹ All of the monitoring locations in Table 1 (above) and Enclosure 3 (Map of Monitoring Locations) were selected consistent with criteria in Attachment E, Parts VI - IX of the LA County MS4 Permit. Some of the locations in Table 1 (R1, FS1, FS2, and FS3) were also proposed by the City of Compton in their second revised IMP submitted to the Los Angeles Water Board on September 23, 2015.

Table 2. City of Compton Monitoring Requirements

Constituent	Annual Frequency (number wet events/number dry events)						
	Los Angeles River Watershed Management Area				Dominguez Channel Estuary ²		
	Compton Creek			LA River Estuary			
	Receiving Water ³	Stormwater ⁴	Non-Stormwater ⁵	TMDL	Stormwater ⁶	Non-Stormwater ⁷	TMDL
	R1	FS1/FS2		S10	FS6		DOM-RW-DCE01
Pollutants identified in Attachment E Table E-2 of the LA County MS4 Permit	3/2 ⁸	3/0 ⁹	10		3/0 ¹¹	12	
Aquatic Toxicity ¹³	2/1 ¹⁴	15	16		17	18	
Total Suspended Solids (TSS)	3/2	3/0		4/1	3/0		2/1
Suspended-Sediment Concentration (SSC) ¹⁹	3/2	3/0		4/1	3/0		2/1

² In addition to Attachment N Part E.2.a.ii, samples of non-stormwater collected from outfalls during flow conditions less than the 90th percentile of annual flow rates must demonstrate that the acute and chronic hardness dependent water quality criteria (for copper, lead, and zinc) provided in the California Toxics Rule (CTR) are achieved (see Attachment N Part E.3.a.ii, footnote 6 of the LA County MS4 Permit).

³ Monitoring shall occur as per Attachment E Part VI.B-C of the LA County MS4 Permit. Dry weather monitoring shall occur in July, the historically driest month.

⁴ Monitoring and sampling shall occur as per Attachment E Part VIII.B-C of the LA County MS4 Permit.

⁵ Sampling shall occur as per Attachment E Part IX.H of the LA County MS4 Permit.

⁶ Ibid.

⁷ See footnote 4.

⁸ Wet weather receiving water Table E-2 constituents monitoring requirements per Attachment E Part VI.C.1.e and dry weather receiving water Table E-2 constituents monitoring requirements per Attachment E Part VI.D.1.d of the LA County MS4 Permit.

⁹ Other parameters in Table E-2 identified as exceeding the lowest applicable water quality objective in the nearest downstream receiving water monitoring station per Part VI.C.1.e (Attachment E Part VIII.B.1.d) of the LA County MS4 Permit.

¹⁰ Other parameters in Table E-2 identified as exceeding the lowest applicable water quality objective in the nearest downstream receiving water monitoring station per Part VI.D.1.d (Attachment E Part IX.G.1.e) of the LA County MS4 Permit.

¹¹ See footnote 3.

¹² See footnote 9.

¹³ Aquatic toxicity shall be monitored in accordance with Part XII of Attachment E, and as detailed in the Los Angeles Regional Board August 7, 2015, Memorandum titled "Clarification Regarding Follow-up Monitoring Requirements in Response to Observed Toxicity in Receiving Waters Pursuant to the Monitoring & Reporting Program (Attachment E) of the Los Angeles County MS4 Permit (Order No. R4-2012-0175)".

¹⁴ Minimum wet weather receiving water monitoring requirements per Attachment E Part VI.C.1.d.vi, and minimum dry weather receiving water monitoring requirements per Attachment E Part VI.D.1.c.vi of the LA County MS4 Permit.

¹⁵ Minimum storm water outfall based monitoring requirements per Attachment E Part VIII.B.1.c.vi of the LA County MS4 Permit.

¹⁶ If the discharge exhibits aquatic toxicity, then a TIE shall be conducted per Attachment E Part IX.G.1.d. of the LA County MS4 Permit.

¹⁷ See footnote 14.

¹⁸ See footnote 15.

Constituent	Annual Frequency (number wet events/number dry events)						
	Los Angeles River Watershed Management Area				Dominguez Channel Estuary ²		
	Compton Creek			LA River Estuary			
	Receiving Water ³	Stormwater ⁴	Non-Stormwater ⁵	TMDL	Stormwater ⁶	Non-Stormwater ⁷	TMDL
	R1	FS1/FS2		S10	FS6		DOM-RW-DCE01
Flow	3/2	3/0	0/4	4/2	3/0	0/4	2/1 ²⁰
Hardness	3/2	3/0		4/1	3/0	0/4	2/1
pH	3/2	3/0		4/2	3/0	0/4	2/1
Dissolved oxygen	3/2	3/0		4/2	3/0	0/4	2/1
Temperature	3/2	3/0		4/2	3/0	0/4	2/1
Specific/Electrical Conductivity	3/2	3/0		4/2	3/0	0/4	2/1
<i>E. coli</i>	3/2	3/0	0/4		3/0	0/4	
Cadmium	3/0	3/0		4/1			
Aluminum				4/1			
Mercury ²¹				4/1			
Selenium				4/1			
Copper	3/2	3/0	0/4	4/1	3/0	0/4	2/1
Lead	3/2	3/0	0/4	4/1	3/0	0/4	2/1
Nickel				4/1			
Zinc	3/0	3/0		4/1	3/0	0/4	2/1
Antimony (Sb)				4/1			
Trash	²²						
Benthic Macroinvertebrate Bioassessments ²³	1						

¹⁹ Pursuant to Attachment E, Part III.G.1 of the LA County MS4 Permit, Suspended Sediment Concentration (SSC) shall be analyzed per American Society for Testing and Materials (ASTM) Standard Test Method D-3977-97.

²⁰ For the Estuary sites, tidal and water depth information will be collected in lieu of flow data.

²¹ For Mercury (Hg) EPA Method 245.7 or 1631E shall be used to get sufficiently sensitive minimum levels for analytical results to be compared with the water quality objective. As analytical methods and detection limits continue to improve (i.e., development of lower detection limits) and become more environmentally relevant, responsible parties shall incorporate new method detection limits in the MRP and QAPP (Basin Plan Amendment Attachment A Resolution No. R11-008).

²² Permittees shall comply with the final water quality-based effluent limitation for zero trash discharged to the Los Angeles River no later than September 30, 2016, as required by Attachment O, Part A.3 of the LA County MS4 Permit. Compliance with the LA River Trash TMDL may be met through installation of full capture systems. Pursuant to Resolution No. R15-006, adopted June 11, 2015, the City of Compton shall submit a Trash Monitoring and Reporting Plan (TMRP) and a Plastic Pellet Monitoring and Reporting Plan (PMRP) for Los Angeles Water Board approval.

²³ Attachment E, Part VI.C.1.d.iii of the LA County MS4 Permit requires receiving water monitoring for "other pollutants identified on the CWA 303(d) List for the receiving water or downstream receiving waters." Compton Creek is identified on the CWA 303(d) List as impaired for benthic community structure. Accordingly, the City of Compton shall follow protocol in the

Constituent	Annual Frequency (number wet events/number dry events)						
	Los Angeles River Watershed Management Area				Dominguez Channel Estuary ²		
	Compton Creek			LA River Estuary			
	Receiving Water ³	Stormwater ⁴	Non-Stormwater ⁵	TMDL	Stormwater ⁶	Non-Stormwater ⁷	TMDL
	R1	FS1/FS2		S10	FS6		DOM-RW-DCE01
Nitrate-nitrogen (NO ₃ -N)	3/2	3/0	0/4				
Nitrite-nitrogen (NO ₂ -N)	3/2	3/0	0/4				
Ammonia	3/2	3/0	0/4		3/0	0/4	
Chlordane				2/1			
DDTs ²⁴				2/1	3/0	0/4	2/1
PCBs ²⁵				2/1	3/0	0/4	2/1
PAHs, High Resolution (EPA 1625)				2/1			2/1
Municipal Action Levels (MALs) ²⁶		3/0			3/0		
Non-Stormwater Action Levels (NALs)			0/4 ²⁷			0/4 ²⁸	
Pyrene							2/1
Phenanthrene							2/1
Chrysene							2/1
Benzo[a] pyrene							2/1
Benzo[a] anthracene							2/1
Sediment Monitoring				²⁹	³⁰	³¹	³²
Fish Tissue Monitoring							³³

Southern California Stormwater Monitoring Coalition (SMC) Regionally Consistent and Integrated Freshwater Stream Bioassessment Monitoring Program.

<http://www.socal-smc.org/Docs/SMC-DesignofBioassessmentRegionalMonitoringProgram.pdf>

Alternatively, the City can fulfill this requirement by formally participating in the aforementioned SMC Bioassessment Monitoring Program.

²⁴ High Resolution (EPA 1699); DDTs include DDT, DDE, DDD, and Total DDT.

²⁵ High Resolution (EPA 1668); monitoring for PCBs in sediment or water should be reported as the summation of aroclors and a minimum of 40 (and preferably at least 50) congeners. See Table C8 in the state's Surface Water Ambient Monitoring Program's Quality Assurance Program Plan (page 72 of Appendix C).

²⁶ Municipal action level monitoring pursuant to Attachment G Part VIII of the LA County MS4 Permit.

²⁷ Non-stormwater action level monitoring pursuant to Attachment G Part II of the LA County MS4 Permit.

²⁸ Non-stormwater action level monitoring pursuant to Attachment G Part III of the LA County MS4 Permit.

²⁹ Refer to Table 3. Sediment and Fish Tissue Monitoring Requirements.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

Table 3. Sediment and Fish Tissue Monitoring Requirements³⁴

Parameter	Frequency
Sediment Monitoring³⁵	
Copper	Once every 2 years
Lead	
Mercury	
Zinc	
Cadmium	
PAHs	
Chlordane	
DDD, total	
DDE, total	
DDT, total	
PCBs, total	
Total Organic Carbon (TOC)	
Grain Size	
Sediment Toxicity	
Benthic Community	
Fish Tissue	
Chlordane	Once every 2 years
Dieldrin	
Toxaphene	
DDT	
PCBs ³⁶	

³⁴ Sediment and fish tissue monitoring requirements pursuant to Attachment N Part E of the LA County MS4 Permit.

³⁵ Pursuant to Attachment N Part E.4.d.iv of the LA County MS4 Permit, samples shall be collected in accordance with SWAMP protocols as specified in the State Water Board's Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (SQO).

³⁶ See footnote 18.

Enclosure 3 - Map of Monitoring Locations

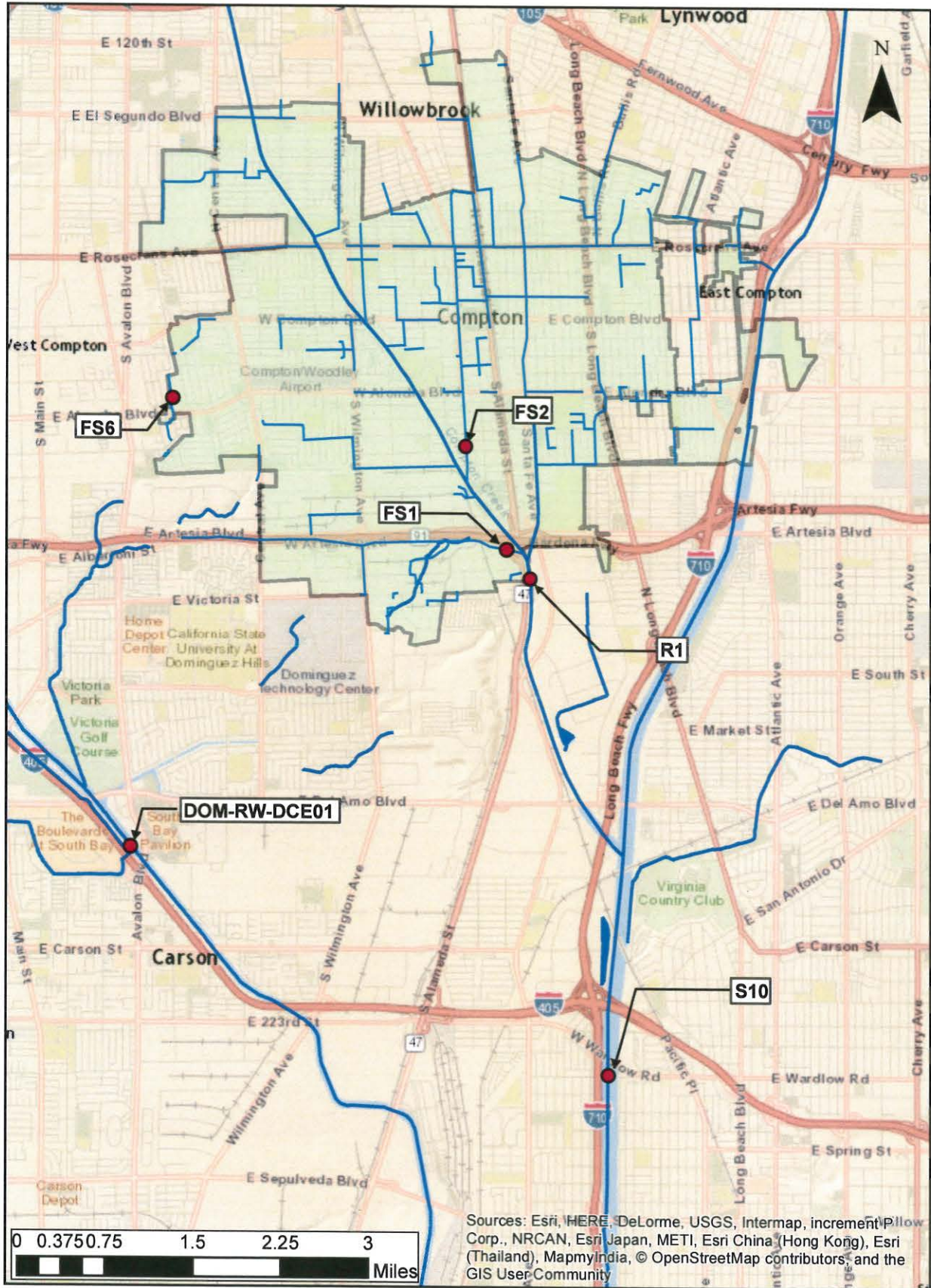


Figure 1. City of Compton Monitoring Stations



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

TO: Los Angeles County MS4 Permittees and City of Long Beach

FROM: Samuel Unger, P.E.
Executive Officer *Samuel Unger*

DATE: August 7, 2015

SUBJECT: CLARIFICATION REGARDING FOLLOW-UP MONITORING REQUIREMENTS IN RESPONSE TO OBSERVED TOXICITY IN RECEIVING WATERS PURSUANT TO THE MONITORING & REPORTING PROGRAM (ATTACHMENT E) OF THE LOS ANGELES COUNTY MS4 PERMIT (ORDER NO. R4-2012-0175)

The Los Angeles County MS4 Permit, Attachment E requires chronic aquatic toxicity monitoring in receiving waters during both wet and dry weather conditions to determine whether designated beneficial uses are fully supported. Further, Attachment E requires additional monitoring at MS4 outfalls where aquatic toxicity is present above a certain effect level in downstream receiving waters to determine whether MS4 discharges are causing or contributing to the aquatic toxicity. In this situation, outfall monitoring must either entail monitoring for specific pollutants identified in a toxicity identification evaluation (TIE) in the downstream receiving water, or for aquatic toxicity itself, where the specific pollutants could not be identified through the TIE conducted on the downstream receiving water.

In its comments on the draft Integrated Monitoring Programs (IMPs) and Coordinated Integrated Monitoring Programs (CIMPs) submitted per the Los Angeles County MS4 Permit, the Los Angeles Water Board provided clarification and recommendations to Permittees regarding aquatic toxicity monitoring, particularly pertaining to the requirement to conduct chronic toxicity tests in dry and wet weather conditions and requirements for conducting a TIE and outfall monitoring. Subsequently, on December 9, 2014, Board staff met with several Permittees regarding its comments. During this meeting it was apparent that further clarification was necessary regarding requirements for follow-up monitoring when aquatic toxicity is present in downstream receiving waters. This memo provides additional clarification and applies to all IMPs and CIMPs developed pursuant to Part VI.B of the Los Angeles County MS4 Permit and Part VII.B of the City of Long Beach MS4 Permit.

It is acknowledged, however, that this memo may not address every situation that is encountered. We encourage the Permittees to approach toxicity testing and the TIE and TRE procedures thoughtfully and thoroughly in the interest of identifying and eliminating any source(s) of toxicity in MS4 discharges as expeditiously as possible and to consult with Los Angeles Water Board staff if you need assistance or clarification.

CHARLES STRINGER, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | www.waterboards.ca.gov/losangeles

If you have any questions regarding these clarifications, please contact Renee Purdy at Renee.Purdy@waterboards.ca.gov or Shirley Birosik at Shirley.Birosik@waterboards.ca.gov.

The memo addresses requirements for follow-up monitoring in four **receiving water** scenarios where toxicity is present:

- Toxicity is present, but not above the TIE trigger as defined in Attachment E, Part XII.I.1¹;
- Toxicity is present above the TIE trigger and the TIE identifies the constituent(s) causing the toxicity;
- Toxicity is present above the TIE trigger during wet weather, but the TIE is inconclusive; and
- Toxicity is present above the TIE trigger during dry weather, but the TIE is inconclusive.

The memo also addresses the several scenarios once **outfall** toxicity testing has been triggered. Attached to the memo are several simplified flowcharts to aid in understanding the process.

An inconclusive TIE is defined as a TIE for which the cause of toxicity cannot be attributed to a constituent or class of constituents (e.g., metals, insecticides, etc.) that can be targeted for monitoring even after conducting appropriate Phase I and Phase II TIE treatments. This outcome may result from either non-persistent toxicity such that the TIE treatments cannot be successfully completed on the toxic sample, or from the inability with available Phase I and Phase II TIE

An **inconclusive TIE** is one for which the cause of toxicity cannot be identified after the conclusion of TIE Phases I and II.

If a TIE is inconclusive:

- ✓ Check QA/QC
- ✓ Evaluate sensitive species selection
- ✓ Initiate future TIEs earlier (to address non-persistent toxicity)
- ✓ Conduct all phases of TIE

treatments to isolate the constituent or class of constituents causing the toxicity. If the TIE is inconclusive due to non-persistent toxicity, the Los Angeles Water Board expects that Permittees will proactively identify and implement actions during the subsequent upstream and/or outfall toxicity sampling event to improve the likelihood of a conclusive TIE, while also following the steps below. Where a TIE is inconclusive due to the inability to determine the constituent(s) causing the toxicity, Permittees should evaluate further steps to improve the TIE outcome including sensitive species selection, QA/QC, and the need to conduct Phases I through III of a TIE, among others.

¹ Permit references correspond to the Los Angeles County MS4 Permit (Order No. R4-2012-0175)

TRIGGERS FOR ADDING TOXICITY MONITORING TO UPSTREAM RECEIVING WATER MONITORING / OUTFALL MONITORING:

1. If toxicity is present as determined based on a fail of the Test of Significant Toxicity (TST) t-test as specified in the Permit (Attachment E, Part XII.G.4) during wet or dry weather, but not above the TIE trigger (which is defined as when the survival or sublethal endpoint demonstrates a ≥ 50 Percent Effect at the IWC as per Attachment E, Part XII.I.1), then:
 - a. Toxicity monitoring will be added to the next existing upstream receiving water site(s) during the same condition (wet or dry weather) for which toxicity was determined to be present. Monitoring for toxicity at the next existing upstream receiving water site(s) will occur during the next monitoring event that is at least 30 days following the original toxicity sample collection. Toxicity monitoring at individual receiving water sites will continue until (1) the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition) is met at the receiving water site or (2) a TIE is triggered and conclusively identifies the constituent or class of constituents causing toxicity, in which case the process outlined in Bullet 2 below is followed. OR
 - b. If there is no upstream receiving water monitoring site already established as part of the monitoring program, continue receiving water toxicity monitoring at the original site until (1) the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition) is met at the original receiving water site or (2) a TIE is triggered at the original site and conclusively identifies the constituent or class of constituents causing toxicity, in which case the process outlined in Bullet 2 below is followed. Also, conduct an evaluation similar to the TRE outlined in Attachment E, Part XII.J to identify, to the extent practicable, the source(s) of toxicity with the goal of identifying cause(s) of toxicity, paying particular attention to sources of potential constituent(s) causing toxicity (e.g., fipronil).
 - i. If there is no upstream receiving water monitoring site already established as part of the monitoring program and toxicity is present during dry weather, actions taken as part of the non-stormwater program (e.g., source identification and elimination or treatment of unauthorized non-stormwater discharges that are a source of pollutants) should be utilized to support the TRE.
 - ii. If there is no upstream receiving water monitoring site already established as part of the monitoring program and toxicity is present during wet weather, consider the following actions to support TRE: evaluating land uses and potential associated source(s) in the drainage area, evaluation of other permitted discharges, and evaluation of inspection activities. AND
 - c. If there is no upstream receiving monitoring site already established as part of the monitoring program and more than one occurrence of a fail of the TST t-test occurs at the original receiving water site within 3 years, then evaluate opportunities to conduct toxicity monitoring at upstream receiving water sites (either newly established or sites utilized by other monitoring programs), including tributaries.

2. If toxicity is present at a level exceeding the TIE trigger and the TIE identifies the constituent or class of constituents causing toxicity, then:
 - a. Do not add toxicity monitoring to upstream sites. AND
 - a. During the same condition, add the identified constituent or constituents within the class of constituents² to the monitoring site where toxicity was identified, the upstream receiving water site(s), and upstream outfall site(s) starting with the next monitoring event that is at least 45 days following the toxicity sample collection. Monitoring for the identified constituent(s) will continue until the deactivation criterion (i.e., two consecutive samples do not exceed Receiving Water Limitations (RWLs), Water Quality Based Effluent Limitations (WQBELs), or other appropriate threshold or guideline if there is no numeric RWL or WQBEL, for the identified constituents during the same condition) is met at the individual site. Where constituent(s) are identified in the outfall(s) above the RWL(s), WQBEL(s), or other appropriate threshold or guideline commence TRE at each corresponding outfall location per Attachment E, Part XII.J.
3. If toxicity is present at a level exceeding the TIE trigger during wet weather and the TIE is inconclusive, then:
 - a. Add toxicity monitoring to the next existing upstream receiving water site(s) during the next monitoring event that is at least 45 days following the original toxicity sample collection. Toxicity monitoring at individual receiving water site(s) will continue until (1) the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition) is met at the receiving water site or (2) a TIE is triggered and conclusively identifies the constituent or class of constituents causing toxicity, in which case the process outlined in Bullet 2 above is followed. AND
 - b. The second inconclusive TIE in 3 years during wet weather would trigger outfall toxicity testing at upstream outfall sites (i.e., (1) outfall sites located between the receiving water site and the nearest upstream receiving water site located on the same waterbody and (2) outfall sites located on tributaries that have a confluence with the waterbody where the confluence is located between the receiving water site and the nearest upstream receiving water site located on the same waterbody) following the process outlined below in “Steps Related Outfall Toxicity Testing” during the next monitoring event that is at least 45 days following the original toxicity sample collection. OR
 - c. As an alternative to the outfall monitoring described in Bullet 3.b., Permittees may propose an alternative approach any time after the first inconclusive TIE, which could include utilizing upstream receiving water sites (either newly established or sites utilized by other monitoring programs), including tributaries, additional outfall sites, and/or different outfall sites. However, the outfall monitoring approach described in Bullet 3.b. must be followed until Regional Water Board EO approval of the alternative approach.

² Using appropriate detection limits

4. If toxicity is present at a level exceeding the TIE trigger during dry weather and the TIE is inconclusive, then:
 - a. Add toxicity monitoring to the next existing upstream receiving water site(s) during the next monitoring event that is at least 45 days following the original toxicity sample collection. Toxicity monitoring at individual receiving water site(s) will continue until (1) the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition) is met at the receiving water site or (2) a TIE is triggered and conclusively identifies the constituent or class of constituents causing toxicity, in which case the process outlined in Bullet 2 above is followed during the next monitoring event that is at least 45 days following the original toxicity sample collection. AND
 - b. Add toxicity testing to upstream outfall sites (i.e., (1) outfall sites located between the receiving water site and the nearest upstream receiving water site located on the same waterbody and (2) outfall sites located on tributaries that have a confluence with the waterbody where the confluence is located between the receiving water site and the nearest upstream receiving water site located on the same waterbody) following the process outlined below in “Steps Related Outfall Toxicity Testing” during the next monitoring event that is at least 45 days following the original toxicity sample collection. OR
 - c. As an alternative to the outfall monitoring described in Bullet 4.b above, Permittees may propose an alternative approach any time after the first inconclusive TIE, which could include utilizing upstream receiving water sites (either newly established or sites utilized by other monitoring programs), including tributaries, additional outfall sites, and/or different outfall sites. However, the outfall monitoring approach described in Bullet 4.b above must be followed until Regional Water Board EO approval of the alternative approach.

STEPS RELATED TO OUTFALL TOXICITY TESTING ONCE TRIGGERED:

1. If toxicity is not present as determined based on pass of the TST t-test as specified in the Permit, then continue toxicity testing during the same condition
2. (i.e. wet or dry weather) until (1) meeting the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition), or (2) a TIE conducted at the downstream receiving water site conclusively identifies the constituent or class of constituents causing toxicity, or (3) the discharge is eliminated.
3. If toxicity is present as determined based on fail of the TST t-test as specified in the Permit, but not above the TIE trigger, then continue toxicity testing during the same condition until (1) meeting the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition), or (2) a TIE conducted at a downstream receiving water site conclusively identifies the constituent or class of constituents causing toxicity, or (3) the discharge is eliminated. Concurrently conduct an evaluation similar to the TRE in Attachment E, Part XII.J to identify, to the extent practicable, the source(s) of toxicity with the goal of addressing cause(s) of toxicity, paying particular attention to sources of potential constituent(s) causing toxicity (e.g., fipronil).

- a. If toxicity is present in the non-stormwater discharge, actions taken as part of the non-stormwater program (e.g., source identification and elimination or treatment of unauthorized non-stormwater discharges that are a source of pollutants) should be utilized to support the TRE.
 - b. If toxicity is present in the stormwater discharge, consider the following actions to support the TRE: evaluating land uses and potential associated source(s) in the drainage area, evaluation of other permitted discharges, and evaluation of inspection activities.
4. If toxicity is present at a level exceeding the TIE trigger and the TIE identifies the constituent or class of constituents causing toxicity, then:
- a. Discontinue toxicity testing at the outfall. AND
 - b. Add the identified constituent or constituents within the identified class of constituents³ during the same condition starting with the next monitoring event that is at least 45 days following the toxicity sample collection and monitor for those constituents at the outfall until meeting the deactivation criterion for those constituents (i.e., two consecutive samples do not exceed RWLs, WQBELs, or other appropriate threshold or guideline if there is no numeric RWL or WQBEL, for identified constituents), while simultaneously performing a TRE for the constituent(s) causing toxicity per Attachment E, Part XII.J.
5. If toxicity is present at a level exceeding the TIE trigger and the TIE is inconclusive, then continue toxicity testing during the same condition until (1) meeting the deactivation criterion (i.e., two consecutive samples that pass the pass/fail TST t-test during the same condition), or (2) a TIE identifies the constituent or class of constituents causing toxicity (proceed with following the process outlined in Bullet 3, above), or (3) eliminate the discharge. Concurrently conduct an evaluation similar to the TRE in Attachment E, Part XII.J to identify, to the extent practicable, the source(s) of toxicity with the goal of addressing cause(s) of toxicity, paying particular attention to identifying sources of potential constituent(s) causing toxicity that may not have been evaluated in the TIE (e.g., fipronil).
- a. If the TIE is inconclusive in the non-stormwater discharge, actions taken as part of the non-stormwater program (e.g., source identification and elimination or treatment of unauthorized non-stormwater discharges that are a source of pollutants) should be utilized to support the TRE.
 - b. If the TIE is inconclusive in the stormwater discharge, consider the following actions to support the TRE: evaluating land uses and potential associated source(s) in the drainage area, evaluation of other permitted discharges, and evaluation of inspection activities.

³ Using appropriate detection limits

**Receiving Water Toxicity
Present but Does *NOT* Exceed
TIE Trigger**

Upstream
RW Site
Exists?

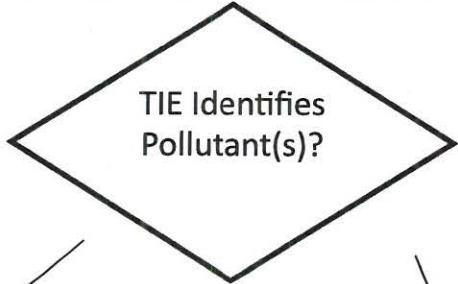
No

Yes

Continue monitoring toxicity at existing site
Conduct TRE-like evaluation
Evaluate potential for upstream monitoring

Add toxicity testing under same conditions (wet/dry)

Receiving Water Toxicity Present and Exceeds TIE Trigger



No

Yes



Dry

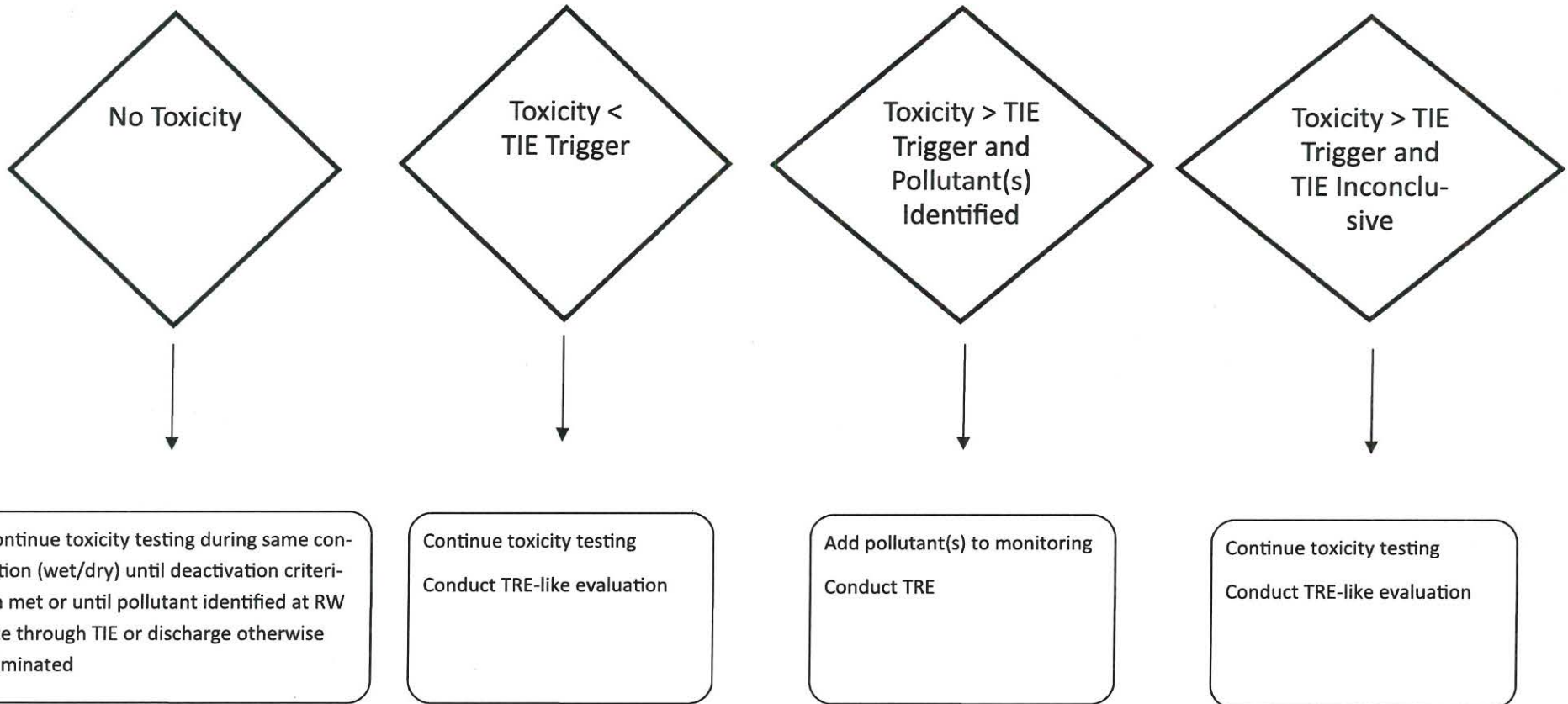
Wet

Add toxicity monitoring to upstream RW and outfall sites

Add toxicity monitoring to next existing upstream RW site
After 2nd inconclusive TIE add toxicity monitoring to outfall

Add Pollutant(s) to Monitoring at Receiving Water Sites and Outfall Sites
If > WQBEL/RWL, commence TRE

Outfall Toxicity Testing Once Triggered



Attachment 2:

Declaration of Ivar Ridgeway,
January 10, 2019

1 Mayumi Okamoto, Attorney (SBN 253243)
2 Catherine Hawe, Attorney (SBN 312055)
3 State Water Resources Control Board
4 801 K Street, Suite 2300
5 Sacramento, California 95814
6 Telephone: 916-341-5674
7 Fax: 916-341-5896
8 E-mail: Mayumi.Okamoto@waterboards.ca.gov

9 Attorneys for Regional Water Quality Control Board,
10 Los Angeles Region, Prosecution Team

11 BEFORE THE CALIFORNIA WATER QUALITY CONTROL BOARD
12 LOS ANGELES REGION

13 In the Matter of:)
14 CITY OF COMPTON)
15) ACLC No. R4-2019-0004
16)
17) DECLARATION OF IVAR RIDGEWAY

18 I, Ivar Ridgeway, declare as follows:

- 19 1. I am a Senior Environmental Scientist in the Municipal Storm Water Permitting Unit
20 at the Regional Water Quality Control Board, Los Angeles Region (Regional Board) and
21 have been in that position for the last 8 years. As a Senior Environmental Scientist, I
22 supervised the drafting and implementation of Order No. R4-2012-0175 as amended by
23 State Water Board Order WQ 2015-0075 and Los Angeles Water Board Order R4-2012-
24 0175-A01, NPDES Permit No. CAS004001 (Los Angeles County MS4 Permit or Permit)
25 including the Regional Board's efforts to help Permittees understand the requirements of
26 the Permit.
27 2. I have personal knowledge of the requirements of the Los Angeles County MS4
28 Permit including monitoring and reporting requirements for Permittees as expressed in
Attachment E of the Permit.

1 3. Attachment E.XIV.L of the Los Angeles County MS4 Permit requires Permittees to
2 submit "[r]esults of monitoring from each receiving water or outfall based monitoring
3 station conducted in accordance with the Standard Operating Procedure submitted under
4 Standard Provision 14 of this Monitoring and Reporting Program electronically to the
5 Regional Board's Storm Water site at MS4stormwaterRB4@waterboards.ca.gov, *semi-*
6 *annually*, highlighting exceedances of applicable Water Quality Based Effluent Limitations
7 (WQBELs), receiving water limitations, action levels, or aquatic toxicity thresholds for all
8 test results, with corresponding sampling dates per receiving water monitoring station."
9 (Emphasis added.)
10

11 4. The semi-annual reporting period covers the following months in the calendar
12 year: a semi-annual report covering monitoring conducted during the months of
13 January through June is referred to as the December semi-annual report because it is
14 due in December; and a semi-annual report covering monitoring conducted during the
15 months of July through December is referred to as the June semi-annual report
16 because it is due in June.
17

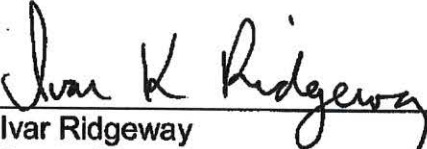
18 5. While the Los Angeles County MS4 Permit includes a specific date, December
19 15, that Permittees are required to submit their Annual Report, the Permit does not
20 include a specific date by which Permittees must submit their semi-annual monitoring
21 report. Since the Permit's adoption, Regional Board staff in the Municipal Storm Water
22 Permitting Unit advised Permittees to submit their semi-annual report on June 15 of
23 each year (exactly six months before the Annual Report due date) and again on
24 December 15 of each year concurrent with the Annual Report deadline in Attachment
25 E.XV. of the Los Angeles County MS4 Permit.
26

27 6. Some Permittees asked the Municipal Storm Water Permitting Unit staff if it was
28

1 possible to submit the June semi-annual monitoring report by June 30th if it was
2 necessary to achieve the required number of samples for that corresponding reporting
3 period. In the absence of a specified deadline in the Los Angeles County MS4 Permit,
4 Regional Board staff determined that submission by June 30th would be acceptable.
5 For purposes of this current matter, June 30th is the deadline used for the June semi-
6 annual report.
7

8 7. In summary, a semi-annual report is due by June 15th preferably, but no later
9 than June 30th of each year and another semi-annual report is due by December 15th
10 of each year.
11
12
13
14

15 Executed this 10th day of January , 2019, in Los Angeles, California.
16
17

18 
19 Ivar Ridgeway
20 Senior Environmental Scientist
21 Los Angeles Regional Water Quality Control
22 Board
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28

Attachment 3:

Order R4-2018-0122,
a California Water Code Section 13267 Order
for Technical Reports, issued to the
City of Compton on September 6, 2018



Los Angeles Regional Water Quality Control Board

September 6, 2018

Mr. Wendell Johnson
Director of Public Works
City of Compton
205 S. Willowbrook Avenue
Compton, CA 90220
Email: wjohnson@comptoncity.org

Certified Mail
Return Receipt Requested
Claim No. 7016-1970-000-9836-0168

SUBJECT: CALIFORNIA WATER CODE SECTION 13267 ORDER FOR TECHNICAL OR MONITORING REPORTS REGARDING MONITORING PURSUANT TO THE LOS ANGELES COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT

Dear Mr. Johnson:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles and Ventura Counties. Discharges from the City of Compton's (City) municipal separate storm sewer system (MS4) are regulated by the Los Angeles County MS4 permit (Order R4-2012-0175, as amended by State Water Resources Control Board (State Water Board) Order WQ 2015-0075 and Regional Board Order R4-2012-0175-A01). The MS4 permit requires that the City submit semi-annual and annual monitoring reports containing analytical data and other information related to its implementation and compliance with the permit (Attachment E, Sections XIV.L and XV.A).

Regional Board staff assisted the State Water Board's Office of Enforcement (collectively referred to as "Water Boards") in reviewing monitoring reports submitted to the Regional Board since August 5, 2016, the date the Regional Board disapproved the City's proposed Integrated Monitoring Program and consequently directed that the City monitor and report as prescribed in Attachment E of the MS4 permit. This review yielded many monitoring and/or reporting deficiencies, anomalies, mistakes, or missing information which inhibits the Water Boards' ability to determine whether the City is complying with the requirements of the MS4 permit. The enclosed California Water Code section 13267 Order for Technical or Monitoring Reports requires the City to revise or update and submit specific semi-annual monitoring reports and other information required by Attachment E of the MS4 permit.

For purposes of this investigation and any potential enforcement action that is the outgrowth of this investigation, staff at the State Water Board's Office of Enforcement will be the lead staff for the Water Boards. Any potential adjudicative proceeding will be conducted before the Regional Board in Los Angeles.

Mr. Wendell Johnson
City of Compton

- 2 -

September 6, 2018

If you have any questions regarding this letter, please contact Wendy Wyels at wendy.wyels@waterboards.ca.gov.

Sincerely,



Hugh Marley
Chief, Compliance and Enforcement Section

Enclosure: Investigative Order No. R4-2018-0122

cc: Ms. Mayumi Okamoto, State Water Resources Control Board, Office of Enforcement
Ms. Catherine Hawe, State Water Resources Control Board, Office of Enforcement
Ms. Wendy Wyels, State Water Resources Control Board, Office of Enforcement
Mr. Ivar Ridgeway, Los Angeles Regional Water Quality Control Board
Ms. Erum Razzak, Los Angeles Regional Water Quality Control Board
Ms. Jennifer Fordyce, State Water Resources Control Board, Office of Chief Counsel

Los Angeles Regional Water Quality Control Board

INVESTIGATIVE ORDER NO. R4-2018-0122

**CALIFORNIA WATER CODE SECTION 13267
ORDER TO PROVIDE A TECHNICAL OR MONITORING REPORT**

**DIRECTED TO
THE CITY OF COMPTON**

**LOS ANGELES COUNTY MUNICIPAL STORM SEWER SYSTEM (MS4) PERMIT
ORDER R4-2012-0175, AS AMENDED**

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) makes the following findings and issues this Order pursuant to Water Code section 13267 requiring the City of Compton (City) to update or revise and submit specific semi-annual monitoring reports and other information required by Order R4-2012-0175, as amended.

1. Discharges from the City's municipal separate storm sewer system (MS4) are regulated under the Los Angeles County MS4 permit (Order R4-2012-0175, as amended by State Water Board Order WQ 2015-0075 and Los Angeles Board Order R4-2012-0175-A01) (MS4 permit or permit). The MS4 permit requires that the City submit semi-annual and annual monitoring reports containing analytical data and other information related to its implementation of the permit (Attachment E, Sections XIV.L and XV.A).
2. Semi-annual monitoring reports are to be submitted twice yearly, approximately on June 15 and December 15. The June semi-annual report is to contain analytical data collected from July through December of the previous year, while the December semi-annual report is to contain analytical data collected from January through June of that same year. An annual monitoring report is to be submitted by December 15, covering the period of July 1 of the previous year to June 30 of the same year.
3. On August 5, 2016, the Regional Board issued a letter disapproving of the City's proposed Integrated Monitoring Program and directing that it monitor and report as prescribed by Attachment E of the MS4 permit. To assist the City, Regional Board staff included Enclosures 2 through 4 of the letter, which summarize the monitoring requirements that are specific to Compton.

Water Board Review of Recent Monitoring Report Submittals

4. Staff at the State Water Resources Control Board (State Water Board) Office of Enforcement, with assistance from Regional Board staff (collectively referred to as Water Boards), reviewed monitoring reports submitted since the August 5, 2016 letter and have found numerous deficiencies, as described in the following findings.
5. The December 2016 semi-annual report should have contained analytical results from samples collected between January 1, 2016 and June 30, 2016, and was due by December 15, 2016. On February 6, 2017, in response to an e-mail inquiry by Regional Board staff, the City submitted a document containing "all

- monitoring data collected during FY 2015-2016.” The data was in the form of a spreadsheet with samples collected from two sites; however, the exact monitoring locations were not identified. Although required to be reported¹, the Method Detection Levels (MDLs) and Reporting Levels (RLs) for each analyte were not provided.
6. On December 14, 2016, the City submitted its reporting year 2015-2016 annual report. Regional Board staff reviewed the report, and in a letter dated July 14, 2017, asked the City for additional information and clarification to numerous items. Regarding the Rainfall Summary, the 2015-2016 annual report contained information for the three storm events during which the City collected samples. However, Regional Board staff reminded the City that it is obligated to provide a rainfall summary for all storm events for the reporting year and asked the City to submit the specific information that is to be included in an annual report. The City did not provide that information.
 7. The June 2017 semi-annual report should have contained analytical results from samples collected between July 1, 2016 and December 31, 2016, and was due by June 15, 2017. On June 15, 2017, the City submitted a semi-annual monitoring report that “include[ed] wet weather outfall and receiving water monitoring data collected from late 2016 to early 2017.” The data was in the form of a spreadsheet with samples collected from two sites. On May 16, 2018, Compton submitted an email with revised sampling points and coordinates, as well as a spreadsheet containing revised information for the late 2016-early 2017 monitoring results. On May 17, 2018, the City submitted another email with a second revision of the late 2016-early 2017 monitoring results.
 8. A review of the data in the June 2017 semi-annual report yields a number of anomalies. For example, one nitrite sample listed a MDL of 10 and a RL of 0.05 with a reported value of 1.45. By definition, MDLs are always lower than RLs, and it is not possible to report a value lower than an MDL. Another nitrite sample listed a MDL of 10 and a RL of 100, with a result of 11. If a result is between a MDL and a RL, then it must have a “Detected but Not Quantified (DNQ)” flag to show that it is an estimated value. There were no DNQ flags accompanying the reported data. It may be that errors were made when copying the results from the analytical laboratory reports to the spreadsheet.
 9. The December 2017 semi-annual report should have contained analytical results from samples collected between January 1, 2017 and June 30, 2017, and was due by December 15, 2017. The City’s consultant responded to an inquiry from Regional Board staff that “the monitoring data that should qualify as a semi-annual report is in the annual report submitted a few days ago.” No additional report was submitted.
 10. On December 15, 2017, the City submitted its 2016-2017 annual report. The annual report did not contain any analytical data. Regarding the Rainfall Summary, the 2016-2017 annual report contained information from the *previous* annual report, i.e., a summary of rainfall events between January 2016 and March 2016. Instead, this 2016-2017 annual report should have discussed rainfall events that occurred between July 1, 2016 and June 30, 2017.
 11. The June 2018 semi-annual report should have contained analytical results from samples collected between July 1, 2017 and December 31, 2017, and was due by June 15, 2018. On June 15, 2018 (with additional information submitted by email August 6-8, 2018), the City submitted a semi-annual monitoring report. The document stated that it is for the “Wet Season: October 1, 2017 to April 30, 2018”. The report contained the analytical results for samples collected in January and March 2018. The report included a map with the sample locations identified.

¹ Attachment E, Section XIV.D

12. The June 2018 semi-annual report listed the receiving water location as "Compton_Rec_CCB-Greenleaf/Alameda." However, the City's May 17, 2018 email² stated that "*There is a mistake in the receiving water location for Compton. Instead of it being at Greenleaf and Alameda, it should be at Alameda and S. of 91 freeway, near outfall.*" Based on the conflicting information submitted by the City in May and June 2018, it is unclear as to where the receiving water sample was collected. Similarly, there is confusion as to the second sampling location in the June 2018 semi-annual report. The semi-annual report listed the Outfall/Field Screening 1 location as "Compton_Outfall_Alameda/Stanley (S. of 91 FWY)". However, the City's May 16, 2018 email³ contained a table showing that the Outfall/Screening Point 1 was at "Greenleaf Blvd./Acacia". Again, the City has submitted conflicting information.
13. In addition, some of the reported data in the June 2018 semi-annual report contains anomalies. Some samples had a result between the MDL and RL, yet the result did not have a DNQ flag. Other samples had a MDL that is greater than the RL, but by definition, this is not possible. It may be that errors were made when copying the results from the analytical laboratory reports to the spreadsheet.
14. Section 13267 of the Water Code states, in part:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging...or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging... waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
15. Section 13268 of the California Water Code states, in part:

(a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267...or falsifying and information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
16. As discussed in previous findings, Water Boards staff lacks sufficient information to fully review the City's monitoring reports. The MS4 permit requires the submission of complete and accurate monitoring reports by the specified deadline that comply with the permit's Monitoring and Reporting Program in Attachment E. The information required by this Order reiterates the City's ongoing obligation to submit these required reports and therefore pose a minimal burden to the City to prepare when weighed against the Water Boards' need for the reports and benefits to be gained from the reports.

² Submitted as a second amendment to the June 2017 semi-annual report

³ Submitted as a first amendment to the June 2017 semi-annual report

17. The issuance of this Order is an enforcement action by a regulatory agency and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2).
18. Any person aggrieved by this action of the Regional Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.
19. In order to determine whether the City is in compliance with the requirements of the MS4 permit, to determine whether discharges from the City's MS4 comply with water quality based effluent limitations, and to evaluate whether an enforcement action is appropriate, the City is directed to submit the reports described below.

THEREFORE, IT IS HEREBY ORDERED that the City of Compton, pursuant to Water Code section 13267, subdivision (b)(1), is required to submit the following:

1. By **October 16, 2018**, the City of Compton shall submit the following five technical reports:
 - a. A revised and updated December 2016 semi-annual monitoring report.
 - b. A revised and updated June 2017 semi-annual monitoring report.
 - c. A December 2017 semi-annual monitoring report. If there are no additional analytical results beyond that reported in June 2017, then the report shall so state.
 - d. A revised and updated June 2018 semi-annual monitoring report.
 - e. An addendum to the 2015-2016 and 2016-2017 Annual Reports, consisting of an updated and complete Rainfall Summary description for each report. All information required by the MS4 permit, Attachment E, Sections XVII.A.2.a and b, shall be submitted as part of this technical report. Note that the rainfall summary is to be for the entire reporting year, not just for the events in which samples were collected. In addition, the City shall describe the source(s) of the rainfall and flow data used to fulfill this reporting requirement.
2. Each of the above revised reports in Ordered Paragraph 1.a. through 1.d. shall include the following:
 - a. The analytical laboratory report (including the cover letter, sample collection date/time, data results, QA/QC results and chain of custody).
 - b. An updated data results table, presented using the CDEN chemistry data template found at http://ceden.org/ceden_datatemplates.shtml.
 - c. For each sampling event, provide a copy of the field notes, which should include the date, place, time of sampling; the individual(s) who performed the sampling; field measurements; and calibration information for the instruments used for field measurements.

- d. A field results data table, presented using the CDEN field data template found at http://ceden.org/ceden_datatemplates.shtml.
 - e. For each sample location listed in the chain of custody, provide a description of the location, including (a) the site ID, (b) a narrative description of the location, (c) the waterbody monitored, (d) the GPS coordinates or latitude and longitude of the sampling point, and (e) a map depicting the locations. The descriptions shall be of sufficient detail that a member of the public can locate each monitoring point.
3. By **October 16, 2018**, the City shall submit any other data (such as chemical pollutants, aquatic toxicity, suspended sediment concentrations, benthic macroinvertebrates, dry weather monitoring, etc.) collected to satisfy the monitoring requirements of the MS4 permit, as listed in Enclosure 2 of the Regional Board's August 5, 2016 letter to the City. If the only data collected to date has already been submitted in the three semi-annual monitoring reports, then the City shall so state.

Beginning with the December 2018 semi-annual monitoring report, and for all subsequent semi-annual reports:

4. The December report shall contain results for samples collected between January 1 and June 30 of that year, and shall be submitted by December 15.
5. The June report shall contain results for samples collected between July 1 and December 31 of the previous year, and shall be submitted by June 15.
6. Each report shall contain the information listed in Ordered Paragraphs 2.a-e, above.
7. At a minimum, the sampling program shall be as described in Enclosure 2 of the Regional Board's August 5, 2016 letter to the City⁴. Samples shall be collected from the identified locations, at the frequency described, and analyzed for the listed constituents. If the City wishes to conduct additional sampling, it may do so, and these results shall also be reported to the Regional Board in the semi-annual reports.

Information required by this Order in Ordered Paragraphs 1-3 shall be submitted to Ms. Wendy Wyels, Office of Enforcement, 801 K Street, 23rd Floor Sacramento, California 95814. The City is still obligated to comply with its reporting requirements beginning with the December 2018 semi-annual monitoring report, including timely submission of its reports to the Regional Board.

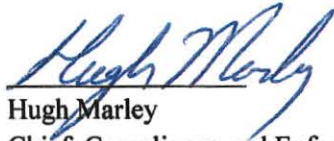
Pursuant to Water Code section 13268, subdivision (a), any person who fails to submit reports in accordance with the Order is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Pursuant to Water Code section 13268, subdivision (b)(1), failure to submit the required technical report described above by the specified due date may result in the imposition of administrative civil liability by the Regional Board in an amount up to one thousand dollars (\$1,000) per day for each day the technical report is not received after the above due date. These civil liabilities may be assessed by the Regional Board for failure to comply, beginning with the date that the violations first occurred, and without further warning.

The Regional Board, under the authority given by Water Code section 13267, subdivision (b)(1), requires you to include a perjury statement in all reports as required by this Order. The perjury statement shall be signed by an authorized City representative. The perjury statement shall be in the following format:

⁴ Or subsequent written communication that formally revises the monitoring program.

"I, _____, the Legally Responsible Person for the City of Compton certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

SO ORDERED.


Hugh Marley

Chief, Compliance and Enforcement Section


Date

Attachment 4:

Memorandum from Industrial Economics, Inc.
to Mayumi Okamoto and Catherine Hawe,
January 9, 2019

MEMORANDUM | January 9, 2019

TO Mayumi Okamoto and Catherine Hawe, CA WRCB
FROM Katya Smirnova, Chris Smith, and Andrew Cahill, Industrial Economics, Incorporated
SUBJECT City of Compton, California Ability to Pay Analysis

SUMMARY OF ANALYSIS

We reviewed the ability of the City of Compton, California (Compton, the City) to pay a proposed penalty of \$1.5 million to \$2.0 million for failure to conduct monitoring pursuant to the LA County MS4 Permit Monitoring and Reporting Program. To conduct our analysis, we searched for and reviewed financial documentation for the City, including a March 2018 audit of the City's accounting practices by the California State Controller's Office. We also collected and reviewed publicly available socio-demographic data for the City, the state, and the nation.

We find that Compton's socioeconomic condition is challenging, with relatively low income levels, high unemployment levels, and very high levels of poverty. At the same time, the City itself is in poor financial condition, and is struggling to manage its internal accounting controls and produce financial reports on a timely basis. Compton's most recent financial report is for fiscal year 2014; it was recalled by external auditors. The unaudited data in this report suggest that the City's General Fund, the likeliest internal source of potential penalty contribution, had liquidity issues that included inadequate cash reserves and a negative fund balance. Since then, the March 2018 audit report by the State Controller's Office revealed that the General Fund's fund balance deficit has in fact grown. In addition, a former Deputy Treasurer for the City was arrested and sentenced for embezzling more than \$3.7 million in City funds during the period from 2010 to 2016.

Compton is working to improve both its financial condition and its internal control procedures. In the 2014 annual report, the City outlined its plans to achieve fiscal stability, which include keeping overall expenditures flat, implementing an additional one percent sales tax, and approving a 15-year repayment schedule for General Fund internal borrowings. Similarly, in the March 2018 audit report, the City outlined steps it is taking to enhance its administrative and internal accounting controls, including hiring an accounting firm to complete outstanding audits for FY2014-2017.

Based on our review of the limited, dated, and partly unaudited financial documentation available at this time, we conclude that Compton cannot afford to contribute any funds to a penalty payment. While the City is working to improve its financial condition, any additional revenues and liquidity gained through tax increases and expenditure controls should be dedicated to replenishing the General Fund's unrestricted fund balance and supporting operations.

SOCIOECONOMIC STATUS AND TRENDS

The City of Compton is located in Los Angeles County, California. As of 2016, the City had 23,716 households and a population of 97,740.¹ Compton's population has grown modestly since 2010, when it totaled 95,761.² Despite this growth, the City's socioeconomic condition is poor, particularly with respect to the number of families below the poverty level.

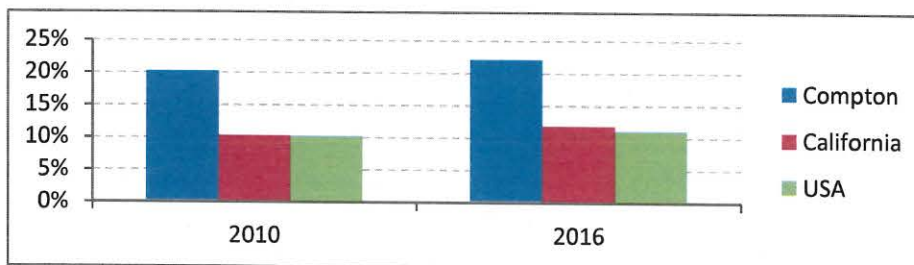
Compton's 2016 Median Household Income (MHI, \$45,406) is approximately 30 percent below the state median and 20 percent below the national median. One-fifth of the City's families live below the poverty level, and the City's unemployment rate (6.2 percent) is also high. Exhibit 1 summarizes key socioeconomic data for Compton relative to the state and the nation as of 2016.

EXHIBIT 1: SOCIOECONOMIC DATA FOR COMPTON, THE STATE, AND THE NATION

METRIC	CITY OF COMPTON, CA	STATE OF CALIFORNIA	UNITED STATES
Median Household Income ^A	\$45,406	\$63,783	\$55,322
Per Capita Income ^A	\$14,820	\$31,458	\$29,829
Percentage of Families Below Poverty Level ^A	22.0%	11.8%	11.0%
Unemployment Rate ^B	6.2%	4.8%	4.4%

^A 2016 American Community Survey 5-Year data for the City of Compton.
^B 2017 Annual Unemployment Data from the Bureau of Labor Statistics.

Compton's standing relative to the state and the nation was similar in 2010, around the time of the Great Recession. In 2010 the City's MHI was 30 percent below the state median and 20 percent below the national median; the City's unemployment rate was higher than those for the state and nation; and the City had nearly twice as many families living below the poverty level as the state and nation. While the City's income levels and unemployment rate have improved relative to this 2010 period, they continue to trail the state and nation. Meanwhile, as shown in Exhibit 2, the City's number of families below the poverty level has slightly increased during this time period.³

EXHIBIT 2: 2010 AND 2016 PERCENT OF FAMILIES BELOW THE POVERTY LEVEL

¹ 2016 American Community Survey 5-Year data for the City of Compton, CA.

² 2010 American Community Survey 5-Year data for the City of Compton, CA.

³ 2010 American Community Survey 5-Year data for the City of Compton, CA.

AVAILABLE FINANCIAL DOCUMENTATION

To conduct the ability to pay analysis, we searched for and collected available financial documentation for the City of Compton. This effort yielded the following documents, which we reviewed for our analysis:

- The City's audited annual financial reports for fiscal years 2012 and 2013;
- The City's unaudited annual financial report for fiscal year 2014;
- The City's annual budgets for the fiscal years 2014-2019;
- The City's bond prospectus for its 2016-17 Tax and Revenue Anticipation Notes of \$15,595,000; and
- The California State Controller's Office March 2018 Audit Report of the City's administrative and internal accounting controls for the period of July 1, 2013, through June 30, 2016.

Our search results indicate that there are limited - if any - data available on Compton's current financial condition. The most recent audited financial report for the City is for the fiscal year ending June 30, 2013. We located a slightly more recent financial report for the fiscal year ending June 30, 2014, but this annual report was "recalled by the external auditors" and therefore "cannot be relied upon."⁴

In part due to Compton's inability to produce financial reports on a timely basis, the California State Controller's Office (SCO) conducted an audit of the City's administrative and internal accounting controls for the period of July 1, 2013 through June 30, 2016. The SCO published their findings in a March 2018 report that found "serious and pervasive" deficiencies with the City's accounting practices. Of 79 control practices evaluated, SCO found 71 to be inadequate. The deficiencies highlighted in the SCO's report included: a deficit fund balance in the City's General Fund; weaknesses in internal controls that contributed to the City losing \$3.72 million to embezzlement by a former Deputy Treasurer; salary compensation paid to City Council Members that was in excess of amounts allowed by the City Charter; and insufficient oversight practices that led to questionable travel charges and other expenditures on city-issued credit cards.

Our research indicates that the City's issues with timely production of audited financial results extend beyond the 2013 to 2016 period covered by the SCO's audit. In September 2012, Standard & Poor's Rating Services suspended its rating on the City's bonds because the City was unable to produce audited financial statements for the fiscal year ending June 30, 2011 on a timely basis. In November 2012, Moody's Investors Service, Inc. followed suit and suspended its ratings of the City's bonds. As of December 2018, neither rating service has reinstated its ratings on the City's debt.⁵

Given the data limitations, we conducted our ability to pay analysis based on the City's most recent and detailed financial data available. These come from Compton's mix of

⁴ California State Controller's Office. March 2018. City of Compton - Review Report - Administrative and Internal Accounting Controls - July 1, 2013, through June 30, 2016. Page 25.

⁵ Bond Prospectus. \$15,595,000. City of Compton, California. 2016-17 Tax and Revenue Anticipation Notes. Page 12.

audited and unaudited annual financial reports for fiscal years 2012 through 2014. We supplement this information with some aggregate General Fund balance amounts for fiscal years 2015 and 2016, as reported in the SCO audit report.⁶

ABILITY TO PAY ANALYSIS

To evaluate the City's ability to pay a penalty related to stormwater monitoring violations, we reviewed the financial condition of the City's General Fund (the City's main operating fund), which is the financial segment of the City's government that is most likely to be responsible for the payment.⁷ We also reviewed the financial condition of the City's Total Governmental Funds (i.e., the full accounting of the City's governmental funds across the year, regardless of whether they might contribute to the payment), because it provides a complete picture of the City's financial condition. Note, however, that most components of Total Governmental Funds are restricted for other uses and likely could not be applied toward the penalty payment. The Appendix to this memorandum provides an overview of key Income Statement and Balance Sheet metrics for each fund.

GENERAL FUND

The General Fund is the main operating fund for a municipality and supports its day-to-day activities. This is the most likely source for penalty payment; most of the City's other funds are limited to specific activities and services. Our analysis of Compton's General Fund indicates that it has significant liquidity issues and no ability to pay the proposed penalty or a lesser amount.

- **Income and Expenses:** The General Fund's income and expenses, along with transfers to other funds, determine the net change to the General Fund balance.⁸ This balance needs to be positive to provide working capital to the municipality. For FY2012-2014, the City's General Fund generated just enough revenues to cover expenses, with cumulative revenues (\$147.8 million) only \$304,000 above cumulative expenses (\$147.5 million). While this is an improvement relative to FY2008-2011, when the City's General Fund overspent by an average of \$16.3 million per year, it has not resolved the City's General Fund balance deficit, which remained at negative \$36.5 million as of FY2014.⁹
- **Assets and Liabilities:** As of FY2014, Compton's General Fund liabilities (\$43.4 million) far exceeded its assets (\$6.9 million). The majority of these liabilities (\$37.0 million) represented loans from other City fund accounts that helped to cover prior General Fund shortages. This arrangement left the City with a negative total General Fund balance of \$36.5 million as of FY2014, suggesting

⁶ These 2015 and 2016 fund balance amounts are based on unaudited and unadjusted "trial balance data."

⁷ We did not identify a proprietary enterprise fund dedicated to stormwater services, so we assume stormwater operations are accounted for under the City's General Fund.

⁸ Net change in fund balance is revenue less expenses, net of other financing sources and uses (i.e., what would be called "net income" in corporate finance).

⁹ California State Controller's Office. March 2018. City of Compton - Review Report - Administrative and Internal Accounting Controls - July 1, 2013, through June 30, 2016. Page 4.

significant liquidity problems. The limited financial data reported in the March 2018 SCO audit report suggest that the General Fund balance deficit has grown to \$38.5 million as of FY2016.¹⁰

- **Expenditure Coverage Metrics:** As of FY2014, the General Fund had a negative unrestricted fund balance of \$36.5 million and a cash balance that could only cover 1.2 weeks of expenses.¹¹ Both of these metrics are below the expenditure coverage standards recommended by the Government Finance Officers Association (GFOA).¹² The GFOA recommends that the General Fund have enough unrestricted balance on hand to cover a minimum of two months of expenditures.¹³ This liquidity balance is necessary to provide a buffer for cases of revenue shortfalls or unforeseen expenditures.

TOTAL GOVERNMENTAL FUNDS

Municipal finances are organized into fund accounts and presented in aggregate. The accounting of Total Governmental Funds represents the aggregate. Compton's Total Governmental Funds compile financial data from the City's General Fund, Special Revenue Funds, Capital Projects Funds, and Nonmajor Governmental Funds. While our review of the City's Total Governmental Funds suggests that it is in moderately better condition than the City's General Fund, we conclude that the Total Governmental Funds is also struggling with liquidity and cannot pay any portion of the proposed penalty. In addition, with the exception of the General Fund, most of the other components of Total Governmental Funds are likely not available for penalty payment due to the restricted nature of the funds' uses.

- **Income and Expenses:** For FY2012-2014, total revenue for the City's Total Governmental Funds remained at a steady average of approximately \$102 million. During this time, Compton reduced its total expenditures from \$118 million in FY2012 to \$90 million and \$97 million respectively for FY2013 and FY2014. These expenditure reductions allowed Compton's cumulative revenues for FY2012-2014 to exceed its cumulative expenditures, albeit by just \$697,000.
- **Assets and Liabilities:** As of FY2014, Compton's Total Governmental Funds assets (\$115.6 million) - which include \$72.6 million in cash and investments - are well in excess of its liabilities (\$56.8 million). This leaves Compton with a Total Governmental Funds balance surplus of \$58.6 million (see Exhibit A-2 in the Appendix). While this could be a positive indicator, a closer look at the City's

¹⁰ California State Controller's Office. March 2018. City of Compton - Review Report - Administrative and Internal Accounting Controls - July 1, 2013, through June 30, 2016. Page 5.

¹¹ The total fund balance is broken up into five separate categories of fund balance: nonspendable, restricted, committed, assigned, and unassigned. Each category has different constraints on how the fund resources can be spent. For the last three categories (committed, assigned, and unassigned), the constraints on spending are imposed by the government itself. Thus, the sum of these three categories is considered the "unrestricted fund balance."

¹² <http://www.gfoa.org/fund-balance-guidelines-general-fund>.

¹³ The GFOA recommendation applies to the unrestricted fund balance; we also apply the two months of expenditure coverage recommendation to the General Fund's cash balance to examine the expenditure coverage capabilities.

fund balance surplus suggests potential issues. The non-spendable and restricted portions of this fund balance - which have external constraints on spending set outside the government itself (e.g., creditors, grantors, or contributors) - total \$98.1 million. This is well in excess of the City's cash and investments holdings of \$72.6 million, and it leaves the City with an unrestricted fund balance deficit of \$39.5 million. Taken together, the restricted fund balance and unrestricted fund balance deficit suggest that the City's Total Governmental Funds do not have sufficient liquidity to cover their restricted commitments.

- **Expenditure Coverage Metrics:** As of FY2014, the City's Total Governmental Funds had a negative unrestricted fund balance of \$39.5 million. This does not meet the two months expenditure coverage standard recommended by the GFOA.¹⁴ At the same time, the Total Governmental Funds had total cash and investments assets of \$72.6 million, which would cover approximately 9 months of expenditures. However, \$33.9 million of this amount is formally deemed "restricted cash and investments," and much of the remainder is also needed for the City's \$98.1 million in non-spendable and restricted fund balance commitments.

¹⁴ Though the GFOA does not issue recommendations for evaluation of the Total Governmental Funds, we apply the General Fund's expenditure coverage metric to the Total Governmental Funds.

APPENDIX

EXHIBIT A-1: COMPTON'S GENERAL FUND (MILLIONS)

YEARS ENDING JUNE 30,	2012	2013	2014
Income Statement Metrics			
Revenues	\$45.6	\$49.5	\$52.7
Expenses	\$47.1	\$47.9	\$52.5
Revenues Net of Expenses	(\$1.5)	\$1.6	\$0.2
Revenues Net of Expenses and Other Financing	\$4.8	\$1.5	(\$0.1)
Balance Sheet Metrics			
Total Assets	\$22.8	\$10.0	\$6.9
Total Liabilities	\$60.8	\$46.4	\$43.4
Total Fund Balance	(\$37.9)	(\$36.4)	(\$36.5)
Restricted Fund Balance	\$0.1	\$0.1	\$0.1
Unrestricted Fund Balance	(\$38.0)	(\$36.5)	(\$36.5)
Cash Balance	\$8.0	\$0.2	\$1.2

EXHIBIT A-2: COMPTON'S TOTAL GOVERNMENTAL FUNDS (MILLIONS)

YEARS ENDING JUNE 30,	2012	2013	2014
Income Statement Metrics			
Revenues	\$103.8	\$100.4	\$101.4
Expenses	\$118.2	\$90.0	\$96.7
Revenues Net of Expenses	(\$14.4)	\$10.4	\$4.7
Revenues Net of Expenses and Other Financing	(\$85.7)	\$10.5	\$4.9
Balance Sheet Metrics			
Total Assets	\$148.5	\$131.3	\$115.6
Total Liabilities	\$113.8	\$83.5	\$56.8
Total Fund Balance	\$34.7	\$47.8	\$58.6
Restricted Fund Balance	\$77.9	\$86.7	\$98.1
Unrestricted Fund Balance	(\$43.1)	(\$39.0)	(\$39.5)
Cash Balance	\$63.0	\$65.7	\$72.6

Attachment 5:

Economic Benefit Calculation and Memorandum

Economic Benefit Analysis

City of Compton

Compliance Action	One-Time Non-Depreciable Expenditure				Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance
	Amount	Basis	Date	Delayed?					
June 2017 Sampling- Lab	\$ 25,147	GDP	4/11/2019	N	1/1/2017	-	4/11/2019	3.70%	26,289
June 2017 Sampling - Field	\$ 2,589	ECI	4/11/2019	N	1/1/2017	-	4/11/2019	3.70%	2,676
June 2017 Monitoring Report	\$ 2,277	ECI	4/11/2019	N	6/16/2017	-	4/11/2019	3.70%	2,328
December 2017 Sampling - Lab	\$ 19,715	GDP	4/11/2019	N	7/1/2017	-	4/11/2019	3.70%	20,400
December 2017 Sampling - Field	\$ 5,780	ECI	4/11/2019	N	7/1/2017	-	4/11/2019	3.70%	5,945
December 2017 Monitoring Report	\$ 4,815	ECI	4/11/2019	N	12/16/2017	-	4/11/2019	3.70%	4,900
June 2018 Sampling - Lab	\$ 3,725	GDP	4/11/2019	N	1/1/2018	-	4/11/2019	3.70%	3,808
June 2018 Sampling - Field	\$ 1,001	ECI	4/11/2019	N	1/1/2018	-	4/11/2019	3.70%	1,019
June 2018 Monitoring Report	\$ 1,073	ECI	4/11/2019	N	6/16/2018	-	4/11/2019	3.70%	1,085
December 2018 Sampling - Lab	\$ 21,693	GDP	4/11/2019	N	7/1/2018	-	4/11/2019	3.70%	21,994
December 2018 Sampling - Field	\$ 5,260	ECI	4/11/2019	N	7/1/2018	-	4/11/2019	3.70%	5,319
December 2018 Monitoring Report	\$ 4,815	ECI	4/11/2019	N	12/16/2018	-	4/11/2019	3.70%	4,835
13267 Technical Reports	\$ 4,621	ECI	4/11/2019	Y	10/17/2018	-	4/11/2019	3.70%	29

Income Tax Schedule: Municipality
USEPA BEN Model Version: Version 5.8.0 (April 2018)
Analyst: Bryan Elder
Date/Time of Analysis: 1/4/19 11:37

Total Benefit: \$ 100,627

Assumptions:

- 1 Cost estimates for compliance actions provided by Prosecution Team - see 1/4/2019 Memorandum from Wendy Wyels.
- 2 Compliance costs for sampling and reporting are assumed to be avoided.
- 3 Technical reports required by the 13267 Order are still outstanding and therefore are considered delayed. For conservative purposes, it is assumed that the reports will be completed by the penalty payment date.
- 4 Compliance costs associated with laboratory analysis indexed using Gross Domestic Product (GDP).
- 5 Compliance costs associated with field sampling and report generation indexed using the Employment Cost Index (ECI).
- 6
Noncompliance dates are the day following the date the sampling should have been completed, or the deliverable was due to the Water Boards.
- 7 Penalty payment date is assumed to be April 11, 2019.
- 8 The City of Compton is considered a municipality for the purposes of BEN analysis.

State Water Resources Control Board

TO: Mayumi Okamoto, Supervising Attorney, Office of Enforcement
Catherine Hawe, Attorney, Office of Enforcement

FROM: Wendy Wyels
Environmental Program Manager, Retired Annuitant
Office of Enforcement

DATE: January 4, 2019

SUBJECT: ***CITY OF COMPTON: RAW DATA TO USE IN ECONOMIC BENEFIT CALCULATIONS***

The draft ACL lists five violations, all of which are described in detail in Attachment A. For Violations 1-4, the City received an economic benefit by not collecting and analyzing the appropriate number of samples. The City also received an economic benefit by submitting much shorter monitoring reports than it would have if the correct number of samples had been collected. For Violation 5, the City received an economic benefit by not submitting reports required by a 13276 Order.

To calculate the cost of samples that were not collected, I used rates taken from California State University Long Beach Research Foundation, Agreement Number 13-013-140, Exhibit B, Attachment 1. The constituents to sample, locations, and number of sampling events are listed in Violations 1-4 in Attachment A to the ACL. To determine the personnel costs, I used the 2018 Underground Storage Tank Cleanup Fund Cost Guidelines. Calculation tables, including the rates, are found on pages 2-11 of this memo. I gave the City credit for the analytical costs they incurred but did not give them credit for the field work or reporting since their efforts were so minimal.

Violation 1: Failure to Comply with Monitoring Program and Submit a Complete June 2017 Monitoring Report. The samples were to be collected by December 31, 2016 and the report was to be submitted by June 15, 2017.

Avoided costs for sampling: \$25,147

Avoided costs for field work: \$2,589

Avoided costs for report preparation: \$2,277

Violation 2: Failure to Comply with Monitoring Program and Submit a Complete December 2017 Monitoring Report. The samples were to be collected by June 30, 2017 and the report was to be submitted by December 15, 2017.

Avoided costs for sampling: \$19,715

Avoided costs for field work: \$5,780

Avoided costs for report preparation: \$4,815

Violation 3: Failure to Comply with Monitoring Program and Submit a Complete June 2018 Monitoring Report. The samples were to be collected by December 31, 2017 and the report

was to be submitted by June 15, 2018.

Avoided costs for sampling: \$3,725

Avoided costs for field work: \$1,001

Avoided costs for report preparation: \$1,073

Violation 4: Failure to Comply with Monitoring Program and Submit a Complete December 2018 Monitoring Report. The samples were to be collected by June 30, 2018 and the report was to be submitted by December 15, 2018.

Avoided costs for sampling: \$21,693

Avoided costs for field work: \$5,260

Avoided costs for report preparation: \$4,815

Violation 5: The City received an economic benefit by failing to adequately respond to the September 6, 2018 Water Code section 13267 Order. Six technical reports were due on October 16, 2018. Four were not submitted, but they could be completed any time. Delayed cost: \$4,621.

Violation 1

Failure to Comply with Monitoring Program and Submit a Complete June 2017 Monitoring Report

The City should have completed one wet weather and one dry weather monitoring events, but only completed one partial wet weather monitoring event. Additional information is found in Attachment A to the ACL.

Table 1

Constituent	Rate	# of wet samples	# of dry samples	# samples collected by City	Net samples NOT collected	Total Cost (net samples x rate)
Flow, pH, Dissolved Oxygen, Temperature, EC	n/a	6	3	--	9	Part of field cost
Table E-2 Constituents ¹	\$1821	4	0	--	4	\$7,284
Aquatic Toxicity ²	\$2,015	1	1		2	\$4,030
Total Suspended Solids	\$25	6	3		9	\$225
Suspended sediment concentration	\$45	6	3		9	\$405
Hardness	\$25	6	3		9	\$225
E. Coli	\$25	4	1	1	5	\$125
Trace elements (Cd, Al, Se, Cu, Pb, Ni, Zn, Sb)	\$125	6	3	1	8	\$1,000
Mercury	\$50	1	1		2	\$100
Nitrate-N	\$25	3	1	1	4	\$100
Nitrite-N	\$25	3	1	1	4	\$100
Ammonia	\$25	4	1	1	5	\$125
Chlorinated Pesticides (Chlordane, DDT)	\$100*	3	2		5	\$500
PCBs	\$100*	3	2		5	\$500
PAHs (including pyrene, chrysene, phenanthrene,	\$250*	2	2		4	\$1,000

Constituent	Rate	# of wet samples	# of dry samples	# samples collected by City	Net samples NOT collected	Total Cost (net samples x rate)
benzo(a)pyrene, benzo(a)anthracene)						
Municipal Action Level ³	\$250	3	0		3	\$750
Benthic Macroinvertebrates ⁴	\$8678	1	0		1	\$8678
						Total: \$25,147

¹ Per MRP, see Table 1-A, below

² Per MRP, page E-32, aquatic toxicity shall consist of three tests (fathead minnow, daphnia, and green alga). Costs are \$1,040, \$275, and \$700, respectively.

³ See Table 1-B, below

⁴ Per MRP, footnote 23, the City is to follow the protocol developed by the Southern Calif Stormwater Monitoring Coalition (SMC). Cost taken from Table 6 of the SMC document http://socalsmc.org/wp-content/uploads/2017/01/Workplan_Bioassessment.pdf (for a trend site, year 1).

* Full price paid for PAH test, then a price break for the rest of the semi-volatile compound groups.

Table 1-A: The MS4 Permit's Table E-2 lists numerous parameters, some of which are duplicated in the standard monitoring program. This table shows the cost for sampling for the Table E-2 parameters, while the sample program described in Table 1 is also conducted.

Constituents	Notes	Rate	Total Cost for One Sample Location
CONVENTIONAL POLLUTANTS			
Oil and Grease		\$50	
Total Phenols	Included in SVOC acids, below	-	
Cyanide		\$90	
pH, temperature, dissolved oxygen	Included in Table 1	-	
BACTERIA (single sample limits)			
Total coliform (marine waters)	n/a	-	
Enterococcus (marine waters)	n/a	-	
Fecal coliform (marine waters)	n/a	-	
E. coli (fresh waters)	Included in Table 1	-	
GENERAL			
Dissolved Phosphorus		\$29 [^]	
Total Phosphorus		\$35	
Turbidity		\$10	
Total Suspended Solids, Total Hardness	Included in Table 1	-	
Total Dissolved Solids		\$25	
Volatile Suspended Solids		\$25	
Total Organic Carbon		\$50	
Total Petroleum Hydrocarbons	Diesel, gasoline, and motor oil	\$150	
Biochemical Oxygen Demand		\$50	
Chemical Oxygen Demand		\$25	
Total Ammonia-Nitrogen, Nitrate-Nitrate	Included in Table 1	-	

Constituents	Notes	Rate	Total Cost for One Sample Location
Total Kjeldahl Nitrogen		\$50	
Alkalinity		\$25	
Specific Conductance		\$20^A	
MBAS		\$75	
Chloride		\$25	
Fluoride		\$25	
Methyl tertiary butyl ether (MTBE)		\$85^A	
Perchlorate		\$85^A	
METALS (Dissolved & Total)	Total metals included in Table 1	\$125 (for dissolved)	
Aluminum, Antimony, Arsenic, Beryllium		-	
Cadmium, Chromium (total), Copper, Lead,		-	
Nickel, Selenium, Silver, Thallium Zinc		-	
OTHERS NOT IN METAL SCAN		-	
Chromium (Hexavalent)		\$42^A	
Iron		\$75	
Mercury	Included in Table 1	-	
FULL SCANS			
SVOC ACIDS	Cheaper rate (full price paid for PAHs in Table 1)	\$100	
SVOC BASE/NEUTRAL	Cheaper rate	\$100	
CHLORINATED PESTICIDES	Included in Table 1	-	
POLYCHLORINATED BIPHENYLS	Included in Table 1	--	
ORGANOPHOSPHATE PESTICIDES	Cheaper rate	\$100	
HERBICIDES		\$350^A	
			\$1,821

^ This analysis isn't part of the CSULB contract. Price taken from the 2018 Caltest Analytical Laboratory contract with the Central Valley Regional Water Quality Control Board.

Table 1-B: Municipal Action Level sampling requirement for City of Compton. Taken from Attachment G Part II, Table G-6 (Los Angeles River Watershed Management Area) and Part III, Table G-10 (Dominguez Channel Watershed Management Area) of the MS4 permit. This table shows the cost for sampling for these parameters, while the sample program described in Table 1 is conducted.

Parameter	Notes	Rate	Total cost for one sample location
pH; E coli bacteria; Nitrite Nitrogen	Included in Table 1	-	
Total coliform bacteria		\$25	
Fecal coliform bacteria		\$25	
Enterococcus bacteria		\$25	
Chloride		\$25	
Sulfate		\$25	
Total dissolved solids		\$25	
Turbidity		\$10	

Cyanide, total recoverable		\$90	
Aluminum, Copper, Mercury, Selenium, Lead (all total)	Included in Table 1	-	
			\$250

Personnel costs

Item and Details	Staff	Rate	Hours	Total Cost
Wet weather monitoring preparation	Project Mgr	\$152	1	\$152
	Sr Technician	\$102	1	\$102
	Technician	\$87	3	\$261
Wet weather monitoring: 6 locations (includes travel time, field measurements, benthic survey, lab drop off, cleanup). (Benthic = 2 hr at one location)	Technician	\$87	11	\$957
Dry weather monitoring preparation	Sr Technician	\$102	1	\$102
	Technician	\$87	3	\$261
Dry weather monitoring: 3 locations (includes travel time, field measurements, lab drop off, cleanup)	Technician	\$87	6	\$522
Supplies: pH/EC/Temperature meter		\$58/day	2 days	\$116
Supplies: DO meter		\$58/day	2 days	\$116
Total personnel cost for field work				\$2,589
Wet weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	2	\$152	\$304
	Senior Tech	2	\$102	\$204
	Technician	8	\$87	\$696
Dry weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	1	\$152	\$152
	Senior Tech	2	\$102	\$204
	Technician	6	\$87	\$522
Typing, mailing, reproduction	Clerical	3	\$65	\$195
Total cost for report preparation:				\$2,277

Violation 2

Failure to Comply with Monitoring Program and Submit a December 2017 Monitoring Report

The City should have completed three wet weather and one dry weather monitoring events. The City completed two partial wet weather monitoring events. Additional information is found in Attachment A to the ACL.

Table 2

Constituent	Rate	# wet samples	# dry samples	# samples collected by City	Net samples NOT collected	Total Cost (net samples x rate)
Flow, pH, Dissolved Oxygen, Temperature,	n/a	12	2	0	14	Included in field cost

Constituent	Rate	# wet samples	# dry samples	# samples collected by City	Net samples NOT collected	Total Cost (net samples x rate)
EC						
Aquatic Toxicity	\$2015	1	0		1	\$2015
Total Suspended Solids	\$25	12	0		12	\$300
Suspended sediment concentration	\$45	12	1		13	\$585
Hardness	\$25	12	1		12	\$300
E. Coli	\$25	8	1	2	7	\$175
Trace elements (Cd, Al, Se, Cu, Pb, Ni, Zn, Sb)	\$125	12	1	2	11	\$1375
Mercury	\$50	3	0		3	\$150
Nitrate-N	\$25	6	1	2	5	\$125
Nitrite-N	\$25	6	1	2	5	\$125
Ammonia	\$25	8	1	2	7	\$175
Chlorinated Pesticides (chlordane, DDT)	\$100*	4	0		4	\$400
PCBs	\$100*	4	0		4	\$400
PAHs (including pyrene, chrysene, phenanthrene, benzo(a)pyrene, benzo(a)anthracene)	\$250	4	0		4	\$1000
Municipal Action Level	\$250	6	0		6	\$1500
Sediment monitoring ¹	\$3,555 +benthic	3			3	\$10,665 + benthic
Fish tissue monitoring ²	\$425	1			1	\$425
						Total: \$19,715

¹ See Table 2-A, below

² See Table 2-B, below

* Full price paid for PAH test, then a price break for the rest of the semi-volatile compound groups.

Table 2-A: Sediment monitoring for City of Compton. Taken from Table 3 of the Regional Board's August 5, 2016 monitoring directive. To be sampled once every two years; the Prosecution Team has assumed it would be completed during this monitoring period.

Parameter	Rate	Total cost for one sample location
Trace Elements (Cu, Pb, Cd, Zn)	\$125	
Mercury	\$50	
PAHs	\$250	

Chlorinated pesticides (chlordane, DDD, DDE, DDT)	\$100	
PCBs	\$100	
Total Organic Carbon	\$75	
Grain Size	\$85	
Sediment Toxicity ¹	\$2,770	
Benthic Community ²	Part of field cost	
		\$3,555 + field

¹ Three tests (10-day survival with Hyalella, 28-day survival with Hyalella, and 10-day growth and survival with Chironomus tentans). (\$570+\$1100 +\$1100)

² BMI is a field exercise not a lab test, and time will be added to the field cost.

https://knowledge.sonomacreek.net/files/2011_CSBP_ref3241.pdf

Table 2-B: Fish tissue monitoring for City of Compton. Taken from Table 3 of the Regional Board’s August 5, 2016 monitoring directive. To be sampled once every two years; the Prosecution Team has assumed that it would be completed during this monitoring period.

Parameter	Rate	Total cost for one sample location
Chlorinated pesticides (chlordane, dieldrin, DDT)	\$225	
Toxaphene	\$100	
PCBs	\$100	
		\$425

Personnel Costs

Item and Details	Staff	Rate	Hours	Total Cost
Wet weather monitoring preparation	Project Mgr	\$152	1	\$152
	Sr Technician	\$102	1	\$102
	Technician	\$87	3	\$261
Wet weather monitoring: 6 locations (includes travel time, field measurements, lab drop off, cleanup)	Technician	\$87	9	\$783
Benthic survey at 3 locations	Technician	\$87	6	\$522
Supplies: pH/EC/Temperature meter		\$58/day	1 day	\$58
Supplies: DO meter		\$58/day	12 days	\$58
Total cost for first wet weather monitoring event:				\$1,936
Total cost for second wet weather monitoring event (no benthic):				\$1,414
Total cost for third wet weather monitoring event (no benthic):				\$1,414
Dry weather monitoring preparation	Sr Technician	\$102	1	\$102
	Technician	\$87	2	\$276
Dry weather monitoring: 2 locations (includes travel time, field measurements, lab drop off, cleanup)	Technician	\$87	6	\$522

Supplies: pH/EC/Temperature meter		\$58/day	1 day	\$58
Supplies: DO meter		\$58/day	1 day	\$58
Total cost for first dry weather monitoring event:				\$1,016
Total personnel cost for field work				\$5,780
Wet weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	2	\$152	\$304
	Senior Tech	2	\$102	\$204
	Technician	8	\$87	\$696
Total cost for first wet weather monitoring report:				\$1,204
Total cost for second wet weather monitoring report:				\$1,204
Total cost for third wet weather monitoring report:				\$1,204
Dry weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	1	\$152	\$152
	Senior Tech	2	\$102	\$204
	Technician	6	\$87	\$522
Total cost for first dry weather monitoring report:				\$878
Typing, mailing, reproduction	Clerical	5	\$65	\$325
Total cost for report for all four monitoring events:				\$4,815

Violation 3

Failure to Comply with Monitoring Program and Submit a Complete June 2018 Monitoring Report

The City should have completed one dry season monitoring event during this period, but it did not collect any samples. Additional information is found in Attachment A to the ACL.

Table 3

Constituent	Rate	# of samples	Total cost
Flow, pH, Dissolved Oxygen, Temperature, EC	n/a	3	Part of field costs
Aquatic Toxicity	\$2,015	1	\$2,015
Total Suspended Solids	\$25	3	\$75
Suspended sediment concentration	\$45	3	\$135
Hardness	\$25	3	\$75
E. Coli	\$25	1	\$25
Trace elements (Cd, Al, Se, Cu, Pb, Ni, Zn, Sb)	\$125	3	\$375
Mercury	\$50	1	\$50
Nitrate-N	\$25	1	\$25
Nitrite-N	\$25	1	\$25
Ammonia	\$25	1	\$25
Chlorinated Pesticides (chlordane, DDT)	\$100*	2	\$200
PCBs	\$100*	2	\$200
PAHs (including pyrene, chrysene, phenanthrene, benzo(a)pyrene,	\$250*	2	\$500

Constituent	Rate	# of samples	Total cost
benzo(a)anthracene)			
			Total: \$3,725

* Full price paid for PAH test, then a price break for the rest of the semi-volatile compound groups

Personnel Costs

Item and Details	Staff	Rate	Hours	Total Cost
Dry weather monitoring preparation	Sr Technician	\$102	1	\$102
	Technician	\$87	3	\$261
Dry weather monitoring: 3 locations (includes travel time, field measurements, lab drop off, cleanup)	Technician	\$87	6	\$522
Supplies: pH/EC/Temperature meter		\$58/day	1 day	\$58
Supplies: DO meter		\$58/day	1 day	\$58
Total personnel cost for field work				\$1,001
Dry weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	1	\$152	\$152
	Senior Tech	2	\$102	\$204
	Technician	6	\$87	\$522
Typing, mailing, reproduction	Clerical	3	\$65	\$195
Total cost for report preparation:				\$1,073

Violation 4

Failure to Comply with Monitoring Program and Submit a Complete December 2018 Monitoring Report. The City should have completed three wet weather and one dry weather monitoring events, but it only completed two partial wet weather monitoring events. Additional information is found in Attachment A to the ACL.

Table 4

Constituent	Rate	# wet samples	# dry samples	# samples collected by City	Net samples NOT collected	Total cost (net samples x rate)
Flow, pH, Dissolved Oxygen, Temperature, EC		18	2		20	Part of field cost
Aquatic Toxicity	\$2,015	2	0		2	\$4,030
Total Suspended Solids	\$25	18	0		18	\$450
Suspended sediment concentration	\$45	12	1		13	\$585
Hardness	\$25	18	1		19	\$475
E. Coli	\$25	12	1	4	9	\$225
Trace elements (Cd, Al, Se, Cu, Pb, Ni, Zn, Sb)	\$125	18	1	4	15	\$1,875

Constituent	Rate	# wet samples	# dry samples	# samples collected by City	Net samples NOT collected	Total cost (net samples x rate)
Mercury	\$50	4	0		4	\$200
Benthic Macroinvertebrates ¹	\$8,678	1	0		1	\$8,678
Nitrate-N	\$25	9	1	4	6	\$150
Nitrite-N	\$25	9	1	4	6	\$150
Ammonia	\$25	12	1	4	9	\$225
Chlorinated Pesticides (chlordane, DDT)	\$100*	7	0		7	\$700
PCBs	\$100*	7	0		7	\$700
PAHs (including pyrene, chrysene, phenanthrene, benzo(a)pyrene, benzo(a)anthracene)	\$250*	4	0		4	\$1,000
Municipal Action Level	\$250	9	0		9	\$2,250
						\$21,693

¹ Per MRP, footnote 23, the City is to follow the protocol developed by the Southern Calif Stormwater Monitoring Coalition (SMC). Cost taken from Table 6 of the SMC document http://socalsmc.org/wp-content/uploads/2017/01/Workplan_Bioassessment.pdf (for a trend site, year 1).

* Full price paid for PAH test, then a price break for the rest of the semi-volatile compound groups.

Personnel Costs

Item and Details	Staff	Rate	Hours	Total Cost
Wet weather monitoring preparation	Project Mgr	\$152	1	\$152
	Sr Technician	\$102	1	\$102
	Technician	\$87	3	\$261
Wet weather monitoring: 6 locations (includes travel time, field measurements, lab drop off, cleanup)	Technician	\$87	9	\$783
Benthic survey at 1 location	Technician	\$87	2	\$174
Supplies: pH/EC/Temperature meter		\$58/day	1 day	\$58
Supplies: DO meter		\$58/day	12 days	\$58
Total cost for first wet weather monitoring event:				\$1,588
Total cost for second wet weather monitoring event (no benthic):				\$1,414
Total cost for third wet weather monitoring event (no benthic):				\$1,414
Dry weather monitoring preparation	Sr Technician	\$102	1	\$102
	Technician	\$87	2	\$174

Dry weather monitoring: 1 location (includes travel time, field measurements, lab drop off, cleanup)	Technician	\$87	5	\$435
Supplies: pH/EC/Temperature meter		\$58/day	1 day	\$58
Supplies: DO meter		\$58/day	1 day	\$58
Total cost for first dry weather monitoring event:				\$844
Total personnel cost for field work				\$5,260
Wet weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	2	\$152	\$304
	Senior Tech	2	\$102	\$204
	Technician	8	\$87	\$696
Total cost for first wet weather monitoring report:				\$1,204
Total cost for second wet weather monitoring report:				\$1,204
Total cost for third wet weather monitoring report:				\$1,204
Dry weather sample: data review, QA/QC, report preparation, interpretation	Project Mgr	1	\$152	\$152
	Senior Tech	2	\$102	\$204
	Technician	6	\$87	\$522
Total cost for first dry weather monitoring report:				\$878
Typing, mailing, reproduction	Clerical	5	\$65	\$325
Total cost for report for all four monitoring events:				\$4,815

Violation 5:

Four technical reports were not submitted. Three of the reports were to be updated and corrected monitoring reports with accompanying documentation. The fourth report was the rainfall summary report required by the Annual Reports. Additional information is found in Attachment A to the ACL.

Item and Details	Staff	Rate	Hours	Total Cost
Corrected monitoring report	Project Mgr	\$152	1	\$152
	Sr Technician	\$102	3	\$306
	Technician	\$87	8	\$696
	Clerical	\$65	2	\$130
Cost for one report:				\$1284
Cost for all three corrected monitoring reports:				\$3,852
Rainfall summary report (for two years)	Project Mgr	\$152	1	\$152
	Sr Technician	\$102	2	\$204
	Technician	\$87	4	\$348
	Clerical	\$65	1	\$65
Cost for the rainfall summary report:				\$769
Cost for all four missing reports:				\$4,621

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent City of Compton (hereafter Discharger) in connection with Administrative Civil Liability Complaint R4-2019-0004 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **\$128,843** by check that references "ACL Complaint R4-2019-0004" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Regional Board by **5:00 p.m. on February 25, 2019** or this matter will be placed on the agenda for a hearing as initially proposed in the Complaint.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Regional Board receive significant new information or comments during this comment period, the Regional Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violations. By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

California Regional Water Quality Control Board, Los Angeles Region

HEARING PROCEDURES FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2019-0004

ISSUED TO
CITY OF COMPTON

SCHEDULED FOR APRIL 24, 2019

PLEASE READ THESE HEARING PROCEDURES CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Overview

Pursuant to Water Code section 13323, the Assistant Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") has issued an Administrative Civil Liability (ACL) Complaint to the City of Compton (hereafter Discharger), alleging violations of Water Code sections 13383 and 13267, by failing to comply with the baseline monitoring requirements as prescribed in the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit (Order R4-2012-0175) and failing to comply with Regional Board Order R4-2018-0122. Regional Board staff, represented by the Regional Board Staff Prosecution Team ("Prosecution Team") propose in the ACL Complaint that the Regional Board impose administrative civil liability on the Discharger in the amount of \$128,843.

A hearing on this matter is currently scheduled to be conducted before the Regional Board during its meeting on April 24, 2019. The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Regional Board will hear evidence, determine facts, make conclusions of law and consider whether to issue an ACL Order assessing the proposed liability, or a higher or lower amount. The Board may also decline to assess any liability, or may continue the hearing to a later date. If less than a quorum of the Board is available, this matter may be conducted before a hearing panel or continued to the next scheduled meeting. A continuance of the hearing will not automatically extend any deadlines set forth herein.

The public hearing will commence at 10:00 am or as soon thereafter as practical, or as announced in the Board's meeting agenda. The hearing will be held at:

320 West Fourth Street
Los Angeles, CA
90013
Room location TBD

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's website at <http://www.waterboards.ca.gov/losangeles/>. Please check the Board's website for the most up-to-date public hearing date and location as they are subject to change.

Hearing Procedures

The hearing will be a formal adjudicative proceeding and will be conducted in accordance with these Hearing Procedures. The Executive Officer has directed the use of these standardized hearing procedures for the adjudication of such matters. The procedures governing adjudicatory hearings before

the Regional Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at <http://www.waterboards.ca.gov>. Copies will be provided upon request.

In accordance with section 648(d), any procedure not provided by these Hearing Procedures are deemed waived. Except as provided in section 648(b) and herein, Chapter 5 of the California Administrative Procedure Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

Objections to these hearing procedures must be in writing and must be received by the Advisory Team no later than the deadline listed under "Important Deadlines" below, or they will be waived. Objections about the matters contained in these Hearing Procedures will not be entertained at the hearing. Failure to comply with the deadline and requirements contained herein may result in the exclusion of documents and/or testimony. The Discharger shall attempt to resolve objections to these Hearing Procedures with the Prosecution Team BEFORE submitting objections to the Advisory Team.

The procedures and deadlines herein may be amended by the Regional Board Chair or by the Advisory Team.

Separation of Prosecutorial and Advisory Functions

The Regional Board separates prosecutorial and adjudicative functions in matters that are prosecutorial in nature. To ensure the fairness and impartiality of this proceeding, those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (the "Prosecution Team") are separate from those who will provide legal and technical advice to the Regional Board (the "Advisory Team"). Members of the Advisory Team are: Deborah Smith, Executive Officer, Renee Purdy, Assistant Executive Officer, Sophie Froelich, Attorney, and Adriana Nunez, Attorney. Members of the Prosecution Team are: Hugh Marley, Assistant Executive Officer, Ivar Ridgeway, Senior Environmental Scientist, Erum Razzak, Environmental Scientist, Wendy Wyels, Environmental Program Manager (Retired Annuitant), Mayumi Okamoto, Attorney, and Catherine Hawe, Attorney.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Further, members of the Advisory Team have not exercised any authority over the Prosecution Team, or advised them with respect to this matter, or vice versa. Hugh Marley regularly advises the Regional Board in other, unrelated matters, but is not advising the Regional Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any substantive ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Hearing Participants

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons."

Designated Parties are those subject to the ACL Complaint and other persons or organizations anticipated to have a substantial interest in the outcome of the hearing. Designated Parties may present written evidence, summarize their evidence orally at the hearing and cross-examine other parties' witnesses (if they are called). "Evidence" includes witness testimony, documents, and tangible objects that tend to prove or disprove the existence of any alleged fact. "Relevant evidence" is evidence that relates to any fact in dispute in the proceedings. Designated Parties are subject to cross-examination about any evidence they present.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Regional Board Prosecution Team
2. City of Compton

Interested Persons include any person or organization that is interested in the outcome of the hearing, but who has not been designated as a Designated Party. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, and monitoring data), but may present written and/or oral non-evidentiary comments and policy statements. Interested Persons may not cross-examine witnesses and are not subject to cross-examination.

At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Regional Board, Advisory Team, or others, at the discretion of the Regional Board Chair.

Requesting Designated Party Status

Persons or organizations who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses, etc.), along with a statement explaining why the Designated Parties listed above do not adequately represent the person's or organization's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below. All participants will be notified before the hearing whether the request for designated party status is granted.

Primary Contacts

Advisory Team:

Renee Purdy, Assistant Executive Officer
320 West Fourth Street, Suite 200
Los Angeles, California 90013
Phone: (213) 576-6622
Email: Renee.Purdy@waterboards.ca.gov

Sophie Froelich, Attorney
State Water Resources Control Board, Office of Chief Counsel
Physical Address: 1001 I Street, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916) 319-8557
Email: Sophie.Froelich@waterboards.ca.gov

Prosecution Team:

Wendy Wyels, Environmental Program Manager (Retired Annuitant)
State Water Resources Control Board, Office of Enforcement
Physical Address: 801 K Street Suite 2300, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812

Phone: (916) 323-0595
Email: Wendy.Wyels@waterboards.ca.gov

Mayumi Okamoto, Attorney
State Water Resources Control Board, Office of Enforcement
Physical Address: 801 K Street Suite 2300, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5674
Email: Mayumi.Okamoto@waterboards.ca.gov

Discharger:

Wendell Johnson, Director of Public Works
City of Compton
205 S. Willowbrook Avenue, Compton, CA 90200
Phone: (310) 605-5505
Email: wjohnson@comptoncity.org

Ex Parte Communications

While this adjudicative proceeding is pending, the California Government Code forbids Designated Parties and Interested Persons from engaging in ex parte communications regarding this matter with Regional Board members and the Advisory Team, except during the public hearing itself. An ex parte communication is a written or verbal communication, either direct or indirect, that relates to the investigation, preparation, or prosecution of the ACL Complaint between a Designated Party or an Interested Person and a Regional Board member or a member of the Advisory Team that occurs in the absence of other parties and without notice and opportunity for all parties to participate in the communication (see Gov. Code, § 11430.10 et seq.). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Therefore, any written communication to Regional Board members or the Advisory Team before the hearing must also be copied to all other Designated Parties. Communications regarding non-controversial procedural matters, including a request for a continuance, are permissible ex parte communications and are not restricted.

The following communications to the Advisory Team must be copied to all Designated Parties: objections to these Hearing Procedures; requests for modifications to these Hearing Procedures; requests for designated party status, or objections thereto; and all written evidence, arguments, or policy statements from Designated Parties. This is not an all-inclusive list of ex parte communications.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a combined total of **30** minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide opening and/or closing statements. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony,

comments, or legal or technical argument requires extra time, and why it could not have been provided in writing by the applicable deadline. Decisions will be based upon the complexity and the number of issues under consideration, the extent to which the Designated Parties have coordinated and/or have similar interests, and the time available for the hearing.

A timer will be used, but will not run during questions from the Regional Board and the Advisory Team or the responses to such questions, or during discussions of procedural issues.

Submission of Evidence, Argument and Policy Statements

The Prosecution Team and all other Designated Parties (including the Discharger) must submit the following information in advance of the hearing, which must be received no later than the deadline listed under "Important Deadlines" below:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference, as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Regional Board members will not generally receive copies of materials incorporated by reference unless copies are provided by the Designated Party proffering the evidence as part of the Designated Party's evidentiary submission. Referenced materials are generally not posted on the Regional Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

Prosecution Team: The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list of all evidence on which the Prosecution Team relies (which must include, at a minimum, all documents cited in the ACL Complaint or other material submitted by the Prosecution Team); and the witness information required under items 3-4 for all witnesses, including Regional Board staff. The Prosecution Team shall submit this information so that it is received no later than the deadline listed under "Important Deadlines" below.

Designated Parties (including the Discharger): All Designated Parties shall submit comments, arguments or analysis regarding the ACL Complaint along with any additional supporting evidence not cited by the Regional Board's Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Regional Board staff. Designated Parties shall submit this information so that it is received no later than the deadline listed under "Important Deadlines" below.

Rebuttal: Any Designated Party who would like to submit evidence, legal or technical arguments, or policy statements to rebut information submitted by other Designated Parties, shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis, or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

Final Hearing Package and Proposed Order: The Prosecution Team will submit the Final Hearing Package and a proposed Order so that it is submitted no later than the deadline listed under "Important Deadlines" below.

Copies: Regional Board members and the Advisory Team will receive copies of all submitted materials. If hard copies of the submitted materials are provided to the Regional Board members and the Advisory Team, the materials will be printed or copied double-sided in black and white on 8.5"x11" paper. Designated Parties who are concerned about print quality or the size of all or part of their written materials should provide an extra ten (10) paper copies for the Regional Board and the Advisory Team. For voluminous submissions, the Regional Board members and Advisory Team may receive copies in electronic format only. Electronic copies may also be posted on the Regional Board's website. Designated Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Regional Board will not reject materials solely for failure to provide electronic copies.

Interested Persons: Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" below to be included in the Regional Board's hearing package. Interested persons should be aware that this matter may settle without further notice, and therefore timely submittal by the deadline may be the only opportunity for an Interested Person to comment on the subject of the ACL Complaint. If the hearing proceeds as scheduled, the Regional Board will also receive oral comments from Interested Persons during the hearing. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board Chair may exclude evidence and testimony that is not submitted in accordance with these Hearing Procedures. Excluded evidence and testimony will *not* be considered by the Regional Board and will *not* be included in the administrative record for this proceeding.

Presentations: PowerPoint and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing in electronic format, and hard copy if requested by the Advisory Team, so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination by Designated Parties.

Administrative Record and Availability of Documents

The ACL Complaint and evidentiary documents submitted in accordance with these Hearing Procedures shall be considered part of the official administrative record for this matter. Other submittals received for this proceeding will be added to the administrative record absent a contrary ruling by the Regional Board Chair. Written transcriptions of oral testimony or comments that are made at the hearing will be included in the administrative record.

These documents may be inspected and copied between the hours of 8:00 a.m. and 5:00 p.m. at the Regional Board's office located at 320 West Fourth Street, Suite 200 Los Angeles, California 90013. Arrangements for document review and/or obtaining copies of the documents may be made by contacting the Prosecution Team Primary Contact above. Appointments are encouraged so the documents can be readily available upon arrival.

Questions

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

IMPORTANT DEADLINES

All submissions must be received by 5:00 p.m. on the respective due date below.^{1,2} Where both electronic and hard copy formats are required to be submitted to the Prosecution Team, a complete electronic copy must be received by 5:00 p.m. on the respective due date below, and a complete hard copy may follow via overnight delivery so that it is received by the Prosecution Team the next day.

January 24, 2019	<ul style="list-style-type: none"> ▪ Prosecution Team issues ACL Complaint, Hearing Procedures and other related materials. <p><u>Hard Copies to:</u> All other Designated Parties (by certified mail)</p> <p><u>Electronic or Hard Copies to:</u> All known Interested Persons, Advisory Team</p>
February 4, 2019	<ul style="list-style-type: none"> ▪ Objections due on Hearing Procedures. ▪ Deadline to request “Designated Party” status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team</p>
February 8, 2019	<ul style="list-style-type: none"> ▪ Deadline to submit objections to requests for Designated Party status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team</p>
February 25, 2019	<ul style="list-style-type: none"> ▪ Discharger’s deadline to submit <i>Hearing Waiver Form</i>.³ <p><u>Electronic or Hard Copy to:</u> Prosecution Team</p> <ul style="list-style-type: none"> ▪ Interested Persons’ written comments are due. <p><u>Electronic or Hard copies to:</u> All Designated Parties, Advisory Team</p>
February 27, 2019	<ul style="list-style-type: none"> ▪ Advisory Team transmits decision on requests for designated party status. ▪ Advisory Team transmits decision on objections to Hearing Procedures. <p><u>Electronic or Hard Copies to:</u> All Designated Parties, All known Interested Persons</p>
March 6, 2019	<ul style="list-style-type: none"> ▪ Prosecution Team’s deadline for submission of information required under “Submission of Evidence, Argument and Policy Statements,” above. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team</p>
March 25, 2019	<ul style="list-style-type: none"> ▪ Remaining Designated Parties’ (including the Discharger’s) deadline to submit all information required under “Submission of Evidence, Argument, and Policy Statements” above. This includes all written comments regarding the ACL Complaint. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team</p>

¹ With the exception of the deadline to submit the Final Hearing Package and proposed Order.

² Where a deadline falls on a weekend or holiday, the deadline is extended to the next business day.

³ Pursuant to California Water Code section 13323(b), persons subject to an ACL Complaint have the right to a hearing before the Regional Board within 90 days of receiving the ACL Complaint, but this right can be waived (to facilitate settlement discussions, for example). By submitting the waiver form, the Discharger is not waiving the right to a hearing; unless a settlement is reached, the Board will hold a hearing prior to imposing administrative civil liability. However, if the Board accepts the waiver, all deadlines marked with an “*” will be revised if a settlement cannot be reached.

<p>April 8, 2019</p>	<ul style="list-style-type: none"> ▪ All Designated Parties shall submit any rebuttal evidence, any rebuttal to legal/ technical arguments and/or policy statements and all evidentiary objections. ▪ Deadline to request Prehearing Conference. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team</p>
<p>April 11, 2019</p>	<ul style="list-style-type: none"> ▪ Deadline to submit requests for additional time at the hearing. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team</p>
<p>April 15, 2019</p>	<ul style="list-style-type: none"> ▪ Prosecution Team sends Final Hearing Package and proposed Order. <p><u>Electronic or Hard Copies to:</u> Regional Board members, Advisory Team, All other Designated Parties</p>
<p>April 17, 2019</p>	<ul style="list-style-type: none"> ▪ Advisory Team transmits hearing time limits <p><u>Electronic or Hard Copies to:</u> All Designated Parties, All known Interested Persons</p>
<p>April 24, 2019</p>	<ul style="list-style-type: none"> ▪ Hearing