RICHARDS, WATSON & GERSHON
A Professional Corporation
NORMAN A. DUPONT (Bar No. 85008)
ndupont@rwglaw.com
LISA BOND (Bar No. 172342)
lbond@rwglaw.com
CANDICE K. LEE (Bar No. 227156)
clee@rwglaw.com
ANDREW BRADY (Bar No. 273675)
abrady@rwglaw.com
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071-3101
Telephone: 213.626.8484
Facsimile: 213.626.0078

Attorneys for Petitioners
City of San Marino, City of Rancho Palos Verdes, City of South El Monte, City of Norwalk, City of Artesia, City of Torrance, City of Beverly Hills, City of Hidden Hills, City of Westlake Village, City of La Mirada, City of Vernon, City of Monrovia, City of Agoura Hills, City of Commerce, City of Downey, City of Inglewood, City of Culver City, and City of Redondo Beach.

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Petition for Review of Petitioners of the Approval By the Regional Water Quality Control Board, Los Angeles Region Adopting the National Pollutant Discharge Elimination System Permit for the Los Angeles County Municipal Separate Storm Sewer System, Order No. R4-2012-0175; NPDES Permit No. CAS004001	SWRCB/OCC File No. A-2236(a) through (kk) **RESPONSIVE BRIEF IN SUPPORT OF PETITION FOR REVIEW OF PETITIONERS CITY OF SAN MARINO, CITY OF RANCHO PALOS VERDES, CITY OF SOUTH EL MONTE, CITY OF NORWALK, CITY OF ARTESIA, CITY OF TORRANCE, CITY OF BEVERLY HILLS, CITY OF HIDDEN HILLS, CITY OF WESTLAKE VILLAGE, CITY OF LA MIRADA, CITY OF VERNON, CITY OF MONROVIA, CITY OF AGOURA HILLS, CITY OF COMMERCE, CITY OF DOWNEY, CITY OF INGLEWOOD, CITY OF CULVER CITY, AND CITY OF REDONDO BEACH**

TABLE OF CONTENTS

TABLE OF CONTENTS (cont.)

Page

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioners are eighteen cities in the county of Los Angeles ("Petitioners") subject to the Los Angeles Municipal Separate Storm System Sewer Permit, Order No. R4-2012-0175, reissuing National Pollutant Discharge Elimination System ("NPDES") Permit No. CAS004001 ("2012 Permit"), adopted by the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") on November 8, 2012.[1] Prior to or on the filing deadline of December 10, 2012, Petitioners filed Petitions for Review with the State Water Resources Control Board ("State Board") challenging the 2012 Permit on various legal and policy grounds. In accordance with notice of completion issued by State Board on June 8, 2013, and supplemented on July 15, 2013 and September 18, 2013, Petitioners respectfully submit this responsive brief for the State Board's consideration, in response to the briefs filed by other interested parties and petitioners, including the brief filed by Natural Resources Defense Council, Heal the Bay, and Los Angeles Waterkeeper (collectively "NRDC Group").

The 2012 Permit imposes numeric standards in the form of total maximum daily load ("TMDL") waste load allocations ("WLA") and water quality based effluent limitations ("WQBELs"), in addition to other numeric receiving water limitations, in a manner that violates controlling state and federal law. Such limits may be imposed only when "feasible," and a number of the 33 new TMDLs likely cannot be achieved in a feasible manner in the required timeframes.

The 2012 Permit's imposition of numeric standards also triggered the requirement to

[1] Petitioners are: **City of San Marino** (A-2236(a)); **City of Rancho Palos Verdes** (A-2236(b)); **City of South El Monte** (A-2236(c)); **City of Norwalk** (A-2236(d)); **City of Artesia** (A-2236(e)); **City of Torrance** (A-2336(f)); **City of Beverly Hills** (A-2236(g)); **City of Hidden Hills** (A-2236(h)); **City of Westlake Village** (A-2236(p)); **City of La Mirada** (A-2236(q)); **City of Vernon** (A-2236(t)); **City of Monrovia** (A-2236(v)); **City of Agoura Hills** (A-2236(w)); **City of Commerce** (A-2236(aa)); **City of Downey** (A-2236(dd)); **City of Inglewood** (A-2236(ee)); **City of Culver City** (A-2236(hh)); and **City of Redondo Beach** (A-2236(jj)).

conduct an economic analysis under Water Code Sections 13241 and 13263. The 2012 Permit's economic analysis was deficient in that it was based on data from 2004 that did not account for the 2012 Permit's increased standards and obligations, particularly the single most economically impactful aspect of the 2012 Permit—the 33 new TMDLs. On these bases, the 2012 Permit should be remanded to the Regional Board for revisions either to: (1) ensure that the sole compliance determinant is good faith adherence to the "iterative" process, rather than adherence to strict numeric limits that are infeasible at this time; or, in the alternative, (2) conduct an economic analysis that assesses the actual economic impact of the 2012 Permit on permittees.

Additionally, in response to the brief by the NRDC Group, the 2012 Permit's watershed management program does not violate the Clean Water Act's anti-backsliding rule because the rule is not applicable to receiving water limitations. Rather, the anti-backsliding rule applies only to effluent limitations, which are not the same thing. Regardless of this fact, however, the 2012 Permit does not backslide on either effluent limitations or receiving water limitations, because it is more stringent across the board. Furthermore, the NRDC Group fails to demonstrate a violation of the federal and state anti-backsliding policies because they fail to assert any facts indicating how the 2012 Permit would cause any "high quality" Los Angeles County waters to become degraded.

Lastly, Petitioners are not precluded from raising any arguments in the context of this petition process because preclusion only applies in a court of law and not for an administrative agency such as the State Board. It would furthermore not apply even in a court of law because the 2012 Permit is different than the 2001 Permit upon which prior court cases were decided. The State Board's function as a regulator is not impeded by such judicial rules because the State Board, unlike a court, sets storm water policy for the state, and is free to rule based on what the best policy is for California.

II. THE 2012 PERMIT COULD BE CONSTRUED TO APPLY INFEASIBLE AND IMPROPERLY-FORMULATED NUMERIC LIMITS

A. The 2012 Permit Appears To Require Strict Adherence To Numeric Limits

The 2012 Permit appears to impose numeric limits on permittees in the form of TMDL-based effluent limitations and receiving water limitations. Part V.I.E. of the 2012 Permit—the TMDL provisions—states that permittees "shall comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the [waste load allocations ("WLAs")] established in the TMDLs, including the implementation plans and schedules, where provided for . . .".[2] The imposition of numeric WQBELs in various forms are further explained on pages 21 through 23 of the 2012 Permit.[3] The 2012 Permit's watershed management plan compliance approach also requires permittees to ensure through computer modeling at the outset of plan implementation that they will attain interim and final WQBELs, WLAs, and receiving water limitations, and then actually attain those targets through plan implementation.[4]

The 2012 Permit's receiving water limitations language can reasonably be read to state that it does not require strict adherence to numeric limits, but at least one court and the Regional Board have indicated otherwise. The receiving water limitations language in the 2012 Permit contains three essential subparts.[5] Subpart 1 is "discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited."[6] Subpart

---

[2] 2012 Permit, p. 141-146; 10/4/12, 2012 Permit Hrg. Tr. at p. 45 [testimony of R. Purdee]. It is worth noting that EPA-established TMDLs, however, are to be complied with through BMPs "that will be effective in achieving compliance with USEPA established numeric WLAs." *See* 2012 Permit, pp. 145-46. As set forth in the Petitioners' petitions for review, these inconsistent standards are highly problematic and violate various state and federal laws and policies.

[3] 2012 Permit, pp. 21-23 [Part II. K.1].

[4] 2012 Permit, at pp. 49-52; 63-64.

[5] 2001 Permit, Order No. 01-182, Part 2.1.

[6] 2012 Permit, p. 38 [Part V.A.1.].

2 is "[d]ischarges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance."[7] Subpart 3 states "**[t]he Permittees shall comply with Parts V.A.1 and V.A.2 through timely implementation of control measures** and other actions to reduce pollutants in the discharges in accordance with the storm water management program and its components and other requirements of this Order including any modifications."[8]

A plain language reading of this provision would seem to indicate that the way to comply with subparts 1 and 2 is solely through good faith adherence to the iterative process as spelled out in subpart 3. This reading is also consistent with the determination of the trial court in reviewing petitions for writ of mandate in connection with the prior 2001 Permit in reviewing the 2001 Permit's similar (but not identical) receiving water limitations language.[9] But in more recent litigation, at least one federal court has interpreted the 2001 Permit without regard to its clear language or common sense.

In *NRDC v. County of Los Angeles*, the Ninth Circuit Court of Appeals imposed liability upon the former Principal Permittee, the Los Angeles County Flood Control District ("District"), for alleged "discharges" that impacted a mass emission station, notwithstanding numerous permit provisions indicating that such mass emission station monitoring points outside the MS4 system were not to be used to determine permit compliance *by themselves*.[10] The Ninth Circuit thus found the District liable despite the

---

[7] 2012 Permit, p. 38 [Part V.A.2.].

[8] 2012 Permit, p. 38 [Part V.A.3.], (emphasis added).

[9] *Statement of Decision from Phase I Trial on Petitions for Writ of Mandate* (March 24, 2005) at p. 6 ("It seems clear that the Regional Board followed these principles when it established subparts 2.1 and 2.2 as the basic receiving water requirements for Los Angeles area waters and subparts 2.3 and 2.4 as the procedure the Board intends to implement to resolve any violations those requirements.")

[10] The Ninth Circuit brushed aside the arguments that "the Permit provides that '[e]ach permittee is responsible only for a discharge for which it is the operator.' County Defendants also cite language in Part 2 that reads: 'Discharges from the [LA] MS4 of storm water, or non-storm water, for which a Permittee is responsible for [sic], shall not cause or contribute to a condition of nuisance.' The County Defendants read this language as precluding a finding of liability against them—or any other Permittee—without independent monitoring data establishing that discharges from a particular entity's ms4 outfalls exceeded standards." *National Resources Defense Council v. LA County*, __ F3d. __(9th Cir., August 8, 2013.)

absence of any data showing a "discharge from the MS4 that caused or contributed to a violation," in contravention of the plain language of the Receiving Water Limitations provision of the 2001 Permit.[11] Thus, according to this particular panel of the Ninth Circuit, permittees not only have to ensure their MS4 effluent meets all numeric effluent limitations, they also have to cross their fingers and hope the receiving waters meet all numeric receiving water limitations as well.

Based on the language of the 2012 Permit itself and statements of the Regional Board staff, Petitioners understand that the Regional Board's current interpretation of the receiving water limitations language is that it requires adherence to numeric water quality standards regardless of whether a permittee adheres to the iterative process in good faith.[12] Petitioners are also concerned that they potentially can be held liable even without data showing a discharge, under the flawed reasoning of the Ninth Circuit panel.

B. <u>Contrary to the NRDC Group Assertions, Compliance with the Permit's Receiving Water Limitations Should Be Based on Good Faith Adherence The BMP-Based, Iterative Process and Not Numeric Limits</u>

1. The Federal Maximum Extent Practicable Standard Does Not Require Strict Adherence To Numeric Limits

Recognizing the inherent challenges of local government agency regulation of storm water pollution, the Clean Water Act set forth a unique standard for Municipal Separate Storm Sewer Systems ("MS4") that, unlike other kinds of the NPDES permits, does not require strict adherence to numeric water quality standards and effluent limitations. Rather, the Clean Water Act only requires reductions in storm water pollution to the maximum extent practicable ("MEP").

---

[11] 2012 Permit, p. 38 [Part V.A.1.]; 2001 Permit, Part 2.1.

[12] *See* 2012 Permit, pp. 21-22, 49-50, 141-144; 10/4/12, 2012 Permit Hrg. Tr. at p. 45 [testimony of R. Purdee] ("So this greater accountability comes with the advent of the numeric water quality based effluent limitations that we're inserting as a result of TMDLs, as well as their associated compliance schedules for achieving those numeric water quality based effluent limits.").

Following the 1972 passage of the Clean Water Act, EPA originally sought to exempt storm sewer systems entirely from the Clean Water Act's NPDES program.[13] In *NRDC v. Costle*, 568 F.2d 1369, 1378-79 (D.C. Cir. 1977), superseded by statute on other grounds, the EPA explained why it sought the exemption:

> "The major characteristic of the pollution problem which is generated by runoff . . . is that the owner of the discharge point . . . has no control over the quantity of the flow or the nature and amounts of the pollutants picked up by the runoff. The amount of flow obviously is unpredictable because it results from the duration and intensity of the rainfall event, the topography, the type of ground cover and the saturation point of the land due to any previous rainfall."[14]

Despite the inherent difficulties of regulating storm sewer runoff identified by EPA, the *Costle* court ruled that the language of the Clean Water Act did not allow EPA to exclude classes of "point sources" [15] such as storm sewer systems from the NPDES program.[16] Throughout the 1980s, EPA promulgated various regulations to address pollution from storm sewer runoff.[17] In accord with the regulations developed by EPA, in 1987 Congress added Section 402(p) to the Clean Water Act specifically to address NPDES permits for storm sewers.[18]

Clean Water Act Section 402(p) set up two different standards for storm sewer systems: one for "industrial" sources and one for MS4s.[19] First, industrial sources are

---

[13] "Part of the federal Clean Water Act is the National Pollutant Discharge Elimination System (NPDES), '[t]he primary means' for enforcing effluent limitations and standards under the Clean Water Act. The NPDES sets out the conditions under which . . . a state with an approved water quality control program can issue permits for the discharge of pollutants in wastewater." *City of Burbank v. State Water Resources Control Bd.*, 35 Cal.4th 613, 621(2005) (internal citations omitted).

[14] *Costle*, 568 F.2d at1378-79.

[15] Under Clean Water Act Section 402, the NPDES controls water pollution by regulating "point sources" that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. 33 U.S.C. §§ 1311, 1314, 1362(14); 40 C.F.R. § 122.2.

[16] *Costle*, 568 F.2d at 1383.

[17] *See American Mining Congress v. EPA*, 965 F.2d 759, 763 (9th Cir. 1992).

[18] 33 U.S.C. § 1342(p).

[19] *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1164 (9th Cir. 1999) ("*Browner*").

required to strictly comply with the technology and water-quality based standards under Clean Water Act Section 301.[20] Industrial sources are therefore strictly required to comply with: (1) technology-based standards known as best available technology economically achievable (BAT) or best conventional pollutant control technology (BCT); and (2) the two sets of Clean Water Act water quality criteria: EPA-created effluent limitations[21] and water quality standards[22] created by the states.[23]

Second, given the inherent difficulties associated with regulating MS4s, municipal storm sewers were expressly exempted from the strict requirements of Clean Water Act Section 301.[24] Instead, local government MS4 owners and operators were obligated to comply with the "maximum extent practicable" ("MEP") standard. Clean Water Act Section 402(p)(3)(B) states:

> "Permits for discharges from municipal storm sewers . . . **shall require controls to reduce the discharge of pollutants to the maximum extent practicable**, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."[25]

The MEP standard was therefore not intended by Congress to require strict adherence to numeric effluent limitations or water quality standards. As the court in *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd.,* 124

---

[20] *Browner*, 191 F.3d at 1164-65; 33 U.S.C. § 1311.

[21] "Effluent limitations" are end-of-pipe numeric limits promulgated by the EPA that restrict the quantities, rates, and concentrations of specified substances which are discharged from point sources. *See* 33 U.S.C. §§ 1311, 1314.

[22] "Under the ... NPDES permit system, the states are required to develop water quality standards. [Citations.] A water quality standard 'establish[es] the desired condition of a waterway.' [Citation.] A water quality standard for any given waterway, or 'water body,' has two components: (1) the designated beneficial uses of the water body and (2) the water quality criteria sufficient to protect those uses. [Citations.]" *Communities for a Better Environment v. State Water Resources Control Bd.*, 109 Cal.App.4th 1089, 1092 (2003); see also 33 U.S.C. §§ 1313(a), (c)(2)(A); 40 C.F.R. § 131.3(i) (2010).

[23] *Browner*, 191 F.3d at 1164; 33 U.S.C. § 1311(b)(1)(C).

[24] *Browner*, 191 F.3d at 1165.

[25] 33 U.S.C. § 1342(p)(3)(B)(iii) (emphasis added).

Cal.App.4th 866 (2004) ("*BIA*") stated:

> "Congress clarified that the EPA had the authority to fashion NPDES permit requirements to meet water quality standards **without specific numerical effluent limits and instead to impose 'controls to reduce the discharge of pollutants to the maximum extent practicable'** . . ."[26]

Although MEP is not defined under the Clean Water Act or EPA's Clean Water Act regulations, "practicable" is defined as "available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes."[27]

The State of California's current definition of MEP derives from a 1993 State Board memorandum ("1993 MEP Memo") and reflects the aforementioned federal standards.[28] The 1993 MEP Memo notes the importance of the distinction between industrial and municipal storm sewers when it points out that:

> "**[T]he requirement [for MS4s] is to reduce the discharge of pollutants, rather than totally prohibit such discharge**. Presumably, the reason for this standard (and the difference from the more stringent standard applied to industrial dischargers in Section 402(p)(3)(A)) is the knowledge that **it is not possible for municipal dischargers to prevent the discharge of all pollutants in storm water**."[29]

The 1993 MEP Memo then defines MEP for the purposes of MS4 permits in the State in the following manner:

> "Although MEP is not defined by the federal regulations, use of [the BMP Guidance Manual] in selecting BMPs should assist municipalities in achieving MEP. In selecting BMPs which will achieve MEP, it is important to remember that

---

[26] *BIA*, 124 Cal. App.4th at 874 (emphasis added).
[27] 40 C.F.R. § 230.10(a)(2).
[28] *See* State Board Memorandum, "Definition of Maximum Extent Practicable" (February 11, 1993) (*1993 MEP Memo*).
[29] *1993 MEP Memo*, at pp. 4-5 (emphasis added).

municipalities will be responsible to reduce the discharge of pollutants in storm water to the maximum extent practicable. This means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. The following factors may be useful to consider:

1. Effectiveness: Will the BMP address a pollutant of concern?

2. Regulatory Compliance: Is the EMP in compliance with storm water regulations as well as other environmental regulations?

3. Public acceptance: Does the BMP have public support?

4. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?

5. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.?

After selecting a menu of BMPs, it is of course the responsibility of the discharger to insure that all BMPs are implemented."[30]

Consistent with statements in the 1993 MEP Memo, in 2000 the State Board stated the following in a precedential water quality order regarding compliance with the MEP requirement:

"There must be a serious attempt to comply, and practical solutions may not be lightly rejected. If, from the list of BMPs, a permittee chooses only a few of the least expensive methods, it is likely that MEP has not been met. On the other hand, if a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be

[30] *1993 MEP Memo*, at pp. 4-5.

prohibitive."[31]

Based on the foregoing, four things are clear about the MEP requirement under state and federal law: (1) MEP does not require strict adherence to Clean Water Act technology-based requirements, EPA-created effluent limitations, or state-created water quality standards; (2) MEP requires only the reduction, not the elimination, of contamination in stormwater discharges; (3) MEP is meant to utilize a BMP-based, "iterative" process; and (4) MEP-compliant BMP-selection requires consideration of cost, logistics, benefit and must include public notice and comment.

The 2012 Permit adopted the 1993 MEP Memo's definition of MEP.[32] Accordingly, requiring anything beyond or without regard to the BMP-based standards exceeds MEP.

2. Good Faith Adherence to the BMP-Based "Iterative" Standard Has Always Been the MS4 Permit Compliance Determinant Under State Board Policy

a) Good Faith Adherence to the Iterative Process Has Always Been the Standard for MS4 Permit Compliance

The State Board has issued various memoranda indicating that Permit compliance is to be measured through good faith adherence to the "iterative" process, as opposed to strict compliance with numeric effluent criteria, which the Clean Water Act and the MEP standard do not require for MS4s.[33] There is no reason to change this with the 2012 Permit.

The iterative process was generally described in State Board Order No. 99-05, which states that the purpose of the process is to achieve compliance with water quality standards through implementation of BMPs and other control measures.[34] After BMPs and control

---

[31] State Board Order No. 2000-11, at p. 20.

[32] *See* 2012 Permit, Attachment A, at p.11.

[33] *See, e.g., Divers Envt'l Conservation Org. v. State Water Resources Control Bd.*, 145 Cal.App.4th 246, 256 (2006) ("[i]n regulating stormwater permits the EPA has repeatedly expressed a preference for doing so by the way of BMPs, rather than by way of imposing either technology-based or water quality-based numerical limitations.")

[34] *See* State Board Order No. 99-05 at pp. 2-3.

measures are implemented, a permittee conducts monitoring to ensure compliance with water quality standards. If there are persistent violations of water quality standards, the permittees are required to notify the Regional Board with a report that describes the BMPs that have been implemented and additional BMPs that will be implemented to help achieve water quality standards, along with an implementation schedule for the BMPs. This process is repeated as many times as necessary until water quality standards are achieved.

The State Board has repeatedly stated that permittees' adherence to the iterative process in good faith is the compliance determinant for the permit's receiving water limitations, effluent limitations, and non-stormwater discharge provisions, and not strict adherence to numeric limits. In 1991, the State Board concluded that "numeric effluent limitations are infeasible as a means of reducing pollutants in municipal storm water discharges, at least at this time."[35] In 2001, the State Board reiterated that the compliance standard for MS4 permits is to be an "iterative" one, and that "we will generally not require 'strict compliance' with water quality standards through numeric effluent limitations and we continue to follow an iterative approach, which seeks compliance over time."[36]

No subsequent State Board regulation or water quality order says otherwise. Furthermore, at no point has the State Board or the State Legislature indicated that the regional boards must require strict enforcement of numeric limits in MS4 permits. Accordingly, there is no law or guidance indicating that strict compliance with numeric limits should actually be imposed on MS4 permittees.

b) The Iterative Process Does Not "Excuse" Water Quality Standard Violations and Is Not a Safe Harbor

The iterative process is not a safe harbor and does not "excuse" violations of water quality standards, as the NRDC Group suggests.[37] Under the iterative approach, water

---

[35] State Board Order No. 91-03, at p. 49.
[36] State Board Order No. 2001-15, at p. 8.
[37] *See* NRDC, Heal the Bay, and Los Angeles Waterkeeper "Memorandum of Points and Authorities In Support of Petition For Review of Los Angeles Regional Water Quality Control Board Action of Adopting Order No. R4-2012-0175." ("NRDC Group Br.), at pp. 9-10.

quality standard violations trigger the requirement for permittees to report the failure to the Regional Board and implement additional BMPs and control measures geared toward correcting the violations and achieving water quality standards within rigidly defined implementation schedules.[38] These additional BMPs and control measures are subject to public input and Regional Board approval.[39]

Thus, the iterative process is not a "safe harbor" as there are clear consequences to failing to attain water quality standards—the requirement to implement costly new BMPs and other control measures.[40] Properly implemented, the iterative process is far more effective for improving water quality than enforcing numeric limits. This commonsense proposition was expressed by Regional Board Executive Director Sam Unger during the Permit adoption hearings in explaining the Regional Board's rationale for creating a modified iterative approach through the Permit's watershed management program in lieu of requiring strict adherence to *all* numeric limits:

> "Over the past 10 years, we have realized we have made more progress in improving water quality through implementation of BMPs tailored by TMDLs and Watershed Plans to addressing specific water quality issues of concern rather than attempted enforcement of receiving water limitations."[41]

Indeed, following the BMP-based iterative process is all permittees can do realistically to comply. Requiring adherence to numeric limits that, in many instances, are not feasible will not result in increased water quality. Indeed, water quality is more likely to improve if funds that should go toward water quality improvements are not redirected to paying for costly legal battles that do nothing to improve water quality.[42] As stated by Mr. Unger, water quality is best improved by aggressive implementation of the iterative

---

[38] 2012 Permit, pp. 38-39

[39] 2012 Permit, pp. 38-39; Attachment A, at p.11.

[40] *Cf.* NRDC Br. at pp. 9-10.

[41] 10/4/12, 2012 Permit Hrg. Tr., at p. 37 [testimony of S. Unger].

[42] *See Natural Resources Defense Council v. County of Los Angeles*, 133 S.Ct. 710 (2013) (ongoing multi-year litigation between NRDC and LA County regarding numeric receiving water limitation violations under the prior LA County MS4 permit.) .

process, rather than seeking to punish permittees for numeric standard exceedances that are often entirely beyond their ability to control. To the extent there have been failures in the past regarding the imposition of the iterative standard, the answer is more robust monitoring requirements—which the 2012 Permit has[43]—not the wholesale imposition of various infeasible, enforceable numeric limits.

c) Numeric Effluent Criteria May Imposed, But Only Where Feasible

There is one important legal limitation on the Regional Boards' ability to impose numeric limits in the MS4 context: it may be done only where it is "feasible." The EPA's Clean Water Act regulations authorize use of the iterative process as the compliance mechanism "when numeric effluent limitations are **infeasible,**" only otherwise demanding numeric effluent criteria in circumstances that do not apply in the case of the 2012 Permit.[44]

In 2010, EPA issued a guidance memorandum ("2010 EPA Memorandum") stating for the first time that numeric limits may begin to be imposed, but only where "feasible." The 2010 EPA Memorandum reiterated EPA's commitment to the iterative process as a means of permit compliance, and directed permit writers to impose numeric effluent limits only "where feasible, " stating "**where feasible**, the NPDES permitting authority exercises its discretion to include **numeric effluent limitations** as necessary to meet water quality standards."[45] It is important to note that the 2010 EPA Memorandum is not final – it is merely a proposal that is still under review at OMB's Office of Regulatory Information and Review, which may yet find the approach outlined in the Memorandum to exceed the

---

[43] *See* 11/8/12, 2012 Permit Hrg. Tr., p.315 [testimony of R. Purdee].

[44] 40 C.F.R. §122.44(k) (emphasis added); 40 C.F.R. § 122.44(d)(iii) *requires* numeric effluent limitations in circumstances that do not apply here. Namely, where a reasonable potential analysis under subsection (d)(ii) shows that the permittee's MS4 has the reasonable potential to cause or contribute to an in-stream excursion above an allowable *ambient* concentration of a numeric state water quality standard for the individual pollutant. As argued in the Petitioners' original petitions, such a reasonable potential analysis was not performed by the Regional Board, which is itself a compelling reason that the numeric effluent criteria imposed by the 2012 Permit are entirely improper and cannot rightfully be imposed on permittees.

[45] *See* "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on those WLAs'" (November 12, 2010) (*2010 EPA Memorandum*) at p. 2 (emphasis added).

authority of the Clean Water Act or to be otherwise improper. Nonetheless, the term "feasible" is repeated numerous times throughout the 2010 EPA Memorandum.

The position of the EPA is clear: the iterative process is to be used until such time as imposing numeric criteria is "feasible." As EPA has made clear in the cited regulations and policy statements, the focus of MS4 regulation is in improving BMPs over time through the iterative process. In addition, the permit writer should have the permittee assess and modify, as necessary, any or all existing Storm Water Management Plan ("SWMP")[46] components and adopt new or revised SWMP components to optimize reductions in stormwater pollutants through an iterative process.[47] This iterative process should include routine assessment of the need to further improve water quality and protect beneficial uses, review of available technologies and practices to accomplish the needed improvement, and evaluate resources available to implement the technologies and practices.[48] Numeric criteria are to be introduced gradually, in a measured and conscientious manner, over successive permits.

In this case, the 2012 Permit has introduced new numeric effluent limitations all at once for 33 TMDLs.[49] This is the opposite of gradual and measured, and is neither sensible nor productive. The standard for imposing numeric criteria is feasibility—not frustration, impatience, or the failure to meet water quality standards under prior permits. Furthermore, state and federal policy prefer the Regional Board and the permittees to address those failures through the imposition of BMPs within the iterative process, not through the

---

[46] *See, e.g.*, 2012 Permit, pp. 67-68.

[47] The disconnect between the federally-mandated SWMP and the WMP are one logistical problem created by the 2012 Permit that should be addressed.

[48] *See, e.g.*, EPA, Office of Wastewater Management, MS4 Permit Improvement Guide, April 2010, at p. 104 ("In addition, the permit writer should have the permittee assess and modify, as necessary, any or all existing SWMP components and adopt new or revised SWMP components to optimize reductions in stormwater pollutants through an iterative process. This iterative process should include routine assessment of the need to further improve water quality and protect beneficial uses, review of available technologies and practices to accomplish the needed improvement, and evaluate resources available to implement the technologies and practices.")

[49] 2012 Permit, p. 13.

wholesale imposition of dozens of new numeric effluent and receiving water limitations based on contentious science. This is all in addition to having to comply with allegedly preexisting enforceable numeric receiving water limitations for *all* of the Permit's 140 regulated pollutants, not just those for which TMDLs are created.[50]

The word "feasible" is not defined in the Clean Water Act or its regulations, or the Porter-Cologne Act or its regulations. In *Surfrider Found. v. California Regional Water Quality Control Bd.*, 211 Cal.App.4th 557, 582 (2012), the Court of Appeal affirmed the San Diego Regional Board's use of the California Environmental Quality Act ("CEQA") definition of "feasibility" in the NPDES context. Under the California Environmental Quality Act, "'[f]easible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."[51] This definition dovetails perfectly with California's definition of MEP, which references both technical and economic feasibility in the process of BMP selection.[52] It is also consistent with California Water Code Sections 13000, 13263, and 13241. Accordingly, it makes the most sense to define what is "feasible" in roughly the same terms as CEQA and the MEP definition of "practicable," which generally require consideration of cost, benefits, technical feasibility, and public support.[53]

The feasibility question should thus be based on a real world assessment of what permittees can actually do with MS4 pollution in light of logistical and economic restraints. When the real facts are examined, imposing numeric limits is simply not feasible at this time—especially not in the manner in which it was done in the 2012 Permit.

3. Imposing Numeric Criteria In the Manner of the MS4 Permit Is Not Feasible At This Time

In 2006, the State Board convened the "Storm Water Panel," a group of scientific

---

[50] 2012 Permit, Attachment E, at pp. E-17-E-20.
[51] Cal. Pub. Resources Code, § 21061.1.
[52] *1993 MEP Memo* at pp.4-5; *see also* 40 C.F.R. § 230.10(a)(2).
[53] *1993 MEP Memo* at pp.4-5.

and academic experts in storm water regulation, who made recommendations to the State Board in a commissioned report ("2006 SWP Report") regarding the efficacy of imposing numeric limits on MS4 permittees.[54] The 2006 SWP Report concluded that "[i]t is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban dischargers."[55]

The reasons for the infeasibility determination in the 2006 SWP Report have not come close to being resolved. One glaring problem identified by the 2006 SWP Report is the fact that cost-effective BMPs for MS4s capable of achieving water quality standards have not yet been developed to deal with all the constituents addressed in TMDLs or otherwise in the Permit.[56] As an indication of the problem permittees face in this regard, Regional Board member Madelyn Glickfeld had the following exchange with Regional Board staff member Deborah Smith at the 2012 Permit adoption hearings:

> "**MS. GLICKFELD**: [W]hy is it that we [use the] BMP approach in trash . . . and that we couldn't fashion that in a scientifically valid way for the other TMDLs that are actually numeric and appear to be numeric and it's not a BMP approach which the cities seemed to like a lot. And I understand the environmental groups actually developed that with you, was the BMP approach for trash. Is it that that doesn't work as well for other kinds of pollutants? Or we don't know the right BMPs?
>
> **MS. SMITH**: I'll take a stab at that. I think trash inherently because of its size lends itself better to developing technologies to keep it out of the street, but there have been -- a lot of companies have researched, you know, various inserts that take out oil and grease, and people are looking at ones for bacteria and metals and things like.

---

[54] *The Feasibility of Numeric Effluent Limits Applicable to Discharges of Stormwater Associated with Municipal, Industrial and Construction Activities* (June 19, 2006) at pp. 2-3 (*2006 SWP Report*).
[55] *2006 SWP Report*, at p. 8.
[56] *2006 SWP Report*, at pp. 4-6.

Those are going to be more complicated to develop. . ."[57]

The Regional Board staff truthfully conceded that there are no BMPs currently in existence that can achieve the required reductions for bacteria and metals within given timeframes, which is a fact repeatedly lamented by the parties to the TMDLs in their public comments.[58] That no technology—much less a cost effective technology—exists sufficient to attain numeric criteria for bacteria and metals in MS4 systems should be a compelling reason to conclude that imposing such numeric limits is infeasible at this time.[59] In the eyes of the Regional Board, however, the opposite is true: the non-existence of effective BMPs is a reason to impose strict numeric limits. This reasoning is clearly backwards, and imposes more onerous numeric standards only where such standards are effectively impossible to meet. This approach is not only illogical, but also sets permittees up to fail, and will do nothing but result in open-ended potential liability and third party "citizen suits"—all of which interfere with permittees' ability to improve water quality by diverting limited funds to costly legal battles.

The 2012 Permit adopted six different bacteria and metals TMDLs that, given the absence of effective and affordable control technology, will be impossible to comply with.[60] Permittees lack research and development budgets, and they simply cannot count on someone else coming up with a new, cost-effective solution before it is too late. The unlikelihood of compliance for permittees within requisite timeframes is compounded when one considers that numeric limits for bacteria and metals TMDLs are in some cases set at zero or non-zero levels.

---

[57] 10/5/12, 2012 Permit Hrg. Tr. pp. 221-222 (emphasis added).

[58] *See, e.g.*, Regional Board Response to Comments, June 2012, Santa Monica Bay Beaches, Marina del Rey Harbor Mothers' Beach, Los Angeles Harbor Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL Reconsideration, at pp. 17, 48-49, 69, 71.

[59] *See BIA*, 124 Cal.App.4th at 889-90 (MEP standard balances technical feasibility, costs, public acceptance.)

[60] (1) The Bacteria TMDL for the Los Angeles River; (2) the EPA adopted Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL; (3) the Dominguez Channel and Greater Los Angeles Harbor and Long Beach Harbor Waters Toxic Pollutants TMDL; (4) the Los Angeles River Metals TMDL; (5) the Los Cerritos Channel Metals TMDL. *See* 2012 Permit, Attachments L-R.

For just one example, the Santa Monica Bay Bacteria TMDL's summer dry weather standard for indicator bacteria is set at zero exceedances. Data collected at the reference beach since adoption of the TMDL in 2006, however, demonstrates that natural conditions associated with freshwater outlets transporting runoff from undeveloped watersheds results in exceedances of the single sample bacteria limits during both summer and winter dry weather. Thus, enforceable numeric limits will result in violations because—in addition to lack of effective and affordable control technology—sources completely outside the permittees' control cause exceedances all on their own.[61] As has been the case with numerous TMDLs, when the problem with natural sources and non-point source pollution was pointed out to the Regional Board staff, they admitted it was a problem, and then stated that further studies are needed.[62] If numeric standards are imposed until such time as further studies, trial and error BMP implementation, possible new technologies, and TMDL reopeners can potentially fix the problematic numeric limits, permittees will face never ending, open-ended liability for exceedances of numeric limits that even the Regional Board admits are deeply flawed. Imposing flawed, impossible numeric limits as compliance standards while admitting further studies are needed to correct them is a deeply problematic and unfair strategy for solving the myriad, complex problems inherent to reducing stormwater pollution.

Beyond the TMDLs, the 2012 Permit regulates 140 pollutants in total, for which numeric water quality standards exist and can be exceeded at any time.[63] The sheer number of TMDLs and other regulated pollutants—many of which do not have existing effective or affordable BMPs—makes compliance with all numeric limits a practical impossibility.

---

[61] See 10/4/12, 2012 Permit Hrg. Tr. at pp. 142-143.

[62] *See* Regional Board Response to Comments, June 2012, Santa Monica Bay Beaches, Marina del Rey Harbor Mothers' Beach, Los Angeles Harbor Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL Reconsideration, at pp. 37, *see also* pp. 44, 52, 56 ("During the data period examined, exceedances of the geometric mean water quality objectives were observed at Leo Carrillo Beach. However, Leo Carrillo remains the best available reference system. Staff acknowledges further study and corrective actions may be required at Leo Carrillo Beach.")

[63] 2012 Permit, Attachment E, at pp. E-17-E-20.

Holding permittees to these numeric standards cannot be considered "feasible" by *any* reasonable definition of the word.

Accordingly, the 2012 Permit should be remanded with the express instruction that compliance with TMDL numeric limits and receiving water limitations should be accomplished through only good faith adherence to the iterative process, unless it can be specifically shown that such limits are indeed feasible. Unless such measures are taken, the 2012 Permit is not legally valid under state or federal law.

III. THE 2012 PERMIT IS INVALID BECAUSE IT FAILED TO INCLUDE A SUFFICIENT ECONOMIC ANALYSIS

The Regional Board has the legal authority to impose standards that exceed MEP, including strict adherence to water quality standards.[64] The 2012 permit exceeds MEP by imposing numeric limits without regard to the state's own definition of MEP, which is a BMP-based standard that considers logistical and economic constraints.[65] By imposing infeasible numeric standards without regard to the iterative process that exceed the requirements of the federal MEP standard the 2012 Permit was required to conduct an economic analysis pursuant to Water Code Sections 13241 and 13263.[66] The 2012 Permit failed to adequately do so, rendering it invalid.

Water Code Section 13263 states that when a regional board "prescribe[s] requirements as to the nature of any proposed discharge" of wastewater, it "shall take into consideration" certain factors including "the provisions of Section 13241."[67] One of the factors under Water Code Section 13241 is "economic considerations," "such as the costs the permit holder will incur to comply with the numeric pollutant restrictions set out in the

---

[64] *BIA*, 124 Cal. App. 4th at 889-90.
[65] *1993 MEP Memo*, at pp. 4-5; State Board Order No. 2000-11, at p. 20; 2012 Permit, Attachment A, at p.11.
[66] *City of Burbank v. State Water Resources Control Board*, 35 Cal.4th 613, 618, 627 (2005) (*City of Burbank*).
[67] Cal. Water Code § 13263.

permits"[68] Under the *City of Burbank* case, the Section 13241 analysis must be performed when a state-issued MS4 permit exceeds the federal MEP standard.[69]

The 2012 Permit's Fact Sheet does contain a section called "California Water Code Section 13241" that purports to set out the requisite economic analysis.[70] This analysis mistakenly asserts that the 2012 Permit does not exceed the federal MEP standard and therefore that the analysis is actually unnecessary.[71] But, as argued above, by imposing numeric effluent limits—particularly ones that are not feasible—the 2012 Permit does indeed exceed the MEP standard by the express terms of the Clean Water Act.[72] Indeed, in 2006, the State Board itself noted that "[f]ederal regulations do not require numeric effluent limitations for discharges of storm water."[73] That fact has not changed since then.

The 2012 Permit Fact Sheet's economic analysis is deficient in a number of key regards. First, it is based on a 2004 study that was conducted regarding the 2001 Permit.[74] Because the 2012 Permit includes 33 new TMDLs, no principal permittee, a watershed management approach, and other expansive additional requirements, the 2004 analysis simply does not apply to the 2012 Permit. In accordance with its basis on obsolete 2004 data, the 2012 Permit's economic analysis completely fails to analyze the most expensive part of the 2012 Permit for permittees: the 33 new TMDLs.

The 2012 Permit attempts to get around this failure by stating that the impact of the TMDLs was considered "outside the Order" in the individual TMDLs.[75] This argument fails. First, the TMDLs only consider the full projected cost of the BMPs assumed to be

---

[68] Cal. Water Code § 13241(d); *Burbank*, 35 Cal.4th at 627.
[69] *City of Burbank*, 35 Cal.4th at 618, 627.
[70] 2012 Permit, Fact Sheet, pp. F-137- F-155.
[71] 2012 Permit, Fact Sheet, pp. F-138- F-139.
[72] *See , e.g., BIA*, 124 Cal. App.4th at 874 ("Congress clarified that the EPA had the authority to fashion NPDES permit requirements to meet water quality standards **without specific numerical effluent limits and instead to impose 'controls to reduce the discharge of pollutants to the maximum extent practicable'** . . .") (emphasis added).
[73] State Board Order No. 2006-12, at p. 17 (citing 40 C.F.R. § 122.44(k)(2)).
[74] 2012 Permit, Fact Sheet, p. F-146.
[75] 2012 Permit, Fact Sheet, pp. F-144 through F-145.

needed to meet the WQBELs and WLAs, not the economic impact on the permittees, their ability to pay, or the availability of funding. Furthermore, the Regional Board here talks out of both sides of its mouth, because it has been the consistent position of the water boards that TMDLs do *not* require economic analysis under Water Code Section 13241.[76]

The 2012 Permit then makes the additional incorrect argument that its failure to consider the costs of the TMDLs is not a problem because the "costs of complying with the water quality based effluent limitations and receiving water limitations derived from the 33 TMDLs, which are incorporated into this Order, *are not additive*."[77] Thus, according to the Regional Board, to comply with one TMDL costs the same as complying with ten of them. This is hardly ever the case, because even though certain technologies can be useful for reducing loads of multiple categories of pollutants, such reductions usually have to be coupled with other, pollution-specific control measures to attain the reductions mandated by the TMDLs.[78] But even if it were true, analysis of the costs of the TMDLs is still required in the 2012 Permit under Water Code Sections 13241 and 13263.

These problems with the 2012 Permit's economic analysis were fully recognized by the Regional Board members at the adoption hearings. As Regional Board member Ms. Glickfeld stated:

> "Okay. So I am concerned about the costs. I am totally committed to seeing us have performance-based water quality standards where we know what we're achieving.

---

[76] *City of Arcadia v. State Water Resources Control Bd.*, 135 Cal.App.4th 1392, 1415 (2006).

[77] 2012 Permit, Fact Sheet, pp. F-144 through F-145 (emphasis added).

[78] The example given in the Fact Sheet is that the same technologies used to control metals in the Ballona Creek Metals TMDL can also apply to pesticides, PCBs, and bacteria. 2012 Permit, Fact Sheet, p. F-145. The Ballona Creek Metals TMDL estimates the cost of compliance for "sand filter" BMPs as being between $245-245 million dollars per year with an additional $37 million per year in maintenance costs. *See* Staff Report, Ballona Creek Metals TMDL, at p. 57. There is no indication that the BMPs suggested in the staff report for metals would on their own attain compliance with the Ballona Creek Toxics TMDL, which suggests other BMPs in addition to sand filters. *See* Staff Report, Ballona Creek Estuary Toxics TMDL, at pp. 47-51. Thus, there would be additional costs for additional source-specific BMPs, not to mention additional maintenance costs for BMPs that pull double or triple duty. While cost savings can be achieved in this regard, the idea that there is no additional cost to deal with additional TMDL constituents is clearly false. There are also other TMDLs whose BMPs are less compatible or incompatible.

It's really important to me to know what we're achieving. However, if there's a problem in the way that the --we're getting the costs reported to us, and we think it's unevenly being reported, I'd like to see whether or not we could develop some new standards that everyone could agree on so that we actually get the real costs. The other thing is I don't think that it's appropriate for us to take what were estimated as costs in 2004 when we didn't even have close to this permit or the TMDLs and try to project out what this permit will cost."[79]

These sentiments were repeated by Regional Board Chairperson Maria Meranian when she stated that "the only thing that I thought was still a big hole was the cost. Could we help having building cost model of a matrix of sorts that says these are the standard stuff that you have to do, and there's average cost of this?"[80] Thus, even the Regional Board members recognized that the economic analysis in the 2012 Permit was deficient. This being the case, if numeric standards are imposed in a manner exceeding the federal MEP standard, the 2012 Permit must be remanded for a full economic analysis. Failure to do so would render the entire 2012 Permit invalid under Water Code Sections 13241 and 13263.

IV. THE PERMIT'S WATERSHED MANAGEMENT PLAN PROGRAM DOES NOT VIOLATE THE ANTI-BACKSLIDING RULE AND ANTI-DEGRADATION POLICY

A. The Watershed Management Plan Compliance Approach Does Not Violate the Anti-Backsliding Rule

1. The Permit's Watershed Management Plan Compliance Approach Is a Robust Iterative Process

The Permit's watershed management program provides that compliance with all the requirements for a watershed management plan ("WMP") or an enhanced watershed management plan ("EWMP") constitutes compliance with TMDL numeric targets, non-

[79] 10/5/2012, 2012 Permit Hrg. Tr., at p. 218.
[80] 10/5/2012, 2012 Permit Hrg. Tr., at p. 267.

exempt non-stormwater discharge prohibitions, and receiving water limitations.[81] A permittee who fails to comply with any aspect of the watershed management program requirements loses the benefit of the compliance option and becomes subject to Part V.A. of the 2012 Permit, the receiving water limitations provision, which requires adherence to numeric water quality standards as set forth above.[82]

The watershed management program requires participants to conduct a "reasonable assurance analysis."[83] This analysis must utilize computer modeling for every water body-pollutant combination dealt with in a plan to guarantee compliance with TMDL interim and final targets and receiving water limitations.[84] Thus, numeric targets are part of the 2012 Permit, but their enforceability occurs at the outset with a "reasonable assurance analysis" and until such time as interim and final targets are scheduled to be achieved.

The watershed management program also requires permittees to address 303(d)-listed water body-pollutant combinations that are not the subject of TMDLs or in the same class as TMDL-listed water body-pollutant combinations.[85] Such combinations are thus to be addressed in the reasonable assurance analysis, and are therefore also treated as enforceable numeric targets in the EWMP or WMP implementation process.[86] The same is true of pollutants that are not 303(d)-listed but for which there have been past exceedances of receiving water limitations.[87] The watershed management program also utilizes an iterative process that requires permittees to continually assess the progress of the plan every two years and ramp up watershed control measures where necessary to meet the enforceable benchmarks and final numeric targets.[88]

---

[81] 2012 Permit, at pp. 52-53.
[82] 2012 Permit, at pp. 50-53.
[83] 2012 Permit, at p. 63-64.
[84] See 10/4/12, 2012 Permit Hrg. Tr., at pp. 36, 45 [R. Purdee Testimony].
[85] 2012 Permit, at p. 50-51.
[86] 2012 Permit, at pp. 49-51.
[87] 2012 Permit, pp. 51-52.
[88] 2012 Permit, at pp. 66-67.

2. The Anti-Backsliding Rule Does Not Apply to Receiving Water Limitations

Contrary to the NRDC Group's argument, the anti-backsliding rule does not apply to receiving water limitations; it applies only to "effluent" limitations, which are two different things.[89] Section 402(o) of the Clean Water Act contains the anti-backsliding rule, which generally prevents a permit drafter from making "effluent limitations" less stringent from one permit to the next. Clean Water Act Section 402(o) states:

> "In the case of **effluent limitations** established on the basis of subsection (a)(1)(B) of this section, a **permit may not be renewed, reissued, or modified** on the basis of effluent guidelines promulgated under section 304(b) [33 USCS § 1314(b)] subsequent to the original issuance of such permit, **to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.**"[90]

"Effluent limitation" is defined as "any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents **which are discharged from point sources into navigable waters.**"[91] "Discharge of a pollutant" means "any addition of any pollutant **to navigable waters from any point source.**"[92]

"Receiving water limitations" are not "effluent limitations."[93] "Effluent limitations" are defined as "discharges" from a permittee's MS4 (point source) *into* a receiving water (navigable water).[94] The 2012 Permit's receiving water limitation language confirms this important distinction insofar as it prohibits "[d]ischarges **from** the MS4 that cause or

---

[89] NRDC Group Br., pp. 15-19.
[90] 33 U.S.C. § 1342(o) (emphasis added).
[91] 33 U.S.C. § 1362(11).
[92] 33 U.S.C. § 1362(12).
[93] NRDC Group. Br., at p. 17.
[94] *See* 33 U.S.C. § 1362(11) ["Effluent limitations" are "discharged **from** point sources **into** navigable waters"]; 33 U.S.C. § 1362(12) ["Discharge of a pollutant" means "any addition of any pollutant **to** navigable waters **from** any point source"].

contribute **to** the violation of receiving water limitations."[95] Thus, a receiving water limitation cannot be "effluent" because receiving waters are not "discharged"; they are the water bodies *into* which effluent is discharged *from* MS4s. "Receiving water limitation" is defined by the Permit as "[a]ny applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, **for the receiving water**. . ."[96] Accordingly, effluent limitations apply to what comes out of the MS4, while receiving water limitations apply to whatever is in the receiving water itself. It is a subtle but crucial distinction between what comes out of the "end of the pipe" and what is present in the receiving water.

Because Clean Water Act Section 402(o) only prohibits backsliding on "effluent limitations", it does not apply to "receiving water limitations" by the plain terms of Clean Water Act Section 402(o), in which Congress clearly chose to limit the scope of the anti-backsliding rule to "effluent" limitations only. The subsequently-passed legislation clearly controls over the previously-existing regulation found at 40 C.F.R. Section 122.44(l).[97]

This fact was recognized by Regional Board staff member Deborah Smith when she stated at the hearings to adopt the 2012 Permit that "Section 402(o) which is in the Clean Water Act and talks about anti-backsliding. But it talks about backsliding on effluent limits and not receiving water."[98]

As the NRDC Group points out, the EPA regulation found at 40 C.F.R. Section 122.44(l) does make a slightly broader statement that anti-backsliding prevents less stringent "effluent limitations, *standards, or conditions*" in successive permits, but the *subsequently-adopted* Clean Water Act Section 402(o) invalidates 40 C.F.R. Section 122.44(l) to the extent it arguably may have once related to receiving water limitations.[99]

---

[95] 2012 Permit, at p. 38.

[96] 2012 Permit, Attachment A, Definitions, at p. A-16 (emphasis added).

[97] *See, e.g., United States v. Cartwright*, 411 U.S. 546, 548 (1973) (regulations that are inconsistent with the statutes under which they are promulgated are invalid).

[98] 11/8/12, 2012 Permit Hrg. Tr., p. 313 [testimony of D. Smith.]

[99] *See* 40 C.F.R. § 122.44(l) (emphasis added); The EPA regulation regarding anti-backsliding under 40

(Continued...)

After Clean Water Act Section 402(o) was passed by Congress, EPA issued a guidance memorandum ("EPA Anti-Backsliding Guidance") confirming Ms. Smith's statement that the anti-backsliding rule does not apply to receiving water limitations.[100] The EPA Anti-Backsliding Guidance states that, with regard to "limitations based on State treatment or water quality standards," the pre-existing regulation at 40 C.F.R. Section 122.44(l) is superseded by Clean Water Act Section 402(o):

> **"The statutory anti-backsliding provisions found at §402(o) take precedence over EPA's existing regulations governing backsliding, found at §122.44(1)(1)** (attached). Therefore, the Regions **and States must now apply the statute itself, instead of these regulations, when questions arise regarding backsliding from limitations based on State treatment or water quality standards."**[101]

A receiving water limitation consists of *in-stream* limitations based on state water quality standards.[102] Accordingly, under the EPA Anti-Backsliding Guidance, Clean Water Act Section 402(o) applies *instead* of 40 C.F.R. Section 122.44(l). Because Clean Water Act Section 402(o) only prohibits backsliding on effluent limitations, it does not apply to receiving water limitations. Receiving water limitations are also not "conditions" under 40 C.F.R. Section 122.44(l).[103] The EPA Anti-Backsliding Guidance expressly differentiates "limitations" from "conditions" when it states that 40 C.F.R. Section 122.44(l) still applies to "permit conditions (*rather than permit limitations*)."[104]

(...Continued)

C.F.R. § 122.44(l) pre-dated the passage of Section 402(o) of the Clean Water Act in 1987 *See, e.g.*, 49 F.R. 37998 (Sept. 26, 1984) [discussing 40 C.F.R. § 122.44(l)].

[100] *See* EPA, Interim Guidance on Implementation of Section 402(o) Anti-backsliding Rules For Water Quality-Based Permits (1989) ("*EPA Anti-Backsliding Guidance.*")

[101] EPA Anti-Backsliding Guidance, at p.2 (emphasis added).

[102] The 2001 Permit defines receiving water limitations as "water quality standards or water quality objectives." (2001 Permit, Part 2.1.) The permit defines "water quality standards or water quality objectives" as "water quality criteria contained in the Basin Plan, the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans." (2001 MS4 Permit, at p.5.)

[103] NRDC Group Br., at pp. 17-18.

[104] EPA Anti-Backsliding Guidance, at p.2 (emphasis added).

Based on the foregoing, the anti-backsliding rule could not have been violated in the case of the 2012 Permit's watershed management plan compliance provision because the permit provisions contain no "effluent limitations" that are less stringent than the 2001 Permit.

Furthermore, the anti-backsliding rule does not apply to MS4 permit receiving water limitations by its express terms. The operative provision of the rule states:

> "In the case of effluent limitations established on the basis of **subsection (a)(1)(B) of this section**, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section **1314(b)** of this title subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section **1311(b)(1)(C)** or section **1313(d)** or **(e)** of this title, a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section **1313(d)(4)** of this title."[105]

MS4 permit receiving water limitations are developed under Clean Water Act Section 402(p)(3)(B), codified at 33 U.S.C. Section 1342(p)(3)(B). By its express terms, the anti-backsliding rule only applies to effluent limitations developed under 33 U.S.C. Sections 1342(a)(1)(B), 1311(b)(1)(C) or 1313(d) or (e). This is yet another compelling reason the anti-backsliding rule does not apply to receiving water limitations.

3. No Backsliding Has Taken Place At All Because the 2012 Permit Is Overall More Stringent Than the 2001 Permit and the Regional Board Retained the Discretion to Enforce MS4 Permits through the Iterative Process

Rather than backsliding on effluent limitations, the 2012 Permit contains entirely

---

[105] 33 U.S.C. § 1342(o)(1).

new and drastically more stringent effluent limitations: 33 new TMDLs, most of which have numeric WQBELs and all of which require attainment of final WLAs. As stated by Mr. Unger at the hearing to adopt the 2012 Permit:

> "The existing permit contains a set of effluent limitations for trash and the new permit, we're bringing in 33 other effluent limitations that are based on the TMDLs that are being brought into the permit. So to say that there's fewer effluent limitations in this permit than the existing permit, we're puzzled by that."[106]

The Regional Board has furthermore always retained the discretion to enforce MS4 Permits through the iterative process *or* through numeric effluent limitations going back to before the 2001 Permit was adopted, to at least 1999 when the Ninth Circuit Court of Appeals so ruled in *Browner*.[107] The State Board has repeatedly asserted the same discretion, including in 2001, the same year the prior 2001 Permit was issued, when it stated, "[w]e will generally not require 'strict compliance' with water quality standards through numeric effluent limitations and we continue to follow an iterative approach, which seeks compliance over time."[108] As the Court of Appeal put it in *BIA*, "the [2001] Permit makes clear that the iterative process is to be used for violations of water quality standards, and gives the Regional Water Board the discretionary authority to enforce water quality standards during that process."[109]

The Regional Board's decision to exercise its clear discretion to enforce the 2012 Permit through a modified "iterative approach" cannot be considered "backsliding," insofar as the 2012 Permit standard is not "less stringent."[110] The Regional Board had the clear discretion to regulate the 2001 Permit through the iterative process, and indeed did so throughout the ten-plus years in which that permit applied.[111]

---

[106] 2012 Permit, at p. 13; 11/8/12, 2012 Permit Hrg. Tr., at pp. 314-315.
[107] *Browner*, 191 F.3d at 1165; 2010 EPA Memorandum, at p. 2; 40 C.F.R. §122.44(k).
[108] *See* State Board Order No. 2001-15, at p. 8.
[109] *BIA*, 124 Cal.App.4th at 890-891.
[110] 33 U.S.C. § 1342(o); 40 C.F.R. § 122.44(l).
[111] *See, e.g.*, 10/4/12, 2012 Permit Hrg. Tr., at p. 37 [testimony of S. Unger]; 11/8/12, 2012 Permit Hrg. Tr., (Continued...)

In reality, the 2012 Permit is more stringent than the prior one[112] because, in addition to 33 new TMDLs and their new effluent limits, as Renee Purdee of the Regional Board explained it:

> "The Watershed Management Program promotes a process similar in some ways to the iterative approach but emphasizes a more proactive approach to identifying and addressing pollutant contributions from MS4 discharges to receiving waters, including the robust quantitative analysis that I described to the reasonable assurance analysis, prior to implementation to ensure that the BMPs will be effective at addressing the pollutant contributions; and it would also require the establishment of enforceable milestones and deadlines for their achievement to ensure that there was timely progress toward addressing MS4 discharges."[113]

The Regional Board's decision to implement a *more stringent* effluent limitations in the watershed management plan approach in addition to numerous other more stringent requirements obviously cannot be considered "less stringent" than the 2001 Permit.[114] Thus, because the Regional Board has, for the relevant period, retained the discretion to measure and actually measured Permit compliance through the iterative process, and because the 2012 Permit is overall more stringent than the 2001 Permit, there is no anti-backsliding violation.

4. The Watershed Management Plan Compliance Approach Does Not Violate the Anti-Backsliding Rule "Safety Clause" in Clean Water Act Section 402(o)

The NRDC Group argues that the separate anti-backsliding provision in Clean Water

---

(...Continued)

at p. 326 [testimony of R. Purdee: "We really have had a process over the last decade where we've had receiving water limitations, but we've had an iterative process"].

[112] The Petitioners have challenged a number of these provisions as being legally deficient in their respective petitions and herein. Said legal challenges notwithstanding, Petitioners at no point have asserted that these new standards are less stringent than the prior permit.

[113] 10/4/12, 2012 Permit Hrg. Tr, at pp. 94-95; 2012 Permit, at pp. 52-53; 66-67.

[114] 33 U.S.C. § 1342(o); 40 C.F.R. § 122.44(l); State Board Order No. 99-05; 2001 Permit, Part 2.3.

Act Section 402(o)(3) also prohibits the 2012 Permit's watershed management plan compliance approach.[115] Clean Water Act Section 402(o)(3) states:

> "In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an **effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed**, reissued, or modified. In no event may such a permit to **discharge** into waters be renewed, reissued, or modified to contain a **less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303** [33 USCS § 1313] applicable to such waters."[116]

Section 402(o)(3) does not apply to the watershed management plan compliance approach because, as stated above, the 2012 Permit: (1) does not contain any less stringent *effluent* limitations; rather, it contains more stringent effluent limitations in the form of 33 new TMDLs; and (2) contains far more stringent requirements overall.

The NRDC Group made no showing that the 2012 Permit contains a single "effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed."[117] The NRDC Group also assumes with no factual basis that the implementation of the watershed management plans will "result" in "violations of water quality standards."[118] Simply put, Section 402(o)(3) clearly does not apply to the 2012 Permit and the NRDC Group failed to raise any facts indicating otherwise.[119]

5. The Watershed Management Plan Compliance Approach Qualifies Under a Statutory Exception to the Anti-Backsliding Rule

Even if the Permit's watershed management plan compliance approach did violate

---

[115] NRDC Group. Br., at pp. 20-21.
[116] 33 U.S.C. § 1342(o)(3).
[117] NRDC Group. Br., at pp. 20-21.
[118] NRDC Group. Br., at pp. 20-21.
[119] *See* 33 U.S.C. § 1342(o)(3).

the terms of the anti-backsliding rule—which it does not—a statutory exception to the rule should apply here. Under Clean Water Act Section 402(o)(2)(B)(i), the anti-backsliding rule does not apply where "information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance."[120]

Between 2001 and 2010, a wealth of new facts and information became available to the Regional Board that could easily justify the imposition of a less stringent standard. First, as stated by Jennifer Fordyce of the Regional Board:

> ". . .[S]omething that was not known at the time of the 2001 permit was, you know, at least there's 33 TMDLs. There were no TMDLs at that time. So this permit includes 33 TMDLs . . . the inclusion of the TMDLs does reflect a paradigm shift to the watershed management. And so the watershed management program does allow the permittees flexibility on how to use their resources."[121]

The 33 TMDLs are a significant new fact that could warrant a less stringent standard. Second, under the 2001 Permit, Los Angeles County was the "principal permittee," and as such took on a great deal of the financial and logistical burdens of the Permit.[122] After the NRDC Group sued the County in 2008, the County decided it would no longer function as the principal permittee under the 2012 Permit.[123] That has led to municipal permittees having to shoulder a larger share of the financial burden of the 2012 Permit and exposure to significant liability from third-party lawsuits.[124] In turn, the County abdicating its role as principal permittee has led to the creation of the watershed management approach, an entirely new and untested approach to MS4 Permits.[125]

---

[120] 33 U.S.C. § 1342(o)(2)(B)(i).
[121] 11/8/12, 2012 Permit Hrg. Tr., p. 317.
[122] 2012 Permit, p. 12.
[123] 2012 Permit, p. 15; *Natural Resources Defense Council v. County of Los Angeles*, 133 S.Ct. 710 (2011).
[124] 2012 Permit, p. 15.
[125] 2012 Permit, Part VI.C.

Additionally, as was discussed again and again at the 2012 Permit adoption hearings, in 2008, the United States went into a significant economic recession, which in addition to a budget crisis in the State, has led to dire financial straits for many permittees.[126] Any of the above-stated facts separately or in conjunction could easily justify imposing a less stringent standard under the exception to the anti-backsliding rule under Clean Water Act Section 402(o)(2)(B)(i).

B. The Watershed Management Plan Compliance Approach Does Not Violate the Anti-Degradation Policy

The NRDC Group asserts without any factual basis that the 2012 Permit's watershed management plan compliance approach will violate the State and federal anti-degradation policy."[127] Federal law requires the State to adopt an anti- degradation policy. The State adopted its anti-degradation policy in 1968, which incorporates the federal policy.[128] Under the federal policy's tiering system, Tier 2 and Tier 3 waters are "high quality" waters.[129] The State's policy pertains only to "high quality waters," which are in turn defined as:

> "Existing high quality waters are waters with existing background quality unaffected by the discharge of waste and of better quality than that necessary to protect beneficial uses. . . . Where the waters contain levels of water quality constituents or characteristics that are better than the established water quality objectives, such waters are considered high quality waters. High quality waters are determined based on specific properties or characteristics."[130]

As an initial matter, the NRDC Group Brief does not identify a single applicable

---

[126] *See, e.g.*, 10/4/12, 2012 Permit Hrg. Tr. [Testimony of D. Lewis, Mayor of City of Bradbury: "compliance with the Bacteria TMDL requirement alone has an estimated cost to the City of Bradbury of 1.4 million dollars. The City's General Fund is $800,000"]; 10/4/12, 2012 Permit Hrg. Tr. at pp. 287-295 [Testimony of D. Grigsby, Public Works Director for the City of Pomona].

[127] NRDC Group. Br., at pp. 21-24.

[128] State Board Resolution 68-16.

[129] 40 C.F.R. § 131.12 (a).

[130] *Asociacion de Gente Unida por el Agua v. Central Valley Regional Water Quality Control Bd.*, 210 Cal. App. 4th 1255 (2012).

"high quality" water in the 2012 Permit area.[131] Because the NRDC Group bears the burden of establishing that the 2012 Permit violates the law, and there can be no violation without a high quality water, their argument fails at the outset.[132]

The NRDC Group furthermore offers no evidence other than unsubstantiated assertions that the 2012 Permit will cause any waters, high quality or not, to be "degraded." The only alleged factual bases of the claim are the unsubstantiated assertions that: (1) the watershed management plan compliance approach weakens receiving water limitations, and; (2) during the development of watershed management plans, high quality waters will be degraded as the 2001 Permit continues to apply.[133]

Regarding the NRDC Group's first claim that watershed management plans "weaken" RWLs, the 2012 Permit is actually much more stringent overall than the 2001 Permit, in that it incorporates 33 new TMDLs, contains enhanced minimum control measures, more robust non-stormwater discharge prohibitions, new watershed management and enhanced watershed management plans, and significantly increased monitoring, including outfall monitoring.[134] Regarding the NRDC Group's second claim that there will be a degradation of high quality waters, there are no facts in the record to show that the 2012 Permit "approv[ed] any reduction in water quality, or any activity that would result in a reduction in water quality."[135] Indeed, a significantly more robust permit would presumably achieve even greater improvements in water quality.

Similarly, under the Tier 1 federal standard, there are no facts in the record to show that the 2012 Permit constitutes an "action which would lower water quality below that necessary to maintain and protect existing uses."[136] The Regional Board made the opposite

---

[131] NRDC Group. Br., at pp. 21-24.
[132] *See Campbell v. Board of Dental Examiners*, 17 Cal. App. 3d 872, 875-876 (1971) ("a strong presumption supports the correctness of the findings of an administrative agency, and the burden of proof rests upon the petitioner.")
[133] NRDC Group. Br., at p. 23.
[134] *See* 11/8/12, 2012 Permit Hrg. Tr., p.315 [testimony of R. Purdee].
[135] State Board Order No. 86-17, at p. 17.
[136] 40 C.F.R. § 13.12(a)(1).

finding that "the permitted discharge is consistent with the anti-degradation provision of section 131.12 and State Water Board Resolution No. 68-16."[137] Not making such a finding was the basis of the remand order in State Board Order No. 86-17.[138] The NRDC Group raises no contradictory facts, just baseless assertions.

Finally, during the period in which the 2012 Permit's watershed management plans are implemented, the prior 2001 Permit's provisions remain in place during that time—so at minimum the status quo will be maintained.[139] The NRDC Group disingenuously argues that the failure to consistently meet water quality standards under the 2001 Permit automatically means it "caused" waters to degrade.[140] Yet there is no proof offered that any waters have gotten worse since 200. Indeed the NRDC Group's own testimony at the hearings indicates that water quality has improved—although there is still clearly a long way to go before water quality standards are achieved.[141] Improvements that are too gradual for the NRDC Group's liking are not the same thing as degradation.

The NRDC Group has completely failed to carry its affirmative burden to establish any facts in the record to substantiate its claim that the 2012 Permit will cause waters to be degraded. Given the fact that the 2012 Permit is significantly more robust than the 2001 Permit in a number of key regards, there is good reason to believe water quality will be improved as it is implemented.

C. The 2012 Permit's Enhanced Watershed Management Plan Provisions Are Consistent With EPA TMDL Regulations

The 2012 Permit's Enhanced Watershed Management Plan ("EWMP") is consistent with EPA TMDL regulations. The 2012 Permit's EWMP provisions allow permittees who

---

[137] 2012 Permit, at p. 25.
[138] State Board Order No. 86-17, at p. 17.
[139] 11/8/12, 2012 Permit Hrg. Tr., at p. 318 [testimony of J. Fordyce]; 11/8/12, 2012 Permit Hrg. Tr., at p. 318 [testimony of R. Purdee];
[140] NRDC Group Br., p.24.
[141] 11/8/12, 2012 Permit Hrg. Tr., p. 252 [testimony of Mark Gold] ("We've come so far on water quality over the last 25 years. No more dead zones in the Bay, no more fish with tumors or fin rot, and cleaner and safer beaches during the summer months. . .")

elect to join together and develop an EWMP to comply with final TMDL WQBELs by retaining the 85th percentile, 24 hour storm water event in the areas covered by the EWMP.[142] According to the NRDC Group, this provision violates 40 C.F.R. Section 122.44(d)(1)(vii)(B), which merely states that permit terms must be "consistent" with TMDL WLAs.[143]

The NRDC Group is incorrect. EWMPs are required by the 2012 Permit to "ensure that discharges from the Permittee's MS4: (i) achieve applicable water quality-based effluent limitations in Part VI.E and Attachments L through R pursuant to the corresponding compliance schedules."[144] Thus, contrary to the NRDC Group's assertion, the EWMP TMDL compliance option does not excuse the failure to meet final WQBELs.

Furthermore, the Regional Board's discretion in deciding how to achieve water quality standards through TMDL implementation is not nearly as limited as the NRDC Group suggests. The EPA regulations expressly state that "TMDLs can be expressed in terms of either mass per time, toxicity, or *other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent.* Thus, the TMDL process provides for nonpoint source control tradeoffs."[145] The NRDC Group states no facts to show that the Regional Board's chosen measure is not an "appropriate measure" for attaining water quality standards, instead merely assuming with no factual support that such a measure "is inconsistent with the WLAs."[146] Furthermore, WLAs are not set in stone—the Regional Board has the legal discretion to correct and alter them as new information becomes available through "reopeners" or otherwise.

---

[142] 2012 Permit, p. 145 (Part VI.E.2.e.i.).
[143] NRDC Group Br., pp.25-26.
[144] 2012 Permit, p. 47; *see also*, p. 48 (EWMPs are required to "[m]odify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable water quality-based effluent limitations and receiving water limitations and other milestones set forth in the Watershed Management Program are achieved in the required timeframes.")
[145] 40 C.F.R. § 130.2(i).
[146] NRDC Group Br., p.25.

In short, the NRDC Group raises no facts that disprove the 2012 Permit's statement that it "establishes WQBELs consistent with the assumptions and requirements of all available TMDL waste load allocations assigned to discharges from the Permittees' MS4s."[147] As the NRDC Group bears the burden of establishing the illegality of the 2012 Permit, they have failed to carry their burden in this regard to overcome the Regional Board's clear discretion to determine how WLAs will be achieved.

V. THE PERMITTEES ARE NOT PROHIBITED BY COLLATERAL ESTOPPEL FROM CHALLENGING THE PERMIT

In its brief responding to the State Board's request for comments on the proposed Permit, the NRDC Group asserted that various cities were precluded from asserting positions about Receiving Water Limitations by virtue of a prior state court lawsuit.[148] Not so.

First, the NRDC Group mistakes the fundamental notion of issue preclusion (or "collateral estoppel"). That doctrine precludes re-litigation of a previously determined issue at a second judicial forum.[149] It is founded upon a policy of judicial economy. The doctrine of issue preclusion has no applicability to the State Water Board, which determines state-wide water policy, and does not merely sit as some type of "appellate" judicial entity reviewing petitions issued by various regional water boards. This argument is akin to NRDC Group arguing that Petitioners are precluded from seeking any legislative relief in the form of an amendment to the Clean Water Act before Congress on the grounds of collateral estoppel tied to a Superior Court decision issued over eight years ago. To state this argument is to illustrate its absurd nature.

---

[147] 2012 Permit, p. 38

[148] *See* NRDC, Heal the Bay, and Los Angeles Waterkeeper "Response to State Water Resources Control Board Request for Comments on Receiving Water Limitations and Opposition to Petitions for Review on Limited Receiving Water Limitation Issues" ("NRDC RWL Comm."), at pp. 28-38.

[149] *See* AMERICAN LAW INSTITUTE, RESTATEMENT OF THE LAW OF JUDGMENTS (SECOND) §27 (1982) ("When an issue of fact or law is actually litigated. . . by a valid and final judgment. . . the determination is conclusive in a *subsequent action between the parties. . .*"). *Id. at* §27, comment c (discussing the important policy of "a desire to prevent repetitious litigation of what is essentially the same dispute.")

The California Supreme Court has declined to preclude litigation of issues based on processes that involve administrative agencies, such as the regional water boards, that are involved in mere consultative processes.[150]

Second, the NRDC Group mistakes the scope of issue preclusion even when it does apply to a subsequent judicial proceeding: Issue preclusion does not extend to issues that might have been (but were not) litigated in the first action. In this case, the "issue" involves the application of the terms of a permit issued by the Los Angeles Regional Water Board in 2012. By definition, the 2012 Permit, the included TMDLs, and the 2012 Permit's overall structure, could not have been litigated in the context of litigation challenging an earlier permit issued in 2001.

How do we know this? We need look no further that NRDC's opening brief, in which it states:

> **"Rather than maintaining the 2001 Permit's prohibition against discharges that cause or contribute to an exceedance of water quality standards, the 2012 Permit creates safe harbors** that exempt compliance with the Receiving Water Limitations for Permittees that elect to participate in a WMP or an EWMP."[151]

To be sure, the NRDC Group then immediately criticizes the 2012 Permit's alleged "departure" from the 2001 Permit's approach as "nonsensical" and as violative of the anti-backsliding provisions of the Clean Water Act.[152] But, the NRDC Group cannot have it both ways: they cannot on one hand assail the Regional Board's 2012 Permit as a departure from the 2001 Permit while simultaneously arguing that the Petitioners are precluded from making any argument about the 2012 Permit because it *is* identical to the 2001 Permit and

---

[150] *See Pacific Lumber Co. v. State Water Resources Control Bd.*, 37 Cal.4th 921, 943-44 (holding that state board was not collaterally estopped from applying monitoring requirements to company also regulated by state forestry agency which had consulted with water board before issuing more limited set of regulations: "We have repeatedly looked to the public policies underlying the doctrine before concluding that collateral estoppel should be applied in a particular setting.").

[151] NRDC Group Br., at p. 41, lns. 5-8(emphasis added).

[152] NRDC Group Br., at pp. 41-42.

previously litigated issues. Both propositions—that the 2012 Permit is both identical and not identical to the 2001 Permit—cannot be simultaneously be true.[153]

The Petitioners recognize that certain parts of the 2012 Permit with respect to its receiving water limitations are similar to the 2001 Permit, which also contained language about "water quality standards and water quality objectives" similar to the language contained in Part V.A.1 and V.A.2 of the 2012 Permit. But, those Permit sections are, as noted in Part II.A, *supra*, necessarily and linguistically modified by Part V.A.3 of the 2012 Permit. That difference, which NRDC Group decries in its first brief, makes it clear that whatever the Superior Court decided in 2005 with respect to the 2001 Permit, it could not bind either side to that litigated dispute from separate arguments about a *different* 2012 Permit. That issue was simply not litigated in the prior action.

The NRDC Group cites to an appellate decision,[154] but in actuality, it relies upon a superior court Statement of Decision from Phase I Trial on Petitions for Writ of Mandate filed on March 24, 2005 by Judge Chaney.[155] Even a cursory review of Judge Chaney's Statement of Decision indicates that it refers to "the Permit" issued by the Los Angeles Regional Water Quality Control Board in 2001. In finding that the Receiving Water

---

[153] In a vain effort to avoid its own fatal contradiction, the NRDC separated its opening brief from its issue preclusion argument by placing the latter at the end of its separate set of "comments" in response to the State Board's inquiry about Receiving Water Limits. *Compare* NRDC Group Br., at p. 40 (Contrasting 2012 Permit RWL provision with those in 2001 Permit) *with* NRDC RWL Comm., at pp. 29-30 (heading of section: "The 2012 Permit's Receiving Water Limitations are virtually identical to those in the 2001 Permit"). But, NRDC's selective placing of the two parts of a contradictory argument in two separate briefs will not avoid the ultimate logical contradiction.

[154] NRDC RWL Comm., at p. 29 & n.86 (citing "*La. County Mun. Stormwater*" case as "affirmed on appeal, *County of Los Angeles,* 143 Cal. App. 4th 985)

[155] For purposes of issue preclusion, it is only the final decision of a court, including an appellate court that constitutes the "binding" determination. The undersigned Petitioners refer to and incorporate by reference the position in the separate "The Cities of Duarte and Huntington Park's Memorandum of Points and Authorities In Opposition To the Natural Resources Defense Council, Inc. et al.'s Petition For Review Of the Los Angeles Regional Water Quality Control Board Action of Adopting Order No. R4-2012-0175." explaining why the Court of Appeal did not adopt the language or the legal conclusions reached by the trial court. Thus, there can be no issue preclusion based upon a trial court's rationale that was not adopted in the final decision of the Court of Appeal. We write separately to observe that even if the trial court opinion were the final opinion (which it is not) it still does not state the "issue" that the NRDC Group now claims was decided in its favor.

Limitations in the 2001 Permit were permissible, Judge Chaney specifically considered "the content of Part 2 [of the 2001 Permit], other language and provisions in the Permit" and other matters.[156] Judge Chaney specifically examined the structure of the 2001 Permit and noted: "Under this [2001 Permit] process, the first step to correct water quality violations that occur, even if permittees' SQMP [Stormwater Quality Management Plan] has been designed to achieve standards and BMPs [Best Management Practices] have been timely implemented is set forth in subpart 2.3 [of the 2001 Permit], *the "iterative" process.* Should that not be sufficient, the parties would move to subpart 2.4, Best Management Practices (BMP) requirements."[157]

Thus, as framed by the Court in understanding and interpreting the 2001 Permit, the "iterative process" was one of the basic steps in that Permit, a step that was important to the Court in accepting that Permit.[158] In short, what the Superior Court decided in the 2005 litigation was completely tied to the 2001 Permit.

The 2012 Permit further contains a significantly different overall structure. The 2001 permit applied to a "principal permittee", the Los Angeles Flood Control District, which was largely responsible for monitoring and other submittals to the Regional Board.[159]

---

[156] *Statement of Decision from Phase I Trial on Petitions for Writ of Mandate* (March 24, 2005) at p. 4.

[157] *Id.* at p. 6, lns. 14-17 (emphasis added).

[158] The NRDC Group cites to one isolated sentence on p. 7 of Judge Chaney's Statement of Decision to support their argument regarding the lack of a "safe harbor" provision. NRDC RWL Comm., at p. 32. From this reading, the NRDC group concludes that the "issue" of whether the 2012 Permit contains an iterative process to be followed for assessing any alleged violation of the Receiving Water Limitation has already been "litigated." *Id.* Of course, any fair reading of Judge Chaney's Statement of Decision must include *all* portions of that Decision, including her analysis on the immediately preceding pages 5-6, which emphasized that 2001 Permit did in fact contain what she described as "the iterative' process." *Statement of Decision from Phase I Trial on Petitions for Writ of Mandate* (March 24, 2005) at p. 6 (describing structure of 2001 Permit, including sections 2.3 and 2.4 thereof). One cannot take an isolated snippet from a 45 page written Statement of Decision as say: "There, that's it, that one sentence is what was litigated, and that sentence, taken in isolation shows that we won in a trial some nine years ago." But, this is precisely the "issue" that the NRDC seeks to claim is "foreclosed" before this State Board. As the drafters of the Second Restatement of Judgments cautioned: "It is true that is it sometimes difficult to determine whether an issue was actually litigated. . . But, the policy considerations outlined above weigh strongly in favor of nonpreclusion, and it is in the interest of predictability and simplicity for such a result to obtain uniformly." AMERICAN LAW INSTITUTE, RESTATEMENT OF THE LAW OF JUDGMENTS (SECOND) §27, comment e at p. 256 (1982)

[159] 2012 Permit, II. B at pp. 13-14 (Findings re: "Permit History")("The Principal Permittee coordinated and

(Continued...)

The 2012 Permit completely abandons the "principal permittee" structure, and instead adopts a watershed-based approach through the implementation of the watershed management program.[160]

Thus, unlike the 2001 Permit, the 2012 Permit contains a significantly different structure and different requirements that are, at least in part, based upon separate watersheds within the overall regional permit. The 2012 Permit also contains "33 watershed-based TMDLs" that it describes in part as identifying Los Angeles County MS4 discharges "as one of the pollutant sources causing or contributing to these water quality impairments."[161]

The 2012 Permit also contains new language and structures regarding an "Integrated Monitoring Compliance Report" related to Receiving Water Limitations not present in the 2001 Permit. The duty to submit such a monitoring compliance report is triggered whenever the specific permittee under the 2012 Permit or the Regional Board determines that discharges from an MS4 permit are "causing or contributing to" an exceedence of an applicable Receiving Water Limitation."[162] The 2012 Permit further specifies that the monitoring compliance report "shall" include an implementation schedule and that it is subject to review and modification by the Regional Board. Again, the issues concerning this monitoring compliance report and its review and implementation could not have been litigated in the mandate actions challenging the 2001 permit—that structure simply did not exist in the earlier permit.

Thus, there can be no "preclusion" of an issue not previously litigated. Issue preclusion [or collateral estoppel] -- the doctrine asserted by the NRDC Group here – only bars a party to an action from re-litigating issues actually litigated and decided in an earlier

---

(...Continued)

facilitated activities necessary to comply with the requirements of Order No. 01-182 . . .")

[160] 2012 Permit, II. C. at p. 15(Findings regarding "permit application.")

[161] 2012 Permit, II.A. at p. 13 (Findings regarding "Nature of discharges and sources of pollutants.").

[162] 2012 Permit V. A. 3.a. at p. 38.

action.[163]

Third, even if it could be claimed that the "issues" in the 2001 and 2012 Permits are 'identical' and were 'actually litigated' in the prior 2004-2005 mandate proceeding, the application of issue preclusion still hinges on public policy. The California Supreme Court has emphasized that:

> "Even assuming all the threshold requirements are satisfied, however, our analysis is not at an end. **We have repeatedly looked to the public policies underlying the doctrine before concluding that collateral estoppel should be applied in a particular setting.** (citation omitted.)"[164]

In this case, the claim that a party is estopped from advocating a change in permit language before the State Board based upon a prior judicial determination analyzing a prior (and different) permit would defeat the very basis for State Water Board review of Regional Board permits. The goal of resolving critical stormwater problems in light of current knowledge would be hindered if the NRDC Group could claim that the State Board is precluded from considering such arguments because they were made as to an earlier permit. Such a policy is particularly misguided where there is a twelve-year gap between permits as is the case here. Times and circumstances change, and the State Board is free under the law to consider those differences in evaluating the 2012 Permit.

VI. CONCLUSION

Petitioners believe the 2012 Permit improperly imposed numeric standards. Accordingly, Petitioners respectfully request that the State Board remand the 2012 Permit to the Regional Board with orders that: (1) the iterative process be established as the lone determinant of Permit compliance for TMDL WQBELs, WLAs, receiving water limitations, and non-stormwater discharge prohibitions unless there is a specific showing

---

[163] *Greensparn v. LADT LL*, 191 Cal.App.4th 486, 514 (2010).

[164] *Pacific Lumber Co. v. State Water Resources Control Bd.*, 17 Cal.4th 921, 943-44 (2006) (emphasis added).

that such numeric limits are feasible; (2) if this is not done, that a full financial analysis of the 2012 Permit under Water Code Sections 13263 and 13241 be conducted.

In the alternative, if these requests are not granted, Petitioners request that the 2012 Permit be upheld as is, and that the Petition of the NRDC Group be denied in full.

Dated: October 15, 2013

RICHARDS, WATSON & GERSHON
A Professional Corporation
NORMAN A. DUPONT
LISA BOND
CANDICE K. LEE
ANDREW BRADY

By: _____
ANDREW BRADY
Attorneys for Petitioners
City of San Marino, City of Rancho Palos Verdes, City of South El Monte, City of Norwalk, City of Artesia, City of Torrance, City of Beverly Hills, City of Hidden Hills, City of Westlake Village, City of La Mirada, City of Vernon, City of Monrovia, City of Agoura Hills, City of Commerce, City of Downey, City of Inglewood, City of Culver City, and City of Redondo Beach.

Service List of Interested Persons

Mr. Samuel Unger **[via email only]**
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013
sunger@waterboards.ca.gov

Ms. Deborah Smith **[via email only]**
Assistant Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013
dsmith@waterboards.ca.gov

Ms. Paula Rasmussen **[via email only]**
Assistant Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013
prasmussen@waterboards.ca.gov

Ms. Renee Purdy **[via email only]**
Environmental Program Manager I
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013
rpurdy@waterboards.ca.gov

Mr. Ivar Ridgeway **[via email only]**
Environmental Scientist
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013
iridgeway@waterboards.ca.gov

Lori T. Okun, Esq. **[via email only]**
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
lokun@waterboards.ca.gov

Frances L. McChesney, Esq.
[via email only]
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd F loor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
FMcChesney@waterboards.ca.gov

Jennifer L. Fordyce, Esq.
[via email only]
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
ifordyce@waterboards.ca.gov

Nicole L. Johnson, Esq.
[via email only]
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
niohnson@waterboards.ca.gov

Michael Lauffer, Esq. **[via email only]**
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
mlauffer@waterboards.ca.gov

(Continued next page)

List of Interested Persons
cc: (Continued)

Philip G. Wyels, Esq. **[via email only]**
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
pwyels@waterboards.ca.gov

Bethany A. Pane, Esq.
[via email only]
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
bpane@waterboards.ca.gov

Mr. David W. Smith, Chief **[via email only]**
Permits Office
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105
smith.davidw@epa.gov

City of San Marino [A-2236(a)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of San Marino
c/o Mr. John Schaefer, City Manager
2200 Huntington Drive
San Marino, CA 91108
jschaefer@cityofsanmarino.org

City of Rancho Palos Verdes [A-2236(b)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail only]
City of Rancho Palos Verdes
c/o City Manager
30940 Hawthorne Boulevard
Rancho Palos Verdes, CA 90275

City of South El Monte [A-2236(c)]

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail only]
City of South El Monte
c/o City Manager
1415 N. Santa Anita Avenue
South El Monte, CA 91733

City of Norwalk [A-2236(d)]:

[via U.S. Mail and email]

Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail only]
City of Norwalk
c/o Mr. Michael J. Egan, City Manager
12700 Norwalk Boulevard
Norwalk, CA 90650

City of Artesia [A-2236(e)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail only]
City of Artesia
c/o Interim City Manager
18747 Clarkdale Avenue
Artesia, CA 90701

City of Torrance [A-2236(f)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Torrance
c/o Mr. LeRoy J. Jackson, City Manager
3031 Torrance Boulevard, Third Floor
Torrance, CA 90503
ljackson@torranceca.gov

[via U.S. Mail and email]
City of Torrance
c/o Mr. Robert J. Beste, Public Works Director
20500 Madrona Avenue
Torrence, CA 90503
rbeste@torranceca.gov

City of Beverly Hills [A-2236(g)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Beverly Hills
c/o City Manager
455 N. Rexford Drive
Beverly Hills, CA 90210
jkolin@beverlyhills.org

City of Hidden Hills [A-2236(h)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon

355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Hidden Hills
c/o City Manager
6165 Spring Valley Road
Hidden Hills, CA 91302
staff@hiddenhillscity.org

City of Claremont [A-2236(i)]:

[via U.S. Mail and email]
Shawn Hagerty, Esq.
J.G. Andre Monette, Esq.
Rebecca Andrews, Esq.
Best Best & Krieger, LLP
655 West Broadway, 15th Floor
San Diego. CA 92101
andre.monette@bbklaw.com

[via U.S. Mail only]
City of Claremont
c/o Mr. Brian Desatnik
Director of Community Development
207 Harvard Avenue
Claremont, CA 91711
bdesatnik@ci.claremont.ca.us

City of Arcadia [A-2236(j)]:

[via U.S. Mail and email]
Shawn Hagerty, Esq.
J.G. Andre Monette, Esq.
Rebecca Andrews, Esq.
Best Best & Krieger, LLP
655 West Broadway, 15th Floor
San Diego, CA 92101
andre.monette@bbklaw.com

[via U.S. Mail and email]
City of Arcadia
c/o Mr. Dominic Lazzaretto, City Manager
240 West Huntington Drive
P.O. Box 60021
Arcadia, CA 91066
dlazzaretto@ci.arcadia.ca.us

[via U.S. Mail and email]
City of Arcadia
c/o Mr. Tom Tait
Director of Public Works Services
240 West Huntington Drive
P.O. Box 60021
Arcadia, CA 91066
ttait@ci.arcadia.ca.us

Cities of Duarte and Huntington Beach [A-2236(k)]:

[via U.S. Mail and email]
Richard Montevideo, Esq.
Joseph Larsen, Esq.
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626
rmontevideo@rutan.com

[via U.S. Mail and email]
City of Duarte
c/o Mr. Darrell George, City Manager 1600
Huntington Drive
Duarte, CA 91010
georged@accessduarte.com

[via U.S. Mail only]
City of Huntington Park
c/o Mr. Rene Bobadilla, City Manager
6550 Miles Avenue
Huntington Park, CA 90255

City of Glendora [A-2236(l)]:

[via U.S. Mail and email]
D. Wayne Leech, Esq.

City Attorney
City of Glendora
Leech & Associates
11001 E. Valley Mall #200
El Monte, CA 91731
wayne@leechlaw.com

[via U.S. Mail and email]
City of Glendora
c/o Chris Jeffers, City Manager,
Dave Davies, Director of Public Works
116 East Foothill Boulevard
Glendora, CA 91741-3380
city_manager@ci.glendora.ca.us
ddavies@ci.glendora.ca.us

NRDC, Heal the Bay and Los Angeles Waterkeeper [A-2236(m)]:

[via U.S. Mail and email]
Steve Fleischli, Esq
Noah Garrison, Esq.
Natural Resources Defense Council, Inc.
1314 Second Street
Santa Monica, CA 90401
sfleischli@nrdc.org
ngarrison@nrdc.org

[via U.S. Mail and email]
Liz Crosson, Esq.
Tatiana Gaur, Esq.
Los Angeles Waterkeeper
120 Broadway, Suite 105
Santa Monica, CA 90401
liz@lawaterkeeper.org
tgaur@lawaterkeeper.org

[via U.S. Mail and email]
Kirsten James, Esq.
Heal the Bay
1444 9th Street
Santa Monica, CA 90401
kjames@healthebay.org

City of Gardena [A-2236(n)]:

Cary S. Reisman, Esq.
Assistant City Attorney
City of Gardena
Wallin, Kress, Reisman & Kranitz, LLP
2800 28th Street, Suite 315
Santa Monica, CA 90405
cary@wkrklaw.com

[via U.S. Mail and email]
City of Gardena
c/o Mr. Mitch Lansdell, City Manager
1 700 West 162nd Street
Gardena, CA 90247
mlansdell@ci.gardena.ca.us

City of Bradbury [A-2236(o)]:

[via U.S. Mail and email]
Cary S. Reisman, Esq.
Assistant City Attorney
City of Bradbury
Wallin, Kress, Reisman & Kranitz, LLP
2800 28th Street, Suite 315
Santa Monica, CA 90405
cary@wkrklaw.com

[via U.S. Mail and email]
City of Bradbury
c/o Ms. Michelle Keith, City Manager
600 Winston Avenue
Bradbury, CA 91008
mkeith@cityofbradbury.org

City of Westlake Village [A-2236(p)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com

clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Westlake Village
c/o City Manager
31200 Oak Crest Drive
Westlake Village, CA 91361
ray@wlv.org
beth@wlv.org

City of La Mirada [A-2236(q)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of La Mirada
c/o City Manager
13700 La Mirada Boulevard
La Mirada, CA 90638
citycontact@cityoflamirada.org

City of Manhattan Beach [A-2236(r)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Manhattan Beach
c/o City Manager
1400 Highland Avenue
Manhattan Beach, CA 90268
cm@citymb.info

City of Covina [A-2236(s)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Covina
c/o City Manager
125 East College Street
Covina, CA 91273
vcastro@covinaca.gov

City of Vernon [A-2236(t)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
Claudia Arellano
City of Vernon
305 South Santa Fe Avenue

Vernon, CA 90058
carellano@ci.vernon.ca.us

City of El Monte [A-2236(u)]:

[via U.S. Mail and email]
Ricardo Olivarez, Esq.
City Attorney
City of El Monte
11333 Valley Boulevard
El Monte, CA 91734-2006
rolivarez@ogplaw.com

[via U.S. Mail and email]
City of El Monte
c/o Mr. Doyle Keller, Interim City Manager
11333 Valley Boulevard
El Monte, CA 91731
dkeller@ci.el-monte.ca.us

City of Monrovia [A-2236(v)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Monrovia
c/o City Manager
415 South Ivy Avenue
Monrovia, CA 91016
cityhall@ci.monrovia.ca.us

City of Agoura Hills [A-2236(w)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail only]
City of Agoura Hills
c/o City Manager
30001 Ladyface Court
Agoura Hills, CA 91301

City of Pico Rivera [A-2236(x)]:

[via U.S. Mail and email]
Anthony Marinaccio, Esq.
Alvarez-Glasman & Colvin
13181 Crossroads Parkway
North West Tower, Suite 400
City of Industry, CA 91746
amarinaccio@agclawfirm.com

[via U.S. Mail and email]
City of Pico Rivera
c/o Ron Bates, City Manager
Arturo Cervantes,
Director of Public Works
6615 Passons Boulevard
Pico Rivera, CA 90660
rbates@pico-rivera.org
acervantes@pico-rivera.org

City of Carson [A-2236(y)]:

[via U.S. Mail and email]
William W. Wynder, Esq., City Attorney
Aleshire & Wynder, LLP

2361 Rosecrans Avenue, Suite 475
El Segundo, CA 90245
wwynder@awattorneys.com

[via U.S. Mail and email]
David D. Boyer, Esq.
Wesley A. Milibrand, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
dboyer@awattornevs.com
wmilibrand@awattorneys.com

[via U.S. Mail and email]
City of Carson
c/o Mr. David C. Biggs,
City Manager
701 E. Carson Street
Carson, CA 90745
dbiggs@carson.ca.us

[via U.S. Mail and email]
City of Carson
c/o Mr. Farrokh Abolfathi, P.E.
Principal Civil Engineer
701 E. Carson Street
Carson, CA 90745
fabolfathi@carson.ca.us

[via U.S. Mail and email]
City of Carson
c/o Ms. Patricia Elkins
Water Quality Programs Manager
701 E. Carson Street
Carson, CA 90745
pelkins@carson.ca.us

City of Lawndale (A-2236(z)]:

[via U.S. Mail and email]
Tiffany J. Israel, Esq.
City Attorney
City of Lawndale
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
tisrael@awattorneys.com

[via U.S. Mail and email]
David D. Boyer, Esq.
Wesley A. Miliband, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
dboyer@@awattorneys.com
wmiliband@awattorneys.com

[via U.S. Mail and email]
City of Lawndale
c/o Mr. Stephen Mandoki, City Manager
14717 Burin Avenue
Lawndale, CA 90260
smandoki@lawndalecity.org

[via U.S. Mail and email]
City of Lawndale
c/o Mr. Nasser Abbaszadeh
Director of Public Works
14717 Burin Avenue
Lawndale, CA 90260
nabbaszadeh@lawndalecity.org

City of Commerce [A-2236(aa)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Commerce
c/o Mr. Jorge Rifa, City Administrator
2535 Commerce Way
Commerce, CA 90040

jorger@ci.commerce.ca.us

City of Pomona [A-2236(bb)]:

[via U.S. Mail and email]
Andrew L. Jared, Esq.
Anthony Marinaccio, Esq.
Alvarez-Glasman & Colvin
13181 Crossroads Parkway
North West Tower, Suite 400
City of Industry, CA 91746
andrew@agclawfirm.com
amarinaccio@agclawfirm.com

[via U.S. Mail only]
City of Pomona
c/o Ms. Linda Lowry, City Manager
Ms. Julie Carver,
Environmental Programs Coordinator
P.O. Box 660
505 S. Carey Avenue
Pomona, CA 91766

City of Sierra Madre [A-2236(cc)]:

[via U.S. Mail and email]
Teresa L. Highsmith, Esq., City Attorney
Holly O. Whatley, Esq.
Colantuono & Levin, PC
300 South Grand Avenue, Suite 2700
Los Angeles, CA 90071-3137
thighsmith@cllaw.us
hwhatley@cllaw.us

[via U.S. Mail only]
City of Sierra Madre
c/o Ms. Elaine Aguilar, City Manager
232 West Sierra Madre Boulevard
Sierra Madre, CA 91024

City of Downey [A-2236(dd)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Downey
c/o Yvette M. Abich Garcia, Esq,
City Attorney
11111 Brookshire Avenue
Downey, CA 90241
vgarcia@downeyca.org

[via U.S. Mail and email]
City of Downey
c/o Mr. Jason Wen, Ph.D., P.E.
Utilities Superintendent
9252 Stewart and Gray Road
Downey, CA 90241
jwen@downeyca.org

City of Inglewood [A-2236(ee)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Inglewood
c/o City Manager
One Manchester Boulevard
Inglewood, CA 90301
lamimoto@cityofinglewood.org

brai@cityofinglewood.org
latwell@cityofinglewood.org
jalewis@cityofinglewood.org
csaunders@cityofinglewood.org
afields@cityofinglewood.org

City of Lynwood [A-2236(ff)]:

[via U.S. Mail and email]
Fred Galante. Esq., City Attorney
David D. Boyer, Esq.
Wesley A. Miliband, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
dboyer@awattorneys.com
wmiliband@awattorneys.com
fgalante@awattornevs.com

[via U.S. Mail and email]
City of Lynwood
c/o Mr. Josef Kekula and Mr. Elias Saikaly
Public Works Department
11330 Bullis Road
Lynwood, CA 90262
jkekula@lynwood.ca.us
esaikaly@lynwood.ca.us

City of Irwindale [A-2236(gg)]:

[via U.S. Mail and email]
Fred Galante. Esq., City Attorney
David D. Boyer, Esq.
Wesley A. Miliband, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
dboyer@awattorneys.com
wmiliband@awattorneys.com
fgalante@awattornevs.com

[via U.S. Mail and email]
City of Irwindale
c/o Mr. Kwok Tam, City Engineer
Public Works Department
5050 North Irwindale Avenue
Irwindale, CA 91706
ktam@ci.irwindale.ca.us

City of Culver City [A-2236(hh)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail and email]
City of Culver City
c/o Mr. John Nachbar,
City Manager
9770 Culver Boulevard
Culver City, CA 90232
john.nachbar@culvercity.org
damian.skinner@culvercity.org
kaden.young@culvercity.org

City of Signal Hill [A-2236(ii)]:

[via U.S. Mail and email]
David J. Aleshire, Esq., City Attorney
David D. Boyer, Esq.
Wesley A. Miliband, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
daleshire@awattorneys.com
wmiliband@awattorneys.com
fgalante@awattornevs.com

[via U.S. Mail and email]
City of Signal Hill
c/o Mr. Kenneth Farfsing, City Manager

2175 Cherry Avenue
Signal Hill, CA 90755
kfarfsing@cityofsignalhill.org

City of Redondo Beach [A-2236(jj)]:

[via U.S. Mail and email]
Lisa Bond, Esq.
Candice K. Lee, Esq.
Andrew J, Brady, Esq.
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
lbond@rwglaw.com
clee@rwglaw.com
abrady@rwglaw.com

[via U.S. Mail only]
City of Redondo Beach
c/o Mr. Bill Workman, City Manager
415 Diamond Street
Redondo Beach, CA 90277

City of West Covina [A-2236(kk)]:

[via U.S. Mail and email]
Anthony Marinaccio, Esq.
Alvarez-Glasman & Colvin
13131 Crossroads Parkway
North West Tower, Suite 400
City of Industry, CA 91746
amarinaccio@agclawfirm.com

[via U.S. Mail and email]
City of West Covina
cio Mr. Andrew Pasmant, City Manager
1444 West Garvey Avenue, Room 305
West Covina, CA 91790
Andrew.pasmant@westcovina.org

[via U.S. Mail and email]
City of West Covina
c/o Ms. Shannon Yauchzee
Director of Public Works
1444 West Garvey Avenue
West Covina, CA 91790
Shannon.yauchzee@westcovina.org

Additional Interested Party By Request:

[via U.S. Mail only]
Andrew R. Henderson. Esq.
General Counsel
Building industry Legal Defense Foundation
1 7744 Sky Park Circle. Suite 170
Irvine. CA 92614
ahenderson@biasc.org

EXHIBIT B
MS4 DISCHARGERS
MAILING LIST

City of Agoura Hills
c/o Ramiro Adeva, City Engineer
30001 Ladyface Court
Agoura Hills, CA 91301
radeva@ci.agoura-hills.ca.us

City of Alhambra
c/o David Dolphin
111 South First Street
Alhambra, CA 91801-3796
ddolphin@cityofalhambra.org

City of Arcadia
c/o Vanessa Hevener
Environmental Services Officer
11800 Goldring Road Arcadia, CA 91006-5879
vhevener@ci.arcadia.ca.us

City of Artesia
c/o William Rawlings
City Manager
18747 Clarkdale Avenue
Artesia, CA 90701-5899
WRawlings@cityofartesia.us

City of Azusa
c/o Carl Hassel, City Engineer
213 East Foothill Boulevard
Azusa, CA 91702
chassel@ci.azusa.ca.us

City of Baldwin Park
c/o David Lopez, Associate Engineer
14403 East Pacific Avenue
Baldwin Park, CA 91706-4297
dlopez@baldwinpark.com

City of Bell Gardens
c/o John Oropeza, Director of Public Works
7100 South Garfield Avenue
Bell Gardens, CA 90201-3293

City of Bellflower
c/o Bernie Iniguez
Environmental Services Manager
16600 Civic Center Drive
Bellflower, CA 90706-5494
biniguez@bellflower.org

City of Beverly Hills
c/o Trish Rhay
455 North Rexford Drive
Beverly Hills, CA 90210
trhay@beverlyhills.org

City of Bradbury
c/o Elroy Kiepke, City Engineer
600 Winston Avenue
Bradbury, CA 91010-1199
mkeith@cityofbradbury.org

City of Burbank
c/o Bonnie Teaford, Public Works Director
P.O. Box 6459
Burbank. CA 91510
bteaford@ci.burbank.ca.us

City of Calabasas
c/o Alex Farassati, ESM
100 Civic Center Way
Calabasas, CA 91302-3172
afarassati@cityofcalabasas.com

City of Carson
c/o Patricia Elkins
Building Construction Manager
P.O. Box 6234
Carson, CA 90745
pelkins@carson.ca.us

City of Cerritos
c/o Mike O'Grady, Environmental Services
P O. Box 3130
Cerritos, CA 90703-3130
mogrady@cerritos.us

City of Claremont

c/o Brian Desatnik
Director of Community Development
207 Harvard Avenue
Claremont, CA 91711-4719
bdesatnik@ci.claremont.ca.us

City of Commerce
c/o Gina Nila
2535 Commerce Way
Commerce, CA 90040-1487
gnila@commerce.ca.us

City of Compton
c/o Hien Nguyen, Assistant City Engineer
25 South Willowbrook Avenue
Compton, CA 90220-3190

City of Covina
c/o Vivian Castro
Environmental Services Manager
125 East College Street
Covina, CA 91723-2199
vcastro@covina.ca.gov

City of Cudahy
c/o Hector Rodriguez, City Manager
P.O. Box 1007
Cudahy, CA 90201-6097
hrodriguez@cityofcudahy.ca.us

City of Culver City
c/o Damian Skinner, Manager
9770 Culver Boulevard
Culver City, CA 90232-0507

City of Diamond Bar
c/o David Liu, Director of Public Works
21825 East Copley Drive
Diamond Bar, CA 91765-4177
dliu@diamondbarca.gov

City of Downey
c/o Jason Wen, Ph.D., P.E.
Utilities Superintendent
9252 Stewart and Gray Road
Downey, CA 90241
jwen@downeyca.org
ygarcia@downeyca.org

City of Duarte
c/o Steve Esbenshades
Engineering Division Manager
1600 Huntington Drive
Duarte, CA 91010-2592

City of El Monte
c/o James A. Enriquez
Director of Public Works
P.O. Box 6008
El Monte, CA 91731

City of El Segundo
c/o Stephanie Katsouleas
Public Works Director
350 Main Street
El Segundo, CA 90245-3895
skatsouleas@elsegundo.org

City of Gardena
c/o Ron Jackson
Building Maintenance Supervisor
P.O. Box 47003
Gardena, CA 90247-3778
jfelix@ci.gardena.ca.us

City of Glendale
c/o Maurice Oillataguerre
Senior Environmental Program Scientist
Eng. Section, 633 East Broadway, Rm. 209
Glendale, CA 91206-4308
moillataquerr@ci.glendale.ca.us

City of Glendora
c/o Dave Davies
Deputy Director of Public Works
116 East Foothill Boulevard
Glendora, CA 91741
ddavies@ci.glendora.ca.us

City of Hawaiian Gardens
c/o Joseph Colombo
Director of Community

21815 Pioneer Boulevard
Hawaiian Gardens, CA 90716
jcolombo@ghcity.org

City of Hawthorne
c/o Arnold Shadbehr
Chief General Service and Public Works
4455 West 126th Street
Hawthorne, CA 90250-4482
ashadbehr@cityofhawthorne.org

City of Hermosa Beach
c/o Homayoun Behboodi
Associate Engineer
1315 Valley Drive
Hermosa Beach, CA 90254-3884
nbehboodi@hermosabch.org

City of Hidden Hills
c/o Cherie Paglia
City Manager
6165 Spring Valley Road
Hidden Hills, CA 91302

City of Huntington Park
c/o Craig Melich
City Engineer and City Official
6550 Miles Avenue
Huntington Park, CA 90255

City of Industry
c/o Mike Nagaoka
Director of Public Safety
P.O Box 3366
Industry, CA 91744-3995

City of Inglewood
c/o Lauren Amimoto
Senor Administrative Analyst
1 W. Manchester Boulevard, 3rd Floor
Inglewood, CA 90301-1750
lamimoto@cityofinglewood.org

City of Irwindale
c/o Kwok Tam
Director of Public Works
5050 North Irwindale Avenue
Irwindale, CA 91706
ktam@ci.irwindale.ca.us

City of La Canada Flintridge
c/c Edward G. Hitti
Director of Public Works
1327 Foothill Boulevard
La Canada Flintridge, CA 91011-2137
ehitti@lcf.ca.gov

City of La Habra Heights
c/o Shauna Clark, City Manager
1245 North Hacienda Boulevard
La Habra Heights, CA 90631-2570
shaunac@lhhcity.org

City of La Mirada
c/o Gary Sanui, Public Works Director
Marlin A. Munoz,
Senior Administrative Analyst
13700 La Mirada Boulevard
La Mirada, CA 90638-0828
gsanui@cityoflamirada.org
mmunoz@cityoflamirada.org

City of La Puente
c/o John DiMario
Director of Development Services
15900 East Marin Street
La Puente, CA 91744-4788
jdimario@lapuente.org

City of La Verne
c/o Daniel Keesey
Director of Public Works
3660 "D" Street
La Verne, CA 91750-3599
dkeesey@ci.la-verne.ca.us

City of Lakewood
c/o Konya Vivanti
P.O. Box 158
Lakewood, CA 90714-0158
kvivanti@lakewoodcity.org

City of Lawndale
c/o Marlene Miyoshi
Senior Administrative Analyst
14717 Burin Avenue
Lawndale, CA 90260

City of Lomita
c/o Tom A. Odom, City Administrator
P.O. Box 339
Lomita, CA 90717-0098

City of Los Angeles
c/o Shahram Kharangnani
Program Manager
1149 S. Broadway, 10th Floor
Los Angeles, CA 90015

City of Lynwood
c/o Josef Kekula
11330 Bullis Road
Lynwood, CA 90262-3693

City of Malibu
c/o Jennifer Brown
Environmental Program Analyst
23825 Stuart Ranch Road
Malibu, CA 90265-4861
jbrown@malibucity.org

City of Manhattan Beach
c/o David Carmany, City Manager
1400 Highland Avenue
Manhattan Beach, CA 90266-4795
dcarmany@citymb.info

City of Maywood
c/o Andre Dupret, Project Manager
4319 East Slauson Avenue
Maywood, CA 90270-2897

City of Monrovia
c/o Heather Maloney
415 South Ivy Avenue
Monrovia, CA 91016-2888
hmaloney@ci.monrovia.ca.gov

City of Montebello
c/o Cory Roberts
1600 West Beverly Boulevard
Montebello, CA 90540-3970
croberts@aaeinc.com

City of Monterey Park
c/o Amy Ho or John Hunter, Consultant
320 West Newmark Avenue
Monterey Park, CA 91754-2896
amho@montereypark.ca.gov
jhunter@jhla.net

City of Norwalk
c/o Daniel R. Garcia, City Engineer
P.O. Box 1030
Norwalk, CA 90651-1030
dgarcia@norwalkca.gov

City of Palos Verdes Estates
c/o Allan Rigg, Director of Public Works
340 Palos Verdes Drive West
Palos Verdes Estates, CA 90274
arigg@pvestates.org

City of Paramount
c/o Christopher S. Cash
Director of Public Works
16400 Colorado Avenue
Paramount, CA 90723-5091
ccash@paramountcity.com

City of Pasadena
c/o Stephen Walker
P.O. Box 7115
Pasadena, CA 91109-7215
swalker@cityofpasadena.net

City of Pico Rivera
c/o Art Cervantes
Director of Public Works
P.O. Box 1016
Pico Rivera, CA 90660-1016
acervantes@pico-rivera.org

City of Pomona

c/o Julie Carver
Environmental Programs Coordinator
P.O. Box 660
Pomona, CA 91769-0660
julie_carver@ci.pomona.ca.us

City of Rancho Palos Verdes
c/o Carolyn Lehr
City Manager
30940 Hawthorne Boulevard
Rancho Palos Verdes, CA 90275
clehr@rpv.com

City of Redondo Beach
c/c Mike Shay
Principal Civil Engineer
P.O. Box 270
Redondo Beach, CA 90277-0270
mshay@redondo.org

City of Rolling Hills
c/o Greg Grammer
Assistant to the City Manager
2 Portuguese Bend Road
Rolling Hills, CA 90274-5199
qqrammer@rollinghillsestatesca.gov

City of Rolling Hills Estates
c/o Greg Grammer
Assistant to the City Manager
4045 Palos Verdes Drive
North Rolling Hills Estates, CA 90274
ggrammer@rollinghillsestatesca.gov

City of Rosemead
c/o Chris Marcarello
Director of Public Works
8838 East Valley Boulevard
Rosemead, CA 91770-1787

City of San Dimas
c/o Latoya Cyrus
Environmental Services Coordinator
245 East Bonita Avenue
San Dimas, CA 91773-3002
lcyrus@ci.san-dimas.ca.us

City of San Fernando
c/o Ron Ruiz
Director of Public Works
117 Macneil Street
San Fernando, CA 91340
rruiz@sfcity.org

City of San Gabriel
c/o Daren T. Grilley, City Engineer
425 South Mission Drive
San Gabriel, CA 91775

City of San Marino
c/o Lucy Garcia
Assistant City Manager
2200 Huntington Drive
San Marino, CA 91108-2691
LGarcia@SanMarinoCA.gov

City of Santa Clarita
c/o Travis Lange
Environmental Services Manager
23920 West Valencia Boulevard, Suite 300
Santa Clarita, CA 91355

City of Santa Fe Springs
c/o Sarina Morales-Choate
Civil Engineer Assistant
P.O. Box 2120
Santa Fe Springs, CA 90670-2120
smorales-choate@santafesprings.org

City of Santa Monica
c/o Neal Shapiro
Urban Runoff Coordinator
1685 Main Street
Santa Monica, CA 90401-3295
nshapiro@smgov.net

City of Sierra Madre
c/o James Carlson, Management Analyst
232 West Sierra Madre Boulevard
Sierra Madre, CA 91024-2312

City of Signal Hill
c/o John Hunter
2175 Cherry Avenue
Signal Hill, CA 90755
jhunter@jlha.net

City of South El Monte
c/o Anthony Ybarra, City Manager
1415 North Santa Anita Avenue
South El Monte, CA 91733-3389

City of South Gate c/o John Hunter
8650 California Avenue
South Gate, CA 90280
jhunter@jlha.net

City of South Pasadena
c/o John Hunter
1414 Mission Street
South Pasadena, CA 91030-3298
jhunter@jlha.net

City of Temple City
c/o Joe Lambert or John Hunter
9701 Las Tunas Drive
Temple City. CA 91780-2249
jhunter@jlha.net

City of Torrance
c/o Leslie Cortez
Senior Administrative Assistant
3031 Torrance Boulevard
Torrance, CA 90503-5059

City of Vernon
c/o Claudia Arellano
4305 Santa Fe Avenue
Vernon, CA 90058-1786
CArellano@ci.vernon.ca.us

City of Walnut
c/o Jack Yoshino
Senior Management Assistant
P.O. Box 682
Walnut, CA 91788

City of West Covina
c/o Samuel Gutierrez
Engineering Technician
P.O. Box 1440
West Covina, CA 91793-1440
sam.gutierrez@westcovina.org

City of West Hollywood
c/o Sharon Perlstein, City Engineer
8300 Santa Monica Boulevard
West Hollywood, CA 90069-4314
sperlstein@weho.org

City of Westlake Village
c/o Joe Bellomo
Stormwater Program Manager
31200 Oak Crest Drive
Westlake Village, CA 91361
jbellomo@willdan.com

County of Los Angeles
c/o Gary Hildebrand, Assistant Deputy
Director, Division Engineer
900 South Fremont Avenue
Alhambra, CA 91803
ghildeb@dpw.lacounty.gov

Los Angeles County Flood Control District
c/o Gary Hildebrand, Assistant Deputy
Director, Division Engineer
900 South Fremont Avenue
Alhambra, CA 91803
ghildeb@dpw.lacounty.gov